NYS PROPERTY TAX REFORM COALITION

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GOVERNOR'S EDUCATION REFORM COMMISSION
Old Westbury, Long Island
October 11, 2012

Mr. Chairman and Distinguished Members,

I write on behalf of the New York State Property Tax Reform Coalition, an umbrella group of volunteers representing the interests of over 50 grassroots organizations and thousands of individuals throughout our state who urgently seek meaningful property tax relief and school funding reform via state legislation. I personally have worked on this since the early 1990's and have served as the Coalition's legislative liaison officer since its founding in 2007.

NEED FOR FUNDAMENTAL PROPERTY TAX REFORM - SCHOOL FUNDING CHANGE

The antiquated real property tax system is inherently inequitable and increasingly unworkable as a funding mechanism for our schools in the 21st century, and the state's over-reliance on this system demands fundamental change. With the advent of the property tax cap, the situation has now reached a crisis level for educators and parents as well as for property taxpayers. Long term we seek a gradual transition of most school funding from the property tax to a mix of broad-based state taxes more closely aligned with an ability to pay. For the sake of our schools as well as the taxpayers **that discussion must begin NOW**, to begin charting a new course for the future, even as the state's fiscal crisis, for the moment, may delay its implementation. Albany can no longer avoid its Constitutional responsibility for the education of all the state's children.

NEED FOR URGENT PROPERTY TAX RELIEF - CIRCUIT BREAKER

But this fundamental reform will take time, and for hundreds of thousands of our middle class residents time has all but run out. Paying unsustainable, double digit percentages of their income in property tax -- as much as 40% and more -- they face the ultimate decision to join those who have already left their homes and state in droves due to outrageous property taxes.

That is why our most urgent agenda item is a middle class circuit breaker. It is the only measure that can save the homes of these residents while waiting for the long term reform.

STAR cannot do it.

The property tax cap – which doesn't reduce or even cap one's tax bill – cannot do it.

WHY DOES THE CURRENT SITUATION MAKE A CIRCUIT BREAKER EVEN MORE IMPORTANT?

All indications are that there will be a greater shift in state aid to higher needs districts.

While this obviously has merit, it will nonetheless exacerbate the problem already faced by thousands of our most overwhelmed taxpayers unless a circuit breaker is enacted concurrently. There are two reasons for this:

1) The criteria for determining district "wealth" are problematic. In particular, the arbitrary 50% weighting given property values in the Combined Wealth Ratio often misrepresents the actual taxpaying capacity of district taxpayers. Districts with high poverty rates and low incomes often have high property values which may not equate to greater taxpaying capacity but effectively reduce the aid they would otherwise get, thereby undermining the state's own expressed goal to allocate more resources to high needs districts.

2) At least equally important, school districts do not pay taxes. They **collect** taxes. Taxes are paid by individual taxpayers. Every school district, including those deemed "wealthy", has taxpayers who cannot afford higher taxes. Such taxpayers in "wealthy" districts are just as overburdened as the rest of the overburdened around the state, as measured by their tax bill and the income available to pay it. And their burden will increase if their district overrides the tax cap due to actual or relative cuts in state aid.

In sum, the simultaneous enactment of a middle class circuit breaker is the only way a progressive allocation of state aid can be accomplished without effectively penalizing some of our most overburdened taxpayers just because they happen to live in a "wealthy" school district.

HOW CAN A CIRCUIT BREAKER BE FUNDED NOW?

Even in our austere fiscal environment a middle class circuit breaker can be phased in by restructuring the costly STAR program, as recommended by the NYS Property Tax Relief Commission four years ago. This can be done in a way that protects STAR for current beneficiaries who wish to keep that program instead of transferring to a circuit breaker. A description of how this might work is attached.

I actually live in the North Country, but since we're here today on Long Island I should point out that a middle class circuit breaker would help over 40% of Long Island homeowners with household incomes under $250,000 who have been in their homes at least five years, and over 40% of the circuit breaker benefits statewide would go to Long Islanders.

Thank you for this opportunity to testify. I'd be pleased to respond to any questions.

John Whiteley
Legislative Affairs Officer, NYS Property Tax Reform Coalition

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ATTACHMENT 1

GOVERNOR'S EDUCATION REFORM COMMISSION

WHITE PAPER on State Aid Formulas

SUBMITTED BY: John Whiteley for the Tri-County Committee for Property Tax Relief

SUBJECT: Inequitable Weighting of Property Values in Combined Wealth Ratio for State Aid

(This paper was originally submitted as a White Paper for the New York State Property Tax Relief Commission in November 2008 and was revised with minor changes in January 2011.)

As you know from our earlier testimony, we believe the current school funding system, with its unreasonable dependence on the local property tax, is seriously flawed and should ultimately be replaced, over time, by a largely state funded system. One of our many concerns about the current system is that the state aid system is so fraught with inequities, and so arbitrary in its formulas, that it can never be made truly fair.

Of all the arbitrary and inequitable features of the state aid system, our Committee wishes to point out one which may be the single most damaging to a sizeable number of school districts. That is the formula used in calculating the Combined Wealth Ratio (CWR) for each district. The CWR is critically important because it basically determines the amount which the state assumes local property taxpayers should be able to contribute to their school budget, and that figure effectively reduces the amount of state aid that would otherwise be payable based on regional cost factors, high needs, and other parts of the state aid formulas. 50% of the CWR consists of the district's property wealth, as measured by its full value. The other 50% is the district's adjusted gross income. The income component was incorporated several years ago into the CWR, which had previously been based exclusively on property value.

Despite that positive step, the false notion persists -- dating from Colonial times when it had some validity -- that one's property value is a reliable indicator of one's ability to pay taxes.

The meteoric rise in property values of recent years, combined with only moderate income growth within the middle class, has now created a situation where 119 school districts, roughly 17% of the total, now have a full value index (as of the 2005-2006 school year) that is at least 150% higher than their income index (with each figure expressed as a function of the statewide average). 72 districts, just over 10% of the total, have a full value index more than double their income index. Of the 72 districts, 26 are on Long Island, 24 are in the North Country, and 14 are in the Hudson Valley, including the Catskills and Westchester County. It is not likely a coincidence that those are precisely the areas where organized popular protest over the property tax is at its most extreme.

By way of contrast, only 27 districts have an income index exceeding 150% of their full value index, and not a single district has an income index more than double its full value index.

The argument for maintaining a property value component in the CWR is that the income component includes only the taxpaying capacity of the residents -- for whom the state has income tax data -- and excludes the taxpaying capacity of commercial property owners, seasonal residents, and other property owners not included in the income base. That argument has merit, but the arbitrary 50% weighting is inequitable. Consider the following points:

1) Much of the dramatic increase in property values, at least in the North Country, has come from sales of second homes to residents of higher income areas. While these new owners may logically be able to afford the taxes, the resultant increase in valuation of neighboring properties owned by long time local residents who want to stay does nothing to increase the taxpaying capacity of those residents.

2) An argument can be made that increases in property values will eventually raise a district's income (and taxpaying capacity) since the higher values will require higher income buyers. But, even if so, that would happen only gradually as properties actually sell, while the impact of higher values on the CWR – and the reduction it causes in state aid – is immediate. This effectively hastens the process of income "catch-up" by driving current residents (many of whose values and assessments have been inflated by sales of vacation properties, for example) out of their homes in favor of those with higher incomes. For those who try to remain in their homes, their escalating values and assessments force them to pay taxes the CWR assumes they can afford when in fact they cannot afford them. Or, if the school board is sensitive to taxpayer concerns and moderates the annual tax increase accordingly, the kids get less than the CWR assumes the district should be able to provide. Often there's a compromise, in which both taxpayers AND the kids lose. Many taxpayers still pay more than they can really afford, while the revenue produced is still less than the CWR assumes it should be.

3) Many North Country schools, among others, have very high poverty rates which qualify them for additional aid under the new needs-based formulas, only to find that aid effectively reduced by the property wealth component of the CWR. Thus, in perpetuating the weight given to a district's property wealth, the state is actually undermining its own stated goals

and objectives.

The way to alleviate this phenomenon, which is inequitable to a sizeable number of schools, is to do something about the arbitrary 50% weight given to the CWR's property wealth component.

Ideally, some effort should be made to break down and analyze the various categories of properties in each district other than the homes of NYS residents (who are already included in the CWR income component) to provide a more meaningful estimate of the actual taxpaying capability they represent.

Short of that, the following possible options come to mind for consideration:

1) Reduce the 50% property weighting for all districts to, say, 25% over a five year period, while increasing the income index to 75%. This would benefit ALL districts whose full value index exceeds its income index. Those districts in the reverse situation could be treated as "save harmless".

2) If the property wealth component must remain at 50%, at least limit any future increase in property value, for state aid purposes, to those properties which have actually been sold and/or newly constructed or improved during the relevant period, and then only to the extent of the amount of the sale in excess of the pre-existing full value assessment or the value of the construction or improvement. These are the only increases which one could reasonably argue might reflect an owner's ability to pay additional taxes.

As noted earlier, we believe the whole school funding system, with its unreasonable dependence on the local property tax, is seriously flawed and should ultimately be replaced, over time, by a largely state funded system. Such a system would logically include a modest local component based on a percentage of the core amount provided by the state. We also, as you know, urgently support a middle income circuit breaker to provide relief to our most overburdened homeowners. However, the existing state aid system still needs to be seriously reviewed, and modified as necessary, to make sure the funding goes where it is needed, reflects the state's own education priorities, and reverses the trends that are driving residents out of their homes and forcing businesses out of our state.

ATTACHMENT 2 TO TESTIMONY

GOVERNOR'S EDUCATION REFORM COMMISSION

NYS PROPERTY TAX REFORM COALITION

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PARTIAL RESTRUCTURING OF STAR TO FUND MIDDLE CLASS CIRCUIT BREAKER

1) Give all current Basic STAR and Enhanced STAR beneficiaries the opportunity to opt out of STAR as of a certain date (for example, as of June 30, 2013), and take the circuit breaker instead, with no prior residency requirement for the circuit breaker as long as the beneficiary continues to reside in the same home for which he/she now receives STAR. As of that date, beneficiaries could not take advantage of both programs.

2) "Grandfather" all current STAR beneficiaries who choose to keep STAR, as long as they continue to reside in their current home as their primary residence.

3) Eliminate STAR for owners of all property purchased or otherwise acquired on or after a certain date (for example, April 1, 2014).

FISCAL CONSIDERATIONS: (This is just one example of how the restructuring might theoretically work. Actual dates will have to be worked out carefully given the variety of time schedules that are used by different assessing units and school taxing jurisdictions.) Immediate transfers out of STAR and into the circuit breaker program would reduce the STAR budget for 2013-14. The circuit breaker would be enacted as an integral part of the option proposal, but its fiscal impact would be delayed until the 2014-15 budget due April 1, 2014 since the circuit breaker benefit is structured as a state income tax credit. The fiscal impact of STAR reductions from item (3) above would begin to kick in as part of the 2014-15 budget, helping to offset the first year of the fiscal impact of the circuit breaker.

ADDITIONAL REPROGRAMMING OF STAR REDUCTIONS: Any reductions in the STAR program not directly related to the foregoing restructuring of STAR will be reprogrammed to the circuit breaker.

ELIMINATES ISSUE OF "WINNERS AND LOSERS": A key attribute of the restructuring proposal is that it is fair both to current STAR beneficiaries who depend on STAR and to those who desperately need the relief only a targeted middle class circuit breaker can provide. It avoids the moral and political problem of "winners and losers". At the same time, by phasing in the circuit breaker while gradually reducing STAR through attrition, it recognizes that the circuit breaker is far more cost-effective than STAR, should eventually become the state's primary vehicle for property tax relief, and as such would save significant cost to the state.

BUDGET ESTIMATES: We are working on budget estimates for the coming year and the outyears. Over time we believe the proposal would provide significant revenue to help fund the circuit breaker and is consistent with other calls for a partial restructuring of STAR to fund a middle class circuit breaker as originally recommended by the NYS Commission on Property Tax Relief (the Suozzi Commission).

ATTACHMENT 3

GOVERNOR's EDUCATION REFORM COMMISSION

NEW YORK STATE PROPERTY TAX REFORM COALITION

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TESTIMONY FOR:

NYS LEGISLATIVE HEARING ON "TAXES"
2012-13 EXECUTIVE BUDGET
ALBANY,
HEARING ROOM B, LEGISLATIVE OFFICE BUILDING
FEBRUARY 6, 2012

Mr. Chairman and Distinguished Members,

I speak on behalf of the New York State Property Tax Reform Coalition, a volunteer organization representing the interests of property taxpayer groups and individuals statewide who urgently seek property tax relief and reform via state legislation.

I'm here today to stress that for a lower or middle income homeowner in our state, the most burdensome tax is likely to be, more often than not, the property tax, not the state income tax. And for the hundreds of thousands whose incomes have stagnated or declined or have simply failed to keep pace with ever-rising property taxes, that burden has become unsustainable.

I will propose a solution, but first some background.

Four years ago this month, with much fanfare, the New York State Commission on Property Tax Relief commenced its Hearings with the goal of finally coming to grips with a property tax situation that had already reached crisis proportions, well before the financial meltdown.

The Commission recommended a property tax cap to control spending, to be followed by a middle class circuit breaker to provide actual tax relief, and mandate reform to reduce the costs which local governments can't control.

We said then – and continued to say – that if a property tax cap were to be enacted, the circuit breaker and mandate relief should at least accompany it – if not actually precede it. We worried that once Albany enacted a standalone, cost-free property tax cap – which it would increasingly misrepresent as property tax "relief"-- it would misportray the cap as having solved the problem for taxpayers and would drag its feet on the urgently needed circuit breaker and mandate relief.

And that of course is basically what is now happening – albeit aggravated by the fiscal crisis.

While there has at least been lip service to the need to reduce mandates, the circuit breaker – the only measure which would bring meaningful relief directly to our most overburdened taxpayers -- seems now to have all but vanished from Albany's priority list.

Let me briefly return to the Suozzi Commission.

In the wake of testimony from countless witnesses, the Commission's final report roundly criticized STAR, the state's primary relief program, noting among other things its "inefficient targeting of relief, unintended consequences of higher taxes, insufficient help for those most in need, (and) perverse school funding."

Also in response to extensive public testimony, the Commission strongly advocated a middle class circuit breaker. It recommended that STAR be restructured and that "at least $2 Billion" of the STAR program be transitioned to an income-based "STAR Circuit Breaker". It specifically mentioned a bill sponsored by Assemblywoman Sandy Galef and Senator Betty Little as a possible model for the middle class circuit breaker.

So what has Albany done in response?

In 2009 it eliminated the STAR rebate checks, an admittedly flawed $1.5 Billion program but which could have been at least partially reprogrammed to fulfill the Commission's circuit breaker recommendation.

It has continued to chip away at STAR each year, with total cuts in property tax relief now approaching $2 Billion – one of the largest line item cuts in the state budget over the past three years and effectively a tax increase hurting mostly middle class New Yorkers notwithstanding STAR's flaws and limitations.

While the current Executive Budget requests no further significant cuts in STAR, neither does it reflect any sign of recognition that New York residents most overburdened by property taxes desperately need a circuit breaker and continue to be forced from their homes.

The Galef-Little and similar middle class circuit breaker bills languish in committee year after year despite having significant sponsorship.

Meanwhile, by last count, nearly 700,000 New York households with incomes under $100,000 are paying over 10% of their income in property tax on their homes. That's nearly a third of such households. For some 243,000 of those households the tax is over 20% of income.

The property tax cap, which Albany did enact, will not meaningfully help them and may worsen matters for some.

The recent token income tax adjustment that puts $40 in the pocket of someone with a $50,000 income will not solve their problem.

And STAR now helps them even less than it did to start with.

Only the circuit breaker will respond to their need.

The good news is that we should still be able to launch a middle class circuit breaker without a huge influx of new revenue by going back and basically following the Commission's recommendation. That means creating a way to restructure STAR that will permit drawing on some of those resources to fund a circuit breaker but will also protect current STAR beneficiaries. Initially, to be sure, it would not be the $2 Billion envisioned by the Commission, but it would be a start.

Briefly stated, it would give all current STAR beneficiaries the option of transferring to the circuit breaker by a certain date. Those who opt to keep STAR would be permanently grandfathered with their full STAR benefit as long as they stay in their current home. At a certain point the costly STAR program would be closed to new entrants. As STAR's costs diminish over time through attrition, with the more cost-effective circuit breaker becoming the primary relief mechanism, the state's overall costs for property tax relief would also decrease. The current fiscal austerity provides an opportune time to begin and to justify the gradual changeover.

An outline of the proposal is attached. We hope to have some budget estimates soon, but we encourage you to discuss the concept with your own budget and fiscal staffs. The concept is bi-partisan and should appeal both to those seeking more targeted, progressive property tax relief and to fiscal conservatives anxious to control spending.

What you may find of particular interest is that if the proposal could be implemented in time, THE STATE COULD CONCEIVABLY ACHIEVE SOME SIGNIFICANT SAVINGS IN THE 2012-13 BUDGET that would accrue from those who immediately opt out of STAR, while the fiscal impact of the new circuit breaker – enacted as an integral part of the option proposal -- would be delayed until the 2013-14 budget year. That is not a fiscal gimmick but a natural phenomenon arising from the simple fact that the circuit breaker benefit is normally structured as a state income tax credit.

As one final but important note, we urge that any new "Tax Reform Commission" or other "tax reform" effort carried out by the state include not just the income tax and other "state taxes" but the full range of taxes paid by New Yorkers, including in particular the local property tax. It is unreasonable for Albany to treat state taxes in isolation when its fiscal and tax policies and actions result in significant increases, directly and indirectly, in the property tax, and when it is mainly local taxes, rather than state taxes, which have led to the state's frequent #1 ranking in state and local taxes combined.

Thank you for this opportunity to testify. I'll be pleased to respond to any questions you may have.

John Whiteley
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ATTACHMENT TO TESTIMONY ON 2012-13 EXECUTIVE BUDGET

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