NEW YORK STATE SENATOR

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Select Committee receives staff report on New York State's business and banking taxes

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ISSUE: BANKS, FINANCE

The Select Committee on Budget and Tax Reform has received a staff report detailing the key findings and conclusions from its public hearings on New York State's businesses tax in Rochester on April 30 and New York City on May 21.

As New York State forged through the recession last spring, the Select Committee held the two public hearings to evaluate the equitability of the state's Corporate Franchise Tax (CFT) and Bank Tax and their effectiveness to foster economic growth statewide. The Select Committee received testimony from a total of 18 experts, including Matthew Gardner of the Institute on Taxation and Economic Policy, Patrick Fleenor of the Tax Foundation, Randy Wolken of the Manufacturers Association of Central New York and Thomas Riley of the New York State Society of Certified Public Accountants.

Highlights from the report include:

• Unequal treatment under the CFT begins at businesses' inception, when entrepreneurs decide on the structure of their entity (e.g. S corporation vs. C corporation). The inequities persist as companies determine the percentage of their taxable in-state activities through the recently-adopted single sales apportionment factor.

• The cumulative impact of all of New York's taxes makes various tax incentives offered under the CFT essential to ensuring in-state businesses' competitiveness. But since New York became the first state to introduce an investment tax credit 40 years ago, its effectiveness has been diminished through restrictions put on credits' usage and the complexity associated with receiving them. This trend has continued in other CFT tax expenditures, most notably in the Empire Zones program.

- Over the past several years, the rift between the business and banking tax laws for New York State and New York City has widened, creating mounting administrative burdens for, and inequities among city companies. The discrepancies between the two tax systems worsened in 2007, when the state closed four major big business tax loopholes and the city did not conform to those changes.
- Given the fragile states of New York's financial and economic conditions, it is imperative for the state to curb its influence in business formation and close remaining tax loopholes. The Select Committee wants to further explore ways to establish more tax neutral treatments for varying business structures. It also wants to investigate further ways to equalize the tax advantages provided almost exclusively to multi-state corporations and manufacturers through the single sales factor. One equalization method experts suggested was a throwout rule. In the coming months, the Select Committee also plans to continue its investigation into prospective alternatives for the Empire Zones program. In June, the New York City Mayor's Office delivered to the Senate city tax conformity legislation, which Select Committee Chairwoman Krueger sponsored (S.50047). However, the senator is concerned about the single sales factor's negative impact on city tax revenues.