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But Where Will the Money Come From? Experts' Views on Revenue Options to Implement *Campaign for Fiscal Equity v. State of New York*

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In 2003, the New York State Court of Appeals, the highest court in New York, upheld a trial court decision that funding for public education in New York City was unconstitutional and decreed that the state needed to increase operating aid to school districts by $5.6 billion per year (*Campaign for Fiscal Equity, Inc. v. State of New York* 2003). Subsequently, the Institute on Taxation and Economic Policy published a quantitative study, *Achieving Adequacy: Tax Options for New York in the Wake of the CFE Case* (Cabalquinto and Gardner 2005). The qualitative study described in this article serves as a complement by consulting a group of experts for recommendations on the best revenue options for New York to generate this level of new education funding.

Specifically, our study was guided by three research questions: (1) How should New York State increase funding for New York City public schools; (2) What share should come from the state, and what from the city; and why should the state raise revenue through one mechanism or another? To answer these questions, the authors interviewed 12 experts knowledgeable about economics, public policy, politics, finance, commerce, and governance, and familiar with education funding in both New York City and the state. Public finance theory guided the framework analysis. The article begins with background on the *Campaign for Fiscal Equity* case. In the second section, research methods are described while the third section reports results. The article closes with a summary and policy recommendations.

Background of the Study

The court of appeals gave the state of New York a deadline of November 30, 2004 to comply with its findings for additional funding. When the state did not comply, the trial court appointed three referees to submit a compliance plan. These referees recommended $5.6 billion in operating aid and $9.2 billion in capital funding, which was affirmed by the trial court. The court left to the state how the additional funding was to be raised, including the division of responsibility between the state and New York City. In March 2006, the appellate division ordered the state to provide between $4.7 and $5.63 billion in operating aid and $9.2 billion in capital funding in the next state budget (*Campaign for Fiscal Equity, Inc. v. State of New York*, App Div 2006). The state again appealed the decision to the New York State Court of Appeals, resulting in a substantial reduction in the required operating aid to a minimum of $1.93 billion, adjusted for inflation and the cost of education (*Campaign for Fiscal Equity, Inc. v. State of New York* 2006). This was met by the 2007-2008 state school budget and reform legislation.[2] This study was undertaken subsequent to the trial court approval of the referees' recommendation of an increase of $5.6 billion in operating funds.

Research Methods

This study used the method of framework analysis, which is designed to identify key issues and perspectives through semi-structured interviews using *a priori* concepts (Richie and Spencer 1994). The following eight steps were followed by the authors: (1) Familiarization with the data through review, reading, and listening; (2) transcription of tape-recorded material; (3) organization and indexing of data for easy retrieval and identification, based on public finance theory; (4) anonymizing of sensitive data; (5) coding; (6) identification of themes; (7) re-coding; and (8) report writing, including excerpts from original data if appropriate such as quotes from interviews. Interviews were uploaded to version 5.0 of ATLAS.ti, a qualitative analysis tool; transcribed; coded; and analyzed. This software enables researchers to handle relatively large amounts of material and relate them to theory.[3]

Twelve experts, representing various academic, legislative, business, and political perspectives, were selected based on their knowledge of or experience with the funding of education in New York City and New York State. They are listed below in alphabetical order with their titles at the time of the interviews. Their names are used with permission, although quotations were not attributed individually:

- Casey Cabalquinto. Policy Analyst, Institute on Taxation and Economic Policy;
- Norman Fruchter, Director, Institute of Education and Social Policy at New York University;
- Carol Gerstl, Counsel for Legislation and Special Projects, United Federation of Teachers;
- Alan Hevesi, Comptroller, State of New York;
- Seymore Lachman, Professor, Adelphi University and Past President, New York City Board of Education;
- Carl McCall, Former Comptroller, State of New York;
- Edmund J. McMahon, Senior Fellow for Tax and Budgetary Studies, Center for Civic Innovation, Manhattan Institute;
- Frank Mauro, Executive Director, Fiscal Policy Institute;
- Joseph E. Stiglitz, Noble Prize Laureate, Economic Sciences and Professor, Columbia University;
- George Sweeting, Deputy Director, New York Independent Budget Office
- Glenn Von Nostis, Director, Office of Policy Management, Office of the New York City Comptroller;
- Dennis Walcott, Deputy Mayor, New York City.

Each interview lasted an hour. Experts were asked a series of questions related to the study's research questions, as follows:

(1) New York State must raise $5.6 billion for education. Where, in your opinion, should the funding come from? Attached is a list of options from the Institute for Taxation and Economic Policy. (See Appendix.) Which would you select? Why did you choose these?
(2) What effect would this have on various income levels: Low, medium, high?
(3) How will such a change alter people's behavior?
(4) How important is it economically for New York City to increase funding for education?
(5) As an expert or investor, what would be the implications of raising the following taxes: Sales tax, income tax, lottery, corporate income tax, and property tax?
(6) Would that raise $5.6 billion?
(7) If this were the best of all possible worlds, and you could have whatever you wanted, how would you finance education in New York State?

Results

Three questions emerged from the expert interviews as centrally important to a consideration of the funding issue. They are, as follows:

(1) What share should come fromthe state, and what from the city?
(2) How should the state increase funding for New York City public schools?
(3) Why should the state raise revenue through one mechanism or another?

As such, this section is divided into three parts.

(1) What Share Should Come from the State, And What from New York City?

Ten of the 12 experts agreed that the funding should, and probably would, have to come from both the state and the city. The remaining two experts asserted that the state should provide the entire amount. Generally, the experts agreed that the amount of money needed to comply with the court ruling could be raised without too much difficulty through spending cuts and increased revenues. The main obstacle to raising funds was the political will to make the hard choices required to make education a priority. Here are representative quotations:

> What I would want to see is a state assumption of education funding. Full state assumption of funding of education… [t]he problem [is] how you recalibrate the tax system in order to do that… [Additionally, it should be considered] what localities get from that based on a different set of formula than simply property wealth.

> The state has to look at how it deals with the court order, but the city has continued to increase its level of funding to the school system and it has increased the operating side of the funding over the last three or three and a half years by roughly three billion, and on the capital side it has increased the spending by two billion. Again, it's the state that has to meet its obligations.

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I bet some chunk of it will not be paid for by the state. The state will mandate that the city kick in its share. It might be 33%, two to one match.

To get [necessary revenues] from one tax would almost be absurd. It's going to come from a combination… It could come from program cuts or service cuts. Can New York raise $5.6 billion? Yeah, easily; however, it's not so much the math that needs to be worked out, it's the politics that have to be worked out.

The assumption around CFE is that it's all a state problem. I think even [the] CFE, [in] some of their testimony and position papers, have indicated that they acknowledge that some part of it may have to come from the city. They have thrown around approximately 25%.

I think there needs to be a balance of state and local funding for education; there needs to be a local role in education. It should not be purely state funded… I think it should be a divide between the state and the locality.

The majority would have to come from the state. State funded education. We want them to fund it but not control it. The school board controls the schools but you get the funding from the state.

(2) How Should the State Raise the Revenue?

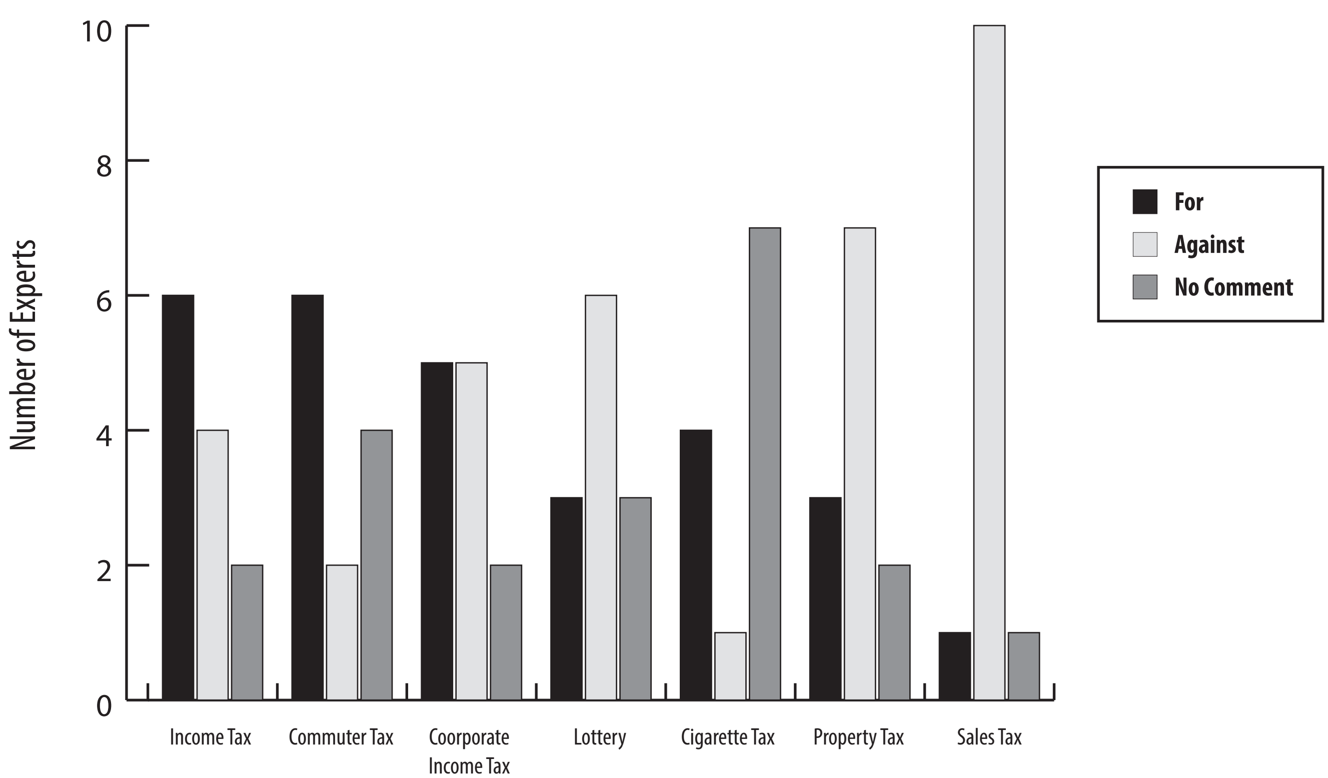
Experts shared some common opinions about increasing funds. Increasing the state income tax, primarily through restoring its progressivity, and reinstating the local commuter tax, received the broadest support. Not surprisingly, the six experts who supported reinstating the commuter tax were New York City residents. Increasing sales tax and property tax received the least support. Responses are summarized in the Figure.

(3) Why Should the State Raise Revenue Through One Mechanism or Another?

This question was answered through experts' analyses of the primary types of taxes utilizing the following public finance constructs: base, yield, equity, economic effect, and political acceptability. Even though the experts were asked to address these explicitly, their responses did not always address them thoroughly.

Tax Base and Yield. Responses related to tax base and yield were combined into one subsection because experts generally linked the two concepts. Tax base is the entity to which a tax rate is applied. There are four major tax bases: wealth, income, sales of goods and services, and privileges (Brunori 2001). Yield is the amount of revenue a tax will produce. Yield is the product of tax rate times tax base. A focus of experts' answers was the opportunity to increase revenue through broadening a particular base, e.g., by closing corporate loopholes. Responses also addressed the need for a base large enough to raise sufficient revenue.

Figure | **Experts' Views on Increasing Various Taxes**



With one exception, the experts agreed that the state and city could raise the required $5.6 billion; however, they were divided as to what combination of taxes would be best to achieve this goal. This choice depends not only upon determination of which tax options would generate sufficient funding, but also upon the political and economic feasibility of raising taxes. The experts' major concern with raising the top marginal state income tax rates related to the competitive disadvantage that would be placed on the state economy and the relative advantage for other states. This imbalance could cause the economy to deteriorate, increasing the difficulty of raising the needed funds. Below are representative quotations:

> You do what you have to do to get to that number. If you did the variety of things that I talked about, such as increasing income tax, increasing commuter tax, we could get there.

> I think we have to change the tax structure, and it's still hard to do. I don't think it's a combination of taxes, but the restructuring of our [income] tax structure.

> I think that closing corporate loopholes should be done as a start, but that's not going to raise a lot of money… Under New York law, banks and business corporations create real estate investment trusts as subsidiaries and it's a way to siphon money out of the tax system, so… close that loophole [and] that will create $155 million; [close] corporate loopholes [which] will raise about a billion dollars.

> I think the property tax is very unpopular… [and] what we need is property tax reform, broaden the base, eliminate a lot of the exemptions, and improve assessment practices.

> I would take it away from property taxes, I would find a different set of measures that are more equitable, and broader based, and get you closer to doing away with the variation which exists from locality to locality.

Equity. Tax equity addresses issues of tax fairness and fair, equitable treatment of individuals and businesses. In tax policy, "…fairness is traditionally described as horizontal and vertical equity" (Brunori 2001, 19, citing Reese 1980). Horizontal equity requires equal taxation of people with equal ability and unequal taxation of people with unequal ability (Musgrave 1959; Brunori 2001). Vertical equity requires that taxation of different persons should differ based primarily on their ability to pay (Musgrave 1959). Progressive taxes have rates that increase as the ability to pay increases. Regressive taxes have rates that decrease with ability to pay. Representative quotations addressing these aspects of equity are presented here Because equity responses focused on income tax, property tax, and sales tax, they are listed separately.

> [C]learly, the whole purpose of the Institute for Taxation and Economic Policy…is a shift of burden to higher income; it's a soak the rich approach…[The] Institute for Taxation and Economic Policy's problem there…is that we already, on a state and city basis, are overly dependent on a very narrow pinnacle of very wealthy people, and we tend to treat them as the goose that lays the golden eggs that will never die and never go away.

> We have to think about who it penalizes…Given how we structure taxes, that there is no [STAR] exemption for renters, in other words, it would penalize renters.[4] Maybe you might want an income tax that included a component of property wealth, because otherwise if you do it purely on income then you penalize the people who have limited wealth or no wealth in terms of property wealth, you're taxing everything they've got, whereas [with] the property owner all you tax is the income.

> [T]o promote economic growth here and to reverse the stunning demographic leakage from New York State, which is steady and ongoing and involves all parts of the state, not just upstate, we need to promote economic growth, and we're not going to do that by promoting higher taxes.

> The wealth is taxed to the hilt by the city, in the form of the massive corporate and property taxes the state levies on all of the real estate and business activities in Manhattan south of 96th Street.

> What I would want to see is a state assumption of education funding. Full state assumption of funding of education, then the problem of how you recalibrate the tax system in order to do that, and then what localities get from that based on a different set of formula than simply property wealth.

Representative quotations related to state income tax

> My preference…is by restoring progressivity to the income tax and the proposal which…shows… you can do this in a logical way is by recreating the 1972 income tax rates indexed to inflation. That is in the Institute for Taxation and Economic Policy report but also in our budget briefing book. You could say that what we've done so far is preposterous because we have moved the tax burden onto the middle class… over the last three decades…we have eliminated brackets from the top and the bottom rather than indexing them for inflation.

> Although there is great opposition, [the income tax is] the only tax that should be increased because it's a tax that people pay given their ability to pay. That's the fairest and the most equitable tax. I would be in favor of replacing the property tax with income tax, because the property taxes are varied and not everyone pays them.

> Income Tax is generally a very progressive tax, which is the complete opposite of sales tax…This is an opposite of sales tax because it's not a stable revenue source when it grows it really grows, and when it goes down, it goes down. That's why if you have high

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reliance on income tax, you need a stabilizing force like a moderate sales tax, or a rainy day fund so that when you have a drop in income, you just go to the needed funds to even everything out.

In New York State [corporate income taxes] have been going down as an overall share of the pot. Corporate income tax is important if you want progressive tax policies because it's based on the ability to pay, as well on the federal level as on the state, corporate income taxes have been going down. It's either statutory causes that made them go down or accountants are getting a bit more creative about paying the corporate income tax, but if you want a progressive tax system, this is a very important tax for you.

Representative quotations related to property tax

When you put New York City and State together, New York City raises more from local property tax than any other tax, so we have to reform the property tax. STAR attempted to deal with the unfairness of property tax, but it makes it more unfair, because if you have a million dollars [in] income and $10,000 in property taxes, and your neighbor has $100,000 income and $7,000 in property taxes under STAR, if you live in the same school district, you get the same benefit, so STAR is not targeted to what the rhetoric is. The rhetoric is that people are being taxed out of their homes, but STAR gives you help whether you need it or not. We say on STAR that you can give more relief to people who need it at half the cost, if you create some sort of mean testing STAR exemption, or repealing it or modifying it with a circuit breaker concept.

Many renters don't think of themselves as paying a property tax, because it's the landlord who pays the bill but some portion of it…is passed on to the rent. So if you raise the [property tax] rate on buildings, some of it would fall on the tenants.

[They] are basically the people we've been talking about, that six-figure middle class…two-earner couple or family homeowners in Long Island, Westchester, Rockland, Putnam. That's lower Hudson Valley, and pockets of similar suburbs, affluent suburbs, in two or three places upstate. They pay very high school taxes, and it's part of this whole package that they've bought into, which is, we spend therefore we're good therefore it props up the house price therefore it must be worth it. But I don't like the tax bill. It's kind of the circle that goes on…They are increasingly stressed…You take STAR away, and you basically are dealing with a really full blown revolt… There has to be a reassessment of what we spend on education and how we spend it and what we're getting for it.

Property tax is really tricky no matter what you do. They are generally regressive because they are not based on ability to pay; they are based on home value, and home values tend to eat up a larger chunk of lower and middle income wealth than higher income wealth.

Representative quotations related to sales tax

Sales tax is regressive in general. You will hit low and moderate income more so than wealthier households. If you just looked at raising the tax, sales taxes tend to be the most stable so you have a tradeoff, you will damage your vertical equity (equity based on the ability to pay), but it is a very stable revenue source.

Sales tax is not a good tax. I would not support increasing it because I don't think it's a fair tax, and it affects people adversely. It's not a progressive tax. It's not a tax that's based on income or ability to pay. Everyone pays across the board, and I don't think it's fair.

Raising the sales tax is the most regressive tax… the income tax takes more of your income as your income goes up. But the sales and excise tax are the most regressive because of the marginal propensity to consume, you'll consume more of your first $30,000 to live than of your second $30,000 in income, and that's from a fairness perspective.

If you raise the sales tax there is an equity concern because sales tax disproportionately hits the budgets of the lower income harder than it does higher income people. There is also some risk at eroding the tax base if people learn to evade it just by buying elsewhere.

Representative quotations related to other taxes

[I would increase] taxes on things like cigarettes and on pollution…and increase gasoline tax significantly.

I would want it designed as progressive with a set of provisions, so for instance, cigarette tax increase would not be progressive, but it would be a tax on social ill. I would also put environmental tax on. The whole point of it is to induce people to pollute less, and bear some of the costs they consider on others like those outside the city who take advantages of all the services provided by the city.

The lottery tax is a consumption tax and it also has social policy impacts. First, it's a tax based on people's hopes, expectations and desperations and it plays on the fact that not everyone has taken Statistics 101 or Probability…I believe it was in New Jersey where they did a lottery to fund education, and people thought it would be additional funding for education, but it wasn't the case. The lottery money wasn't going to be additional funding, it was going to replace the current revenue source, which was property and income, and these were going to go someplace else…. Lotteries in general are regressive and there are a lot of social and political implications that need to be thought out . . . also, as more states around New York have gambling, less people will travel into New York

> and more might travel out of New York. The revenue that was forecasted could not be as much as they originally thought it was because now there's more competition . . . [which] brings lower revenue.

Economic Effect. Economic effect refers to how an increase in a tax will affect taxpayers' behavior, and the degree to which any changed behavior has an economic impact (Mill 1899). Below are representative quotations.

> Income tax [is a] fairer tax, except you have to put into the questions the variable of mobility. People are mobile, they have second homes and reestablish their residences elsewhere. You might not get the tax increase from them, you may get no taxes from them. Particularly the wealthy people with good tax consultants will advise them how to beat this tax and if our taxes are higher than other states, or the highest in the region then it has a negative effect. You have to take this under consideration.

> [O]ne of the important things to keep in mind when you're looking at these proposals…they assume that a lot of a state and local tax is deductible against a federal tax and that's increasingly not true in New York City because of the federal alternative minimum tax. More and more city taxpayers are subject to the federal alternative minimum tax and one of the things you lose is state and local deductibility…The amount is now about 8-9%, but by 2010 the number would go to 33%, [and] that's a phenomenal increase. It may not happen because there will be pressure in Washington to try to adjust that, although adjusting it in Washington would mean an annual cost to the federal government of something like $500 billion.

> The personal income tax rate on New York City residents is also the highest in the country. The state income tax rate effectively, on the vast majority of working New Yorkers is much higher than the state income tax, for instance, in New Jersey or Pennsylvania.

> To promote economic growth here and to reverse the stunning demographic leakage from New York State, which is steady, ongoing and involves all parts of the state, not just upstate, we need to promote economic growth, and we're not going to do that by promoting higher taxes.

> The challenge is to balance the economic priority of improving the schools with the economic priority of having a noncompetitive tax base.

> I think there should be a state wide property tax with return to local communities based on considerations including local tax effort…The property tax base is in those communities in terms of what they should get back, would be a different way to proceed than [the way] we operate now.

Political Acceptability. Political acceptability refers to the ability of elected representatives to implement policies that the electorate will find acceptable and supportable (Mill 1899).

> The politics of [increasing taxes for education] is that the strongest lobby of all the powerful lobbies in Albany is the education lobby comprised of all the local school districts, association of teachers and superintendents. So an increase…will be normal each year.

> The property tax is the tax that people dislike the most, and it's regressive, [and] even though it's not as regressive as the sales tax, people dislike it more. They sense unfairness in it.

> The implications of [raising] all [the taxes] are very serious. The political implications of raising the corporate income tax are lightest…The economic implications of raising the whole $5.6 billion from the sales tax would probably be the largest.

> It ought to come out of the general expense budget. It would be a priority in terms of all the various revenue streams that we have. You just collect them, and you say that education comes off the top. Again, I am not looking for any specific revenue stream just for education.

Summary and Recommendations

The revenue options which received the broadest support from the experts in this study were increased state revenues from the state income tax, primarily through more progressive rates, and increased revenues at the local level through reinstatement of the local commuter tax. The six experts who supported reinstating the commuter tax were New York City residents. There was also some support among the experts for shifting education funding from property taxes to income taxes. A sales tax increase received the lowest level of support given its regressivity coupled with the potential for tax avoidance behavior. In general, experts viewed the property tax as regressive, and some asserted that the STAR exacerbated its regressivity.

Two experts, with extensive political experience, postulated that the state would rely primarily on reallocating regular state revenue increases to New York City public schools rather than increasing any tax rates. Experts did not agree on the likelihood that tax increases would drive households and businesses from New York City or the state. One stated that tax rates were already so high that any increase would threaten more economic harm than benefit. Others stated that there was still room for increasing personal and corporate tax rates. There was more of a consensus around the potential issue tax avoidance with a sales tax increase.

As this study demonstrated, a qualitative approach can provide an opportunity to explore opinions, experiences, and judgments that triangulate with and complement quantitative analysis. This study also provided important information about the political and economic implications of a range revenue options. However, additional research needs to be done

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on household and business responses to income tax rates and on sales and property taxes. These should be a combination of qualitative and quantitative analyses. Qualitative analyses should be done to explore attitudes in depth through focus groups and interviews. Quantitative studies should be done through surveys and modeling. There are opportunities to maintain funding for education in New York City and State with greater allocative efficiency.

This study also highlighted the interaction between expert opinion and political solutions. A court-appointed referee recommended an increase in operating aid of $5.6 billion based on expert opinion. The experts believed, with one exception, that New York State could raise these funds through increased tax rates. Nevertheless, the legislature and governor funded a much smaller increase, about $2 billion, with a commitment from New York City that it would increase funding for education, and did it by redirecting revenue increases that would otherwise have gone to other purposes. The political solution largely ignored the expert opinion.

Endnotes

[1] The authors acknowledge valuable suggestions from Sarah L. Olson and George Cohen.

[2] New York City agreed to increase funding for education as well.

[3] Even though ATLAS.ti and similar software facilitate qualitative data analysis and interpretation (selecting, indexing, coding, and annotating), their purpose is not to automate these processes. Automatic interpretation of text cannot succeed in grasping the complexity, lack of explicitness, and "contextuality" of everyday or scientific knowledge.

[4] STAR stands for "School Tax Relief Program." It is a state program that provides property tax exemptions and state rebates for the primary residences of home owners. The basic tax exemption is available to people who live in their own homes without regard to income level. The advanced exemption is available to senior homeowners whose income does not exceed a statewide standard. The rebate is available to homeowners who earn less than $250,000. For more information, see "NYC Finance," http://www.nyc.gov/html/dof/html/property/star.shtml.

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Appendix | New York Tax Reform Options and Principles of Taxation

	Does Each Proposal Achieve…				
	Vertical Equity	Base-Broadening	Adequacy	Exportability	Neutrality
Revenue Raising Options					
Recreate 1972 Income Tax Rates	✓		✓	✓	✓
Make 2003 Temporary Rate Hikes Permanent	✓		✓	✓	✓
"Across the Board" Income Tax Increase	✓		✓	✓	✓
"Across the Board" Tax Hike, Credit Hike	✓		✓	✓	✓
Tax Unearned Income at a Higher Rate	✓		✓	✓	
Eliminate Retirement Income Exclusions	✓		✓	✓	✓
Limit Dependent Care Credit Eligibility	✓	✓	✓	✓	✓
Temporary City Income Tax Surcharge	✓	✓	✓	✓	✓
Re-Enact New York City "Commuter Tax"	✓	✓	✓	✓	
New Progressive Commuter Tax	✓	✓	✓	✓	
Reinstate 0.5 Percent Stock Transfer Tax	✓	✓	✓	✓	
Close Corporate Loopholes	✓	✓	✓	✓	✓
Eliminate Sales Tax Exemptions (Services)		✓	✓		✓
Eliminate Sales Tax Exemptions (Goods)		✓	✓		✓
Sales Tax Rate Hike			✓		
Expand Sales Tax Base, Sales Tax Credit		✓	✓		✓
Statewide Property Tax			✓	✓	
Means-Tested STAR Exemption	✓	✓	✓	✓	
Repeal STAR, Expand Circuit Breaker	✓	✓	✓	✓	✓
Cigarette Tax Increase					
Increase Gasoline Excise Tax					
Expand New York Lottery					

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