



Property Tax Reform Transition Policy Group

PREPARED FOR GOVERNOR-ELECT JON S. CORZINE

Interim Report

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INTERIM REPORT
of the
Property Tax Reform Policy and Management Advisory Group
of
Governor-Elect Jon S. Corzine's Transition Team

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Introduction

This is the Interim Report of the Property Tax Reform Policy and Management Advisory Group of Governor-Elect Jon S. Corzine's Transition Team. It offers implementation options for the 2005 campaign's Responsible, Effective, Accountable and Lasting (REAL) Plan, consisting of the following elements as discussed at the page noted:

<u>Element</u>	<u>Page</u>
▪ The REAL Rebates Program to increase property tax rebates by 40 per cent over four years	4
▪ Special Session of the State Legislature to address the State's overall reliance on property taxes to fund local government	7
▪ Citizens' Convention on property taxes	10

A Final Report to be issued by July 2006 will provide additional detail for the choices selected from among the options outlined in this Interim Report.

Executive Summary

Governor-Elect Jon S. Corzine has made property tax reform a priority and we offer the following recommendations as he leads the State in implementing the entire REAL Plan. It is important to identify the fiscal choices and to motivate legislative action on property tax reform.

Our recommendations, as detailed in this report, are:

REAL Rebates Program

- **Develop a coordinated campaign to continue to take the case to the public for Legislative actions on increased rebates and property tax reform**
- **Write to each member of the incoming Legislature as soon as possible urging them to make property tax reform and relief their highest Legislative priority**
- **State the importance of Legislative action in your Inaugural Address, and emphasize the urgency of property tax reform in your FY07 budget proposal and at other regular intervals**
- **Include the proposed \$550 million in new funding for the REAL Rebates Program in the State Fiscal Year 2007 annual budget, and introduce separate legislation to detail the REAL Rebates Program**

Special Session

- **Call a Special Session of the Legislature pursuant to the State Constitution Article 4, Section 1, Paragraph 4, via a Gubernatorial Proclamation and letter to each Legislator**
- **Propose a scope of “one purpose,” i.e., Property Tax Reform, in the Whereas clauses of a Gubernatorial Proclamation calling for a Special Session**
- **Limit a Special Session to address property tax reform to a matter of weeks, if not day(s), and consider relying on the preliminary work of an appointed Constitutional Commission**

Convention

- **Spending should not be a part of a Citizens’ Convention. However, the feature of sustainability (*Infra*, page 11) of proposed property tax reductions should be a directive to Citizens’ Convention Delegates**
- **To address and control spending, Governor-Elect Corzine’s proposed budget process should be vigorously pursued**
- **Reform and Relief need to be defined and analyzed by the Legislature and by the Citizens’ Convention**
- **Present questions regarding Property Tax Reform and Relief to the Legislative Services Commission for development of white papers for the Delegates well in advance of the Citizens’ Convention**
- **Utilize A-5269 and its May 2005 amendments that differentiate it in part from the PTC Task Force report**

I - Real Rebates

This section discusses implementation of the REAL Rebates Program.

Public Message on Rebates

- **Develop a coordinated campaign to continue to take the case to the public for Legislative actions on increased rebates and property tax reform**
- **Write to each member of the incoming Legislature as soon as possible urging them to make property tax reform and relief their highest Legislative priority**
- **State the importance of Legislative action in your Inaugural Address, and emphasize the urgency of property tax reform in your FY07 budget proposal and at other regular intervals**

Why we need reform

Property taxes have been a main source of revenue for government functions in the State since colonial times. Through all three State Constitutions, property taxes have been viewed as one of the primary funding sources of various government activities (APPENDIX #1).

Today, New Jersey's 566 municipalities collect the property tax, use it for their own local purposes before distributing the rest to the 21 counties, 608 separate school districts, and to other recipients such as garbage, fire and improvement districts.

It took from 1776 to 1990 for total property taxes statewide to reach \$9 billion in one year. It has taken just under 15 years for those taxes to double by 2004 to \$18 billion in one year.

As property taxes go up every year, more and more New Jersey residents, especially seniors on fixed incomes and low- and middle-income working families, are finding that life is becoming unaffordable. For the last several years, property taxes have gone up an average of 7 per cent annually. And, the property tax is one of the most unfair and regressive taxes – because the burden falls hardest on those least able to pay.

Lower income individuals in the bottom 20 per cent of incomes who make up to \$19,000 annually, pay 5.6 per cent of their income in property taxes. Middle-income individuals from \$19,000 to \$94,000 pay 4.3 per cent. By contrast, those with the top 20 per cent of incomes, those over \$94,000, pay 3.7 per cent, and the top 1 per cent at over \$571,000, pay just 1.5 per cent. Again, New Jersey's property tax burden is falling most heavily on those least able to pay, which is in direct contrast with the national norm of 3.1 per cent on the lowest 20 per cent of income earners (Institute on Taxation and Economic Policy, January 2003). Furthermore, this compares unfavorably to the reality in our neighboring states.

In fact, New Jersey is greatly out of step among our neighbors and the nation. New Jersey ranks first in the nation in property taxes per capita at \$1,900 (National Conference of

State Legislatures and Garden State Coalition of Schools). Our property taxes per \$100 of income are 50 per cent above the national average (Rockefeller Institute). We are first among all states in reliance on property taxes to fund K-12 education at 53 per cent, compared to the national average of 43 per cent.

Implementation Plan

We recommend to Governor-Elect Corzine to conduct a coordinated campaign to take the case to the public for Legislative action on increased rebates and property tax reform. We base our recommendation on our conviction that New Jersey's tax structure is out-of-sync with how the rest of the country has determined to choose its governance and the widespread dissatisfaction of our citizens with the property tax burden.

We also recommend that this campaign include a letter to each member of the incoming 212th Legislature as soon as possible, urging them to make property tax reform and relief their legislative highest priority. Additionally, this message could be part of your January 17, 2006 Inaugural Address.

This message can be emphasized further as part of your State Fiscal Year 2007 budget proposal that is currently scheduled to occur by February 15, 2006, as well as on other occasions.

Legislation for Rebates

- **Include the proposed \$550 million in new funding for the REAL Rebates Program in the State Fiscal Year 2007 annual budget, and introduce separate legislation to detail the REAL Rebates Program**

The REAL Rebates Program requires that a projected \$550 million be included in the State Budget for Fiscal Year 2007 (FY07). These funds are needed both to restore the FY06 property tax rebates to FY05 levels, and then to increase them by 10 per cent. Full implementation of the REAL Rebates Program is to increase them by 10 per cent per year for four years, occasionally referred to during the 2005 campaign as "40 in 4."

Such implementation will begin to address the property tax burden that continues to grow and that continues to increase at a rate for which existing income tax revenues (a source of property tax relief and reform) are not able to provide sufficient redress.

It will provide relief to those residents and families earning less than \$200,000 per year, providing relief to over 90 per cent of New Jersey taxpayers, or 2.4 million tax paying households, in the form of an annual REAL Rebates Program check.

The REAL Rebates Program's income-based approach with annual 10 per cent increases, offers relief to those who need it most – seniors and families, while also providing additional tenant relief. Tenants pay an estimated 18 per cent of their of their rent for property taxes.

Budget and other statutory provisions

Implementation of the REAL Rebates Program is based upon statutory amendment to the existing Homestead rebate program, which was revised and merged with the SAVER program in July 2004 for FY05. That merger was pursuant to Assembly Bill No. 100 (Sires, Cryan), known as the FAIR Act (which included the so-called millionaire’s tax on personal incomes over \$500,000). The Homestead rebate program was further amended in the State Fiscal Year 2006 annual budget legislation, Senate Bill No. 2005 (Bryant), to reduce the amount of the rebates.

Significant change represented by the REAL Rebates Program should be statutorily implemented to demonstrate it to be an Administration priority. Funding for the Program would be in the State Budget for FY07. Activities related to such legislation, such as Legislative action and Gubernatorial approval, provide opportunities to make the case to the public for property tax relief and reform. First, restore funding for rebates to the \$1.5 billion that was spent in FY05 (\$400 million more than the total amount appropriated and carried forward into the current FY 06 budget), and then increase the funding by ten per cent (\$150 million) over the FY 05 level. The result is that the REAL property tax relief plan would require \$550 million of additional funding in the FY07 budget, as follows:

Fiscal Year	Description	Total Appropriation Homeowners and Tenants
2006	Total Rebate Funding (\$700 million per P.L. 2005, c. 121, and \$400 million per P.L. 2005, c. 132)	\$1,100,000,000
	Plus amount needed to restore rebates to FY05 expenditures of \$1.5 billion* (per P.L. 2004, c.71)	**\$400,000,000
2007	Equals Base Amount of Rebate Funding needed	\$1,500,000,000
2007	Base Amount plus 10 %	**\$150,000,000
2007	Total needed	\$1,650,000,000

* FY05 total provided by the Department of the Treasury, October 3, 2005.

** \$550 million new funding needed for the REAL Rebates Program.

The value of the REAL Rebates Program is that rebates work as a temporary stabilizer of property taxes. However, rebates by themselves cannot change the inordinately high proportion of property taxes compared to all other State and local taxes.

The average REAL Rebate Program check is projected at \$624 in FY07. That is up from \$445 in FY06. Seniors with up to \$70,000 income would receive between \$1,100 and \$1,320. Seniors with income of \$70,000 to \$125,000 would receive between \$660 and \$880.

Other homeowners with income of \$125,000 to \$200,000 would receive \$500, while those up to \$125,000 would receive between \$600 and \$800.

Renters, who currently receive a rebate worth up to \$150, will receive a 10 per cent increase.

We therefore recommend that \$550 million and related restored funding be included in the State Fiscal Year 2007 annual budget for the REAL Rebates Program. We also recommend that separate legislation be utilized to statutorily detail and implement the REAL Rebate Program.

II - Special Session of the State Legislature

This section discusses Gubernatorial Constitutional authority for calling and setting the scope and duration of a Special Session.

Calling a Special Session

- **Call a Special Session of the Legislature pursuant to the State Constitution Article 4, Section 1, Paragraph 4, via a Gubernatorial Proclamation and letter to each Legislator**

Although New Jersey income taxes are dedicated to offset the property tax burden, individuals across the State are unable to keep up with the growing burden. This inability occurs despite a variety of State property tax offsets such as grants, aid, exemptions, deductions, special treatments, freezes, reimbursements, rebates, and other efforts that fail to alleviate their financial distress. One part of these efforts, as of 2003, includes the \$20,000 offset of seniors' pension, and entire exclusion of Social Security income, from their net income on their State income tax return. All of these numerous patchworks, regularly made more numerous, costly, and confusing, are symptoms of the problem that revenues to address property taxes are falling farther behind. A comprehensive look at our predicament, including a Special Session of the State Legislature, is on the minds of people from all walks of life.

As Governor-Elect Corzine states in his June 1, 2005 letter to each member of the New Jersey State Senate: "...one concern dominates nearly every conversation...property tax."

And, as he stated in his "Remarks on Economic Growth" at the New Jersey Institute of Technology on March 22, 2005: "Let me repeat, whether or not the people vote for a property tax convention in November, I intend to call a Special Session of the Legislature."

The State Constitution in Article 4 concerning the Legislature, states at Section 1, Paragraph 4:

Special Sessions of the Legislature shall be called by the Governor upon petition of a majority of all the members of each house, and may be called by the Governor whenever in his opinion the public interest shall require.

That statement, in the Article on Legislative power, is regarded as a primary source of the Governor's authority to call a Special Session. However, in addition, Article 5 on Executive power vested in a Governor, states in Section 1, Paragraph 12 for emphasis and expansion, that:

He may convene the Legislature, or the Senate alone, whenever in his opinion the public interest shall require.

This double statement of the Governor's power to call a Special Session demonstrates the importance of this authority and responsibility, and illustrates the critical issues for which it may be used. We feel that it is that much more important therefore, that it be used to address the critical issues of property taxes, and that the case for it be made to the public. We also feel that Governor-Elect Corzine's important emphasis of this issue as noted earlier in his remarks at NJIT and his letter to the Senate, should continue in other of his public pronouncements.

The mechanism through which the Governor exercises this authority, historically, is by Governor's Proclamation, which states in various Whereas clauses the purposes of the Special Session, and in the Therefore clause the Constitutional authority to call it. In the last half-century under the 1947 State Constitution, Governors have also sent individual telegrams to each Legislator, and more recently, an individualized letter to each Legislator by facsimile machine.

We therefore recommend that early in his term, Governor-Elect Corzine call a Special Session of the Legislature to address property taxes, by use of a Gubernatorial Proclamation.

Scope

- **Propose a scope of "one purpose," i.e., Property Tax Reform, in the Whereas clauses of a Gubernatorial Proclamation calling for a Special Session**

The Constitutional Convention of 1947's recorded transcripts of Convention debate indicate that there was no intention to restrict the scope or subject matter of Special Sessions (APPENDIX #2).

Given that the State Constitution is silent on the scope of Special Sessions, it is unclear whether the scope may be limited to property taxes, and then only to revenue, and not to areas forbidden by A-5269 such as to provide for the maintenance and support of a thorough and efficient system of free public schools.

While it is worth noting that the Legislature is currently required to limit bills to a single purpose (Article 4, Section 7, Paragraph 4), nevertheless it is vested exclusively with the power to legislate on any and all matters that are not otherwise restricted by the Constitution (Article 4, Section 1, Paragraph 1). To the extent the Governor is entitled, perhaps even envisioned in his Constitutional authority to call a Special Session, to identify its purpose, the Legislature still might legislate beyond that purpose.

The compelling reasons for a Special Session on property taxes are well known to the Legislature and the public, are detailed in numerous studies, and appear throughout this document. There is a need for: "Reform," to restructure the collection and disbursement of funds for local services with a reduction in property taxes as a share of revenue raised from all sources in the State; and, there is a need for "Relief," to reduce property taxes with rebates, etc.

Recent studies

A Special Session, if it in fact remains focused on the purpose of property tax reform, will have ample solutions to consider. It should first authorize a Citizen's Convention on property taxes to be placed on the general election ballot, which would give it a time limit to determine how to solve the problem itself. In the latter case of solving the problem itself, worth considering are: eight studies since 1972 on property tax reform that have proposed significant recommendations, some of which have not been implemented; other states' efforts that in recent years have reduced reliance on, and reduced individual financial strain from, property taxes; and numerous other ideas proposed in scholarly works and undertakings. Such undertakings include the Report of the Citizens' Tax Assembly dated June 2004, and the AARP National Policy Institute's guide dated April 2003 entitled "State Programs & Practices for Lower Property Tax."

Given the Legislature's latitude to legislate on any and all matters not otherwise restricted by the Constitution, it is difficult in a Special Session to restrict a discussion of spending. The issue of "spending" and why it should not be a part of a discussion of property tax reform, is contained in the following Section III of this report, on a Citizen's Convention.

Accordingly, since property tax reform is Governor-Elect Corzine's highest legislative priority, we recommend that when he calls the Special Session of the Legislature, he propose that it have "one purpose" of property tax reform that would reduce current reliance on property taxes and limit their future role in financing State and local services in New Jersey.

Duration of a Special Session

- **Limit a Special Session to address property tax reform to a matter of weeks, if not day(s), and consider relying on the preliminary work of an appointed Constitutional Commission**

To the greatest extent possible, scope and duration should be limited. If scope is limited, the likely result is that the duration would be reduced.

The recorded transcripts of Convention debate of the 1947 Constitutional Convention note that it considered requiring a set time period for Special Sessions, as was considered in the 1944 proposed Constitution (APPENDIX #3). However, the 1944 referendum on a new State Constitution was defeated, and issues pertaining to duration ("specify the matter or matters to be considered") were not inserted subsequently into the 1947 State Constitution.

Even without duration restrictions, and other than speeches by Governors on important matters, Special Sessions have been relatively brief: 32 were for one day, seven were for two days, four were for one week, and seven were for over two weeks (APPENIDIX #3).

Brevity is probably the result of good preparation. In each case, the records indicate some preparation for the Special Sessions was undertaken. This might help reduce the duration, as well as increase the value and outcomes, of a Special Session. Given that the majority of notable commentary by informed individuals and groups show a preference for action by the Legislature, that action would no doubt be based upon work by such agencies as the Legislative Services

Commission (LSC) that was identified in the 2004 Property Tax Convention Task Force as most competent for preparatory work on property tax reform. Further, the LSC might aid a Constitutional Commission, which could be formed by appointees of the Legislative and Executive, to prepare white papers in anticipation of a Special Session. Such a Constitutional Commission could address for the Legislature the issue of spending or other compromises at a Citizens' Convention. Such Commissions have been found to have had a beneficial effect on Legislative action (Mazzei and Williams, 33 Rutgers L.J. 1059).

We, therefore, recommend a Special Session should have a duration of weeks, if not day(s), and that it might rely on the preliminary work of a Constitutional Commission.

III – Citizens' Convention

This section discusses key issues of the 2004 Property Tax Convention Task Force and related Assembly Bill No. 5269 (Roberts) of 2004.

Spending

- **Spending should not be a part of a Citizens' Convention. However, the feature of sustainability of proposed property tax reductions should be a directive to Citizens' Convention Delegates**

The 2004 Property Tax Convention Task Force and A-5269 say that the Convention is to be limited to considering and making recommendations to reform the current system of property taxation along the following lines:

- Eliminating inequities in the current system of property taxation, especially as they affect low- and moderate-income residents
- Ensuring greater uniformity in the application of property taxes
- Reducing property taxes as a share of overall public revenue
- Providing alternatives that reduce the dependence of local governments on property taxes
- Providing alternative means, including possible increases in other taxes, of funding local government services
- Require that the result of the Citizens' Convention be revenue neutral with respect to proposals for alternative revenues and reduction in property taxes
- The goal of reforming the property tax system so that the level of property taxes is reduced and the burden of property taxes is more fairly allocated
- The Citizens' Convention's sole mission should be property tax reform
- In terms of reducing government spending, there currently are opportunities each year to pursue that goal through the annual budget process at the State and local levels, and a Citizens' Convention would not be an appropriate substitute for this process
- If a Citizens' Convention were empowered to also address the level and purposes of spending, there would be no way to effectively confine it to totally ensure

against it becoming a forum for debate about divisive social issues (this in turn would make achievement of the central goal of property tax reform even more difficult)

- Do not amend the “thorough and efficient” clause
- Do not amend affordable housing obligations
- By clearly stating in law that the exclusive purpose of the Citizens’ Convention is property tax reform, then the prohibition will be clear against consideration of other subjects, such as the basic rights set forth in Article I of the Constitution
- For the Citizens’ Convention to be held, the people of New Jersey at a Public Referendum must approve it. There are important, credible groups whose opposition to a Convention that is open to spending might doom the Citizens’ Convention enterprise before it gets started.

Spending discussion not authorized

The spending issue is hindering the effort to hold a Citizens’ Convention. A Citizens’ Convention is to reach consensus on ways to rebalance the tax system, which is a considerable undertaking in itself. Combining the spending side with fundamental tax reform will doom the effort. With spending as part of the agenda, hot-button issues such as teacher salary negotiations, public employee pensions, thorough and efficient education, mandatory school and municipal consolidation, among others, would be on the table. The sensitivity of these issues to key political interests would make approval of the enabling legislation unlikely, both by the Legislature and at public referendum. Spending is now dealt with every year as the Governor submits a budget and the Legislature acts on it. Local governments and school boards, likewise, manage spending through yearly budgets. We might question the outcome, but the process exists. There is no such process for evaluating tax reform, in the absence of legislative action, unless a Citizens’ Convention is authorized.

Consolidation

A December 2003 Rutgers University study by Dr. Ernest Reock found that halving the number of school districts might generate \$365 million after four years, and even adding municipal consolidation and revenue sharing would not make much of a dent in the \$18 billion in property taxes now raised, nor approach the \$6 billion reduction in property taxes needed to place New Jersey at the 50-state average in the proportion of property taxes to all state and local revenue. Mandatory consolidation, in addition, is an approach that likely would be widely opposed.

Sustainability is mandated

While we recommend that the issue of spending not be raised at a Citizens’ Convention, we understand that if spending is not curbed, then citizens will face the same dilemma in perhaps five or fewer years from now. In addition, there must be a reduction in property taxes as a share of revenue raised in the State; this concept is basic to property tax reform. So the per cent of property tax, the per cent of income tax, and the per cent of sales and/or other taxes, as they relate to the share of total revenues, must remain in place via fiscal controls such as circuit breakers (where property tax to be paid is dependent upon one’s level of income), in order to curb spending and keep down property tax as a per cent of all State revenue. These fiscal

controls help define “sustainability” as included in A-5269. That legislation requires that “reductions in property taxes, or limits on increases thereof, be sustained over time.”

Options for sustaining the reductions include: limiting property taxes to a per cent of all state and local revenue; limiting property taxes to a per cent of a household’s income; limiting future property tax increases; implementing a State level rainy day fund that has guarantees to level out peaks and valleys in case of significant economic downturns; among others. If a Citizens’ Convention’s recommendations fail to satisfy that condition, the recommendations would not be certified by the Citizens’ Convention’s special judiciary review panel. The ultimate safety valve, of course, is the public’s power at referendum to approve or disapprove.

Annual budgets allow spending discussions

- **To address and control spending, Governor-Elect Corzine’s proposed budget process should be vigorously pursued**

Governor-Elect Corzine’s statements complement the A-5269 prohibition on a spending discussion at a Citizens’ Convention. He has reiterated many times his intent to control spending in the following ways, with the following comments throughout the past year:

- There is no way to avoid painful budget cuts
- End fixed costs increasing at unsustainable rates
- End spending sprees and one time stop gaps
- Make more efficient the State Health Benefits Plan
- Bulk purchasing of high cost items like prescription drugs
- Consolidate administrative functions in state agencies
- Cut Public Relations budgets
- Find savings thru technology upgrades
- Increase energy efficiencies
- Continue government employee attrition
- Limit political appointees
- Implement workable fiscal controls
- Encourage shared services
- Eliminate programs that under-perform
- Bipartisan analysis of the fiscal situation
- A comprehensive, long-term solution to our fiscal problems
- Twice-a-year revenue certification to prevent spending money we don’t have
- Determine economy impact of State policies
- Never lose track of the bottom line
- Discipline through a two-year budget with five year spending projections
- Introduce “outcome-based” budgeting
- Implement a sound capital budget
- No raiding capital budgets for day-to-day operations
- Cost control discipline in all agencies and authorities
- End the pattern of tax, borrow, spend, and switch to growth, investment, lead
- Hold local governments and school districts accountable for their spending
- Elected State Comptroller with jurisdiction over State and local governments

- Incentives for smart management, and reduced spending by local government
- Eliminate unfunded mandates
- End the “corruption tax” of sweetheart contracts and corruption
- And, most important, grow the economy of New Jersey

Governor-Elect Corzine’s approach to budgeting should be vigorously pursued, and the Citizens’ Convention is not the appropriate forum to address spending.

Consider reform and relief in a Special Session and a Citizens’ Convention

- **Reform and Relief need to be defined and analyzed by the Legislature and by the Citizens’ Convention**

A number of ideas have been proposed over time for consideration by the Legislature and a Citizens’ Convention. They are explained in terms of either “reform” that includes a restructuring of collection and disbursement of funds for local services as well as a reduction in property taxes as a share of revenue raised by the State, or “relief” including reductions in taxes paid by various means through the income tax system (APPENDIX #4).

Reform addresses questions such as: how to reduce the over \$18 billion in property taxes collected statewide in a manner or in an amount that would be meaningful, fair, broad based and progressive; whether reform amounts to a significant drop in the per cent that property taxes (currently well over 40%) constitute of all state and local taxes collected for local purposes; are state/regional agencies offering adequate PILOTS, etc., to the local governments; among others.

Relief addresses questions such as how to implement the entire REAL Plan, does the state fiscal situation provide an opportunity for the State to absorb greater responsibility for funding local governments, should there be new revenue mechanisms made available to local governments, what tax approaches might be effective for small businesses, LLC’s , etc., are there additional equitable approaches for renters, among others.

We recommend that various ideas such as these regarding reform and relief be defined and analyzed by the Legislature and by the Citizens’ Convention.

Preparation for a Convention

- **Present questions regarding Property Tax Reform and Relief to the Legislative Services Commission for development of white papers for the Delegates well in advance of the Citizens’ Convention**

This might include a Constitutional Commission of Legislative and Executive appointees to develop white papers, perhaps with the assistance of the Legislative Services Commission, which was recommended by the PTC Task Force to develop white papers. This effort could commence prior to the Public Referendum authorizing the Citizens’ Convention, and perhaps in anticipation of the Special Session as noted earlier.

How A-5269 differs from the PTC Task Force Report

- **Utilize A-5269 and its May 2005 amendments that differentiate it in part from the PTC Task Force report**

Assembly Bill No. 5269 of 2005 (Roberts) passed the Assembly in May 2005 to hold a Convention, by a simple majority vote. However, it did not pass a bill to authorize a general election vote on a temporary constitutional amendment to allow the Convention to propose statutory changes, which would have required a politically difficult three-fifths majority vote. A-5269 largely reflects the recommendations of the December 2004 Report of the Property Tax Convention Task Force (APPENDIX #5).

The items in **BOLD** below represent language that is not in the Task Force report but that was added to A-5269:

Selection of Delegates

- Delegates should be elected by voters at the **April school board elections**, after a vote on the holding of the Convention at the General Election in November 2005.
- **No member of the Legislature shall be eligible to seek election or serve as a Delegate**, but all other elected officials should be permitted to seek election as a Delegate (APPENDIX #6).
- **There should be a \$250 limit on contributions to Delegate election campaigns from any source; no source may contribute more than \$6,250 in aggregate to all candidates; no labor groups or corporations may contribute to campaigns.** The Task Force recommended a \$500 contribution limit and did not address the aggregate, or labor groups, or corporations.

Scope

- It protects “thorough and efficient,” affordable housing obligations, **collective bargaining, dispute resolution procedures, tenants, and prohibits a statewide equalized school property tax.**
- Proposals must be revenue neutral, defined, verifiable and **sustainable.**
- A Convention that can propose only Constitutional amendments still should be allowed to proceed, and a temporary constitutional amendment to permit statutes may be voted upon **after** the Convention when its proposals are considered in a general election referendum.

Even with these noted changes in A-5269, and necessary updates, we recommend A-5269 as the basis for authorizing a Citizens’ Convention. We do so while having questions regarding the restriction on Legislators to serve as Delegates, and regarding the timing of elections and the post-Convention referendum on whether to allow the Convention to propose statutory changes (since a single ballot question for Convention proposals has always been anticipated, but A-5269

as amended in May 2005 has a bifurcated question that would allow amendments and statutes to be separately decided).

In order for a Citizens' Convention to occur in 2007, implementing legislation should be passed by July 2006.

As noted at the beginning of this Interim Report, we look forward to providing a Final Report by July 2006.

APPENDIX #1
FOR INFORMATIONAL PURPOSES ONLY

“History”

Property taxes have been a main source of revenue for government functions in the State since colonial times. Through all three State Constitutions, property taxes have been viewed as one of the primary funding sources of various government activities:

The 1776 State Constitution provided for tax assessments that came to include property tax. Notably, in admonishing British rule, it also authorized the creation of local townships with multiple powers, thus giving root to the concept of Home Rule. Property taxation was generally viewed as appropriate at that time, given the State’s agriculturally based economy, and the fact that most wealth was land based.

The 1844 State Constitution’s era gave rise to property taxes being used for education, and the State Constitution via an 1875 amendment required the Legislature to provide a “thorough and efficient education.” Implementation of Thorough and Efficient was accomplished with a uniform State property tax that was distributed to schools on a per pupil basis. The strength of Home Rule was evident apparently at that time in New Jersey, as it was the only northern state to reject Abraham Lincoln in both his presidential campaigns, in part due to uncertainty regarding his Federalist views. By the end of the 1890’s, property tax collections were diverted from the State to the counties, and each municipality became a separate school district.

The 1947 State Constitution continued local control of property taxes. It also recognized in Article 4 an existing law, known as The Home Rule Act of 1917 that gave municipalities broad powers over their internal affairs, by saying that laws pertaining to local government are to be construed in their favor. These may be among the factors that have led to an average per-residence property tax in 2004 of \$5,269, from which incoming-Speaker Roberts’ Assembly Bill No. 5269 for a Constitutional Convention on property tax gets its distinctive identifying number.

APPENDIX #2
FOR INFORMATIONAL PURPOSES ONLY

“Scope”

The Constitutional Convention of 1947’s recorded transcripts of Convention debate provide the following discussion among the Delegates as to scope:

At Vol. 2, Page 1488: *Special sessions* - In addition to regular sessions, all states make provision for the calling of special sessions. It should be noted that New Jersey, even with its annual unlimited sessions has had to call many special sessions - nine during the period of 1927-1940 (five of which were held in 1931), one each in 1942, 1944 and 1945, and two in 1946. In New Jersey prior to 1947, the Governor has the right to convene the Legislature whenever in his opinion public necessity requires it, but now no restriction on the subject matter is effective except by self-imposed discipline.

At Vol. 3, Page 602, it appears that a scope of “one purpose” was all that was considered in deliberations as early as 1941 leading up to the 1944 referendum on a new Constitution:

MR. LEONARD: And then you would be open to the same possibilities of bills being dumped in a special session.

MR. HENDRICKSON: No, not under our proposals of 1941, because in treating of the special session, we limited the special session to a specific purpose and tied it up pretty tightly so that it would not run away with itself.

Given that the 1941 effort to restrict scope to one purpose appears nowhere in current law, and given that in 2005 the State Constitution still is silent on the scope of Special Sessions, it is unclear whether the scope may be limited to property taxes, and then only to revenue, and not to areas forbidden by A-5269 such as Abbott.

While it is worth noting that the Legislature is currently required to limit bills to a single purpose (Article 4, Section 7, Paragraph 4), nevertheless it is vested exclusively with the power to legislate on any and all matters that are not otherwise restricted by the Constitution (Article 4, Section 1, Paragraph1). To the extent the Governor is entitled, perhaps even envisioned in the Constitutional authority to call a Special Session, to identify its purpose, the Legislature might legislate beyond that purpose.

APPENDIX #3
FOR INFORMATIONAL PURPOSES ONLY

“Duration”

Per the recorded transcripts of Convention debate of the 1947 Constitutional Convention at Vol. 2, Page 1489: The Legislature may need to determine the length of the special session, and the limitation of the number of subjects which can be treated. The Constitution submitted to the people in 1944 provided that "Special sessions of the legislature shall be called by the Governor upon petition of a majority of all the members of each house and may be called by the Governor at such other times as in his opinion the public interest may require. In either event, the call for a special session shall specify the matter or matters to be considered, and **no other matter shall be considered** at such session which is not specified in such call or in any other message from the Governor delivered during such session (emphasis added)."

Please note that the 1944 referendum on a new State Constitution was a very contentious referendum, partly in that it was legislatively drafted with limited public involvement, according to historical accounts.

In fact, the 1944 referendum on a new State Constitution was defeated, and issues pertaining to duration (“specify the matter or matters to be considered”) were not inserted subsequently into the 1947 State Constitution. Again, to the extent scope is limited, duration could be limited.

Even without duration restrictions, and other than speeches by Governors on important matters, Special Sessions have been relatively brief:

<u>1 day</u> (32)	<u>2 days</u> (7)	<u>1 week</u> (4)	<u>2+ weeks</u> (7)
1884 1935	1877	1866	1861
1897 1936	1927	1913	1913
1903 1942	1930	1931	1925
1904 1943	1952	1951	1934
1908 1944	1968		1949
1914 1945	1969		1951
1915 1946	1978		1952
1916 1947			
1920 1954			
1921 1961			
1922 1961			
1926 1961			
1928 1964			
1929 1968			
1932 1972			
1932 2002			

APPENDIX #4
FOR INFORMATIONAL PURPOSES ONLY

“Reform and Relief”

A number of ideas have been proposed over time for consideration by the Legislature and a Citizens’ Convention. They are explained in terms of either “reform” that includes a restructuring of collection and disbursement of funds for local services as well as a reduction in property taxes as a share of revenue raised by the State, or “relief” including reductions in taxes paid by various means through the income tax. Following are several examples of each.

REFORM

- 1) Should there be reduced the over \$18 billion in property taxes collected statewide in a manner or in an amount that would be meaningful to citizens?
- 2) Would reform amount to a significant drop in the per cent that property taxes (currently well over 40%) constitute of all state and local taxes collected for local purposes?
- 3) Should State contribute approximately 50% of cost in every district to run local schools?
- 4) Are there excessive levels or numbers of governments and is Home Rule inviolate (and would any referendum pass with these subjects included)?
- 5) Should we consider other states’ tax relief in the form of: a) homestead exemptions or credits on property tax bills for all owners or just seniors, renters and veterans; b) provide income tax deductions/credits for property taxes paid for all owners or just seniors, renters and veterans; c) assessed value or property tax growth caps; and d) tax deferrals?
- 6) Do we need to eliminate county functions in areas the state provides services already: i) corrections; ii) education; iii) environment; iv) health and welfare, v) justice?
- 7) Do invisible governments help or harm: i) 208 local authorities; ii) 53 large statewide authorities; iii) 232 special taxing districts, of which 184 are fire districts?
- 8) Should ideas from the 1972-2004 studies discussed above be considered?
- 9) Should we follow Michigan, which in 1995 drastically cut property taxes, and raised sales taxes to partially replace property tax cuts and pay for schools (it was somewhat easier for it to raise its sales tax, as it had a lower sales tax and a lower pupil cost)?
- 10) Are state/regional agencies offering adequate PILOTS, etc., to the local governments?

RELIEF

- 11) How to implement the entire REAL Plan?
- 12) Does the state fiscal situation provide an opportunity for the State to absorb greater responsibility for funding local governments?
- 13) Should there be new revenue mechanisms made available to local governments?
- 14) Is it assumed that property taxes can be cut and good schools, police patrols, and other government services still be guaranteed?
- 15) Should rural districts be eligible for enhanced funding akin to the Abbott?
- 16) If revenue neutral solutions are found, how long will they last?
- 17) How does the state explain to citizens that property tax changes can improve quality of life due to less sprawl or other reasons, and lower taxes in some cases?
- 18) What tax approaches might be effective for small businesses, LLC’s , etc.?
- 19) Are there additional equitable approaches for renters?

APPENDIX #5
FOR INFORMATIONAL PURPOSES ONLY

“Convention”

Assembly Bill No. 5269 of 2005 (Roberts) passed the Assembly in May 2005. It largely reflects the recommendations of the December 2004 Report of the Property Tax Convention Task Force. Below are the major points of the bill, which was not acted upon by the Senate, with **BOLD** items showing language that is not in the Task Force report but was added to A-5269:

Selection of Delegates

- Delegates should be elected by voters at the **April school board elections**, after a vote on the holding of the Convention at the General Election in November 2005.
- Delegates should be elected by district using the 40 current Legislative districts.
- To help ensure a diverse and representative group of Delegates, there should be 80 elected Delegates, two from each district, plus 10 additional Delegates to be appointed in the following manner: Two each by the Governor, Senate President, Senate Minority Leader, General Assembly Speaker, and Assembly Minority Leader.
- **No Member of the Legislature shall be eligible to seek election or serve as a Delegate**, but all other elected officials should be permitted to seek election as a Delegate.
- All of the current qualifications for Assembly candidates should be used for Delegate candidates, including the requirement of 100 nominating petition signatures.
- Positioning on the ballot should be rotated so that the “luck of the draw” does not influence the election results.
- Delegate elections should be non-partisan, and neither party affiliation nor any slogan should appear next to a candidate’s name on the ballot, and bracketing by two or more candidates is prohibited.
- **There should be a \$250 limit on contributions to Delegate election campaigns from any source; no source may contribute more than \$6,250 in aggregate to all candidates; no labor groups or corporations may contribute to campaigns.** Task Force recommended a \$500 contribution limit and did not address the aggregate.
- Candidates or advocacy groups who spend in excess of a voluntary \$25,000 spending limit should be required to include in all of their Convention-related political communications a statement that they have exceeded that voluntary limit.

- Candidates whose spending does not exceed the \$25,000 voluntary limit should be authorized to include in their political communications a statement that they are staying within that voluntary limit.
- Delegates should not be compensated for their service but should be reimbursed for necessary out-of-pocket expenses.

Scope

- The Convention is limited to considering and making recommendations to reform the current system of property taxation and that these recommendations must further one or more of the following goals: eliminating inequities in the current system of property taxation, especially as they affect low- and moderate-income residents; ensuring greater uniformity in the application of property taxes; reducing property taxes as a share of overall public revenue; providing alternatives that reduce the dependence of local governments on property taxes; and, providing alternative means, including possible increases in other taxes, of funding local government services.
- It protects “thorough and efficient,” affordable housing obligations, **collective bargaining, dispute resolution procedures, tenants, and does not propose a Statewide equalized school property tax.**
- Proposals must be revenue neutral, defined, verifiable and **sustainable**.
- A Convention that can propose only Constitutional amendments still should be allowed to proceed, and a temporary constitutional amendment to permit statutes may be voted upon **after** the Convention when its proposals are considered in a general election referendum.
- A panel of three retired jurists, to be appointed by the Chief Justice of the Supreme Court of New Jersey, will review proposals during the course of the Convention and before final adoption by the Convention to make sure the proposals do not exceed the Convention’s scope and are consistent with the mandate for the Convention and any limitations in place, and there should be a presumption of validity for proposals that the panel has determined to be consistent with the mandate and any limitations.
- Requires that any legal challenge to the Convention’s proposals must be filed under a very short time frame and should provide for expedited court review of any challenges.

The Convention

- The Convention will be held at Rutgers University in New Brunswick.
- The Convention will convene soon after the Delegate election in order to organize itself and give direction to staff for research projects. The Convention would start May 10, 2006 and end in time for its proposals to be considered by the people in a general election referendum on November 7, 2006.

- Research for the Delegates before the Convention, including the compilation of draft rules for operation of the Convention, will be prepared by the Legislative Services Commission.
- Delegates will set the rules for Convention operations, except that the Legislature should specify in the enabling act that approval of proposals for submission to the voters requires a majority vote of all those serving as Delegates.
- The Convention is to present proposals as a single measure, that is, proposals may not be presented to the voters as separate questions on each of its specific proposals but should be required to present a comprehensive proposal as a single question. However, statutory changes may be proposed separately in case the temporary constitutional amendment to allow statutory changes is on the ballot at the same general election.
- The Convention is authorized to conduct a public education campaign about its proposals, but the campaign should be neutral in content.

Costs

- \$3.845 million is appropriated for pre-Convention, Convention, and post-Convention activities.

APPENDIX #6
FOR INFORMATIONAL PURPOSES ONLY

“Legislators”

Legislators and all other elected officials would be permitted to seek election as a Convention Delegate according to the Property Tax Convention Task Force dated December 31, 2004. That report states:

Some at the Task Force public hearings recommended that Legislators should qualify to participate, while others suggested the opposite, and still others suggested not allowing local elected officials to be Delegates. According to the Office of Legislative Services (OLS), only Montana and Tennessee have Constitutional provisions barring Legislators as Delegates. (12-3-04 OLS memo to Senator Lance) Legislators were permitted to be delegates at both the 1947 and 1966 conventions, as they are in the bills of Assemblyman Roberts and Senators Adler, Lance, and former Senator Schluter. A compelling benefit of this recommendation cited by the Task Force is the right of the voters to choose who should be Delegates.

They key reasons that Legislators would not be authorized to run as Delegates in A-5269 were discussed with its sponsor, incoming Assembly Speaker Joseph Roberts, at a meeting with the Transition Team’s Property Tax Reform Policy and Management Advisory Group on January 5, 2006. Reasons discussed included: how Legislators have not enacted property tax reform as envisioned by the Property Tax Convention Task Force; campaign financing would be blurred by the amounts a Legislator has available and those that a Delegate-candidate would have available; and, Delegate experiences are unique, and provide a distinct difference from Legislators. The Policy Group noted that previous legislation authorized Legislators as Delegates; in one case, one Legislator per District was authorized. One solution might be to authorize eight Legislators be appointed as Delegates; two from each caucus of each house based upon experience in fiscal matters, etc.