PROGRAM BILL # 1
REVISED

GOVERNOR'S PROGRAM BILL
2011

MEMORANDUM

AN ACT to amend the general municipal law, the education law and the municipal home rule law, in relation to establishing limitations on school district and local government tax levies; and to repeal certain provisions of the education law relating thereto

PURPOSE:

This bill would control the ever-rising property tax by limiting the amount by which local taxing entities (e.g. schools and local governments) may increase property taxes each year.

SUMMARY OF PROVISIONS:

Section 1 of the bill would add a new §3-c to the General Municipal Law to establish a real property tax levy cap for local governments, except the city of New York and any counties contained therein. Under the property tax levy cap:

- No local government may increase its property tax levy by more than 2 percent or the rate of inflation (whichever is less).
- A local government may exceed the tax levy cap only if the governing body enacts, by a two-thirds vote, a local law, or for district or fire districts, a resolution, overriding the tax levy cap.
- The cap will have limited exceptions including:
    - o Personal injury settlements that exceed 10 percent of the taxing entity's budget;
    - o Certain capital expenditures; and
    - o The increase or decrease in the county cost of state mandated social services assistance to persons eligible for public assistance (including under the Temporary Assistance to Needy Families ("TANF") program, or the Safety Net Assistance Program ("SNAP")).

- The State Comptroller will determine the tax levy limitations for local governments that are consolidated or dissolved.

- Any excess levy funds that are collected due to clerical or technical errors will be held in reserve.

Section 2 of the bill would add a new §2023-a to the Education Law to establish a real property tax levy cap of 2 percent or the rate of inflation, whichever is less, upon school districts, other than school districts with a population of 125,000 or more (the "Big 5" school districts). Under the school district real property tax cap:

- The Commissioner of Education will be tasked with determining the annual tax levy limit of each school district no later than March 1st of each year and certain capital expenditures will be exempt from the cap.

- The Commissioner of Education will determine the tax levy limitations for school districts that are consolidated or dissolved.

- Any excess levy funds that are collected due to clerical or technical errors will be held in reserve.

Section 3 of the bill would add a new §2023-b to the Education Law to establish the procedures for voter approval of school district tax levy propositions subject to the tax levy cap:

- Any school district subject to a tax levy cap is required to submit a tax levy proposition for approval by voters at the district's annual meeting, which will support the proposed annual school district budget. If the proposed tax levy does not exceed the district's tax levy limit, then a majority vote is required for approval. If the proposed tax levy exceeds the district's tax levy limit, then it must be approved by 60 percent of the vote.

- If the tax levy proposition is defeated after two presentations to the voters, then the district would be required to adopt a budget with a tax levy less than or equal to that of the prior year.

Sections 4-5, 7, 9-10, 12, 18-21 and 23 of the bill would amend Education Law §§ 416(1) and (3), 1604(14), (15), (18) and (24), 1709(22), and (28), 1718, 2005, 2007(3), 2503(9)(a) and (12)(a) and (b), 2601-a, 3602(4)(b-1), 3602-e(11) and 3635-b(10), respectively, to remove references to school budget votes, revotes, contingency budgets and ordinary contingent expenses, and to make other conforming technical amendments.

Sections 6 and 8 of the bill would amend Education Law §§1608 and 1716 to: (1) require districts to include information about the applicable tax levy limit on their property tax report cards; (2) remove references to budget votes; and (3) make other conforming amendments.

Section 11 of the bill would repeal Education Law §2006(3), which relates to school budget revotes.

Section 13 of the bill would amend Education Law §2008 to provide that voters cannot initiate propositions that would require the expenditure of money.

Section 14 of the bill would repeal Education Law §2021(10)-(12), (15)-(18) and (20)-(21), which provide for voter approval of specific budget items, and would amend §2021(8) and (19) to maintain voter approval of transportation mileage issues and remove references to voter budget approvals.

Section 15 of the bill would amend Education Law §2022 to: (1) allow a school district to adopt a budget that complies with a voter approved tax levy; (2) require a school district to adopt a budget within its tax levy base if no tax levy proposition is approved by voters; (3) require districts to include information about the applicable tax levy limit on their property tax report cards; (4) remove references to budget votes, revotes and contingency budgets; and (5) make other conforming amendments.

Section 16 of the bill would repeal Education Law §2023, which governs contingency budgets.

Section 17 of the bill would amend Education Law §2035(2) to clarify that a proposition to change transportation mileage limits can be rejected if it would require additional expenditures unless the proposition includes the necessary appropriation.

Section 22 of the bill would amend Education Law §3635(1)(a) and (b) to maintain voter approval for transportation mileage changes and to remove references to ordinary contingent expenses.

Sections 24-26 of the bill would repeal Education Law § 3651(3-a), which allows certain reserve fund expenditures without voter approval, and would amend Education Law §3651(1), (3), (4) and (5) to provide for school authority approval of certain reserve fund matters that previously were approved within school budget votes.

The bill provides that the bill would take effect immediately and apply to the 2012-13 school year, provided that sections 8, 15, 20, 21 and 22 would take effect July 1, 2012; and provided further that section 1 would first apply to the fiscal year that begins in 2012.

<u>EXISTING LAW</u>:

GML §3-b, places a limitation on real estate taxes in New York City, and Article 8, § 10 sets certain limitations on property tax rates. These limitations have proven ineffective, however, and there are no laws capping the rate of growth of property taxes. Under existing law, voters outside of the Big 5 school districts—whose budgets are not voted on independently because the budgets of the Big 5 are included in the budgets of their cities—can approve a school district budget at the district's annual meeting (generally the 3rd Tuesday in May). If a school budget is defeated, the district can adopt a contingency budget or call a special district meeting (generally the 3rd Tuesday in May) to re-present the defeated budget or to present an amended budget. In the event no budget is approved by voters, the district must adopt a contingency budget.

JUSTIFICATION:

New York property taxes are among the highest taxes in the nation. When you combine State and local taxes, New York has the second highest property taxes in the nation. The median U.S. property tax paid is $1,917 and in New York it is $3,755—96 percent higher than the national median. Moreover, New York has the highest local taxes in America as a percentage of personal income—79 percent above the national average. Local property tax levies in New York grew by 73 percent from 1998 to 2008, more than twice the rate of inflation during that period. And New York—especially Upstate New York—continues to lose population and jobs at a rate greater than the national average, while taxes continue to rise.

New York property taxes have long been a problem. From 2006-2008, when property taxes were measured as a percentage of home value, the top sixteen counties in the nation were all in New York State. Local property taxes are going up at rate much faster than inflation—for the five years from 2002 to 2007, inflation was at 2.9 percent annually, whereas property tax revenues increased at higher rates for every major class of local governments.

This bill is a comprehensive property tax cap that will help end the devastating impact of property taxes on homeowners throughout New York. The tax cap will apply to all school districts and local governments (i.e. counties, towns, villages and special districts) except for New York City, the counties within New York City, and the Big Five school districts. It will be set at the rate of inflation or 2 percent, whichever is less. For local governments, any property tax levy increase above the inflation rate would be prohibited, unless endorsed both 2/3 of the local governing board. For schools, any property tax levy increase above the rate of inflation would be prohibited, unless approved by 60% of the voters. The cap will apply directly to independent special districts and to town or county component special districts as part of their parent municipalities' tax levies.

Only limited exceptions will be allowed for the cap, such as one-time needs for large legal settlements or capital expenditures. Counties will also be covered, but with appropriate exceptions for certain state mandated social service programs.

Other states have property tax caps, including Massachusetts, Illinois, California and Michigan. New Jersey was the most recent state to enact a property tax cap.

LEGISLATIVE HISTORY:

This is a new bill. Similar bills have been proposed in the past. In 2008, S.8736 passed the Senate, but applied only to school districts. In 2010, A.8974 was introduced in the Assembly, but was not reported out of the Ways and Means Committee. It established a cap for all local governments.

BUDGET IMPLICATIONS:

This bill would have no direct fiscal implications for the State, but would limit the amount of real property taxes that school districts, counties, cities, towns, villages, special districts and fire districts can levy.

EFFECTIVE DATE:

This bill would take effect immediately and apply to the 2012-13 school year, provided that sections 8, 15, 20, 21 and 22 would take effect July 1, 2012; and provided further that section 1 would first apply to the fiscal year that begins in 2012.