

Taxation of State-Owned Land in New York



State Board of Equalization and Assessment

Barrett G. Kreisberg, Chairman
Helen M. Baran
Robert B. Dellecese
James O'Shea

David Gaskell, Executive Director

State of New York
Mario M. Cuomo, Governor

Sheridan Hollow Plaza, 16 Sheridan Avenue, Albany, New York 12210-2714

February 1991

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David Gaskell
Executive Director

James F. Dunne, Director
Real Property Tax Research

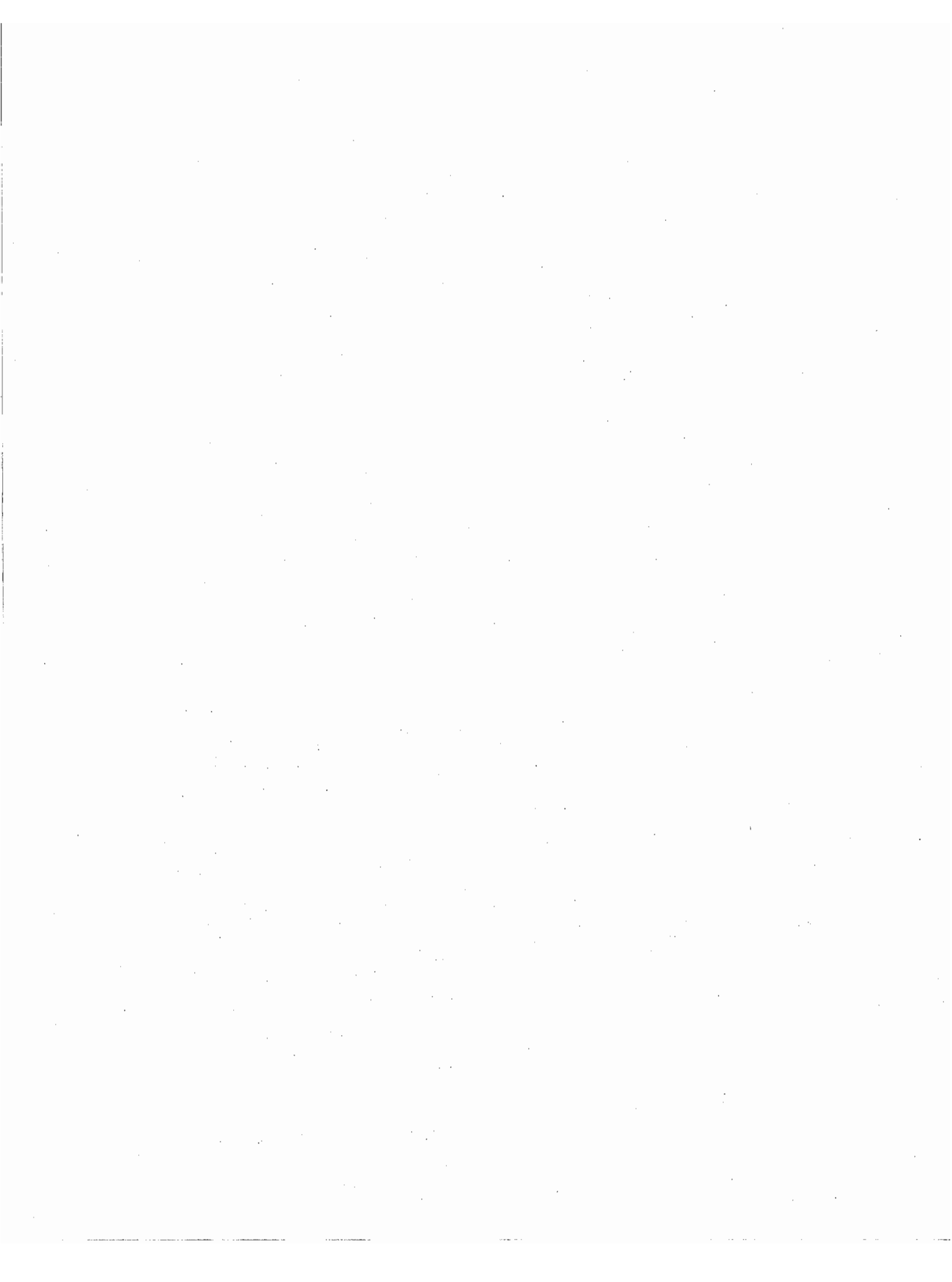
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PART I. BACKGROUND

Like many other states, New York makes payments to local governments whose jurisdictions include land under state ownership. Without specific legal provisions which permit such payments, the property would be effectively removed from local tax bases under the principle of sovereign immunity. This principle, reflected in section 404 of New York's Real Property Tax Law and most clearly elucidated by Chief Justice Marshall in the landmark U.S. Supreme Court case *McCulloch vs. Maryland*, holds that a subservient level of government may not tax another government which has sovereignty over it.¹ Although there exists among the states a variety of arrangements by which payments are made, the main approach used in New York is to make the specified state lands taxable under the local real property tax "as if privately owned".² State land taxes currently amount to nearly \$60 million per year and some local governments, notably those in the Adirondack Park, are heavily dependent on state land taxes as a revenue source.

The practice of taxing state land in New York began in 1886 when legislation was enacted which permitted taxation of the forest preserve and since then, taxability has since been extended to various other types of land in various areas of the state. In the case of the forest preserve, two factors are generally accepted as having motivated the original extension of taxability. The first was the very large acreage which the state owns in many of the towns in the Adirondack and Catskill forest preserves. For example, in the Towns of Morehouse, Newcomb, and Benson (Hamilton County), the value of state land represents 80-90 percent of the total taxable value. The second factor was the realization that state ownership conveyed benefits to residents of other

¹ For an excellent discussion of sovereign immunity, see *Report of the Temporary State Commission on State and Local Finances*, (Albany, N.Y., Temporary State Commission on State and Local Finances), March 1975, Chapter 5.

² Since 1983, several statutory amendments made conservation easements acquired by the state taxable in much the same way as land. The present report does not address the issues specific to conservation easements.

areas of the state. In the late 1800's, the benefit which received the most attention was the provision of watershed areas to supply heavily-populated downstate areas. Later on, the benefits of recreational and scenic amenities began to receive more emphasis and, in the case of institutional lands which subsequently become taxable, the issue of additional service costs to local governments was an important factor.

Forest preserve lands, which today comprise nearly 2.7 million acres, are taxable for all purposes. This is in contrast to considerable acreages of other lands which have been made taxable since the original enactment (primarily in the pre-World War II era). These include more than 460,000 acres of state reforestation land, which is taxable for all except county purposes, and an additional 35,000 acres scattered throughout the state which are taxable for school purposes only. The latter category is comprised of a great variety of lands, including certain parks, conservation areas, prisons, etc. However, there is no consistent pattern of taxability; lands having identical uses may be taxable in one town or county but not in the adjoining one. At the present time, some 3.5 million of the more than 4 million acres owned by the state are subject to some degree of taxation, with the remaining acreage fully exempt.

Over the years, many proposals have been put forth to make the taxation of state land more uniform and equitable. These include the reports of several state commissions, beginning in the late 1950's and extending through the mid-1970's. Invariably, these reports describe the present system as the legacy of political maneuvering during past decades and devoid of any consistent rationale. The most recent proposal, as set forth in a 1982 paper published by the State Board of Equalization and Assessment (SBEA), presented a full-blown plan and the associated cost estimates.³ However, as with previous proposals, no action was taken and the situation remains essentially as it was.

³ Rachel T. Crosby, *The Taxation of State-Owned Lands*, SBEA, January 1982

Despite the fact that relatively few new categories of land have been made taxable on a piecemeal basis since the mid 1940's, the situation has nevertheless deteriorated from the standpoint of consistency and uniformity. In 1960, section 545 of the Real Property Tax law authorized so-called transition assessments — which were intended to protect local governments from the fiscal consequences of state acquisition of lands which were to become non-taxable or reductions in the taxable values of currently-taxable state lands. In the case of newly exempt lands, the transition assessment provisions were invoked only if the value reduction in a municipality was more than two percent of the total assessed value.

Originally, the transition assessment provisions were structured so as to phase out gradually the old assessments themselves, or in the case of assessment reductions, any excess of the old assessment over the new one. However, annual chapter amendments between the early 1960's and mid-1970's effectively prevented the phase-out provision from being implemented, essentially "locking in" local assessments from prior rolls and the highest assessment ever approved by the state for each of its taxable parcels. Although the phase out was allowed to operate once again after 1976, additional provisions ("aggregate additional assessments") had by then been enacted. These new provisions had the effect of also locking in older assessments, adjusted for subsequent changes in the overall level of assessment, for local governments in the Adirondack Park and Great Sacandaga Lake areas. The plethora of phase out and save harmless arrangements embodied in these transition and aggregate additional assessment provisions mirror the *ad hoc*, piecemeal, approach to state land taxability in the pre-war era. Such special arrangements have effectively undermined the logic and simplicity of the original 1886 legislation, which had state property being taxed like any other property on local assessment rolls, i.e., as if privately owned. Furthermore, they are fundamentally inconsistent with good property tax administration because, rather than addressing the issue of state aid

directly, they attempt to perpetuate past economic conditions which are likely to be increasingly at variance with relative values in current markets.

To remedy the many and often-noted inequities in state land taxation, the 1982 SDEA report proposed a complete overhaul of the existing system. Central to the proposal was the principle that all state property — with certain exceptions which were based on use rather than location — should be taxable for all purposes. The exceptions included the following categories:⁴

- widely distributed properties, such as roads and canals, which generally extend across many taxing jurisdictions without dominating a particular one; and
- smaller improved properties, for which most of the value is in the improvement and which generally provide several types of benefits accruing primarily to the locality.

The proposal also recommended limiting taxability to the land value only (i.e., as if the property were unimproved). The rationale for this recommendation was the “original loss” principle, which held that localities should only be compensated on the basis of what was actually removed from the tax base (generally vacant land). It was felt that state-financed improvements typically contributed to localities in other ways, such as generation of employment opportunities and demand for local business services and, in many instances, enhanced the value of nearby properties.⁵ Other

⁴ The 1982 SBEA report also made an exception, based on ownership, in the case of lands owned by public authorities. On further examination, this proved largely redundant, since most of the lands in question would be excepted by the other criteria. In any event, the distinction based on ownership rather than use now seems inadvisable and has thus been eliminated.

⁵ There may well be cases where unusual demands are placed on local services (e.g., school system, sewer system, etc.) by the construction of a state facility, and the locality may be unable or unwilling to absorb any resulting capital costs. These situations should not cloud overall state policy regarding state-owned land, however. Such situations should probably be handled individually, through negotiations between the two levels of government.

important components of the proposal included the repeal of transition assessments and aggregate additional assessments.

The current study updates the 1982 SDEA effort, retaining the overall approach used then but employing an entirely new set of data and improved methods for classifying land and assigning values. In keeping with the 1982 study, state payments are generally referred to as "taxes" even though it is fully understood that payment arrangements which could be classified as something other than actual taxes might well be employed. The following sections discuss the data used, any necessary simplifying assumptions which were made, the calculations performed to estimate values and taxes, and the general issues involved in structuring a payment mechanism.

PART II. DATA USED

The information available for current taxable and exempt state land differs significantly. For the taxable land, detailed inventory and value information has been developed and maintained by the state, and thus constitutes an ideal data source for estimating the cost of shifting to full taxability for all purposes. In the case of currently-exempt land, the data set developed for the present study is based on information provided annually by local assessors to SDEA. This information includes locational, size, usage, value, and ownership information as it appears on assessment rolls. In contrast the 1982 study had utilized a less-detailed listing of state-owned properties provided by the Office of General Services (OGS). This difference in the data sources for the currently-exempt land has major implications for comparing the results of the two studies.

Significant advantages of the assessment roll data over the OGS data include better locational information, a parcel-specific indication of value, and an indication of property use. The highly accurate location information makes possible the application of specific tax rates for the actual taxing units each parcel is located in, as opposed to the generalized tax rates employed in the 1982 study. It also allows for creation of a detailed set of fiscal estimates which show the impacts on individual municipalities and school districts, something which would not be feasible with the OGS data. Comparisons with the data set used in the 1982 study revealed that the OGS data set often assigned major acreages to the wrong town or county — resulting in a distortion of the local fiscal consequences of the proposal.

Property use information in the assessment roll data consists of the standardized SDEA property use class code. In some cases, the state agency owning the land is indicated, and this in turn provides indirect evidence of the likely use. In contrast, OGS data used for the 1982 study reflect a less detailed use coding but do contain the name of the responsible state agency.

The OGS data also did not contain any information on property value. The assessment roll data, however, indicated both land and total (i.e., including improvements) values. The roll values reflect a wide variety of assessment ratios but the assessments can be converted to full value equivalents through application of the local equalization rate. While it may be argued persuasively that assessments of exempt state land may not be very accurate and up-to-date in many assessing units because such assessments have no current tax consequences, it is also true that the only parcel-specific values available for the exempt land are those assigned by the assessor. Thus, one major basis for the fiscal estimates contained in the present report is the local assessment on the exempt state land. However, in order to provide a checking mechanism for values determined in this way, a generalized value schedule was also developed (see Part III) and estimates based on these figures are also presented.

The first step in creating the study data set of currently exempt land was the selection of all parcels having an exemption code which indicated fully exempt status by reason of state ownership. This selection resulted in approximately 12,000 parcels. Next, those parcels with property class codes indicating highway uses and/or ownership by the Department of Transportation or other relevant state agencies were excluded, reducing the data set to approximately 8,000 parcels. Further selections were made to exclude improved parcels of less than 100 acres, consistent with the principle of local benefit outlined above, and the final data set contained 6,228 parcels representing 467,420 acres. This may be compared to the 445,630 acres estimated in the 1982 study from the entirely different OGS data source.

An extensive effort was then carried out to "clean" the data set in order to render it suitable for the purpose at hand. About 2,000 cases were found in which important acreage, value, or school district code information was missing or incorrectly entered. All such parcels were corrected through a manual review process which included telephone contacts with assessors whenever this was deemed necessary.

PART III. ESTIMATION OF VALUE

As discussed in subsequent Part V of this paper, there exists a variety of methods by which the amount of tax the state might pay on a given parcel could be determined. However, common methods of determining the amount of state payments involve use of the market value, the assessed value at the time the property was acquired or made taxable, or related value concepts as a basis to which some tax rate is then applied. In recognition of this, and to generate one important benchmark for state lands, a major objective of the study was estimation of the overall market value of state land. As stated earlier, reliable value information is available for the currently-taxable state land, but values had to be developed for all currently-exempt parcels.

Appraisal of all the exempt properties would obviously require resources and time which are far in excess of that available. In light of this, second-best methods of value determination had to be employed. In order to bring to bear all the available value information, two different approaches were utilized — in effect, producing a range of values. As mentioned earlier, the first of these is simply reliance on the assessed values (land only) placed on the parcels by local assessors, appropriately converted to full-value equivalents via the equalization rate. The second, termed the “alternative estimate,” involves averaging several value indications, including the equalized assessments calculated for the first method, the average per-acre sales prices of vacant land in the municipality, and the average per-acre values of any currently-taxable state land. This second value estimate serves primarily as a benchmark against which the equalized assessments may be compared, and its availability provides some assurance that the fiscal estimates developed are not totally reliant on potentially inaccurate local assessment data.

An advantage of the equalized assessments is that they represent the only available parcel-specific value information. Thus, if properly maintained by the assessor, they will accurately account for special characteristics which are impossible to identify from the limited descriptive information in the data set. Good examples

would be land which has low value because it has no road access, and land which has valuable water frontage. These characteristics could not be determined without researching the parcels individually, and their importance would be ignored in assignment of average per-acre values to all the land in a municipality, but they would presumably be reflected in quality assessments. On the other hand, not all assessors keep their rolls accurate and up-to-date, and it may be suspected that this might be particularly true in the case of exempt state land. Review of the actual data suggests that there is a variety of situations; Nassau County equalized assessments, for example, seem to bear little relation to the value of the exempt state land, whereas equalized assessments in counties such as Rensselaer seem to correspond rather well with available sales information.

To construct the alternative value estimate, a simple average of per-acre equalized assessments and, if available, the average per-acre sales prices and the average per-acre values for existing taxable state land, were utilized. In deriving and assigning the per-acre values based on sales and currently taxable state land, an attempt was made to make a broad distinction between parcels which were: (a) large, with a low overall use-intensity; and (b) small, with more intensive uses. The purpose of this distinction was to make the alternative value estimate for each parcel as closely related as possible to value indications derived from similar parcels, be they sales or currently-taxable state land. In many cases, either the sales-based value or the taxable state land-based value (or both) could not be computed for a given municipality due to lack of data. For such cases, the alternative estimates presented reflect an average over the available value indications and thus, in some instances, are the same as the equalized assessments.

Table 1 summarizes the value estimates of the currently-exempt land, by county.⁶ According to existing equalized assessments (1988 roll), the land which would become taxable is worth approximately \$1.5 billion (based on a market survey valuation date of October, 1984). If the alternative estimate based on the three-part average of value indications is utilized, the total value is significantly higher, at \$3.7 billion. As was the case with the earlier estimates contained in the 1982 SDEA report, the bulk of the acreage is in the upstate area but most of the value is in the Long Island and metropolitan New York City regions.

⁶ Municipal level value estimates are also available, but have not been included here due to the volume involved.

Table 1
Estimated Value of Currently-Exempt State Land:
1988 Assessment Roll Data with Two Value Estimates

<u>County</u>	<u>Total Equalized Assessor Value *</u>	<u>Alternative Estimate**</u>	<u>Total Acres</u>
Albany	\$ 73,120,166	\$ 65,452,909	9,731
Allegany	4,352,956	4,209,837	11,803
Broome	11,942,318	9,303,199	4,248
Cattaraugus	6,941,425	5,750,357	9,525
Cayuga	4,954,287	4,912,328	6,634
Chautauqua	4,916,415	4,865,642	5,845
Chemung	751,448	1,335,529	1,661
Chenango	865,387	1,625,328	4,147
Clinton	10,235,477	8,775,856	9,182
Columbia	8,028,446	17,967,487	7,144
Cortland	3,889,557	5,876,857	14,856
Delaware	1,216,878	2,460,338	3,003
Dutchess	10,843,896	20,144,565	5,183
Erie	41,851,153	29,049,254	5,317
Essex	3,192,385	4,938,747	9,608
Franklin	1,238,818	3,265,508	3,772
Fulton	1,841,078	4,435,910	5,495
Genesee	1,687,040	2,772,498	4,000
Greene	847,499	3,517,359	1,563
Hamilton	1,475,358	5,873,168	12,063
Herkimer	222,647	258,758	667
Jefferson	13,463,445	17,149,226	19,480
Lewis	805,248	2,274,668	13,820
Livingston	4,007,498	7,471,689	13,520
Madison	3,441,512	6,161,009	6,470
Monroe	17,808,804	27,269,905	2,190
Montgomery	1,018,338	1,472,725	2,014
Nassau	108,361,339	1,585,459,637	7,028
Niagara	3,317,930	2,852,528	551
Oneida	71,382,026	61,451,226	8,146
Onondaga	231,226,033	165,835,137	16,642
Ontario	3,257,938	6,686,427	3,270
Orange	5,092,007	25,801,447	3,259
Orleans	997,790	1,289,958	1,224
Oswego	3,001,867	8,718,003	16,791
Otsego	32,523,086	15,709,885	6,370
Putnam	41,496,437	96,683,016	13,929
Rensselaer	3,143,918	4,121,208	4,154
Rockland	—	—	—
St. Lawrence	18,014,582	20,645,446	31,030
Saratoga	8,182,854	19,818,866	6,681
Schenectady	819,289	6,426,540	1,125
Schoharie	1,487,849	2,713,598	2,490
Schuyler	4,972,590	2,092,989	721
Seneca	9,936,937	10,134,648	2,472
Steuben	1,657,834	5,153,864	8,357
Suffolk	535,486,324	1,185,258,364	32,218
Sullivan	4,720,079	14,945,045	7,829
Tioga	23,270	65,040	156
Tompkins	5,359,468	19,575,808	10,305
Ulster	4,250,848	5,554,468	2,078
Warren	7,138,566	18,757,427	5,942
Washington	448,656	2,201,824	2,673
Wayne	5,662,096	7,491,490	5,247
Westchester	44,666,976	105,349,593	2,836
Wyoming	2,797,036	3,578,718	8,814
Yates	2,325,640	2,266,609	1,353
New York City	59,723,779	62,096,499	719
State Total	\$ 1,456,434,523	\$ 3,737,325,964	407,348

* "Assessor Values" are those actually entered on the 1988 roll.

** "The "alternative estimate" is computed by averaging per-acre sale price for vacant land and per-acre values for currently-taxable state land (when available) with equalized assessor values.

In most cases, the individual parcel values established follow the same pattern as the aggregate figures cited; the assessor figure is lower than the alternative estimate. Although a multitude of factors may contribute to the parcel-level differences, the large difference between the totals may logically be attributed to several factors. First, the two sets of values reflect different valuation dates. The assessor values, although they were taken from 1988 assessment rolls, reflect an October 1984 level of value when converted to full value equivalents by application of the appropriate equalization rate. On the other hand, the sales data, which were a major ingredient in deriving the alternative value estimates, reflect actual 1987-89 market conditions.

Another potential source of the difference, evident in Nassau County and other individual municipalities, is the apparent failure of some assessors to keep assessments on exempt property current with those on other property. A third possible explanation is that, since the sales data used to derive the average per-acre sales prices for vacant land include predominantly smaller acreage parcels, the alternative estimate values derived for the typically large state properties may be too high. However, it must be remembered that full value assessments and taxable state land values (if available) were given equal weight to the sales figures in developing the alternative estimates, and this should help to offset any such bias. Also, as mentioned previously, an effort was made to develop and assign the alternative estimate values with parcel size and use in mind.

The divergence between the two sets of values is most extreme in Nassau County. Assessments on the exempt state land amounted to about \$15,400 per acre whereas the sales data averaged over \$500,000 per acre (there is no currently-taxable state land in the county from which a value indication might be obtained). Individual vacant land transactions in Nassau, typically involving considerably less than one-half acre, averaged \$120,000 in the 1987-89 period. However, the average parcel size for the 6,204.5 acres which would become taxable in Nassau was 16.2 acres. Most of the Nassau acreage is in state parks, including Hempstead Lake (727 acres), Jones Beach

(2,413 acres), Bethpage (1,246 acres), and Valley Stream (97 acres), or in state university land of which over 500 acres is contiguous.

Properties such as Jones Beach, which is a ten-mile stretch of prime island land with a lot of valuable water frontage, would surely sell for extremely high per-acre prices if privately owned even though it represents a relatively large acreage. Large acreage sales are typically not found in Nassau, but it is not unusual to find per-acre prices in the \$100,000 to \$200,000 range for sales of 20 acres or more in nearby Suffolk County towns. Thus, while it is somewhat unrealistic to compute values for significant acreages based on an average of house lot prices and actual assessments, the per-acre values obtained for Nassau County in this manner (average is \$225,000 per acre) seem no more likely to overstate the value than the assessor values of \$15,000 per acre seem to understate it. In fact, given the nature of the properties, the alternative estimate may even be conservative.

Suffolk County also includes relatively large acreages of high-value waterfront lands in state park usage (e.g., Robert Moses State Park in Babylon, Gilgo State Park in Islip). Equalized assessor values for this land are significantly higher than those found in Nassau County (they are generally in the \$30,000 to \$60,000 per acre range) but still appear to be quite low considering the type of land involved. Averaging the per-acre sales prices and taxable state land values with the actual assessments did not make a big difference, as neither of these additional sources included significant acreage of the unique types of land in question.

PART IV. FISCAL IMPACT

Newly-Taxable State Land

Table 2 presents a summary, by county, of the fiscal impact of taxing the currently-exempt state land.⁷ Based on tax rates applicable to 1988 assessment rolls, the state would pay municipalities a total of \$44.9 million if the assessor values are used and a total of \$108.7 million if the alternative value estimates are used. School districts would get approximately 60 percent of the payments under the assessor values and 68 percent under the alternative values, with the remainder split fairly evenly between cities/towns and counties under either set of values. Again, a large share of the total state payment (over 70 percent under the alternative values) would go to the downstate counties of Nassau and Suffolk. All counties would receive some payments, but some would receive relatively small amounts due to the absence of significant acreage of currently-exempt state land and/or the lower values which prevail in the state's most rural areas. Tioga County, for example, would receive less than \$2,000 in additional tax payments on the 155.8 acres (seven parcels) which would become taxable. Rockland County, where all state land is already taxable, would receive no additional revenue of this type.

Among the other significant beneficiaries would be New York City, Westchester County, Albany County, and Oneida County. In the case of New York City, which would receive nearly six million dollars, the reason is valuable land, for only 719 acres are involved. Westchester County benefits are high because the county has a significant acreage which is affected and the per-acre values there are typically over \$10,000. Albany and Oneida counties both have more than 8,000 acres affected, and much of the land, being located in the cities of Albany and Rome, is highly valued.

⁷ Municipal and school district level estimates are also available, but have not been included here due to the volume involved.

Table 2

**Estimated Taxes Payable on Currently-Exempt State Land:
1988 Assessment Roll Data, with Two Value Estimates**

County	Taxes with Equalized Assessor Values*			Taxes with Alternative Value/Estimate **			Difference In Totals		
	County	Town	School	Total ***	County	Town		School	Total ***
Albany	\$235,728	\$833,220	\$1,297,976	\$2,366,935	\$210,408	\$524,627	\$1,184,024	\$2,019,070	-\$347,865
Allegany	43,231	35,073	61,356	139,674	41,823	37,699	57,708	137,240	-2,434
Broome	63,602	20,592	213,256	297,454	49,010	20,721	162,939	232,676	-64,778
Cattaraugus	53,423	63,843	86,732	204,015	46,486	49,886	72,168	168,558	-35,457
Cayuga	47,174	22,917	69,601	139,710	44,052	25,909	71,154	141,132	1,422
Chautauqua	43,530	12,471	87,183	143,205	42,138	16,111	84,259	142,528	-677
Chemung	7,072	1,211	13,553	21,844	13,221	1,186	23,360	37,775	15,931
Chemango	9,984	8,217	14,724	32,934	18,757	15,329	27,219	61,316	28,382
Clinton	39,118	76,257	178,129	293,518	34,697	49,576	141,467	225,752	-67,766
Columbia	56,142	22,535	115,488	194,175	126,264	48,935	264,781	439,990	245,815
Cortland	42,926	27,629	59,579	130,149	65,572	41,983	90,452	198,026	67,877
Delaware	9,714	9,978	16,039	35,740	19,781	19,714	31,229	70,733	34,993
Dutchess	75,586	53,057	190,736	319,395	141,340	91,772	345,801	578,928	259,533
Erie	381,572	163,922	713,431	1,258,941	265,131	121,603	487,385	874,133	-384,808
Essex	9,264	15,198	39,254	63,730	15,189	52,456	71,272	138,935	75,205
Franklin	5,105	10,546	18,635	34,294	12,737	23,514	49,314	85,575	51,281
Fulton	23,590	7,929	22,447	53,975	57,662	13,792	59,668	131,089	77,114
Genesee	14,418	3,207	30,289	47,916	23,666	6,590	50,660	80,921	33,005
Greene	4,392	4,611	11,659	20,671	18,294	19,283	48,626	86,210	65,539
Hamilton	4,529	11,620	14,909	31,068	17,568	38,663	61,832	118,070	87,002
Herkimer	1,831	1,398	2,887	6,122	2,124	1,657	3,463	7,250	1,128
Jefferson	93,748	63,805	195,244	352,810	130,864	79,666	245,027	455,573	102,763
Lewis	5,984	8,396	11,854	26,251	16,645	22,711	33,844	73,214	46,963
Livingston	29,489	30,385	59,270	119,154	55,273	58,411	111,713	225,410	106,256
Madison	25,023	16,238	61,997	103,274	45,294	23,397	111,260	179,967	76,693
Monroe	151,418	79,863	262,118	493,410	207,862	100,367	420,337	728,581	235,171
Montgomery	9,767	1,926	19,674	31,376	14,133	2,675	28,620	45,435	14,059
Nassau	529,993	301,737	2,085,451	2,917,186	7,781,769	4,444,772	33,399,659	45,626,205	42,709,019
Niagara	28,022	67,293	61,021	156,336	24,087	58,554	52,522	135,164	-21,172
Oneida	463,048	559,105	1,154,368	2,176,534	407,653	596,945	953,745	1,958,356	-218,178

Table 2 (continued)
Estimated Taxes Payable on Currently-Exempt State Land:
1988 Assessment Roll Data, with Two Value Estimates

County	Taxes with Equalized Assessor Values*				Taxes with Alternative Value/Estimate **				Difference In Totals
	County	Town	School	Total ***	County	Town	School	Total***	
Onondaga	\$3,145,286	\$654,857	\$3,464,427	\$7,264,580	\$2,245,938	\$471,903	\$2,581,985	\$5,299,837	-\$1,964,743
Ontario	19,611	19,337	55,519	94,480	39,616	23,158	114,323	177,110	82,630
Orange	30,976	23,930	91,476	146,394	159,197	181,197	483,917	824,326	677,932
Orleans	8,838	3,531	13,282	25,656	11,521	4,314	19,424	35,269	9,613
Oswego	26,981	21,260	39,893	88,149	78,490	58,050	106,137	242,696	154,547
Otsego	219,311	268,586	434,595	922,511	105,222	125,118	212,186	442,543	-479,968
Putnam	150,047	204,101	723,106	1,077,261	343,188	477,286	1,573,969	2,394,448	1,317,187
Rensselaer	19,842	27,166	66,125	113,145	26,205	33,822	82,532	142,569	29,424
Rockland									
St. Lawrence	133,026	136,982	292,315	562,350	144,087	168,887	326,960	639,954	77,604
Saratoga	20,204	24,895	156,843	201,962	48,895	61,578	377,819	488,304	286,342
Schenectady	8,413	5,428	14,293	28,141	66,452	43,855	106,564	216,875	188,734
Schoharie	16,318	9,389	20,071	45,784	29,631	15,534	38,225	83,395	37,611
Schuylar	61,137	21,718	89,493	172,353	25,755	9,388	37,345	72,493	-99,860
Seneca	48,887	31,358	143,167	223,416	50,423	36,160	145,350	231,941	8,525
Steuben	16,387	10,235	24,124	50,766	55,553	28,710	76,777	161,062	110,296
Suffolk	1,529,470	2,235,581	9,831,960	13,597,022	3,390,163	5,047,824	22,436,032	30,874,028	17,277,006
Sullivan	31,221	45,376	83,606	160,217	97,160	116,287	240,948	454,407	294,190
Tioga	167	110	300	581	489	409	890	1,793	1,212
Tompkins	22,587	27,206	94,964	144,765	92,150	75,120	344,824	512,105	367,340
Ulster	9,886	49,395	74,558	133,848	13,092	48,982	98,920	161,004	27,156
Warren	19,685	26,126	77,894	123,711	62,092	68,408	208,888	339,397	215,686
Washington	3,167	3,330	7,382	13,890	15,007	15,169	35,357	65,544	51,654
Wayne	42,500	28,833	82,291	153,630	53,928	35,147	112,944	202,026	48,396
Westchester	268,444	263,937	980,983	1,513,379	622,099	551,964	1,976,431	3,150,511	1,637,132
Wyoming	18,925	20,163	40,546	79,640	24,187	25,404	52,315	101,912	22,272
Yates	15,878	10,907	28,666	55,456	15,851	14,978	28,875	59,709	4,253
New York City	0	2,793,276	2,929,397	5,722,725	0	2,904,240	3,045,820	5,950,061	227,336
State Totals	\$8,395,617	\$9,501,192	\$27,030,186	\$44,927,617	\$17,765,851	\$17,351,396	\$73,611,265	\$108,729,131	\$63,801,514

* "Assessor Values" are those actually entered on the 1988 roll.

** The "alternative estimate" is computed by averaging per-acre sale price for vacant land and per-acre values for currently-taxable state land (when available) with equalized assessor values.

*** County, town and school taxes may not add to total taxes due to rounding.

Currently-Taxable State Land

As discussed in Part I, the proposal would also make currently-taxable state lands, some of which are now taxable for a variety of purposes, taxable for all purposes. Table 3 shows the impact of such a policy change. Over four million dollars in additional taxes would be paid to local governments, based on 1988 assessments and applicable tax rates. This represents an approximately 8.5 percent increase in tax payments, with none of the benefit going to school districts as all currently-taxable state land is taxable for school purposes.

Approximately 42 percent of the additional payments would go to Suffolk County, with all other counties enjoying shares of eight percent or less. Local governments in two counties which are entirely within the Adirondack Park, Hamilton and Essex, would not receive any additional tax payments since the entire acreage involved is forest preserve land which is already taxable for all purposes. Seven counties not listed in the table, and New York City, have no currently-taxable acreage.

Transition and Aggregate Additional Assessments

These assessments, which would be repealed under the proposal, would to a minor extent help to offset the additional state costs for payments on the currently-exempt land and increased payments on the currently-taxable acreage. The data in Table 4 indicate that nearly all counties having taxable state land are receiving tax payments based on either transition or aggregate additional assessments, or both. The estimated transition payments based on 1988 roll assessments amounted to \$2.8 million, and were primarily paid to a few counties in the Adirondack area; over half the payments went to three counties: Essex, Hamilton, and Warren. Other counties with significant benefits are those in the Catskill and Lower Hudson areas: Delaware, Orange, and Rockland counties accounted for an additional 29 percent of the projected 1988 payments.

Aggregate additional assessment taxes resulting from Adirondack Park status were due to several of the twelve counties either partially or wholly within the Park. Three of these counties (Fulton, Hamilton, and Saratoga) also benefited from aggregate additional assessments attributable to Hudson River Regulating District land (Great Sacandaga Reservoir). In all, projected taxes necessitated by these aggregate assessments totaled \$1.9 million.

Table 3

Fiscal Impact of Taxing Currently-Taxable State Land for All Purposes

<u>County*</u>	<u>Current Taxes (1988 Roll)</u>	<u>Proposed Taxes</u>	<u>Tax Increase</u>
Albany	\$ 47,555	\$ 54,804	\$ 7,248
Allegany	350,133	497,700	147,561
Broome	83,448	103,035	19,586
Cattaraugus	752,656	860,663	107,998
Cayuga	58,991	79,514	20,523
Chautauqua	115,620	155,439	39,814
Chemung	3,960	5,266	1,035
Chenango	878,118	1,143,179	265,054
Clinton	405,341	461,437	56,094
Cortland	212,337	312,949	100,607
Delaware	630,587	699,773	69,183
Dutchess	510,169	839,687	329,515
Erie	4,274	13,489	9,215
Essex	5,673,285	5,673,285	0
Franklin	2,679,475	2,696,783	17,306
Fulton	1,864,392	1,872,888	8,495
Greene	885,752	901,008	15,253
Hamilton	5,636,373	5,636,373	0
Herkimer	2,628,253	2,645,551	17,294
Jefferson	89,667	98,292	8,624
Lewis	669,890	782,664	112,771
Livingston	70,134	113,447	43,311
Madison	216,363	285,247	68,879
Monroe	16,903	31,373	14,469
Montgomery	63,505	90,662	27,155
Oneida	324,421	430,157	105,730
Onondaga	33,659	46,722	13,063
Orange	1,627,129	1,647,350	20,219
Orleans	3,335	6,509	3,173
Oswego	151,328	187,892	36,560
Otsego	166,523	218,415	51,886
Rensselaer	99,239	105,016	5,775
Rockland	6,483,677	6,483,925	248
St. Lawrence	1,628,503	1,700,594	72,086
Saratoga	334,412	379,573	45,161
Schoharie	353,270	528,702	175,428
Schuyler	156,684	240,752	84,065
Seneca	14,664	25,172	10,506
Steuben	141,778	199,113	57,326
Suffolk	5,021,559	6,740,786	1,719,224
Sullivan	542,423	560,174	17,751
Tioga	72,469	94,577	22,105
Tompkins	224,976	246,054	21,078
Ulster	2,898,863	2,926,876	28,007
Warren	2,338,569	2,338,569	0
Washington	624,111	642,825	18,710
Westchester	85,754	145,069	59,314
Wyoming	9,835	20,872	11,035
Yates	101,556	103,535	1,979
Total	\$ 47,986,136	\$ 52,073,962	\$ 4,087,826

* The counties of Columbia, Nassau, Niagara, Ontario, Putnam, Schenectady, Wayne and New York City have no taxable state land acreage.

Table 4

**Projected Transition Assessment and Aggregate Additional Assessment Taxes*
1988 Assessment Rolls**

<u>County**</u>	<u>Transition</u>	<u>Aggregate Additional***</u>
Albany	\$ 1,340	\$ —
Allegany	6,997	—
Broome	8,537	—
Cattaraugus	5,687	—
Cayuga	2,806	—
Chautauqua	28,027	—
Chemung	150	—
Chenango	55,680	—
Clinton	24,772	—
Cortland	7,293	—
Delaware	160,762	—
Dutchess	47,298	—
Essex	776,980	270,844
Franklin	46,425	51,666
Fulton	43,414	101,772
Greene	40,132	—
Hamilton	285,747	727,858
Herkimer	34,625	412,199
Jefferson	10,327	—
Lewis	3,180	—
Livingston	15,210	—
Madison	4,533	—
Monroe	6,407	—
Montgomery	754	—
Oneida	137	—
Onondaga	317	—
Orange	497,803	—
Orleans	643	—
Oswego	148	—
Otsego	4,539	—
Rensselaer	6,610	—
Rockland	174,667	—
St. Lawrence	2,343	4,704
Saratoga	4,258	380,442
Schoharie	9,657	—
Schuyler	12,264	—
Seneca	1,458	—
Steuben	16,029	—
Suffolk	5,675	—
Sullivan	14,747	—
Tioga	6,020	—
Tompkins	3,166	—
Ulster	26,715	—
Warren	407,061	—
Washington	20,028	—
Westchester	420	—
Wyoming	754	—
Yates	13,771	—
Total	\$2,846,313	\$1,949,585

* Estimated for city, county, town and school purposes.

** The counties of Columbia, Nassau, Niagara, Ontario, Putnam, Schenectady, Wayne and New York City have no taxable state land acreage.

*** Includes both Adirondack Park and Hudson River Regulating District assessments.

PART V. POLICY CONCLUSIONS: ALTERNATIVE APPROACHES TO DETERMINING STATE PAYMENTS

In previous sections of this report, emphasis has been placed on determining the value of the currently-exempt state property which would be affected if the taxation provisions outlined in Part I were enacted. While a variety of different mechanisms could be devised for calculating state payments to localities, it was argued that value is a benchmark which would need to be at least reviewed in establishing a payment system and could well serve as a basis for the payment — much as it does for the regular property tax currently paid on those state lands which are taxable. In this section, some of the alternative ways in which the amount of state payments might be determined are reviewed.

Broadly speaking, state payments to localities which are tied to state ownership of land fall into two categories: taxes and payments-in-lieu-of-taxes (PILOTS). The main difference between these two approaches is that taxes are generally based on assessments which are under local control whereas PILOTS usually include some restrictions on the assessment which are not applied to privately-owned property or are based on some non-assessment factors or standards. According to research by SDEA and the Advisory Commission on Intergovernmental Relations (ACIR), the overwhelming majority of land which is covered by such compensation programs in states other than New York involves PILOT payments rather than taxes.⁸

Many different PILOT mechanisms have been devised, but the basic purpose of all of them seems to be to limit the amount paid by the state to less than the tax which would result from a locally-determined assessment based on market value. Common examples of PILOT schemes include freezing the assessment at the time of state acquisition; limiting payments to a fixed percentage of assessments or tax rates; requiring that assessments assume agricultural use; requiring that assessments be at

⁸ See: Sylvia Adams, *State Programs Compensating Local Governments for State-Owned Property*, 1989, SBEA, January 1990, and Robert D. Ebel and Joan E. Towles, *Payments in Lieu of Taxes on Federal Real Property*, ACIR, May 1982.

the average per-acre value of all other property; using flat-rate payments often negotiated between the state and the local government; using percentage shares of annually-appropriated amounts; and a host of other such arrangements. In some cases such as New York (which has both pure tax and PILOT programs), the payments will not be classified as true intergovernmental revenue flows (which they undoubtedly are) if they are of the tax variety.⁹ This, however, is a classification or nomenclature issue and does not seem to be the overriding reason for the apparent popularity of the PILOT approach outside New York.

Choice between the PILOT and tax approaches essentially requires that the following questions be answered:

- Is full compensation necessary and justified? Given any other local benefits which may result from state improvements of the land, state employment, or positive influences on nearby lands, should the state property contribute as much (per acre or per dollar of value) to local revenues as privately-owned property?
- Will the state government, as an "absentee landowner", become the victim of unfair assessing practices if locally-controlled assessments determine annual payments?

In terms of the "full compensation" question, the type of land under consideration is a critical factor. While many types of state property — especially improved parcels where the improvement represents the major share of the parcel value — have strong local benefits, other property such as forest lands and some of the major parks convey primarily statewide or regional benefits. To the extent that public benefits from state ownership are indeed widely distributed throughout the state, full compensation would seem all the more appropriate. As discussed in Part I, the state properties on which the fiscal impact of full taxability was estimated for purposes of this report

⁹ New York's PILOT programs encompass only a minor portion of the total acreage on which compensation payments are made, being limited primarily to lands owned by state authorities.

excluded those which were both substantially improved and less than 100 acres. This is one approach to isolating property with primarily statewide benefits, and many others could undoubtedly be devised. Such properties are in fact most comparable to the forest preserve, which under present statutes is subject to full compensation based on the "original loss" principle. Thus, for the properties included in this study, full compensation based on unimproved value would seem appropriate.

Two considerations which might suggest that something less than full compensation is justified in some instances are the costs to the state and the uneven distribution of the payments (up to 75 percent of the new payments would be made to Nassau and Suffolk counties). Ultimately, payments based on state land are a type of intergovernmental aid and the ability of the state to pay such aid is likely to fluctuate according to the state of the economy. Radical changes in the geographic distribution of payments over a short period of time may prove unacceptable from a political standpoint. Typical PILOT variations which could be used to control the overall cost and to reduce the geographic imbalance include a limitation on the total payment or per-acre payment made to local governments.

In the case of Nassau and Suffolk counties, strong arguments could be advanced for the limitation of payments in some manner. For instance, it could be argued that much of the acreage involved consists of seaside park areas, and these areas are necessary environmental amenities in such highly-populated areas. Although they are parks and as such are available to all state residents, they primarily benefit area residents whereas many of the other state parks draw users (hikers, fishermen, etc.) from all areas of the state. Furthermore, if owned by municipal governments in the manner of many other locally used parks, such recreational amenities would be exempt from taxation anyway. To the extent that compensation is less than full and limits or restrictions are placed upon payments, the payment mechanism more resembles a PILOT arrangement than the regular property tax.

The issue of unfair treatment of state property by assessors is essentially one of theory rather than fact. The relevant question is “could assessors overvalue state land?” rather than “will they do it?” (even though there is now some evidence on the latter point).¹⁰ Under New York law, assessors are largely autonomous in their value determinations and the only real recourse of the property owner is through formal appeal processes. Private taxpayers must pay the taxes determined from their assessments and local tax rates, or face eventual enforcement through tax sale. The state, on the other hand, is sovereign, and ultimately has the power to determine the amount of its payments to local governments. Furthermore, while privately-owned property is subject to tax sale if taxes are not paid, state property is not. While the appeal process is clearly appropriate for private property owners, the many properties owned by the state throughout the large number of municipalities involved suggests that the parcel-by-parcel appeal process is both cumbersome and inefficient when there is a sovereign-subordinate intergovernmental relationship present.

The foregoing observations tend to support an arrangement by which the state would make “full compensation” to some or all local governments, in the sense that state land would pay at the same rate per dollar of value as other land. However, the state would not cede the power to determine the value basis for the compensation. As long as the state retains the power to determine the basis for payment and/or limits payments to some local governments because of unique local lands, the compensation scheme is best described and classified as a PILOT arrangement and the payments made should be treated explicitly as state aid to local governments.

An important issue in determining compensation is provision for the type of stability and growth that local governments have traditionally found in the real property tax. In many states, compensation arrangements are prey to the annual

¹⁰ Since a 1984 court decision placed assessment of state lands in the hands of local assessors, the state has contested assessments in more than sixty towns through legal action. (Town of Shandaken vs. SBEA, 63 N.Y. 2d 444, 445; 472 N.E. 2d 989, 980; 483 N.Y.S. 2d 161, 162.)

problems of state budget balancing and are thus more uncertain for localities than local property taxes. The stability of the property tax is primarily attributable to the fact that, unlike the sales tax and some other local revenue sources, the base is predictable and has usually grown over time. The goal of stability in the local revenues generated by this program would be fostered if the state were to base payments on both local tax rates and the market value of the land rather than on one of the many alternative PILOT formulations. Any special provisions, such as might be necessary in the case of Long Island, should reflect the objective of local government revenue stability and insulation from the uncertainties of the annual state budget process.