REAL PROPERTY TAXATION AND ASSESSMENT PROCESSES: A CASE FOR A BETTER MODEL

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INTRODUCTION

The importance of real property taxes cannot be underestimated. Since 2000, property taxes have risen twenty-seven percent nationwide after adjusting for inflation and population growth—twice as fast as the growth in sales and income taxes.[1] As a result, real property taxes are now consuming an ever-larger portion of personal income: 3.4% on average, as of 2006.[2]

Taxpayers are increasingly dissatisfied with the inadequacy of the methodologies and processes used by municipalities to assess property tax.[3] These inadequacies, taxpayers argue, result in unfair taxation.[4] Consequently, the property tax is currently the most unpopular tax in the United States.[5]

In response to growing voter dissatisfaction, and perhaps to prevent property tax rebellion,[6] state legislators have proposed numerous measures to improve property taxation systems within their respective states.[7] The majority of these measures shifts property tax burden from one set of taxpayers to another or shifts revenue collections from property tax to a different type of tax. Unfortunately, however, these

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1. Dennis Cauchon, *States Attack Property Taxes,* USA TODAY, Aug. 25, 2006, at A1.

2. *Id.*

3. *See, e.g.*, Gerald Prante, *Indiana Mulling Elimination of Property Taxes*, TAX FOUNDATION, July 30, 2007, http://www.taxfoundation.org/blog/printer/22520.html; John Davis, *Residents Seek Tax Relief*, POUGHKEEPSIE JOURNAL, Feb. 25, 2007, at 1A, *available at* http://blog.syracuse.com/cayugacounty/2007/02/residents_seek_tax_relief.html; Dennis Cauchon, *States Consider Property Tax Limits,* USA TODAY, Apr. 12, 2004, at A1.

4. *E.g.*, Prante, *supra* note 3.

5. *See* Cauchon, *supra* note 1.

6. *Id*. at 1.

7. *See, e.g.*, Alex Leary & Aaron Sharockman, *House: End Property Tax, Raise Sales Tax*, ST. PETERSBURG TIMES, Feb. 22, 2007, at 1A; Danny Hakim, *Candidates for Governor Differ Sharply on Tax Cuts,* N.Y. TIMES, Oct. 19, 2006, at B1; Rick Lyman, *As Property Values Rise, Homeowners Feel Pinch,* N.Y. TIMES, Feb. 19, 2006, § 1, at 18.

proposals address only the consequences of the underlying problem and not the problem itself.[8]

The fundamental problem is that the majority of real property taxation systems throughout the United States are inequitable and inefficient.[9] The systems are inequitable because municipalities tax similarly situated properties differently. Municipalities' inconsistent valuation methods, infrequent revaluations, and inadequate overall real property tax policies cause these inequitable taxation systems. The systems are also inefficient. Local independent taxing authorities within individual states often perform redundant tasks. These inefficiencies result in further valuation inconsistencies and, consequently, inequitable taxation practices.

States must enact laws that fundamentally modify their systems of real property tax assessment and collection. First, states and not their local governments must assess and collect real property tax.[10] But local governments must retain control over the key elements of the process and oversee the states' real property tax-related activities. Specifically, local governments must determine the extent of their property owners' tax burden, have custody of the tax collections, and have control over spending. To further address local governments' potential sovereignty-related concerns, the legislation must include a sunset provision. Second, once in charge, states must annually revalue real properties. Recent technological developments and the long-term employment of tax assessors would make this proposition financially possible. Annual revaluations would result in further cost savings. Finally, local governments must reimburse states for the net costs of assessing and collecting real property tax.

Part I of this Article presents a brief historical background of real property tax in the United States. Part II discusses the real property tax model, the role of real property tax in governments' revenue, and the advantages and disadvantages of real property tax. Part III lays out various existing efforts to make real property tax systems fair. This Part discusses the benefits and drawbacks of homestead exemption programs, circuit breaker programs, classification systems, property tax limits, and property tax deferral programs. Part IV presents recent legislative proposals and discusses the problems imbedded in those proposals. Part V discusses fundamental issues underlying property taxation systems. Part VI proposes a model property tax sys-

8. *See infra* Parts III.A.3, III.B.2, III.C.1, III.D.5.

9. *See infra* Part III.

10. Based on our research, Maryland is the only state that has a centralized state-run real property tax assessment system. *See* sources cited *infra* note 87.

tem designed to bring greater equity and efficiency into governments' real property taxation systems. Finally, Part VII evaluates this Article's proposal from the traditional perspectives of equity, efficiency, and simplicity.

I.
History of the Property Tax

Property tax is deeply rooted in American history. The Puritans first instituted property tax in the seventeenth century to pay for church activities and their children's religious education.[11] Payment was mandatory and proceeds went directly to the church.[12] Town Council records for the city of Boston show that by 1800, assessors had developed accurate records as to property ownership and type.[13] Records also show that taxpayers intentionally valued property at less than market value,[14] a custom that is still practiced in many jurisdictions today.[15] With the exception of the Deep South, property taxes became the primary source of local revenue for most American states by the nineteenth century.[16] The southern states did not rely on the property tax in the 1800's because of the political influence of the wealthy classes, who owned large estates and deemed that it was not in their interest.[17] As of 1999, all fifty states had imposed a property tax and approximately seventy-three percent of total local revenue was realized via a property tax.[18] Appendix A reproduces local property taxes as a percent of local taxes for fiscal year 1999, which ranges from a low of thirty-eight percent for Alabama to a high of almost ninety-nine percent for New Hampshire.[19]

Antipathy toward the property tax, however, is as equally ingrained in American history as enthusiasm for this tax. For example, protests over the process in which the property tax was administered, among other reasons, led to the bloody Shays' Rebellion in 1786 and

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11. Richard H. Carlson, *A Brief History of Property Tax*, Fair & Equitable, Feb. 2005, at 3, 5, *available at* http://web.maynard.ma.us/gov/assessors/assessing_history.pdf.

12. *Id.* at 5–6.

13. *Id.* at 6.

14. *Id.*

15. *See, e.g.*, N.Y. Real Prop. Tax Law § 305 (McKinney 2008) (allowing assessing units to use any uniform percentage of fair market value when assessing real property).

16. Carlson, *supra* note 11, at 6.

17. *Id.*

18. Mandy Rafool, Nat'l Conference of State Legislatures, A Guide to Property Taxes: An Overview 12 (2002) [hereinafter NCSL, Overview].

19. *Id.*

Fries Rebellion in 1799.[20] In the 1930s the economic hardships caused by the Great Depression led many states to implement property tax relief measures in the form of homestead exemptions and limitation laws.[21] The homestead exemptions removed from taxation a portion of the value of a taxpayer's principal residence, and the limitation laws placed a ceiling on property tax rates.[22] Additionally, in the first half of the twentieth century, states instituted circuit breaker programs, which limited the percentage of one's income going to property tax.[23] However, shortly after World War II, America's dissatisfaction with the property tax system subsided because the increase in individual income levels associated with the booming economy at the time far outpaced the increase in property tax levies.[24]

In the past few decades, the economy has continued to play a role in the popularity of property tax. In the early 1970s, probably as a result of a stagnant economy, property taxes as a percentage of personal income again began to rise,[25] which caused what has been termed a "property tax revolt":[26] a spate of ballot initiatives employed to reduce property taxes.[27] In California, for example, voters directly amended the state constitution, via a ballot initiative, to limit the government's authority to increase property taxes.[28] The 1980s and 1990s ushered in a new era of rising income and falling property tax as a percentage of personal income.[29] But in 2000, property values began to increase dramatically just as growth in personal incomes began to slow, which once again resulted in an increase of property taxes as a percentage of personal income.[30] These developments again sparked taxpayer anger in a manner similar to the 1970's and early 1980's.[31]

Today, the property tax is mostly administered by local governments, as it has been for most of its existence.[32] Modern day munici-

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20. Carlson, *supra* note 11, at 6–7.
21. *Id.* at 8.
22. *Id.*
23. *Id.*
24. *Id.*
25. *See* Gerald Prante, *Property Tax Collections Surged with Housing Boom*, SPECIAL REP. (Tax Found., Washington, D.C.), Oct. 2006, at 6, *available at* http://www.taxfoundation.org/files/sr146.pdf.
26. *See, e.g.,* Nordlinger v. Hahn, 505 U.S. 1, 1 (1992).
27. A ballot initiative allows voters to directly propose legislation or state constitutional amendments. BLACK'S LAW DICTIONARY 799 (8th ed. 2004).
28. CAL. CONST. art. XIII, § 1.
29. *See* Prante, *supra* note 25, at 6.
30. *Id.* at 8.
31. *See, e.g.*, Tonya Barr, *State Property Tax Debates Heating Up*, TAX FOUND., Jan. 1, 2008, http://www.taxfoundation.org/commentary/show/22956.html.
32. NCSL, OVERVIEW, *supra* note 18, at 4; Prante, *supra* note 25, at 1.

palities depend on property taxes to finance many important public services, such as police and fire departments, education systems, and transportation systems.[33] As of 1999, property tax accounted for over seventy-two percent of total local revenues collected in the United States.[34] This dependence on property tax, unfortunately, continues to cause friction between local taxing jurisdictions and taxpayers, who historically dislike the property tax system.[35]

For centuries, the property tax has served as a reliable source of funding for local governments. Municipalities have depended on this tax to finance their important activities. Although there have been waves of opposition to this tax from its very creation, property tax continues to be one of the most important and reliable financing mechanisms used by local governments.

II.
Attributes of a Real Property Tax

A. *The Real Property Tax Model*

A basic revenue collection model consists of the following three components: (1) a tax base, (2) a tax rate, and (3) the resulting tax revenue.[36] First, the tax base is essentially what is being taxed.[37] For example, for a gift tax, a tax base represents the monetary value of the gift; for a sales tax, a tax base represents the monetary value of the sale transaction. Second, the tax rate is the fraction of the tax base which the taxing authority collects.[38] To put it differently, the tax rate is the percentage applied against the tax base.[39] Finally, the resulting tax revenue is the money which the tax collection process generates and is the product of multiplying a tax rate by a tax base.[40] Individual components of the basic tax formula can be manipulated to arrive at the desired values of the other components. Generally, the desired value of the revenue dominates the equation.[41] After all, the government should not collect more tax revenues than it determines to be reasonably necessary.

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33. *See* NCSL, Overview, *supra* note 18, at 11.
34. *Id.*; *see also* Prante, *supra* note 25, at 2.
35. *See, e.g.*, Davis, *supra* note 3.
36. *See* NCSL, Overview, *supra* note 18, at 3, 9, 11.
37. *See id.* at 3; Maryland State Department of Assessments and Taxation, A Homeowner's Guide to Property Taxes and Assessments (2009), http://www.dat.state.md.us/sdatweb/hog.html.
38. *See id.* at 9.
39. *See id.*
40. *See id.*
41. *Id.*

In real property tax, some, or all, of the property's value serves as a tax base. Thus, the real property tax is calculated by multiplying a predetermined value of the property by a tax rate, which is set by the taxing authority.[42] Unfortunately, determining property value and the tax rate can be a complicated endeavor.

1. The Determination of the Tax Base

Governmental assessing units value, or assess, property to determine the "tax base," the value against which the tax rate is applied.[43] To treat property owners equally, all property within a taxing jurisdiction must be assessed at a uniform percentage of fair market value.[44] Otherwise, some property owners (those with a higher assessment-to-fair-market-value ratio) pay a higher amount of property tax given a uniform tax rate.[45]

In general, either locally elected or appointed assessors determine the value of real property based upon standards established by state law.[46] In setting property values for residential property, assessors typically start with market value, in which they consider the sale prices of comparable property in the same geographical area.[47] They then make adjustments based on the particular property at issue—a practice known as "market approach" or "comparable sales" method. Commercial properties are often valued under different methods that account for factors such as income generation.[48]

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42. *Id.*; *see also* N.Y. STATE OFFICE OF REAL PROP. SERVS., PROPERTY TAX MYTHS AND MISUNDERSTANDINGS (2009), *available* at http://www.orps.state.ny.us/pamphlet/myths.pdf.

43. *See* NCSL, OVERVIEW, *supra* note 18, at 6, 9.

44. *See, e.g.,* Clifton v. Allegheny County, No. GD05-028638, 2007 Pa. Dist. & Cnty. Dec. LEXIS 202, at *2-3 (Pa. Ct. Com. Pl. June 6, 2007); *see also* N.Y. STATE OFFICE OF REAL PROP. SERVS., ASSESSMENT EQUITY IN NEW YORK: RESULTS FROM THE 2006 MARKET SURVEY (2006), *available at* http://www.orps.state.ny.us/ref/pubs/cod/2006mvs/reporttext.htm.

45. *See Clifton*, 2007 Pa. Dist. & Cnty. Dec. LEXIS 202, at *4-5; *see also* RICK PETERSON, OFFICE OF PROGRAM RESEARCH, MEASURING REAL PROPERTY APPRAISAL PERFORMANCE IN WASHINGTON'S PROPERTY TAX SYSTEM 1 (2004), *available at* http://www.leg.wa.gov/Documents/opr/FIN/2004/Ratio2004.pdf.

46. NCSL, OVERVIEW, *supra* note 18, at 6; *see, e.g.,* N.Y. State Office of Real Prop. Servs., Valuing and Assessing Real Property, http://www.orps.state.ny.us/home/varp_index.cfm (last visited June 9, 2009).

47. NCSL, OVERVIEW, *supra* note 18, at 6; *see, e.g.*, N.Y. STATE OFFICE OF REAL PROP. SERVS., THE JOB OF THE ASSESSOR (2008), http://www.orps.state.ny.us/pamphlet/assessjo.pdf.

48. *See, e.g.*, Jerome C. German, *Traditional Methods and New Approaches to Land Valuation,* LAND LINES (Lincoln Inst. of Land Pol'y, Cambridge, Mass.), July 2000, at 4; NCSL, OVERVIEW, *supra* note 18, at 6.

The International Association of Assessing Officers (IAAO) has published guidelines on measuring and evaluating assessment uniformity.[49] For this purpose, the IAAO has developed a statistic called coefficient of dispersion (COD). COD measures how far each property's assessment to fair market value ratio deviates from the median ratio.[50] COD is a widely accepted statistical indicator of inequality in tax assessments.[51] A smaller COD indicates more uniform assessment.[52] According to the IAAO, residential property should have a COD of less than fifteen.[53] A COD of fifteen means that approximately fifty percent of property owners are neither under-assessed nor over-assessed by more than fifteen percent of fair market value.[54] Although COD is not the only statistic used to measure uniformity of assessment, it is the one most commonly used.[55]

A variety of factors can cause non-uniform assessment ratios.[56] Although an in-depth analysis of the valuation process is beyond the scope of this Article, the roles of: (a) the reassessment frequency, (b) the uniformity of assessment standards, and (c) the equalization process are important issues in property valuation and are briefly discussed below.

a. Frequency of Reassessment

Infrequent reassessments lead to inaccurate and inequitable assessment values.[57] State law generally sets the frequency of reassessment.[58] Throughout the country, intervals between appraisals vary from one to ten years. Appendix B lists the years in the assessment cycle for each state.[59] Longer assessment cycles can be troublesome when property values increase rapidly because several years of prop-

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49. INT'L ASS'N OF ASSESSING OFFICERS, STANDARD ON RATIO STUDIES (2007), *available at* http://www.iaao.org/uploads/RatioStd07.pdf.

50. PETERSON, *supra* note 45.

51. Clifton v. Allegheny County, No. GD05-028638, 2007 Pa. Dist. & Cnty. Dec. LEXIS 202, at *3, *41 (Pa. Ct. Com. Pl. June 6, 2007).

52. N.Y. STATE OFFICE OF REAL PROP. SERVS., ASSESSMENT EQUITY IN NEW YORK, *supra* note 44.

53. INT'L ASS'N OF ASSESSING OFFICERS, *supra* note 49, at 18.

54. *Clifton*, 2007 Pa. Dist. & Cnty. Dec. LEXIS 202, at *4.

55. *Id*. at *43.

56. *See, e.g.*, N.Y. STATE OFFICE OF REAL PROP. SERVS., ASSESSMENT EQUITY IN NEW YORK, *supra* note 44.

57. *See, e.g.*, N.Y. STATE OFFICE OF REAL PROP. SERVS., GUIDELINES FOR ANNUAL REASSESSMENT (2007), *available at* http://www.orps.state.ny.us/reassess/annualaid/overview.htm.

58. *See* NCSL, OVERVIEW, *supra* note 18, at 6.

59. *Id.*

erty appreciation can cause large increases in property taxes.[60] For example, the median selling price for residential property in the United States rose over thirteen percent from 2003 to 2004 and over eight percent from 2004 to 2005.[61]

To the extent that real property is not reassessed, it does not reflect the change in property values due to market forces. In a period of increasing home values, assessed values will lag behind the current market values, resulting in a lower tax base than if properties were reassessed annually. To further illustrate, if Maryland, which currently assesses real property every three years, were to switch from a three-year assessment cycle to a five-year assessment cycle, the state's tax base would shrink by approximately thirty-one million dollars in fiscal year 2007.[62]

In addition to inaccurate assessment values, infrequent appraisals can cause non-uniform assessments.[63] This non-uniformity causes inequities between taxpayers.[64] In Pennsylvania, for example, infrequent reassessments resulted in a majority of counties having a COD above fifteen.[65]

Each county in Pennsylvania assesses property.[66] Such assessments are often reflective of a "base year" chosen by each assessing county.[67] In Pennsylvania, the base year market value does not provide for the county (which assesses real property) to take into account market fluctuations in the different neighborhoods occurring after the base year.[68] If improvements are made to real property after the base year, the property's assessed value is determined according to what the property's value would have been in the base year.[69] In effect, once a county in Pennsylvania chooses a base year, it does not reas-

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60. *Id.*

61. U.S. Census Bureau, Median and Average Sales Prices of New Homes Sold in United States, http://www.census.gov/const/uspriceann.pdf (last visited May 22, 2009).

62. H.B. 320, 2005 Reg. Sess. (Md. 2005) (fiscal and policy note), *available at* http://mlis.state.md.us/2005rs/fnotes/bil_0000/hb0320.pdf.

63. *See* Clifton v. Allegheny County, No. GD05-028638, 2007 Pa. Dist. & Cnty. Dec. LEXIS 202, at *4 (Pa. Ct. Com. Pl. June 6, 2007).

64. *Id.*

65. *Id.*

66. *Id.*; *see also* NCSL, OVERVIEW, *supra* note 18, at 8; Pa. St. Tax Rep. (CCH) ¶ 20-605.

67. 72 PA. STAT. ANN. § 5020-402(a) (West 1995 & Supp. 2008); *Clifton*, 2007 Pa. Dist. & Cnty. Dec. LEXIS 202, at *4.

68. *Clifton*, 2007 Pa. Dist. & Cnty. Dec. LEXIS 202, at *4.

69. *Id.* at *10.

sess property thereafter because all assessments reflect base year values.[70]

For example, Pennsylvania's Allegheny County uses 2002 as its base year.[71] This means that real estate taxes in Allegheny County for 2007 are determined by using the 2002 fair market value of taxpayer's properties.[72] However, because not all real property changes in value in the same proportion, failure to reassess causes variation in the ratio of tax rate to fair market value between different properties.[73] To illustrate, between 2002 and 2005, the values in Allegheny County's Edgewood area increased by approximately thirty-six percent, while property values in Braddock area decreased by approximately sixteen percent.[74]

To further complicate matters, the Woodland Hills School District in Pennsylvania includes both Edgewood and Braddock.[75] Because the 2007 school taxes paid by property owners in Edgewood and Braddock were calculated using 2002 fair market values,[76] the ratio of assessed value to fair market value was higher in Braddock.[77] The consequence for property owners in Braddock was that their property tax burden as compared to the fair market value of their property was higher than the property tax burden of property owners in Edgewood.[78]

This sort of non-uniform assessment procedure is often challenged in court as unjust.[79] For example, a lower court has determined that failing to conduct reassessments violates the Uniformity Clause of Pennsylvania's Constitution.[80] Although this case is based on Pennsylvania's state law, many other state constitutions have a uniformity clause similar to that of Pennsylvania.[81]

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70. *See id.*
71. *Id.*
72. *Id.* at *1.
73. *See id.* at *10.
74. *Id.* at *1.
75. *Id.*
76. *Id.*
77. *See id.*
78. *See id.*
79. *See id.*
80. PA. CONST. art. VIII, § 1.
81. *Clifton*, 2007 Pa. Dist. & Cnty. Dec. LEXIS 202, at *2.

b. Uniform Assessment Standards

In most states, the responsibility for assessing real properties falls upon different local taxing jurisdictions.[82] For example, as of 2000, New York State had 1,199 separate localities,[83] known as assessing units,[84] responsible for assessing real property.[85] A list of the number of assessing units by government level for each state is listed in Appendix B.[86] Generally, these local taxing jurisdictions are autonomous and do not have a centralized assessment process.[87] Such decentralization can lead to non-uniform and inequitable assessments.

For example, certain states permit local assessing units to adopt non-uniform assessment cycles.[88] In Washington State, state law mandates that each county assessor revalue real property at least once every four years and physically inspect real property at least once every six years, but the county assessor is free to choose any schedule within those guidelines.[89] Because property is appraised by county assessors on different cycles, the most recent assessed value does not always reflect current market value.[90] Absent "equalization"[91] and assuming increasing property values, individuals who own a property in areas that are revalued every year pay more in tax than those in areas that are revalued less often because the tax would be based on a more current and usually higher valuation.[92]

Certain states, such as Delaware and Pennsylvania, do not have an agency that assumes any supervisory responsibility over the assessment programs of the different assessing units within the state.[93] In

82. *See, e.g.*, N.Y. STATE OFFICE OF REAL PROP. SERVS., PROPERTY TAX MYTHS AND MISUNDERSTANDINGS, *supra* note 42; N.Y. St. Tax Rep. (CCH) ¶ 20-010; Pa. St. Tax Rep. (CCH) ¶ 20-010; NCSL, OVERVIEW, *supra* note 18, at 7.

83. NCSL, OVERVIEW, *supra* note 18, at 8; N.Y. STATE OFFICE OF REAL PROP. SERVS., UNDERSTANDING THE EQUALIZATION RATE (2008), *available at* http://www.orps.state.ny.us/pamphlet/under_eqrates.pdf.

84. N.Y. REAL PROP. TAX LAW § 102(1) (McKinney 2008).

85. N.Y. STATE OFFICE OF REAL PROP. SERVS., UNDERSTANDING THE EQUALIZATION RATE, *supra* note 83.

86. NCSL, OVERVIEW, *supra* note 18, at 7–8.

87. *But see* Md. State Dept. of Assessments & Taxation, Origins & Functions, http://www.msa.md.gov/msa/mdmanual/25ind/html/06assesf.html (last visited June 13, 2009). Maryland is the only state where the assessment process is centralized at the state level. *See also* Md. St. Tax Rep. (CCH) ¶ 20-605; NCSL, OVERVIEW, *supra* note 18, at 7.

88. *See, e.g.*, WASH. REV. CODE ANN. § 84.41.030 (West 2004).

89. *Id.*

90. Wash. St. Tax Rep. (CCH) ¶ 20–720.

91. *See infra* Part II.A.1.c.

92. *See* Wash. St. Tax Rep. (CCH) ¶ 20-720.

93. Clifton v. Allegheny County, No. GD05-028638, 2007 Pa. Dist. & Cnty. Dec. LEXIS 202, at *59 (Pa. Ct. Com. Pl. June 6, 2007).

Pennsylvania, assessment systems vary widely from county to county because the state plays no role in assessing property; instead, the state delegates that role to local governments.[94] Pennsylvania's Allegheny County taxes one hundred percent of the 2002 values of taxpayers' homes; Butler County taxes seventy-five percent of the 1969 values; and Washington County taxes twenty-five percent of the 1981 values.[95]

Other states have an oversight board, though with very limited powers.[96] As a result, historically, assessing laws have not been strictly followed in those states.[97] In New York, according to the State Comptroller, because different local property valuation processes determine the property tax, "assessment quality varies throughout the State, and in many areas properties with similar market values can have very different assessments."[98] In fact, some municipalities have assessments that are up to date, while others have assessments that are over one hundred years old.[99]

A few states however, do have a centralized supervisory system.[100] In Maryland, the governor-appointed Director of Assessments and Taxation monitors and enforces property tax assessment laws.[101] This "empowered" oversight facilitates uniformity of property assessment throughout the state.[102] As a result, Maryland's statewide COD for residential property as of January 1, 2006 was 11.25,[103] as compared to New York's statewide COD for residential property of 16.31.[104] Furthermore, as of 2005, 87.5 percent of Maryland's coun-

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94. *See* ALLEGHENY INST. FOR PUB. POLICY, PENNSYLVANIA'S PROPERTY ASSESSMENT SYSTEM NEEDS CHANGE 2 (2007), *available at* http://www.alleghenyinstitute.org/reports/07_07.pdf.

95. *Id.* at 6.

96. N.Y. STATE OFFICE OF REAL PROP. SERVS., REASSESSMENT FREQUENTLY ASKED QUESTIONS (2006), *available at* http://www.orps.state.ny.us/pamphlet/reassessqa.pdf.

97. *See* DIV. OF LOCAL GOV'T & SCH. ACCOUNTABILITY, OFFICE OF THE NEW YORK STATE COMPTROLLER, PROPERTY TAXES IN NEW YORK STATE 15 (2006), *available at* http://www.osc.state.ny.us/localgov/pubs/research/propertytaxes.pdf; *see also Clifton*, 2007 Pa. Dist. & Cnty. Dec. LEXIS 202, at *9 (stating that certain Pennsylvania counties that purported to have conducted reassessments had not done so).

98. DIV. OF LOCAL GOV'T & SCH. ACCOUNTABILITY, *supra* note 97, at 15.

99. N.Y. STATE OFFICE OF REAL PROP. SERVS., REAL PROPERTY TAX IN NEW YORK STATE: COMMON MYTHS AND MISUNDERSTANDINGS, *supra* note 42.

100. *See supra* note 87.

101. Md. St. Tax Rep. (CCH) ¶ 20-605.

102. *Id.*

103. MD. DEP'T OF ASSESSMENTS & TAXATION, 2006 ASSESSMENT RATIO REPORT (2006), *available at* http://www.dat.state.md.us/sdatweb/stats/06rr_rpt.html.

104. N.Y. STATE OFFICE OF REAL PROP. SERVS., ASSESSMENT EQUITY IN NEW YORK, *supra* note 44.

ties reported a COD of less than fifteen for residential properties.[105] The corresponding figure in New York is sixty-four percent[106] and in Pennsylvania is three percent.[107]

Non-uniformity in the assessment of real properties pervades the United States. This non-uniformity adds yet another layer of inequity to the national real property taxation system. Although not a perfect solution, the equalization process attempts to mitigate the assessment-related inconsistencies and resulting inequities.

c. Equalization Process

A central authority in each state often oversees assessments made by local governments.[108] When the central authority recognizes inconsistencies between jurisdictions, it can adjust valuations.[109] This process is known as equalization.[110] States rely on the equalization process to make comparable all assessments generated by local governments. Equalization attempts to bring uniformity to non-uniform valuations.[111] For example, the South Dakota Department of Revenue adjusts local assessments to ensure that the median assessment within each county represents at least eighty-five percent of the market value (as determined by the South Dakota Department of Revenue).[112] Equalization would be unnecessary if all jurisdictions in a state used the same assessment ratio and made uniform assessments.[113]

Unfortunately, problems with the equalization process exist. Because equalization corrects jurisdictional averages, the equalization rate, as applied to a given property, can be inaccurate and can exacerbate non-uniform assessments.[114] For example, in New York State, an

105. MD. DEP'T OF ASSESSMENTS & TAXATION, *supra* note 103, at table IV.

106. N.Y. STATE OFFICE OF REAL PROP. SERVS., ASSESSMENT EQUITY IN NEW YORK, *supra* note 44, at table 3.

107. Clifton v. Allegheny County, No. GD05-028638, 2007 Pa. Dist. & Cnty. Dec. LEXIS 202, at *47 (Pa. Ct. Com. Pl. June 6, 2007).

108. *See, e.g.*, N.Y. REAL PROP. TAX LAW § 202 (McKinney 2008); *see also* NCSL, OVERVIEW, *supra* note 18, at 6.

109. *See, e.g.*, N.Y. REAL PROP. TAX LAW § 202 (McKinney 2008); MINN. STAT. ANN. § 274.13 (West 2007); *see also* NCSL, OVERVIEW, *supra* note 18, at 10.

110. N.Y. STATE OFFICE OF REAL PROP. SERVS., UNDERSTANDING THE EQUALIZATION RATE, *supra* note 83.

111. *See* NCSL, OVERVIEW, *supra* note 18, at 10.

112. S.D. CODIFIED LAWS § 10-12-31.1 (1996 & Supp. 2007).

113. N.Y. STATE OFFICE OF REAL PROP. SERVS., UNDERSTANDING THE EQUALIZATION RATE, *supra* note 83.

114. *See* Brian J. Kenney, *Proposed Amendments to Real Property Tax Law: An Argument for the Establishment of a Commercial Assessment Ratio* 46 (2) INST. ASSESSING OFFICERS J. 4 (2004).

assessing unit must apply one equalization rate to all properties.[115] If the state, through the Office of Real Property Services, determines that a given unit has assessed all property at fifty percent of market value on average, it will double the assessed values of *all* properties within the unit in an attempt to make sure all assessments are uniform throughout the state.[116] Because the fluctuations in, for example, commercial property values tend not to correlate with the fluctuations in residential property values, the commercial properties' relation to fair market value may not be anywhere near fifty percent. Therefore, simply doubling the assessed value of such property would not make the overall assessment more uniform.[117]

Valuing real properties is a difficult procedure.[118] Preparing an assessment role that accurately values every property is practically impossible. However, uniform assessment standards and procedures will eliminate the vast majority of inequities currently present within the national real property taxation systems.[119]

i. The Role of the Assessment Ratio

In many jurisdictions, the market value of property, as determined by the assessor, is not the actual tax base used in computing the property tax.[120] Instead, the market value is multiplied by an "assessment ratio" to determine the taxable value (also referred to as "assessed value").[121] Localities in New York State generally do not require that real property be assessed at one hundred percent of market value.[122] Instead, each locality may assess real property at any given percentage of market value provided all properties within a particular locality are assessed at the same level.[123]

The most common purpose of applying an assessment ratio of less than one hundred percent is that, when combined with a classification system, states may reduce that actual tax bill for residential properties in comparison to commercial properties.[124] Classification

115. Nyack Plaza Housing Assoc. v. Town of Orangetown, No. 11425-02, 2005 WL 887269, at *3 (N.Y. Sup. Ct. Apr. 18, 2005).
116. *See* N.Y. STATE OFFICE OF REAL PROP. SERVS., UNDERSTANDING THE EQUALIZATION RATE, *supra* note 83.
117. *See* Kenney, *supra* note 114.
118. *See supra* Part II.A.1.
119. *See infra* Part V.
120. NCSL, OVERVIEW, *supra* note 18, at 10.
121. *Id.* at 8; *see also* N.Y. REAL PROP. TAX LAW § 305 (McKinney 2008).
122. N.Y. STATE OFFICE OF REAL PROP. SERVS., THE JOB OF THE ASSESSOR, *supra* note 47.
123. N.Y. REAL PROP. TAX LAW § 305 (McKinney 2008).
124. NCSL, OVERVIEW, *supra* note 18, at 8.

refers to the process of grouping similar properties into separate categories to apply a different tax rate or assessment rate to each category.[125] For example, the Alabama State constitution classifies all property into one of four categories, each with a different assessment rate.[126] Alabama provides a lower assessment rate for residential properties than it does for most commercial properties.[127] In this way, residential properties receive a lower tax levy than if all properties were assessed at fair market value.

An assessment ratio of less than one hundred percent can add yet another obstacle to uniform assessments. In theory, if a constant assessment ratio is applied to all properties, uniformity should not suffer. However, due to infrequent assessments,[128] non-uniform assessment standards,[129] and the general difficulties associated with valuation, the assessment ratio can exacerbate an already imperfect process.

ii. Applying the Tax Rate

After determining the taxable value (or assessed value) of real property, such value is multiplied by the tax rate to determine the amount of tax due.[130] The authority that creates the budget determines the tax rate.[131] In New York State, property tax rates are set not by assessors but by taxing jurisdictions, such as school boards, town boards, village boards, and county legislators.[132] To determine the tax rate, each taxing jurisdiction determines the total amount of taxes it needs to raise and then divides that number by the total taxable assessed values within the jurisdiction, subject to certain constitutional restrictions.[133] Thus, in New York, like many states, the total property tax bill is not controlled by a single authority. Rather it is an amalgamation of taxes imposed by a multitude of local taxing jurisdictions.[134]

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125. *See* Nordlinger v. Hahn, 505 U.S. 1 (1992) (addressing challenge to California's property classification system under the Equal Protection Clause).

126. ALA. CONST. amend. 373.

127. *Id.*

128. *See supra* Parts II.A.1.a.

129. *See supra* Parts II.A.1.b.

130. *See, e.g.*, NCSL, OVERVIEW, *supra* note 18, at 9; N.Y. STATE OFFICE OF REAL PROP. SERVS., UNDERSTANDING THE EQUALIZATION RATE, *supra* note 83.

131. *See* NCSL, OVERVIEW, *supra* note 18, at 9.

132. N.Y. STATE OFFICE OF REAL PROP. SERVS., PROPERTY TAX MYTHS AND MISUNDERSTANDINGS, *supra* note 42.

133. *See* N.Y. CONST. art. VIII, § 10.

134. N.Y. St. Tax Rep. (CCH) ¶ 20-405.

B. The Role of the Property Tax in Governments' Revenue Collection

The property tax is one of three major taxes in the American tax system.[135] Income tax and consumption (sales) tax are the other two major taxes.[136] Although historically the real property tax has been a primary source of state revenue, states have been consistently shifting towards the income and sales tax.[137] In fact, property tax accounted for over eighty percent of total state and local tax revenue in 1920 compared to twenty-nine percent in 2002.[138] Despite this shift at the state level, local governments still rely heavily on the property tax.[139] In 2005, property tax accounted for seventy-three percent of total local tax revenue,[140] up from seventy-one percent in 2001.[141] Based on figures for the 2003 fiscal year, about half of all property taxes went to public schools.[142] Other localities, such as counties, towns, and police and fire districts, also rely on the property tax.[143]

C. The Advantages and Disadvantages of the Real Property Tax

Real property tax has many advantages[144] and some disadvantages over its income and sales tax rivals. Stability and high taxpayer compliance are generally considered to be the most valuable advantages.[145] Real property tax collections are relatively stable because the property values are not as quick to react to general economic fluctuations as taxpayers' income (tax base for income tax) or regular spending habits (tax base for sales tax).[146]

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135. NAT'L CONFERENCE OF STATE LEGISLATURES, A GUIDE TO PROPERTY TAXES: THE ROLE OF PROPERTY TAXES IN STATE AND LOCAL FINANCES 1 (2004) [hereinafter NCSL, ROLE].
136. *Id.* at 1.
137. *Id.* at 8.
138. *Id.*
139. *See* Prante, *supra* note 25, at 1.
140. *Id.*
141. NCSL, ROLE, *supra* note 135, at 9.
142. Prante, *supra* note 25, at 1, 2.
143. *Id.* at 2.
144. *See* NCSL, ROLE, *supra* note 135, at 1 (noting advantages such as stability and predictability, ease in enforcement, ability to tax nonresidents, and direct connection between payment and service).
145. Charlie B. Tyer, *The Property Tax: Why it Persists,* S.C. POL'Y F. MAG., Spring 1993, at 12, 17–18.
146. *See, e.g.,* NCSL, ROLE, *supra* note 135, at 1–2; *see also* PETER BLUESTONE ET AL., FISCAL RESEARCH CENTER, GEORGIA STATE UNIVERSITY, FINANCING AN INCREASED STATE ROLE IN FUNDING K-12 EDUCATION: AN ANALYSIS OF ISSUES AND OPTIONS 65–66 (2005); DIV. OF LOCAL GOV'T. & SCH. ACCOUNTABILITY, *supra* note 97, at 5; Larry DeBoer, *Capital Comments: Property Tax Stability and Circuit Breakers*, PURDUE EXTENSION, October 28, 2004.

For example, an economic downturn in 2001 caused income and sales tax collections to drop below forecast levels.[147] This downturn handicapped state government budgets, which rely heavily on income and sales taxes. But the effect on local governments, which rely more heavily on property tax, was not as significant.[148] As a result, state governments have been more likely to experience unforeseen budget cuts, often occurring in the middle of the year, than local governments.[149] This strength can also be viewed as a weakness. As noted by a New York State research report from the Office of the Comptroller, the propensity of the property tax to remain constant, or even increase, in the face of declining income, causes many people to criticize this tax as unfair for less wealthy taxpayers.[150]

Another significant advantage of the property tax is the high compliance rate and corresponding ease of enforcement.[151] After all, it is difficult to hide a house. Failure to pay property taxes may result in a lien on the property and even a foreclosure sale.[152] As a result, compared to other taxes, collection rates for the property tax are high, ranging often from ninety-two to ninety-eight percent.[153]

Unfortunately, the property tax has disadvantages. For example, some commentators view the property tax as inequitable.[154] One of the reasons for this inequity is that the property tax is a regressive tax.[155] A tax is considered regressive when low-income taxpayers pay relatively more of their income in property tax than wealthier taxpayers.[156] The regressive nature is present because the property tax, in its most basic form, is calculated on the value of real property without regard to taxpayers' income.[157] To illustrate, as of 2003, the poorest

147. NCSL, ROLE, *supra* note 135, at 4.
148. *Id.*
149. Tyer, *supra* note 145, at 18.
150. DIV. OF LOCAL GOV'T. & SCH. ACCOUNTABILITY, *supra* note 97, at 2; *see also Hearing Before the Ky. Legislative Research Comm'n Subcomm. on Tax Policy Issues*, 1998 Sess. (Ky. 1999) (statement of Michael P. Ettlinger, Tax Policy Director, Institute on Taxation and Economic Policy), *available at* http://www.ctj.org/html/ky99test.htm.
151. *See* Tyer, *supra* note 145, at 18.
152. *Id.*
153. *See, e.g.*, WASHINGTON STATE DEPARTMENT OF REVENUE, PROPERTY TAX STATISTICS 2006, at 2 (2006), *available at* http://dor.wa.gov/docs/reports/2006/Property_Tax_Statistics_2006/PropTx2006.pdf.
154. *See, e.g.*, INST. ON TAX'N & ECON. POL'Y, PROPERTY TAX CIRCUIT BREAKERS (2005), *available at* http://www.itepnet.org/pb10cb.pdf; Editorial, *House Would Link Property Tax, Income Tax,* STAR TRIB. (Minneapolis, Minn.), March 29, 2007, at 10A.
155. INST. ON TAX'N & ECON. POL'Y, *supra* note 154.
156. DIV. OF LOCAL GOV'T. & SCH. ACCOUNTABILITY, *supra* note 97, at 15.
157. *Id.*

twenty percent of Americans paid three percent of their income in property taxes; middle-class taxpayers paid 2.4 percent of their income in property taxes; and the wealthiest one percent of Americans paid 0.8 percent of their income in property taxes.[158] Because property taxes are not based on ability to pay,[159] a taxpayer's property tax bill may increase even in the face of declining, or zero, income.[160] As discussed below, some states have instituted mechanisms to alleviate hardships caused by the property tax for certain groups of low-income taxpayers.

Thus the real property tax has many advantages as well as some disadvantages. Despite the inequity issues discussed above, the relative stability of the tax base coupled with the high taxpayer compliance has made real property tax a preferred source of revenue for local governments.

III.
Property Tax Relief Programs

> *Current efforts to repair the property tax system "seem to be governed by Newton's third law—for every action, there is an equal and opposite reaction."*[161]

Every state employs some form of property "tax relief" program to reduce the local property tax bill for taxpayers.[162] To achieve this goal, each state modifies the basic property tax model in some way.[163] However, many tax relief mechanisms merely shift the property tax burden among various classes of taxpayers.[164] In addition, poorly

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158. Inst. on Tax'n & Econ. Pol'y, Property Tax Homestead Exemptions (2005), *available at* http://www.itepnet.org/pb12home.pdf.

159. *Id. But see* William T. Harris, *Property Tax Circuit-breakers: Good Causes but Bad Economics,* 42 Am. J. Econ. & Soc. 209 (1983) (arguing that the property tax may not be regressive).

160. Inst. on Tax'n & Econ. Pol'y, *supra* note 158.

161. *"Save Our Homes" a Good or Bad Thing? It Depends on Who's Answering,* Volusia County Econ. Dev. Q. (Volusia County Dep't of Econ. Dev., Daytona Beach, Fla.), Summer 2006, *available at* http://www.volusia.org/economicdevelopment/quarterly/summer06p10.htm.

162. Nat'l Conference of State Legislatures, A Guide to Property Taxes: Property Tax Relief 6–7 (2002) [hereinafter NCSL, Relief].

163. *See supra* Part II.A.

164. *See, e.g.*, Div. of Local Gov't. & Sch. Accountability, *supra* note 97; E.J. McMahon, *More STAR in New York's Future?*, N.Y. Fiscal Watch, Mar. 23, 2006, http://www.nyfiscalwatch.com/html/fwm_2006-03.html; Sarah Beth Coffey, Georgia Budget and Policy Institute, Analysis of HR 162—Property Tax Cap (2006), *available at* http://www.gbpi.org/pubs/garevenue/20060303.pdf.

planned relief programs often create even greater inequity and inefficiency within the property tax system.[165]

Property tax relief programs for residential properties vary in design from state to state but have the common goal of reducing property taxes.[166] Some of the measures provide relief broadly, while others target relief to certain categories of properties, such as homestead properties,[167] or certain categories of taxpayers, such as the elderly or low income earners.[168] Although no two states have identical relief systems, this Part evaluates the most common types of property tax relief programs used by states throughout the nation. Appendix C highlights the popularity of each system among the various states as of 2002.[169]

A. Homestead Exemption Programs

Homestead exemption programs are the most widely used forms of property tax relief.[170] As of 2002, forty-eight states made homestead exemptions available to at least one class of homeowner.[171]

1. Basic Structure of Homestead Exemption Programs

Homestead exemptions exempt a certain portion of a residential home's value from taxation.[172] In many states, a homestead exemption is available only if the homeowner uses the property as a principal residence.[173] The amount of the exemption can be either a fixed dollar amount ("flat dollar") or a fixed percentage ("percent exemption") of the real estates' value.[174]

For example, under the flat dollar mechanism, the first $15,000 of the home's value would be excluded from taxation. As a result, a

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165. *See, e.g.*, Gary M. Galles & Robert L. Sexton, *The Surprising Effects of California's Proposition 13 and Massachusetts' Proposition 2½,* 57 AM. J. ECON. & SOC. 123 (1998) (demonstrating that assessment and tax rate limits in California and Massachusetts caused an increase in non-tax fees and charges and did not reduce total spending); N.Y. PUB. INTEREST RESEARCH GROUP, A TAXING PROBLEM: ASSESSMENT EQUITY FOR NEW YORK CITY HOMEOWNERS (2003), *available at* http://www.nypirg.org/goodgov/proptax/equity.html (demonstrating that assessment limits in New York City shift taxes to those with less valuable homes); Eric Lipton, *Tax on Homes is Inequitable, Study Finds,* N.Y. TIMES, July 29, 2003, at B1.
166. NCSL, RELIEF, *supra* note 162, at 5.
167. *See infra* Part III.A.
168. *See infra* Part III.B.
169. NCSL, RELIEF, *supra* note 162, at 32–33.
170. *Id.* at 7.
171. *Id.*
172. *E.g.,* LA. CONST. art. VII, § 20; FLA. CONST. art. VII, § 6.
173. *E.g.,* LA. CONST. art. VII, § 20; FLA. CONST. art. VII, § 6.
174. INST. ON TAX'N & ECON. POL'Y, *supra* note 158.

home valued at $100,000 would only be taxed against $85,000. Under the percent exemption mechanism, the same property tax relief for this home would be accomplished by exempting fifteen percent of the home's value.

While real property tax is generally viewed as a regressive tax,[175] the flat dollar exemption makes property tax more progressive. This is because the owner of a lower priced home receives a higher percentage of tax reduction since the flat dollar exemption represents a much larger portion of a lower priced property than a higher priced property.

2. *Benefits of Homestead Exemption Programs*

The benefits of homestead exemptions, as compared to other tax relief systems, are that participation is automatic and the exemptions are relatively easy to administer. The relative ease of administration is possible because local governments can simply build the exemption into every property tax bill.[176]

It is generally not possible, however, to simply incorporate relief offered by other programs, such as deferral programs[177] or circuit breaker programs,[178] into each home owner's tax bill. This is because the amount of the relief provided under these other tax relief programs generally depends on certain unique characteristics of each taxpayer, such as age or income level, which are rarely known to the assessor. As a result, homeowners' active participation in the application process is required for other relief programs. Some states require additional forms to be attached to a qualifying homeowner's income tax return in order to receive the benefit. Such requirements tend to decrease relative levels of homeowner participation in other property tax relief programs due to lack of knowledge of the programs, lack of knowledge of the filing requirements, or the complexity of the requirements. For example, a taxpayer who is not required to file an income tax form may be less likely to take advantage of a relief program because information about such programs are often distributed with income tax forms.[179]

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175. *Id.* (defining a regressive tax as requiring low-income taxpayers to pay more of their income in tax than wealthier taxpayers). *But see* Harris, *supra* note 159.
176. NCSL, Relief, *supra* note 162, at 9.
177. *See infra* Part III.E.
178. *See infra* Part III.B.
179. *See* NCSL, Relief, *supra* note 162, at 9.

3. *Weaknesses of Homestead Exemption Programs*

Homestead exemption programs have several weaknesses. First, these programs may shift the tax burden between taxpayers, as opposed to actually reducing the overall tax burden.[180] The shift can occur in a variety of ways. A tax shift can occur when a state government does not reimburse local governments for revenue lost due to an exemption program.[181] Because localities depend heavily on the property tax for revenue, the likelihood is that the locality will raise property tax rates to make up for exemption-driven losses in tax revenues. In states in which not all property qualifies for the exemption, the increased rates will disproportionately burden properties that do not qualify for the homestead exemption. This is because the higher tax rate will apply to the entire value of a property that does not qualify for the homestead exemption. While it will apply to only a fraction of the value of a property that does qualify for the homestead exemption, many homestead exemptions do not apply to renters, non-owner occupied residential property, or commercial properties.[182] This generally shifts the property tax burden onto commercial and industrial properties (and potentially to renters if they or their landlords are not eligible for the exemption) as well as second homes.[183]

It should be noted that a locality may employ other methods to make up for the lost revenue such as by cutting services, employing other forms of revenue generation, if available, or by receiving increased state aid.

A tax shift can also occur between tax systems within a state. For example, many state governments do reimburse local governments for revenue lost due to a state mandated homestead exemption programs.[184] The purpose of the reimbursement is to prevent localities from attempting to recoup lost revenue via an increased property tax

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180. *E.g.*, DIV. OF LOCAL GOV'T & SCH. ACCOUNTABILITY, *supra* note 97, at 13; NCSL, RELIEF, *supra* note 162, at 9.

181. *See, e.g.*, JOHN RAPPA, CONNECTICUT OFFICE OF LEGISLATIVE RESEARCH, MANDATED, UNREIMBURSED PROPERTY TAX EXEMPTIONS (2003); NCSL, RELIEF, *supra* note 162, at 9.

182. *See, e.g.*, FLA CONST. art. VII, § 6; *see also* INST. ON TAX'N & ECON. POL'Y, *supra* note 158; DIV. OF LOCAL GOV'T & SCH. ACCOUNTABILITY, *supra* note 97, at 12.

183. *See* Alan Greenblatt, *The Loathsome Local Levy*, GOVERNING, Oct. 2001, at 36; *see also* FLORIDA TAX WATCH, CONTROLLING ESCALATING PROPERTY TAXATION AND LOCAL GOVERNMENT SPENDING AND REVENUE 8 (2006), *available at* http://www.floridataxwatch.org/resources/pdf/LocalTaxationReportFINAL.pdf [hereinafter FLORIDA TAX WATCH] (discussing how Florida's decision to exclude non-principal residences from the homestead exemption shifts the tax burden to second home owners).

184. *See e.g.,* S.C. CODE ANN. § 11-11-156 (Supp. 2007).

rate, or other revenue generation mechanism. However, even with state reimbursement, the tax burden is merely shifted from the local to the state level because states are forced to finance these reimbursements with other types of state-imposed taxes.[185]

State-financed exemptions may actually encourage local officials to increase spending. The reason for this is that state reimbursements create an additional source of revenues for local governments that cannot necessarily be directly tied to the tax burden imposed on the local property owners. As such, it becomes easier for local governments to get approval for incurring additional expenditures that are paid for by state reimbursements.[186] Whether increased local spending is good or bad is an individual value judgment. Those opposed to increased local government spending can argue that in the absence of political pressure to reduce spending, local politicians will be more likely to use extra funds in a wasteful manner, such as to favor political constituents. On the other hand, those in favor of increasing local government spending can argue that local governments are best equipped to directly respond to taxpayers' demands

A final problem with homestead exemptions is that they are generally given to homeowners (who qualify as homesteads) at all income levels.[187] As a result, extremely wealthy taxpayers often receive the tax benefit of a homestead exemption, which was not designed to benefit these wealthy taxpayers. To rectify this problem, some states target the benefits of the homestead exemption to certain types of taxpayers based on income, wealth, or age restrictions.[188] For example, some states provide for a homestead exemption program, but they limit participation in the program to those taxpayers who are over a certain age and who earn below a certain level of income.[189] Most states do not have an income limitation associated with their home-

185. DIV. OF LOCAL GOV'T. & SCH. ACCOUNTABILITY, *supra* note 97, at 13; FLORIDA TAX WATCH, *supra* note 183 at 10.

186. FLORIDA TAX WATCH, *supra* note 183, at 9–10.

187. *See, e.g.*, ME. REV. STAT. ANN. tit. 36, § 683 (Supp. 2007); INST. ON TAX'N & ECON. POL'Y, *supra* note 158. *But see* Press Release, New York State Executive Chamber, Expanded Property Tax Relief Targets Middle Income Homeowners (Jan. 31, 2007), *available at* http://ny.gov/governor/press/0131072.html (describing homestead exemption amount based on other factors such as income).

188. *See, e.g.*, KY. REV. STAT. ANN. § 132.810 (2008) (authorizing a homestead exemption for people sixty-five and older); OKLA. STAT. ANN. tit. 68, § 2890 (West 2001) (authorizing an additional homestead exemption limited to heads of households whose gross income is not greater than $20,000); *see also* N.Y. STATE OFFICE OF REAL PROP. SERVS., STAR SCHOOL PROPERTY TAX EXEMPTION QUESTIONS AND ANSWERS (2008).

189. *E.g.*, N.C. GEN. STAT. §§ 105-309, 105-277.1 (West 2008).

stead exemption and instead rely on other categorizations.[190] The problem with relying on non-income factors, such as age, is that it may exclude even those whom the state would like to benefit.[191] The circuit breaker, discussed below, is another vehicle for providing targeted benefits.

B. Circuit Breaker Programs

Circuit breaker programs target property tax relief to certain types of taxpayers.[192] Similar to homestead exemptions, circuit breaker programs do not reduce taxes but rather shifts taxes from those who qualify for the programs to those who do not.

1. Basic Structure

Circuit breaker programs are named after the electrical devices that shut off electric power to prevent circuits from overloading. Property tax circuit breaker programs prevent property taxes from "overloading" the taxpayer.[193] All circuit breaker programs in effect as of 2002 contained either an income or an asset limit and a maximum benefit that was generally inversely proportional to income.[194] Circuit breaker programs attempt to more accurately direct property tax relief to specific categories of taxpayers than do homestead exemptions.[195] These programs usually provide relief to low-income homeowners and sometimes to renters as well.[196] Thirty-three states and the District of Columbia have enacted a circuit breaker program as of 2002.[197]

A circuit breaker differs from a traditional homestead exemption in that the amount of relief generally depends on household income or the property tax bill.[198] Generally, circuit breaker programs are "threshold" programs that provide property tax credits to an eligible person whose property tax exceeds a certain percentage of his or her income[199] or overall wealth.[200] Some circuit breaker programs,

190. *See* NCSL, RELIEF, *supra* note 162, at 10–15.
191. *See* INST. ON TAX'N & ECON. POL'Y, *supra* note 158.
192. INST. ON TAX'N & ECON. POL'Y, *supra* note 154.
193. NCSL, RELIEF, *supra* note 162, at 15–16.
194. *E.g.*, MICH. COMP. LAWS ANN. § 206.520(1), (8) (West 2007); NCSL, RELIEF, *supra* note 162, at 16–18.
195. INST. ON TAX'N & ECON. POL'Y, *supra* note 154.
196. *Id.*; *e.g.*, D.C. CODE ANN. § 47-1806.06 (LexisNexis Supp. 2008).
197. NCSL, RELIEF, *supra* note 162, at 16.
198. *E.g.*, MD. CODE ANN., TAX–PROP. § 9-104(h), (i) (2005); *see also* NCSL, RELIEF, *supra* note 162, at 16.
199. *E.g.*, ME. REV. STAT. ANN. tit. 36, § 6207 (Supp. 2007); OKLA. STAT. ANN. tit. 68, § 2907 (West 2001 & Supp. 2007).

known as "sliding scale" programs, provide a variable credit for property tax paid depending solely on income earned.[201] For example, some states establish a fixed credit for property taxes paid by households with income below a certain level; the credit, however, is decreased by a fixed amount for every increase in household income.[202] Therefore, the credit amount varies depending on household income.[203] In either case, the amount of the tax relief depends on the particular financial situation of the property owner.

Local governments must make important policy-driven eligibility decisions, such as which property owners should and should not benefit from a particular circuit breaker program. Consequently, different states have developed different eligibility criteria.

2. *Benefits and Drawbacks of Circuit Breaker Programs*

Circuit breaker programs have both benefits and drawbacks. The major benefit of a circuit breaker program, as compared to a typical homestead exemption, is that it can be targeted to a select group, such as low-income taxpayers.[204] Additionally, because circuit breaker credit amounts vary with income, the taxpayer's ability to pay becomes a factor in the property tax calculation. This factor brings an element of equity into the property tax structure.[205] Further, it is worthwhile to note that the low-income taxpayers, who typically benefit from circuit breakers, are less likely to itemize their federal tax deductions.[206] As a result, this type of property tax cut is less likely to be mitigated by an increase in federal tax liabilities as a result of a decrease in property tax deductions.[207]

The drawbacks of circuit breaker programs mirror those of homestead exemptions. Specifically, if circuit breakers are not financed by the state, they will result in reduced local revenue. Reductions in revenue may cause localities to increase property tax rates, shift revenue collection to another source, or reduce spending. Reduced spending

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200. *E.g.*, MD. CODE ANN., TAX–PROP. § 9-104(h), (i).
201. NCSL, RELIEF, *supra* note 162, at 16.
202. *E.g.*, ARIZ. REV. STAT. ANN. § 43-1072 (1998).
203. *See id.*
204. *See* MICHAEL ALLEN & RICHARD WOODBURY, ME. CTR. FOR ECON. POLICY, MAINE PROPERTY TAXES: DOES THE CIRCUIT BREAKER RELIEVE THE BURDEN? 15 (2006), *available at* http://www.mecep.org/view.asp?news=90; *see also* Press Release, New York State Executive Chamber, *supra* note 187.
205. STANLEY CHERVIN, TENN. ADVISORY COMM'N ON INTERGOVERNMENTAL RELATIONS, PROPERTY TAX REDUCTION AND RELIEF PROGRAMS 2 (2007), *available at* http://tn.gov/tacir/PDF_FILES/Taxes/property%20tax%20reduction.pdf.
206. INST. ON TAX'N & ECON. POL'Y, *supra* note 154.
207. *Id.*

generally results in significant reductions in municipal services.[208] Such a reduction in spending, and accompanying reduction in municipal services, may be viewed as desirable or not depending on individual value judgment. These are, however, policy decisions that we argue should be made pursuant to an evaluation of the need for services balanced against the need for revenue and not disguised as a legislative effort to alter the property tax formula.

State-financed local property tax reduction programs are also mere tax shifts and not true tax reductions. The shift is from those receiving the benefit at the local level to those paying taxes on a state level.[209] Therefore, it is impossible to quantify the shift except on an individual level. Taxpayers who have greater exposure to the property tax will benefit from the shift, while taxpayers with greater exposure to the income tax will be hurt by the shift. For example, income earners who do not own a home will be hurt the most under such circumstances, whereas retirees and those who do not work, but who do own a home, will benefit. In addition, because the amount of a circuit breaker exemption depends on the circumstances of an individual taxpayer, these exemptions cannot be automatically included in every property tax bill. Instead, taxpayers are forced to specifically apply for this type of tax relief.[210] As a result, only informed taxpayers receive benefits from circuit breaker programs.[211] Low income and elderly taxpayers are less likely to be informed. State outreach programs try to inform qualifying homeowners about the program and how to apply for it. Because circuit breaker programs are often designed as a credit against the income tax, some states provide information about credits with both income tax bills and property tax bills.[212] Because many low income and elderly tax payers do not need to file an income tax return, they may be more likely to fail to file a claim for a credit against the income tax.[213]

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208. *See* Marisa Kwiatkowski, *Officials: Circuit Breaker Will Ravage Local Governments, Schools,* TIMES (Munster, Ind.), Dec. 9, 2006, *available at* http://www.nwitimes.com/articles/2006/12/09/news/top_news/fe2309a5dba2e1ff8625723f0007cda5.txt.

209. DIV. OF LOCAL GOV'T. & SCH. ACCOUNTABILITY, *supra* note 97, at 13.

210. INST. ON TAX'N & ECON. POL'Y, *supra* note 154; *see also* NCSL, RELIEF, *supra* note 162, at 9.

211. *See* INST. ON TAX'N & ECON. POL'Y, *supra* note 154.

212. NCSL, RELIEF, *supra* note 162, at 9.

213. *Id.*

C. Classification Systems

Classification refers to the process of grouping like-kind properties and then applying different tax rates or assessment rates to properties in different groups.[214] This grouping allows states and localities to impose different tax burdens on different types of properties. This differentiation is generally made based on the properties' use or ownership, regardless of whether or not the properties may be in physical proximity.[215] For example, a state may wish to impose a lower tax burden on residential properties than on commercial properties.[216]

Although such systems have been challenged for their constitutionality under the equal protection clause, in the landmark case of *Nordlinger v. Hahn*, the Supreme Court found that "the Equal Protection Clause does not forbid classifications."[217] Rather, it "prevents governmental decisionmakers from treating differently persons who are in all relevant respects alike."[218] But the Court has acknowledged that the equal protection clause does place restrictions on any classification system.[219] Among other things, the court stated that any classification must further a legitimate state interest.[220] The Court reviewed a California law which limited the assessed value for all residential properties but "reset" the assessed value to fair market value when the property was sold.[221] The result of the law was that two identical houses could be assessed differently depending on when they were purchased.[222] The Court held that the California law did not violate the Equal Protection Clause because the law furthered two legitimate state interests.[223] One interest was in local neighborhood preservation, continuity, and stability. The second was the state's interest in protecting an existing owner from rising property taxes as opposed to a new owner who had full knowledge of the property tax burden at the time of purchase.[224]

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214. *See* Nordlinger v. Hahn, 505 U.S. 1 (1992).
215. *E.g.*, MINN. STAT. ANN. § 273.13 (West 2007).
216. *E.g.*, ALA. CONST. amend. 373.
217. *Nordlinger*, 505 U.S. at 10.
218. *Id.*
219. *Id.*
220. *Id.*
221. *Id.* at 5.
222. *Id.* at 6.
223. *Id.* at 12–13.
224. *Id.* at 13–14.

1. *Drawbacks of Classification Systems*

The main drawback of classification systems is that relief for one class of properties necessarily comes at the expense of another class of properties. In other words, classifications are another tax-shifting mechanism.[225] As discussed above, because total tax collected is set by the taxing authorities' budget, an increased burden on one class of properties results in a decreased burden on all other classes of properties for any given revenue level, and vice-versa.

Classification systems can also have unintended consequences depending on the particular fact pattern involved. For example, if a locality makes a decision to tax residential property less and, consequently, to tax industrial and commercial property more, the locality could create an incentive for industrial and commercial properties to leave the locality for a more favorable property tax system.[226] Such an event can have a significant economic consequence on the locality beyond property tax losses. One such consequence is reduced employment,[227] which in turn would further reduce overall tax revenues because of decreases in state and local income tax collections.

D. *Property Tax Limits*

Throughout the nation, state laws and constitutional provisions impose general limitations on a locality's ability to tax.[228] Limits generally take the form of: (1) tax rate limits,[229] (2) assessment limits,[230] (3) revenue rollbacks,[231] or (4) property tax freezes.[232] The effect of a property tax limit will vary greatly depending on how the limit interacts with the myriad other laws in a particular state. Therefore, it is difficult to generalize as to the effects of a particular property tax limit.

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225. Richard F. Dye, Therese J. McGuire & David F. Merriman, *The Impact of Property Taxes and Property Tax Classification on Business Activity in the Chicago Metropolitan Area,* 41 J. REGIONAL SCI. 757, 763 (2001); *see also* MASSACHUSETTS DEPARTMENT OF REVENUE MUNICIPAL DATA MANAGEMENT AND TECHNICAL ASSISTANCE BUREAU, TAX CLASSIFICATION REPORT (2004), *available at* http://www.mass.gov/Ador/docs/dls/publ/misc/TaxClassificationStudy.pdf.

226. Dye et al., *supra* note 225.

227. *See id.*

228. *E.g.*, FLA. CONST. art. VII, § 4(c); NCSL, RELIEF, *supra* note 162, at 30.

229. *E.g.*, CAL. CONST. art. XIII-A, § 1(a).

230. *E.g.*, FLA. CONST. art. VII, § 4(c)(1).

231. *E.g.*, MO. CONST. art. X, § 22.

232. *E.g.*, CONN. GEN. STAT. ANN. §12-170v (West Supp. 2008).

1. Tax Rate Limits

Limiting the maximum rate of property tax is the most common form of property tax limitation.[233] According to the National Conference of State Legislatures, as of 2001, at least thirty-eight states had imposed some type of rate limit.[234] Tax rate limits by themselves do not necessarily protect homeowners from rising property taxes because the tax rate is only one of two factors used to determine the amount of taxes due; assessed value is the other factor.[235]

Therefore, a homeowner in an area with rising assessment values will nevertheless experience rising property tax bills even though the tax rate is kept constant.[236] In some instances, local taxing authorities have been able to manipulate either assessed values of properties or assessment ratios (the percentage of full value applied to a given property to determine assessed value) to circumvent mandatory tax rate and assessment limits.[237]

2. Assessment Limits

Assessment limits restrict how much property values may increase in a given year for tax assessments.[238] An assessment limit attempts to prevent rapid assessment increases on homes.[239] Nineteen states and some counties in New York have assessment limits.[240] However, not all states that impose assessment limits also impose tax rate limits.[241] Therefore, localities in these states may increase tax rates to offset overall tax reductions caused by assessment limits.[242]

3. Revenue Rollbacks

Revenue rollbacks require that tax rates be reduced when assessment rates increase in order to keep the total amount of tax collections

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233. NCSL, RELIEF, *supra* note 162, at 32–33.
234. *Id.*
235. *See supra* Part II.A.1.
236. *See* Prante, *supra* note 3.
237. *See, e.g.*, Briffel v. County of Nassau, 817 N.Y.S.2d 71 (N.Y. App. Div. 2006). The actual facts of *Briffel* are unique to the assessment process in New York State. In *Briffel*, the County actually kept its assessed value constant due to a limit on allowable increases in assessment values, but lowered the assessment ratio which caused the New York State Office of Real Property (ORPS) to adjust the property to a much higher FMV thereby circumventing the limit.
238. NCSL, RELIEF, *supra* note 162, at 31.
239. *Id.*
240. *Id.*
241. *Id.* at 32–33.
242. *Id.* at 30–31.

constant.[243] Often, rollbacks require a taxing authority to set a tax rate that produces the same tax revenue as was levied during the previous year, after making adjustments for growth and inflation.[244] The rate reductions are intended to prevent taxing jurisdictions from increasing revenue collections solely because of rising home values.[245] Rollbacks, however, do not prevent property tax increases to individual properties because the revenue limits and revaluations are usually calculated at a jurisdictional level.[246]

4. *Property Tax Freezes*

Twelve states use tax freezes,[247] which typically bar increases in property taxes when certain conditions are met. For example, qualifying residents in New Jersey are eligible to receive a reimbursement for the amount that their current year property tax exceeds the property tax calculated for a base year (the first year in which they were eligible to participate in the program). To be eligible, residents must be at least sixty-five years old, have lived in New Jersey for ten continuous years, and have owned or lived in the home for three consecutive years and earn $70,000 or less in 2008.[248] Tennessee has a local option to implement a tax freeze program for residents over the age of sixty-five who meet local income limits.[249] A homeowner in Tennessee must apply for the benefits of the freeze each year.[250] Tax freeze programs are not very popular because most states have implemented circuit breaker programs in their stead, which have made tax freeze programs unnecessary.[251]

5. *The Effect of Property Tax Limits*

As stated above, the interplay of various laws will determine the true impact of property tax limits. For example, some states or localities limit the amount by which the assessed value of a qualifying resi-

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243. *Id.* at 31.
244. *See, e.g.*, FLA. STAT. ANN. § 200.065(5)(a) (West 2007); S.C. CODE ANN. § 12-37-251(E) (2007).
245. *E.g.*, MO. CONST. art. X, § 22.
246. *See* NCSL, RELIEF, *supra* note 162, at 31.
247. *Id.* at 32.
248. N.J. Dep't of Treasury, Div. of Taxation, Property Tax Reimbursement Eligibility Requirements, http://www.state.nj.us/treasury/taxation/ptrelig.shtml (last visited June 13, 2009).
249. TENN. CODE ANN. § 67-5-705 (Supp. 2007); *see* TENN. STATE COMPTROLLER, PROPERTY TAX FREEZE FREQUENTLY ASKED QUESTIONS, *available at* http://state.tn.us/comptroller/pa/pdf/TaxFreezeFAQ.pdf.
250. TENN. STATE COMPTROLLER, *supra* note 249, at 4.
251. NCSL, RELIEF, *supra* note 162, at 32.

dential property can increase in a given year,[252] but they do not limit the tax rate (or implement a limit that is high enough so that it is not restrictive).[253]

Generally, assessment limits reduce assessment rolls.[254] However, if a state or local government does not simultaneously implement a limit on tax rates the total tax revenue can be kept constant by increasing the tax rates.[255] In such a situation, the assessment limit would not, as most taxpayers would expect, reduce the total amount of property tax collections.[256] Instead, the assessment limit could merely lead to an increase in the tax rate to offset lost revenues.[257]

Another aspect of assessment limits is that they often apply to only a portion of the population.[258] Again, in the absence of a restrictive tax rate limit, a selectively deployed assessment limit reduces the property tax for those properties that qualified for the assessment limit and increases the property tax for those properties that did not qualify for the assessment limit.[259] This represents a tax shift.[260]

By comparison, assessment limits combined with restrictive rate limits have decreased property taxes.[261] However, such combinations have also been shown to result in increases in non-tax revenue collections.[262] Unwilling to decrease their expenditures, localities were forced to either impose their own non-tax fees or to ask for additional state subsidies.[263]

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252. *See, e.g.*, Zingale v. Powell, 885 So. 2d 277, 279 (Fla. 2004); FLA. CONST. art. VII, § 4(c); Op. Att'y Gen. Fla. No. 2007-08 (2007), *available at* http://www.myfloridalegal.com/ago.nsf/Opinions/21B4D8B07373131485257275007 7CD53.

253. *See, e.g.*, FLA. STAT. §§ 200.065, 200.141 (2007) (placing tax rate limits on certain taxing authorities); *see also* FLORIDA TAX WATCH, *supra* note 183, at 8 (illustrating that in Florida, restrictive, but selective, assessment limits did not prevent an increase in revenue collection because although Florida has tax rate limits, they were not restrictive in the years at issue).

254. *See, e.g.*, FLORIDA TAX WATCH, *supra* note 183, at 8.

255. *See* discussion *supra* Part II.

256. *E.g.*, FLORIDA TAX WATCH, *supra* note 183.

257. NCSL, RELIEF, *supra* note 162, at 30.

258. *E.g.*, FLA. CONST. art. VII §4(c).

259. *See e.g.,* VOLUSIA COUNTY, *supra* note 161 (calculating the tax shift that occurred in Volusia County, Florida, as a result of selective assessment limits).

260. *Id.*; FLORIDA TAX WATCH, *supra* note 183.

261. Gary M. Galles & Robert L. Sexton, *A Tale of Two Tax Jurisdictions: The Surprising Effects of California's Proposition 13 and Massachusetts' Proposition 2 1/2,* 57 AM. J. OF ECON. & SOC. 123 (1998).

262. *Id.* at 123; INST. OF GOVERNMENTAL STUDIES, UNIV. OF CAL., TAX AND EXPENDITURE LIMITATION IN CALIFORNIA: PROPOSITION 13 & PROPOSITION 4 (2005), *available at* http://igs.berkeley.edu/library/htTaxSpendLimits2003.html.

263. *See* Galles & Sexton, *supra* note 261; INST. OF GOVERNMENTAL STUDIES, *supra* note 262.

Assessment limits can also cause a tax shift from homes that rapidly appreciate in value to homes that do not appreciate in value. This is because there will not be a limit on the assessed values of homes that do not appreciate at a rate greater than the assessment cap rate.[264] Therefore, even when all properties are eligible for an assessment limit, those properties with greater increases in value receive greater benefits.[265] The result is that those homeowners whose property values have not substantially increased bear a greater share of the property tax burden relative to the value of their homes.[266]

6. *Expenditure Limits*

Expenditure limits attempt to achieve a property tax reduction by limiting government revenue and therefore spending.[267] For example, in 1992 the state of Colorado adopted the Taxpayer Bill of Rights ("TABOR"), a set of constitutional provisions which aimed to reduce the growth in state government revenue.[268] The crux of TABOR was to limit the amount of revenue the state government could retain in a given year to the amount of revenue collected in the previous year (plus adjustments for population growth and inflation).[269] In doing so, TABOR also restricted revenue growth to a level at which popular public services, such as education and health care, needed to be reduced.[270] As a result of these service cuts, the popularity of expenditure limits has been decreasing in recent years.[271] Specifically, Colorado voters voted to suspend TABOR in 2005 and expenditure limits have failed to gain voter approval in a number of states.[272]

E. *Property Tax Deferral Programs*

Property tax deferral programs attempt to alleviate the concern that taxpayers will lose their homes because they cannot pay their real

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264. N.Y. PUB. INTEREST RESEARCH GROUP, *supra* note 165; Eric Lipton, *Tax on Homes Inequitable Study Finds,* N.Y. TIMES, July 29, 2003, at B1.
265. N.Y. PUB. INTEREST RESEARCH GROUP, *supra* note 165.
266. *Id.*
267. *See* BERT WAISANEN, NAT'L CONFERENCE OF STATE LEGISLATURES, STATE TAX EXPENDITURE LIMITS–2007 (2007), *available at* http://www.ncsl.org/programs/fiscal/telsabout.htm.
268. DAVID BRADLEY & KAREN LYONS, CENTER ON BUDGET AND POLICY PRIORITIES, A FORMULA FOR DECLINE: LESSONS FROM COLORADO FOR STATES CONSIDERING TABOR 1 (2005), *available at* http://www.cbpp.org/files/10-19-05sfp.pdf.
269. *Id.*
270. *Id.* at 1–2.
271. *See* CTR. ON BUDGET AND POLICY PRIORITIES, STATE TABOR PROPOSALS—2006 LEGISLATIVE SESSION, *available at* http://www.cbpp.org/6-1-05tabor.pdf.
272. *Id.*

estate taxes.[273] These programs allow certain homeowners to postpone payment of property taxes.[274] The deferred taxes become a lien against the value of the taxpayer's home.[275] When the taxpayer sells the home, back taxes plus interest become due.[276] If the homeowner dies, deferred taxes must be paid when the estate is settled.[277]

In general, deferral programs are subject to age and or income limits.[278] Therefore, as currently enacted, deferral programs are narrowly targeted to those who need it. Participation rates for deferral programs have been low.[279] Low participation rates are probably due to reluctance by homeowners to have a lien placed against their home,[280] which can limit the marketability of the property.

IV.
LEGISLATIVE PROPOSALS

Nationwide public distaste for the inequities and inefficiencies of property tax systems has not gone unnoticed.[281] A number of citizens groups have recently organized to modify property tax and limitation measures,[282] and well-financed organizations have even had recent success in placing related constitutional initiatives on state ballots.[283] In addition, a plethora of property tax legislation is currently making its way through state legislatures across the country.[284]

Elected state officials and citizens groups are quick to join the public distaste for property tax with a myriad of legislative proposals to correct the property tax systems and even to reduce the property tax

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273. *See, e.g.*, WASH. REV. CODE ANN. § 84.37.010 (West Supp. 2008); MINNESOTA DEPARTMENT OF REVENUE, PROPERTY TAX FACT SHEET 3, *available at* http://www.taxes.state.mn.us/taxes/property/publications/fact_sheets/pdf_content/seniorcitizen deferral_propfs3_print.pdf.

274. NCSL, RELIEF, *supra* note 162, at 21–24.

275. *Id.*

276. *Id.*

277. *Id.*

278. *See, e.g.*, WASH. REV. CODE ANN. § 84.37.030 (2008).

279. NCSL, RELIEF, *supra* note 162, at 24.

280. *Id.*

281. *See* Cauchon, *supra* note 1.

282. *See, e.g.*, Davis, *supra* note 3.

283. *See, e.g.*, OR. CTR. FOR PUB. POLICY, MEASURE 48 QUACKS LIKE A TABOR DUCK: NO MATTER WHAT ITS PROPONENTS CALL IT, MEASURE 48 IS STILL A TABOR LIKE THE ONE COLORADO VOTERS SUSPENDED (2006), *available at* http://www.ocpp.org/2006/issue060629%20TABORduck.pdf. *But see* CTR. ON BUDGET AND POLICY PRIORITIES, *supra* note 271 (stating that ballot initiatives limiting government spending appeared to be gaining popularity in 2005, but failed, by wide margins, to gain acceptance in the 2006 elections in the states of Maine, Oregon and Nebraska).

284. *See* Cauchon, *supra* note 1.

burden.[285] Unfortunately, both politicians and citizen groups have made big promises but have failed to address the core valuation and assessment problems.[286] Politicians often even fail to adequately explain the ramifications of the reforms they proposed.[287]

A. *Recent Proposed Legislation*

"Don't tax you, don't tax me, tax that fellow behind the tree."[288]

While proposals for property tax reform differ greatly, all of them purport to create more equity and reduce the property tax burden, usually by altering the basic property tax formula. Proposals range from increasing exemptions to imposing spending caps and often include a dizzying combination of the various property tax relief systems previously discussed.[289] These proposals have often resulted in a patchwork of programs and constitutional limitations that either fail to accomplish the stated goals of bringing fairness and reducing the property tax burdens or, to the surprise of the taxpayers, that drastically reduce government services.[290] Moreover, the proposed reforms often create additional inequities and inefficiencies in the property tax assessment and collection system.[291]

1. *Exemption-Related Proposals*

Some proposals advocate an increase in homeowner or homestead exemption amounts. For example, Florida House Speaker, Marco Rubio, and Florida Senate President, Ken Pruitt recently agreed to an exemption-related proposal in Florida. The proposal contains

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285. *See* sources cited *supra* notes 1, 3, and 7; *see, e.g.*, Press Release, State of Indiana, Office of the Governor, Text of Governor Mitch Daniels' Property Tax Plan Announcement (Oct. 23, 2007), *available at* http://www.in.gov/gov/files/Speech_open.pdf; Press Release, State of Florida, Office of the Governor, Governor Crist Proposes Property Tax Reform Plan (Apr. 26, 2007), *available at* http://www.flgov.com/release/8916; Press Release, New York State Executive Chamber, Enacted Budget Includes Expanded Property Tax Relief (Apr. 1, 2007), *available at* http://www.ny.gov/governor/press/0401072.html; Press Release, Florida House of Representatives, Speaker Rubio, House Leaders Propose Responsible, Immediate Tax Relief (Feb. 21, 2007), *available at* http://www.myfloridahouse.gov/sections/HouseNews/preview.aspx?PressReleaseId=86; Press Release, State of Maine, Office of the Governor, Governor Baldacci Unveils Budget (Jan. 5, 2007), *available at* http://www.maine.gov/governor/baldacci/news/news_releases/news_archive.shtml.

286. *See infra* Part IV.B.

287. *See infra* Part IV.B.

288. Russell Long, *quoted in* THE YALE BOOK OF QUOTATIONS 470 (Fred R. Shapiro ed., 2006).

289. *See infra* Part IV.A.1-4.

290. *See infra* Part IV.B.

291. *See infra* Part IV.B.

two parts. The first part creates a constitutional amendment, which was submitted to voters on January 29, 2008.[292] The amendment, which passed with the help of sixty-four percent of Florida voters, (1) doubles the homestead exemption to $50,000, except for school district taxes, by exempting the value of a home between $50,000 and $100,000; (2) institutes a ten percent cap on assessments for non-homestead property, except for school district taxes, and (3) allows homestead property owners to transfer up to $500,000 of their benefits from the current constitutional assessment limit known as "Save Our Homes" to their next homestead.[293] The second part of the legislative proposal, which does not require voter approval, contains several provisions including: (1) a tax cut requiring that cities, counties, and special districts (but not school districts) cut next year's property taxes by three to nine percent, depending on how fast per capita taxes have risen over the last five years in each jurisdiction (the cut may be overridden by local government); (2) a revenue rollback, limiting the growth in property taxes for each jurisdiction (except schools) to the growth of new construction and per capita personal income after 2009; and (3) an exemption for tangible personal property for businesses.[294] Additionally, the proposal phases out the current assessment limits contained in Save Our Homes.[295]

2. *Targeted Relief Proposals*

Other legislative proposals favor the more targeted tax relief offered by circuit breakers and provide an income tax credit for property taxes paid.[296] For example, New York State Assemblywoman Teresa Sayward introduced bill A9458, which would place a property tax cap on owner-occupied residential real property.[297] The property tax cap would vary depending on household income, with households earning more than $200,000 receiving no cap.[298] Taxpayers would be able to take the amount by which their property tax bill exceeded their prop-

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292. 2007 Fla. Laws ch. 338.

293. S.J.Res. 2-D, 2007 Spec. Sess. D (Fla. 2007).

294. FLORIDA TAX WATCH, LEGISLATURE PASSES PROPERTY TAX CUT AND CAP, CONSTITUTIONAL AMENDMENT TO CREATE "SUPER HOMESTEAD" EXEMPTION WILL GO TO FLORIDA VOTERS ON JANUARY 29, 2008, *available at* http://www.floridatax watch.org/resources/pdf/EcommuniqueFinaldaySpecialSession.pdf; FLORIDA TAX WATCH, WHAT THE 2007 LEGISLATURE DID, *available at* http://floridataxwatch.org/ resources/pdf/Whatthe2007LegislatureDid.071907.pdf.

295. FLORIDA TAX WATCH, *supra* note 294.

296. *See supra* Part III.B.

297. Assem. 9458, 2006 Leg. Sess. (N.Y. 2006).

298. *Id.*

erty tax cap as a credit against income.[299] The structure of this bill is similar to the circuit breaker currently used in Maine, which has been shown by at least one analysis to effectively target lower-income taxpayers.[300] This proposal is also similar to a proposal offered by House Member Dill in Minnesota, House File 2294,[301] which would provide state refunds to homeowners whose property tax bills exceed two percent of their income.[302]

3. Alternative Tax Proposals

A third category of legislative proposal eliminates the property tax and replaces it with either an alternative tax or a spending limit. In Pennsylvania, for example, Assemblyman Metcalfe and others introduced House Bill No. 125 of 2007, which would eliminate property tax and impose additional sales tax, use tax, and personal income tax.[303]

4. Limits-Related Proposals

Finally, limits have also appeared in recent legislative proposals and ballot initiatives. In Oregon, Measure 48, a constitutional ballot initiative, was designed to lower property tax and other taxes by placing spending limits on the state government.[304] In Georgia, proposed H.R. 162 would restrict the rate of increase in property valuation for tax purposes. This bill, however, does not impose a tax rate limit.[305]

In summary, the majority of political solutions to the increasing inequities, inefficiencies, and overall property tax burden have focused on altering the basic property tax calculation.[306] As a result, the legislative proposals generally aim to reduce either the tax base or the tax rate.

B. Drawbacks of Recent Proposed Legislation

The aforementioned legislative proposals fail to improve the basic property tax mechanism. Manipulating the factors involved in cal-

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299. *Id.*
300. *See supra* note 204 and accompanying text.
301. H. File No. 2294, 85th Sess. (Minn. 2007) (as engrossed, May 11, 2007).
302. *Id.*
303. H.B. No. 125, 2007 Sess. (Pa. 2007).
304. Oregon Ballot Measure 48 (2006), *available at* http://www.sos.state.or.us/elections/nov72006/guide/meas/m48_bt.html. The measure was subsequently defeated, *see* CTR. ON BUDGET & POLICY PRIORITIES, *supra* note 271.
305. *See* SARAH BETH COFFEY, GEORGIA BUDGET & POLICY CENTER, ANALYSIS OF HR-162 PROPERTY TAX CAP (2006).
306. *See supra* Part II.A.1.

culating the property tax does not provide holistic tax relief. Although property tax inequities, inefficiencies, and burdens are growing,[307] applying a patchwork of programs narrowly focused on one element of the tax burden only produces unnecessary complexity and creates additional inequity and inefficiencies.

As previously discussed, each property tax relief system has its flaws.[308] Each of the legislative proposals champions at least one of these tax relief methods without properly accounting for the negative consequences associated with each of the relief mechanisms. For example, in Florida, the House and Senate leaders' proposal contains an increased exemption for homesteads.[309] Such a proposal will only exacerbate the current tax shift from homestead property to non-homestead property.[310] Localities that lose money due to the increased exemption will be free to increase the tax rate, notwithstanding Florida's current tax rate caps[311] and recent legislation requiring a tax cut that may be overridden at the local level.[312] Non-homestead property will bear an even larger portion of a tax rate increase after the exemption for homestead property is doubled; creating a larger tax shift than before the tax relief was enacted. Although a ten percent tax cap on non-homesteads is instituted, the cap is so large that it is likely that it will not have a noticeable effect.[313] Therefore, the tax burden will shift to out of state homeowners, and commercial properties which do not qualify for a homestead exemption. A tax shift, not a tax reduction, will be the end result.

An earlier version of the proposal did make an effort to prevent this tax shift by instituting a tax rate limit in the year the exemption takes effect with a revenue rollback provision becoming effective thereafter.[314] More specifically, under the earlier proposal, local districts were not allowed to recoup revenue lost due to the increased exemptions.[315] Even under the earlier proposal, however, the result may still have been a tax shift because the proposal did not limit other

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307. *See* Cauchon, *supra* note 1.

308. *See supra* Part III.

309. S.B. 4-D, 2007 Leg., Spec. Sess. D (Fla. 2007); *see also* FLORIDA TAX WATCH, HOUSE GRUDGINGLY ACCEPTS A SENATE PROPERTY TAX AMENDMENT THAT IS SERIOUSLY LACKING (2007), http://www.floridataxwatch.org/resources/pdf/10292007FTWECommuniqueHouseGrudginglyAcceptsSenatePropertyTaxPlan.pdf.

310. FLORIDA TAX WATCH, *supra* note 309.

311. *See supra* note 253 and accompanying text.

312. *See* FLORIDA TAX WATCH, *supra* note 294.

313. FLORIDA TAX WATCH, *supra* note 309.

314. *Id.*

315. *Id.*

local taxes or fees.[316] Therefore, as was the case in California, the total tax and non-tax fee burden might have remained neutral or even increased after the proposal took effect.[317]

Finally, if localities do reduce revenue collection to the artificial levels established by the proposal, this will likely reduce government services. In response to the proposal, an officer in a local union representing Palm Beach County firefighters stated that "[i]f they cut [property taxes, then] we're going to cut services."[318] The major problem is that when Floridians vote on the constitutional amendment, they may not realize that the proposal will likely cut government services.[319]

Replacing the property tax with another tax necessarily involves a tax shift. In Pennsylvania, lawmakers were surprisingly honest about the fact that a proposal to raise local income taxes to pay for lower residential property taxes was only a shift in the tax burden.[320] In fact, the Pennsylvania School Board Association's web site indicated that low-income homeowners would benefit from the proposal, while renters and high-income home owners would face an increased burden.[321] Unfortunately, this clear and honest disclosure resulted in the measure's sound defeat at the polls.[322]

In Oregon, a 2006 constitutional amendment called "Measure 48" proposed a spending cap.[323] This proposal was almost identical to the TABOR spending cap adopted by Colorado in 1992.[324] Like TABOR, the crux of the proposal was to limit the amount of revenue the state government could retain in a given year to the amount of revenue collected in the previous year (plus adjustments for population growth

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316. *Id.*

317. *See* Galles & Sexton, *supra* note 165, at 132.

318. Mark Hollis & Linda Kleindienst, *Date Is Set For Your Say on Taxes; Legislators Match Referendum with Jan. 29 Primary,* SUN-SENTINEL (Ft. Lauderdale, Fla.), June 5, 2007, at 1A.

319. *See* CHRISTOPHER ST. JOHN, MAINE CENTER FOR ECONOMIC POLICY, CALIFORNIA STYLE TAX CAP IS BAD FOR MAINE 10 (2004), *available at* http://www.mecep.org/av.asp?na=43 (discussing voters knowledge of tax limits in general and Maine in particular).

320. *See* Tom Barnes, *A More Palatable Tax-Relief Proposal,* PITTSBURGH POST-GAZETTE, May 18, 2007, at B1; *Most Voters Reject Income Tax-Property Tax Shift,* THE PITTSBURGH CHANNEL, May 16, 2007, *available at* http://www.thepittsburghchannel.com/politics/13317530/detail.html.

321. THE PITTSBURGH CHANNEL, *supra* note 320.

322. Barnes, *supra* note 320.

323. *See* OR. CTR. FOR PUB. POLICY, *supra* note 283.

324. *Id. See also* NATIONAL CONFERENCE OF STATE LEGISLATURES, TALKING POINTS ON TABOR (Mar. 26, 2004), http://ecom.ncsl.org/programs/fiscal/taborpts.htm.

and inflation).[325] Measure 48 contained the same flaws as Colorado's TABOR.[326] Unless other outside factors were present, the proposal could have resulted in less spending and lower taxes but also fewer government services. Since voters were not told how much local government spending would be reduced or what programs would be cut when they voted on the spending limits,[327] seventy percent of Oregon voters decided against Measure 48.[328]

In 2005, Colorado voters decided to suspend the state's spending limits, which they had enacted years earlier.[329] Although the exact reason for the change in Colorado is not known, it is reasonable to surmise that voters, who were unaware of the consequences of TABOR when they enacted it, became disenchanted when they realized the actual consequences on government spending. As noted in Part III, after TABOR, government services dropped dramatically in Colorado.[330] This example highlights the pitfalls of artificially imposing a spending level without adequately determining the resulting effect on government services.

In Georgia, H.R. 162 proposed to enact assessment limits.[331] As discussed in Part III, assessment limits lead to inequitable assessments, as has happened in New York City and localities in California.[332] Additionally, such a system does not result in a decreased tax burden because localities may either raise the property tax rate or shift revenue generation to other taxes or fees.[333]

Each of the proposals discussed above is different in its approach to property tax reduction. However, they all have two things in common. First, they do not truly achieve their often-stated goal of reducing taxpayers' tax burden. Second, these proposals do not even

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325. *See* BRADLEY & LYONS, *supra* note 268.
326. *See id.*
327. *See generally id.*
328. Oregon Secretary of State, November 7, 2006, General Election Abstracts of Voters: State Measure No. 48, *available at* http://www.sos.state.or.us/elections/nov72006/results/m48.pdf.
329. *See e.g.*, CAROL HEDGES, THE BELL POLICY CENTER, TEN YEARS OF TABOR (2003), *available at* http://www.thebell.org/PUBS/annual/2003/TABOR10.pdf. IRIS J. LAV. & KAREN LYONS, CENTER ON BUDGET AND POLICY PRIORITIES, THE SAME OLD TABOR: MAINE'S TAXPAYER BILL OF RIGHTS PROPOSAL FAILS TO FIX FLAWS OF COLORADO'S TABOR, *available at* http://www.cbpp.org/3-16-06sfp.pdf; NATIONAL EDUCATION ASSOCIATION, TABOR: A PROVEN FAILURE, *available at* http://www.nea.org/fundingthreats/index.html.
330. *See supra* Part III.D.6.
331. *See* SARAH BETH COFFEY, GA. BUDGET AND POLICY CTR., ANALYSIS OF HR 162—PROPERTY TAX CAP (2006).
332. *See supra* Part III.
333. *See supra* Part IV.A.1–4.

attempt to address much simpler and yet more fundamental problems inherent in the majority of presently existing property taxation systems.

V.
Fundamental Issues and Proposed Solution

Two fundamental issues exist in the majority of currently existing property taxation systems in the United States.[334] First, these property taxation systems are inefficient mainly because local governments duplicate their property tax assessment and collection efforts within their individual state borders. This duplication results in overly expensive and inadequate systems of property taxation. A second fundamental issue is the inequitable taxation of real property owners.[335] Too often, municipalities apply the property tax to values that do not reflect current market conditions.[336] Many municipalities have not revalued their property rolls for years.[337] As a result, people who own similarly situated properties are taxed differently.[338]

These two fundamental issues result in unfair taxation practices and inefficient systems of property tax assessments.[339] In addition, they eliminate opportunities for local governments to fully benefit from economies of scale and various cost-sharing opportunities available with businesses and other governmental entities.[340] There is, however, a way to address these fundamental issues.

The proposed solution consists of three main sections. Section A proposes a centralization of the real property assessment and collection processes by transferring these responsibilities from local governments to the state-centralized agencies, while at the same time preserving local governments' independence and control. Specifically, the following issues are addressed: local governments' retention of control over the tax burden; control over the custody of collected tax revenues; control over spending; a system of checks and balances between state and local governments; and a sunset provision for the entire proposed consolidated legislation.

Section B of the proposal argues for improvements in valuations and proposes that properties be revalued annually. This section also

334. *See supra* Introduction.
335. *See supra* Part II.A.
336. *See supra* notes 57–62, 88–92 and accompanying text.
337. *See supra* notes 96–99 and accompanying text.
338. *See supra* Part II.A.
339. *See supra* Part II.A.
340. *See infra* notes 343–344 and accompanying text.

argues that technological developments, opportunities for information and cost sharing arrangements, and annual revaluation-driven cost savings make annual valuations proposal financially feasible. This section further lays out advantages of states making long term assessor appointments. Finally, Section C of the proposal suggests that states must be reimbursed by local governments for the expenses states will be incurring when running the real property tax assessment functions.

A. Consolidation of Assessment Functions While Preserving Local Sovereignty

In order for individual states to achieve a more equitable and efficient system of real property tax assessment, each state must have a centralized agency charged with carrying out these responsibilities.[341] These agencies should oversee the entire assessment and collection process. These improvements must not be made at the expense of local governments' sovereignty. If enacted, these new agencies would create a better system of real property taxation than currently exists in the majority of the states.

Local and municipal governments must outsource real property tax assessment and collection functions to the centralized state-run organization. This change is necessary to make the real property tax assessment and collection process more efficient and equitable.

1. Operating Efficiencies

Centralization of the real property tax assessment and collection process will generate significant economic efficiencies. First, economic savings will be achieved due to operating efficiencies commonly derived from any business combination. Through better utilization of assessors' time, states should be able to use a smaller number of assessors while servicing the same total number of properties. These operating efficiencies will enable a state-run assessment and collection agency to conduct its operations in a more cost effective manner.[342]

Second, the centralization of the valuation process will enable states to cultivate assessors with expertise in certain valuation areas. Presently, local government assessors have to value each type of property within their jurisdiction. More complex properties require more

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341. *See supra* note 87 and accompanying text. Maryland is the only state where the assessment process is centralized at the state level.

342. NEW JERSEY JOINT LEGISLATIVE COMMITTEE, GOVERNMENT CONSOLIDATION AND SHARED SERVICES 44 (2006), *available at* http://www.njleg.state.nj.us/PropertyTaxSession/OPI/jcgo_final_report.pdf.

time spent on their valuations.[343] Lack of expertise results in difficult-to-value properties requiring more time currently spent by individual assessors than will be spent by state-employed specialists. These full-time specialists will apply their knowledge and experience to complex properties across the state.

Third, this centralized system will resolve local governments' infrastructure-related issues as well. Presently, many local governments "can not create and support their own specialized systems on a cost-effective basis."[344] Centralization will resolve this issue by eliminating a need for each village, town, and/or county to maintain separate real property tax assessment and collection infrastructures. Local governments will obtain any necessary information pertinent to their particular territory by logging into the centralized real property taxation database. This centralization will result in significant cost savings on municipal levels because local governments will no longer have to pay for the acquisition, operation, and maintenance of assessment and collection systems and databases. In addition, there will no longer be a need for each local government to spend money recruiting, training, and employing their own assessors, administrators, and other supporting personnel.[345] Overall, the consolidation will result in significant cost savings.[346]

2. *More Equitable Assessments*

State-run assessment and collection operations will make the real property tax assessment process more equitable. Presently, different assessors in different, or even the same, jurisdictions may be using different valuation methodologies and models, resulting in varying valuations for similar properties. As a result, it is currently possible for two similar properties to be valued materially differently simply

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343. *See* N.Y. STATE OFFICE OF REAL PROP. SERVS., STATEWIDE REAL PROPERTY TAX EQUITY INFORMATION GATHERING (2007), http://www.orps.state.ny.us/rpta/rptac/infoSessions/asmtadmin.htm.

344. *See* N.Y. STATE OFFICE OF REAL PROP. SERVS., 2006 REPORT ON EFFECTIVENESS OF STATE TECHNICAL AND FINANCIAL ASSISTANCE PROGRAMS FOR ASSESSMENT ADMINISTRATION § 3 (2006), *available at* http://www.orps.state.ny.us/ref/pubs/2006report/index.htm.

345. At present, some states do offer centralized training facilities. New York even requires state sponsored training and continuous education. *See, e.g.*, N.Y. STATE OFFICE OF REAL PROP. SERVS., MEMBERS OF ELECTED BOARDS OF ASSESSORS TRAINING AND CERTIFICATION REQUIREMENTS (2008), *available at* http://www.orps.state.ny.us/training/qualCert/Mem_elected_require.pdf.

346. *See* N.Y. STATE OFFICE OF REAL PROP. SERVS., MUNICIPAL OPTIONS FOR MORE EFFICIENT ASSESSMENT ADMINISTRATION (2008), *available at* http://www.orps.state.ny.us/pamphlet/munioptions.pdf.

because of the different methodologies and tools utilized by an individual assessors. These practices inevitably result in inequities with some owners carrying a greater tax burden than owners of other similar property. Thus, the fact that all assessors will be operating under the same set of rules and procedures will translate into better consistency and, consequently, quality of valuations, assessments, and collections practices. The transfer of valuation, assessment, and collection processes involved in real property tax assessment to centralized, state-operated facilities will make the real property tax assessment process more efficient and equitable.

One likely criticism of the centralization proposal is that it is politically unattainable. Critics would argue that local residents and governments, in fear of losing their control over the assessment process, may not agree and, consequently, may not vote for the transfer of real property assessment functions to the state. The next section of this proposal addresses this valid concern.

3. Protection of Local Governments' Autonomy and Control

While trying to improve the current revenue assessment and collection system, we must protect local governments' sovereignty. It is precisely these concerns over the potential loss of autonomy that have prevented any prior centralization attempts.[347] These concerns can be addressed in a number of ways. First, local governments must retain control over the determination of the tax burden. Second, local governments must have custody of collected tax revenues. Third, a decision on how the collected funds are spent must remain in local governments' control as well. Fourth, checks and balances must be put in place to ensure transparency of the newly created process. Finally, as a last precaution, there must be a sunset provision to the law that would mandate this centralization model. The subsections below will further discuss these five solutions.

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347. "[N]o non-village assessing units have yet elected to take more fundamental steps toward consolidation, either through the Consolidated Assessing Unit option or in becoming part of a county assessing unit. This apparent reluctance to cede greater autonomy to supra-municipal organizations reflects a strong tradition of 'home rule' in New York, with many officials and citizens alike remaining skeptical about consolidating local governments or even their major functions." N.Y. STATE OFFICE OF REAL PROP. SERVS., 2006 REPORT ON EFFECTIVENESS OF STATE TECHNICAL AND FINANCIAL ASSISTANCE PROGRAMS FOR ASSESSMENT ADMINISTRATION, *supra* note 344, § 4.

a. Control Over the Tax Burden

Each individual local government must retain control over the decision as to how much tax burden it wants to impose on tax payers within its jurisdiction. This can be accomplished through a number of mechanisms.[348] Each municipality should select a mechanism that best fits its needs.

First, local governments must have sole control over the assessment levels. Assessment levels are currently set up as a function of municipalities' budgetary requirements. Local governments must retain control over assessment levels to have continued control over their budgets and related expenditures.

Second, local governments must retain control over the exact tax burden they want to place on particular sets of taxpayers. For example, a local government may want to put in place certain circuit breakers to make sure that its full-time residents' property tax burden does not exceed certain percentage of the residents' adjusted gross income.

Alternatively, localities may want to encourage certain types of investment activities and consequently impose a lesser degree of tax on properties within desired territories when used for certain activities. For example, if a municipality desires to encourage tourism, it may want to assess less tax on a building used as a hotel, thus making it cheaper and more attractive for businesses to operate hotels. These types of flexibilities are necessary in order for local governments to have influence over the activities within their borders.

b. Custody of Collected Tax Revenues

An additional way to address local governments' concerns over losing their autonomy to the state is to ensure local custody over collected funds. States must remit all property tax collections back to the municipalities from which the tax was collected. This will help ensure that the tax revenues collected from properties located within a particular local government's borders will benefit only that and no other jurisdiction. In addition, the distribution of tax collection back to the local governments reinforces local control over spending.

c. Control over Spending

Local governments must retain the same amount of control over their budgetary and related spending decisions as they currently have. Retention of this control will address perhaps one of the most funda-

348. *See supra* notes 130–134 and accompanying text.

mental concerns localities would have when debating whether or not to outsource revenue assessment and collection functions to the state. Local governments want to retain control over the budget, which provides local governments with power.[349]

d. Checks and Balances

While local governments will turn over control of real property assessment and collection responsibilities to their respective states, they must retain a right to verify that the state agencies execute their activities in a consistent and fair manner. To accomplish this goal, a system of checks and balances must be instituted. Local governments' authorized representatives must have a right to audit and, if necessary, dispute the state's property tax assessment practices.

In addition, states must execute their administrative powers in a transparent manner. Municipalities must have access to any and all data, methodologies, and mechanisms employed by the state while assessing and collecting property tax within their respective jurisdictions. This transparency and the related ability of the municipalities to review states' operations will reinforce the consistency of states' assessment and collection practices across various intra-state jurisdictions.

Under this proposal, local governments will have a right to audit and appeal states' valuation practices, methodologies, and results. This right of review and dispute will create necessary checks and balances aimed at ensuring that states execute their new responsibilities in a manner acceptable to local governments.

In summary, local governments must retain the right to make sure that states conduct real property tax assessment and collection activities in a way that is consistent with localities' expectations. Complete transparency of the process as well as municipalities' right to inspect and challenge the process will facilitate this goal.

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349. *See* NEW JERSEY STATE LEAGUE OF MUNICIPALITIES, LOCAL PROPERTY TAXES AND NEW JERSEY STATE GOVERNMENT, *available at* http://199.236.89.49/SG-LGprop Tax.pdf (last visited June 13, 2009) (opining that lack of local control causes more funds to be directed to state rather than local programs); *see also* BING YUAN ET AL., TAX EXPENDITURE LIMITATIONS AND THEIR EFFECTS ON LOCAL PUBLIC FINANCES (2007), *available at* http://www.gwu.edu/~gwipp/lincoln/Yuan_Cordes_Brunori_Bell.pdf; NEW JERSEY JOINT LEGISLATIVE COMMITTEE, GOVERNMENT CONSOLIDATION AND SHARED SERVICES (2006), *available at* http://www.njleg.state.nj.us/PropertyTaxSession/OPI/jcgo_final_report.pdf.

e. A Sunset Provision

The proposed legislation must have a sunset provision—a clause that terminates or repeals all of the law after a specific date, unless further legislative action is taken to extend it. This provision will serve as an important step toward giving local governments additional protection and corresponding peace of mind. The new rules will specify that after certain number of years, unless the local governments' legislatures vote to make the above stated proposals permanent or extend the proposals for another term, the entire administration of property tax assessment and collection process reverts to the localities. Such a provision, while allowing the proposed process to go into effect, would protect local governments from having to continue using the centralization model should it become politically unpopular to do so, or should local governments determine that state administration is inferior to local administration.

Each locality will have to decide the initial term of its respective sunset provisions. We suggest no less than a five year initial period for any sunset provision. A five year period is the minimum period of time necessary to give a new system a "chance." Each state will certainly undergo a learning curve. Setting up and testing various methodologies will take a few years before the people and systems will reach their respective optimal level of operations. The sunset provision will make it easier for local governments to make a decision to turn over such a major function up to the state level.[350]

In summary, the concerns over local governments' potential loss of their autonomy to the state can be addressed in a number of ways. Local governments will retain control over the most important and fundamental aspects of their fiscal life. Under this proposal, local governments will be making decisions relating to the tax burden placed on residents and properties as well as on the way property tax revenues are spent. A system of checks and balances will further protect local governments from potential abuses and inequities. These types of controls will ensure that local governments' independence and sovereignty are not taken away or decreased by the states. A sunset provision will give local governments an additional layer of protection.

350. *See* N.Y. STATE OFFICE OF REAL PROP. SERVS., 2006 REPORT ON EFFECTIVENESS OF STATE TECHNICAL AND FINANCIAL ASSISTANCE PROGRAMS FOR ASSESSMENT ADMINISTRATION, *supra* note 344, § 4.

B. Improvements in Valuations

Real properties must be revalued annually. In addition, assessors should be appointed by state governments for long term assignments. Collectively, these changes will bring more equity and efficiency into the real property tax assessment process.

1. Annual Valuations

While it is obvious that annual revaluation will make things fairer, statistics showing the increase in equity remain impressive.[351] The latest technological advances as well as opportunities for cost sharing arrangements make annual revaluations possible.

Property valuations must be performed on an annual basis to make real property taxation more equitable.[352] Long intervals between reappraisals can increase the likelihood of significant differences between the assumed and actual fair market value of properties, which in turn causes inequity among taxpayers.[353] In areas where property taxes increase rapidly, several years of property appreciation, without reappraisal can cause large increases in property taxes.[354] As a result, taxpayers who should be paying more taxes do not, and those who should be paying fewer taxes pay more.[355] Since the tax base of the real property tax is determined based on real property values, it is imperative that the values used are as correct and, therefore, as current as possible.

More specifically, we propose that real properties be revalued annually through the use of the comparable sales data. At the same time, we propose that all properties undergo physical inspection every three years. This type of valuation, though more expensive, is more precise than other types of valuations, such as estimated valuation based on government databases which track a myriad of factors such as average neighborhood values.[356] This is because physical inspection-driven valuations require that each property be physically inspected by the

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351. *Id.* at § 3; *see also* N.Y. STATE OFFICE OF REAL PROP. SERVS., ASSESSMENT EQUITY IN NEW YORK, *supra* note 44.

352. N.Y. STATE OFFICE OF REAL PROP. SERVS., 2006 REPORT ON EFFECTIVENESS OF STATE TECHNICAL AND FINANCIAL ASSISTANCE PROGRAMS FOR ASSESSMENT ADMINISTRATION, *supra* note 344, § 3.

353. *See id.*

354. NCSL, OVERVIEW, *supra* note 18, at 6.

355. N.Y. STATE OFFICE OF REAL PROP. SERVS., 2006 REPORT ON EFFECTIVENESS OF STATE TECHNICAL AND FINANCIAL ASSISTANCE PROGRAMS FOR ASSESSMENT ADMINISTRATION, *supra* note 344, § 3.

356. *See* JOHN RAPPA, CONN. OFFICE OF LEGISLATIVE RESEARCH, PROPERTY TAX REVALUATION (2005), *available at* http://www.cga.ct.gov/2005/rpt/2005-R-0751.htm.

assessor or an appraiser.[357] The obvious advantage of physical inspection-driven valuation is that it will account for property-specific value changes. For example, physical inspection can identify major capital improvements that were made to the property. Improvements, such a construction of new decks, patios, and garages generally result in material appreciation of the property values.

In summary, we believe that properties must be revalued annually. Due to cost considerations, these annual valuations must be performed through the use of recent sales comparisons of similar properties. In addition, these annual revaluations should be backed up by the actual inspection-driven valuations.

This proposal is not without a possible criticism. Critics of this proposal may argue that the costs associated with annual revaluations are prohibitively expensive or that the equity and efficiency-related gains will not justify costs. We respectfully disagree with such arguments and address the costs issue in the remaining sections of this proposal.

a. Technological Developments

Performance of annual revaluations is not as expensive as it used to be. In the past, details of sales have been manually recorded in sales registrars.[358] This process made valuation by comparison to recent sales very time consuming and costly because assessors had to manually go through the recordings of comparable sales. Tremendous technological achievements now make annual revaluations significantly less expensive.[359] States and local governments already use electronic databases to record recent sales data. This makes the compilation of comparable sales data a relatively simple task.

To make the process even more efficient and cost-effective, the state will also have to require that all local county clerks enter all real property sales into one centralized database. Such a database would allow searches of recently sold or otherwise transferred properties using various criteria. Such criteria can include price, location, square footage, and any other special or unique characteristics normally used by appraisers when determining a property's value.

Performance of a "complete" appraisal of each property on an annual basis may be unnecessary. Annual drive-by appraisals—which

357. *Id.*
358. *See, e.g.*, N.Y. STATE OFFICE OF REAL PROP. SERVS., IMPROVING NEW YORK'S PROGRAM FOR EQUALIZING LOCAL ASSESSMENTS TO FAIR MARKET VALUE (1996), *available at* http://www.orps.state.ny.us/ref/pubs/eq_reform/section3.htm.
359. *See id.*

include manually inspecting the perimeter of a property but do not necessitate entering the property—represent acceptable cost effective alternatives and are already being successfully used by many municipalities. Subsequent to the first appraisal, which would include entering the property for inspection (presuming no sale or transfer has taken place), it is sufficient to perform a drive-by appraisal because an assessor should be able to perform a reasonably accurate assessment with the information obtained in the drive-by appraisal and the original "complete" appraisal. These drive-by appraisals combined with the electronic comparison of recently sold or otherwise disposed properties will result in cost effective valuations.[360]

Property assessments performed on an annual basis will undoubtedly increase costs. However, a better use of the currently available computer technology combined with already used drive-by appraisals will assist states in significantly decreasing these costs.

b. Information and Cost Sharing Arrangements

States should share valuation-related data with various governmental, business, and non-profit entities. Many government agencies routinely use real estate data in their operations. Instead of generating information on their own and, consequently, bearing the full associated costs, these agencies should purchase the necessary data from the state at a fraction of the cost they would otherwise incur. For example, the information obtained through annual revaluation and drive-by appraisals (pictures and narratives, for example) can be used by other governmental agencies such as the Department of Buildings and other similar agencies, which regularly dispatch their own employees for drive-by examinations of real estate. These multiple agencies could consolidate their operations and eliminate redundant procedures in order to reduce the overall cost.

In addition, private industries will be willing to help finance part of the annual valuation costs. This is because many private industries, such as lending institutions and insurance companies, need to perform very similar, if not the same, drive-by inspections and/or valuations.[361] After all, any time an individual or corporation seeks to borrow funds against or obtain an insurance policy for real property, these institutions need to know the value and/or condition of the properties. Therefore, we should bring private industries into the picture, thus

360. *See id.*

361. States can even slightly modify their procedures to make the resulting data more valuable to various industries. For example, assessors can take extra pictures of certain parts of the homes.

making the valuation process more affordable for the states, local governments, and private institutions.

In summary, properties must be revalued annually. Technological achievements make this enormously important proposition economically feasible. In addition, information and related cost-sharing arrangements with government, business, and non-profit entities will further decrease the associated costs. The overall result will be a more equitable and efficient system of real property taxation than is currently in place.

c. Annual Revaluation-Driven Cost Savings

Annual revaluations will also assist local governments in significantly decreasing their expenditures. For example, keeping their assessments current is likely to assist local governments in improving their credit ratings.[362] Improved credit ratings decrease interest rates governments must pay on their loans.[363] Lower interest expenses will result in significant savings for municipalities and improve their cash flows.

In addition, annual revaluations will decrease the assessment-related costs. This is because there will be a decrease in the amount of valuation-related disputes and resulting litigation between taxpayers and local taxing authorities.[364] Taxpayers, frustrated with outdated or incorrect valuations, are taking their grievances to court in increasing numbers.[365] The legal proceedings take a tremendous toll on municipalities, which must incur costs to defend the law suit and often have to drastically alter their budget as a result of a reduced tax base. Such changes often force localities to issue debt to make up for the revenue shortfall, which in turn creates an additional interest expense.[366]

Therefore, annual revaluations will result in tremendous savings for local governments. Current assessments will decrease govern-

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362. *See, e.g.*, Press Release, Moody's Investors Service, Moody's Upgrades Nassau County's (NY) Rating to A2 from A3; Outlook Revised to Stable from Positive (Nov. 7, 2007), *available at* http://web.archive.org/web/20071112095627/http://www.beurs.nl/nieuws/artikel.php?id=239760&taal=US.

363. *Id.*

364. N.Y. STATE OFFICE OF REAL PROP. SERVS., GUIDELINES FOR ANNUAL REASSESSMENT, *supra* note 57.

365. *See id.*

366. *See, e.g.*, Letter from Richard J. Renard, N.Y. Office of the State Comptroller, to Hon. Wayne J. Hall Sr., Mayor of the Village of Hempstead (Apr. 21, 2006), *available at* http://www.osc.state.ny.us/localgov/audits/2006/villages/hemptsead.pdf; *see also* Pocantico Hills School Community Information Bulletin (Apr. 2008), *available at* http://www.pocanticohills.org/pubs/pdf/PHCS_Budget_Bulletin_2008-2009.pdf.

ments' cost of borrowing and litigation expenditures. These savings will further offset the costs associated with annual revaluations.

2. *Long-Term Assessor Appointments*

The proposed state-run office of real property tax assessment and collection must use assessors that are appointed for a long-term period. This is because the currently existing practice of electing assessors results in a shorter period of time during which any particular assessor carries out his or her responsibilities. High turnover brings with it significant inefficiencies to the tax assessment process.

The long-term appointments are necessary to further improve the efficiency of the real property tax assessment process. Assessors must be highly skilled in many different areas, including the area of technology.[367] Long-term appointment will decrease the cost of training assessors as well as increase the quality of assessments.[368]

Local assessors today frequently lack necessary skills to correctly value complex properties, which "often comprise a substantial share of the local tax base."[369] This situation underscores the importance of having experienced and professional assessors.[370] Assessor appointments will certainly address this issue because appointed assessors will stay in their positions for longer periods of time and will gain experience and knowledge through required training. Better quality assessments should also decrease the number of taxpayer disputes, which in turn will once again result in cost savings.

Thus, states should make long term appointments of assessors. The exact length of appointments can vary from state to state, but should not be less than five years. These long term appointments will result in better skilled assessors, more precise valuations, and a decrease in the amount of assessment-related litigation and costs.[371]

C. *Reimbursements by Local Governments*

Local governments must be required to reimburse states for their share of the real property taxation expenditures incurred by states.

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367. *See* N.Y. STATE OFFICE OF REAL PROP. SERVS., 2006 REPORT ON EFFECTIVENESS OF STATE TECHNICAL AND FINANCIAL ASSISTANCE PROGRAMS FOR ASSESSMENT ADMINISTRATION § 2, *available at* http://www.orps.state.ny.us/ref/pubs/2006report/section2.htm.

368. *Id.*

369. *See, e.g.*, N.Y. STATE OFFICE OF REAL PROP. SERVS., 2006 REPORT ON EFFECTIVENESS OF STATE TECHNICAL AND FINANCIAL ASSISTANCE PROGRAMS FOR ASSESSMENT ADMINISTRATION, *supra* note 344, § 4.

370. *See id.*

371. *See supra* notes 367–368 and accompanying text.

Notwithstanding numerous cost-sharing arrangement opportunities available to states with private and public organizations previously discussed,[372] states are nevertheless likely to have expenses[373] that will exceed non-tax revenues from cost sharing arrangements. Local governments must absorb the remaining costs.

A fair reimbursement mechanism must be developed. For example, local governments may be required to remit to their states the fraction of total expenditures calculated based on the number of properties located in its jurisdiction. Some properties are more difficult and, consequently, more costly to value. In such cases, these types of properties can be assigned a greater weight to take into consideration higher valuation costs. In other words, localities containing properties that are more difficult and costly to value would pay more to the state for reimbursement than localities with relatively easy to value properties.

In summary, state and local governments as well as taxpayers stand to receive significant benefits if real properties are valued on an annual basis. Technological advances as well as information and cost-sharing arrangements will at least partially mitigate the costs associated with annual revaluations. In addition, long-term appointments of assessors will result in further improvements in quality and cost effectiveness of assessments. Finally, local governments will absorb any net costs associated with the states' property tax collection efforts. As a result, the system of real property taxation will be more equitable and efficient.

VI.
Evaluation of the Proposal

This proposal, much like any other proposal or currently existing system of taxation, necessitates making certain compromises and tradeoffs. A thorough evaluation of this proposal from the traditional equity, efficiency, and simplicity perspectives is warranted.

A. An Equity Perspective

A system of taxation is equitable if the assessed tax is fairly allocated among taxpayers. Fairness in allocation is usually evaluated through two lenses—horizontal and vertical equities. Horizontal eq-

372. *See supra* Part V.B.1.b.

373. However, the total costs are bound to be less than those that would have been incurred by the individual municipalities had they had to run the same type of operations on their own.

uity is concerned with whether people who are in similar economic positions pay similar amounts of taxes.[374] Vertical equity is concerned with progressivity issues—whether people with higher levels of tax base pay higher levels of taxes.[375]

This proposal, if implemented, will make the system of real property tax collection significantly more equitable with respect to both horizontal and vertical equity. Appointed assessors will have more experience and will generate valuations much closer to the property's true value than is currently the case. This will ensure that taxpayers who own properties with values that are in fact similar will pay similar amounts of real estate tax. In addition, the proposed annual revaluations will further the goal of making similarly situated taxpayers (in terms of the relative value of their real estate) pay similar amounts of taxes. This will be accomplished because more frequent annual revaluations will capture material market fluctuations, and, therefore, significantly decrease the likelihood of the material difference existing between properties' actual and appraised value.

Annual revaluations combined with more accurate assessments generated by more experienced assessors will also improve horizontal equity among property owners. Taxpayers whose property increases in value will, assuming everything else is equal, pay higher taxes. Taxpayers whose property decreases in value will experience the opposite effect.

Furthermore, centralization of the assessment and valuation functions will make the process of real property tax assessment and collection more consistent, and, therefore, more horizontally and vertically equitable. This is because all assessors will follow one set of methodologies, technologies, and practices when generating their valuations and assessments. Consistent state-wide valuation practices will result in taxpayers paying similar property taxes on similar properties, even though these properties are located in different municipalities. Valuations will be more accurate, timely, and consistent.

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374. H. David Rosenbloom, *From the Bottom Up: Taxing the Income of Foreign Controlled Corporations,* 26 BROOK. J. INT'L. L. 1525, 1527 (2001) ("[P]ersons who stand in the same place insofar as relevant target of tax is concerned are treated similarly by the tax regime.").

375. *See* WILLIAM H. HOFFMAN, JAMES E. SMITH & EUGENE WILLIS, WEST FEDERAL TAXATION: INDIVIDUAL INCOME TAXES 1-19 (25th ed. 2002).

B. *Efficiency Perspective*

Efficiency is concerned with the extent to which tax laws alter taxpayers' behavior, with the least disturbance generally preferred.[376] A tax is considered efficient if it does not distort behavior as compared to behavior in a situation without that tax.[377] Unlike many other models of property taxation, the proposed model has a relatively neutral impact on taxpayers' real estate investment decisions. Many currently existing real property taxation systems defer a significant portion of real estate tax until the time when a property is sold or otherwise disposed, or they create a disincentive to sell based on a fear of losing a preferred property tax assessment. These incentives tend to impact taxpayers' real-estate acquisition or disposition-related decisions.[378] Under the proposed system, taxpayers can freely make their real estate acquisition or disposition decisions without considering any significant changes in the real estate tax imposed on their real properties.

This proposal makes the already existing and most widely utilized system of taxation more efficient to administer and easier to comply with. If this proposal is implemented, the property tax system will be less expensive, more accurate, and more effective.[379] The financial difficulties encountered by taxpayers whose real estate taxes increase disproportionately to their income can be addressed by municipalities via a number of circuit-breaker programs to decrease the real property tax burden for a protected class of taxpayers.[380]

This proposal would improve the accuracy and lower the cost of assessing real property by taking advantage of the increased efficiency that would occur from consolidating the duties of multiple local assessors and by eliminating the redundant activities of a myriad of unconnected intra-state agencies.

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376. *See* Rosenbloom, *supra* note 374, at 1527 (quoting Mark Gergen comparing the concept of efficiency to "[t]he natural law of the parasite: Do the least damage to the host in extracting sustenance from it.").

377. *But see* U.S. Department of Treasury, Treasury Conference on Business Taxation and Global Competitiveness: Background Paper 7–10 (July 23, 2007), *available at* http://www.ustreas.gov/press/releases/reports/07230%20r.pdf.

378. *See, e.g.*, Nada Wasi & Michelle J. White, *Property Tax Limitations and Mobility: Lock-in Effect of California's Proposition 13,* 2005 BROOKINGS-WHARTON PAPERS ON URB. AFF. 59 (2005).

379. *See supra* Part V.

380. *See supra* Part III.B.

C. Simplicity Perspective

A simplicity perspective addresses the degree of administrative burden the law places on taxpayers and the government.[381] It is important that the tax laws be as easily understood by taxpayers as possible because taxpayers are more likely to comply with tax laws that they understand. Simplicity is arguably the most important of the three fundamental tax policy perspectives.[382] After all, a perfectly equitable and efficient tax system cannot exist if it can not be effectively administered.

This proposal will simplify the current system of real property tax assessment and collection. One centralized agency operated by the state will execute and oversee the entire system of real property tax assessment and collection, with the exception of the rate-setting functions.[383] Annual valuations will eliminate the need to adjust the assessment rolls to put all properties on equal valuation "footing." Thus, the proposal will eliminate the costly and complicated equalization rate computations and applications.

Furthermore, the elimination of the state equalization practices will reduce confusion among taxpayers who, at the present time, have to deal separately with duplicate jurisdictions (such as a village, township, and state, to name a few) when paying their taxes.[384] A significant decrease in taxpayer confusion and disagreements will result in fewer disputes and less costly law suits. This will also improve taxpayer compliance and governments administrative efforts.

Finally, this proposal is practical. The implementation of this proposal does not necessitate complex transitional rules. Although immense in its approach and results, the proposal does not turn the currently existing system of real estate assessment and collection upside down. To summarize, this proposal makes significant achieve-

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381. *See* Rosenbloom, *supra* note 374 at 1528 ("The third fundamental characteristic of a sound tax system is "simplicity," which means favoring the less complex over the more complex to the extent a choice is available. Simplicity, like efficiency but perhaps not quite like equity, is a general goal not capable of being attained in anything resembling a pure state. It is valuable in its own right and also because it contributes to other aspects of a well-functioning tax system: Administrability (the capability of government officials themselves to understand the relevant rules and see their implementation in practice); and transparency (the ability of the public to understand the rules, so that obligations are clear and the companion goals of efficiency and equity can be evaluated and intelligently discussed).").

382. *E.g.*, *id.*

383. *See supra* Part V.A.

384. *See* N.Y. State Office of Real Prop. Servs., 2006 Report on Effectiveness of State Technical and Financial Assistance Programs for Assessment Administration, *supra* note 344, § 3.

ments when judged from the traditional tax policy perspectives. If implemented, this proposal will make the property tax assessment and collection system more equitable, more efficient, and simpler.

CONCLUSION

Every effort should be made to induce tax assessing units to develop equitable roles.[385] Changes are necessary to current nationwide practices of real property tax assessment. This need for improvement is necessitated by the fact that local governments carry out their real property tax assessment operations inefficiently and inequitably. Municipalities incur unnecessary and duplicative expenditures while executing their assessment functions. In addition, property owners are unfairly taxed because too often municipalities rely on wrong property values when determining their tax base. While numerous property tax improvement efforts have been proposed, each proposal fails to address these fundamental inefficiencies and inequities.

Therefore, we propose that states and local governments fundamentally modify their real property tax assessment operations. In the first part of our proposal, we advocate that real property tax assessment functions be conducted at the state rather than on the local government level. This consolidation will result in operating efficiencies and more reliable valuations. To ensure that local governments do not forfeit their control over the property tax assessments as a result of the proposed consolidation, we propose that the determination of tax burden, custody of tax revenues, and decisions over spending remain at the local government level. Furthermore, to ensure the transparency of states' operations, we propose that an appropriate system of checks and balances be instituted to allow local governments adequate oversight over tax assessment process. Finally, as a last precaution, we propose that the new system have a sunset provision to afford local governments an additional layer of protection.

In the second part of our proposal, we advocate an annual revaluation of real properties. The latest technological developments as well as numerous opportunities for cost-sharing arrangements with government, non-profit and, business enterprises make this proposition operationally and financially feasible. We also propose that assessors be appointed by the appropriate state agency for long-term periods. These proposals will further improve the quality of valuations and reduce related costs.

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385. *See id.*

Finally, we advocate that the burden of financing the consolidated assessment and collection operations must continue to be borne by local governments. We propose that municipalities reimburse states for the net assessment and collection-related costs. This reimbursement will have to be carried out equitably according to pre-determined and agreed upon criteria. This proposal will make real property tax assessment more accurate, more efficient, and simpler. Cost savings could potentially lead to lower property tax burdens, and increased accuracy would improve equality between all taxpayers within a given state.

Appendix A: Local Property Tax as a Percent of Local Taxes, Fiscal Year 1999

Rank	State	Percent	Rank	State	Percent
1	New Hampshire	98.8%	27	Florida	78.7%
2	Rhode Island	98.6%	28	Wyoming	77.6%
3	Connecticut	98.3%	29	Kansas	76.5%
4	New Jersey	97.9%	30	North Carolina	74.6%
5	Maine	97.6%	31	United States	72.3%
6	Massachusetts	96.9%	32	Virginia	71.7%
7	Vermont	95.8%	33	Arizona	70.6%
8	Montana	95.3%	34	Pennsylvania	69.7%
9	Minnesota	94.5%	35	California	66.2%
10	Wisconsin	94.0%	36	Ohio	66.0%
11	Idaho	93.9%	37	Utah	65.7%
12	Mississippi	91.8%	38	Arkansas	64.6%
13	Iowa	89.8%	39	Nevada	63.3%
14	Michigan	89.8%	40	Washington	62.4%
15	Indiana	88.6%	41	Colorado	61.5%
16	North Dakota	88.1%	42	Missouri	60.2%
17	South Carolina	84.9%	43	Georgia	59.5%
18	Illinois	82.9%	44	Tennessee	59.0%
19	West Virginia	82.8%	45	New York	57.0%
20	Oregon	79.8%	46	Maryland	55.2%
21	Texas	79.8%	47	New Mexico	54.2%
22	Nebraska	79.6%	48	Kentucky	53.9%
23	Hawaii	79.6%	49	Oklahoma	52.7%
24	Alaska	79.3%	50	Louisiana	39.4%
25	Delaware	79.0%	51	Alabama	37.5%
26	South Dakota	78.9%			

Appendix B: The Number of Assessing Units by Government Level

State/Jurisdiction	County	City or Municipality	Township or Equivalent	State	Other	Total
Alabama	67			1		68
Alaska	12	13		2		27
Arizona	15			1		16
Arkansas	75			1		76
California	58			1	1	60
Colorado	63			1		64
Connecticut		19	150			169
Delaware	3	1				4
Florida	67			1		68
Georgia	159			1		160
Hawaii	4					4
Idaho	44			1		45
Illinois	102		920	1		1,023
Indiana	92		1,008	1		1,101
Iowa	99	8		1		108
Kansas	105			1		106
Kentucky	120			1		121
Louisiana	70			1		71
Maine		492				492
Maryland				1		1
Massachusetts		39	312	1		352
Michigan		267	1,245	1		1,527
Minnesota	87	9		1		97
Mississippi	82	301		1		384
Missouri	114	1		1		116
Montana				7		7
Nebraska	93			1		94
Nevada	17			1		18
New Hampshire		259		1		260
New Jersey		335	232			567
New Mexico	33	101		1		135
New York	2	61	920	1	215	1,199
North Carolina	100			1		101
North Dakota	53	361	1,380	1		1,795
Ohio	88			1		89
Oklahoma	77			1		78
Oregon	36			1		37

Pennsylvania	67					68
Rhode Island		8	31			39
South Carolina	46			1		47
South Dakota	65			1		66
Tennessee	95	1		1		97
Texas					253	253
Utah		29		1		30
Vermont		251		1		252
Virginia	95	40	91	2		228
Washington	39			1		40
West Virginia	55			1		56
Wisconsin		584	1,255	1	6	1,897
Wyoming	23			1		24
District of Columbia		1				1

Appendix C: Property Tax Relief Mechanisms and Restrictions Employed by States, 2002

State/Jurisdiction	Homestead Exemption or Credit Program	Circuit Breaker Program	Deferral Program	Property Tax Rate Limits	Assessment Limits	Expenditure Limits
Alabama	✓			✓	✓	
Alaska	✓	✓		✓		
Arizona	✓	✓	✓	✓	✓	✓
Arkansas	✓			✓	✓	
California	✓	✓	✓	✓	✓	✓
Colorado	✓	✓	✓	✓		✓
Connecticut		✓				
Delaware						
District of Columbia	✓	✓	✓			
Florida	✓		✓	✓	✓	
Georgia	✓		✓			
Hawaii	✓	✓				
Idaho	✓	✓		✓		
Illinois	✓	✓	✓	✓	✓	
Indiana	✓			✓		
Iowa	✓	✓	✓	✓	✓	✓
Kansas	✓	✓				✓
Kentucky	✓			✓		
Lousiana	✓			✓		
Maine	✓	✓	✓			
Maryland	✓	✓			✓	
Massachusetts	✓	✓	✓	✓		
Michigan		✓	✓	✓	✓	
Minnesota	✓	✓	✓	✓		
Mississippi	✓			✓		
Missouri		✓		✓		
Montana	✓	✓		✓		
Nebraska	✓			✓		✓
Nevada		✓		✓	✓	
New Hampshire						
New Jersey	✓	✓			✓	Municipalities
New Mexico	✓	✓		✓	✓	
New York	✓	✓		✓	Selected counties	
North Carolina	✓			✓		
North Dakota		✓	✓	✓		
Ohio	✓	✓		✓		

Oklahoma	✓	✓		✓	✓	
Oregon		✓	✓	✓	✓	
Pennsylvania		✓		✓		
Rhode Island		✓		✓		
South Carolina	✓				✓	
South Dakota		✓	✓	✓		
Tennessee	✓					
Texas	✓		✓	✓	✓	
Utah	✓	✓		✓		
Vermont		✓				
Virginia	✓					
Washington	✓	✓	✓	✓	✓	
West Virginia	✓	✓		✓		
Wisconsin	✓	✓	✓		Local option	
Wyoming	✓	✓	✓	✓		
Total	49	34	25	38	19	8