

Building a More Equitable New York Local Government

GOVERNOR CUOMO CONTINUES TO MISLEADINGLY SUGGEST that local governments can solve their fiscal dilemmas by finding substantial efficiencies. But after years of starvation diets, there is simply not much fat to cut. While there may be occasional efficiencies that can be found, the larger answer must be adequate state revenues rather than further cuts in local spending.

Many locally provided services are jointly funded by the state and the locality, from education to Medicaid to social services. When the state abdicates responsibility for its share of funding, that puts pressure on localities. When local governments face obstacles to providing enough funding, they must make cuts to services.

The governor relies heavily on the notion that consolidating government services could save enormous amounts of money, yet consolidations that make sense have mostly already happened. While consolidation can be a useful tool, it is by no means a solution to the local fiscal crises that are primarily a product of flawed state policies.

Many localities simply do not have the means to make up for the lack of sufficient state aid, and even those that might be constrained by the state-imposed property tax cap. Faced with a limited ability to raise funding, localities look to cut services that have already been constrained for years. Or they turn to even more unattractive sources of revenue, such as fees and fines. Using law enforcement agencies to raise money—what has come to be known as “revenue policing,” is not only massively regressive fiscal policy, it also creates enormous tensions between law enforcement agents and the communities they serve.

The governor is right that many New Yorkers face an unmanageably high property tax burden. However, a property tax cap is the wrong solution to the problem. Increasing the state share of joint state and local responsibilities is a more sensible way to address the problem, together with targeted relief through an improved property tax circuit breaker to those truly straining under a tax burden.

Medicaid Shift

The governor has disingenuously suggested that the counties are spending more on Medicaid because they are no longer responsible for the increased costs of the program. Yet the state and federal governments, not the localities, set almost all the major rules that govern who qualifies for services.

In 2015, the state took over 100 percent of Medicaid spending growth from local governments, ostensibly to help them stay within their two percent property tax caps. This year's Executive Budget, according to the New York State Association of Counties, proposes a provision that requires that counties adhere to the two percent property tax cap or be subject to penalty of losing state Medicaid growth payments. Furthermore, if a county's local share cost, and associated state savings, are more than three percent in any given year, the county is required to refund any excess benefit over three percent back to the state.

Penalizing counties for increases in enrollment in Medicaid when they have very little say on overall eligibility requirements is unfair and misguided. It also sets up a perverse incentive for counties to potentially seek out mechanisms to delay or deny health care coverage to residents who qualify for Medicaid. It should be noted, as well, that one in three New Yorkers receive Medicaid as their primary form of health coverage, a significant part of what allows the governor to rightfully boast that 95 percent of New Yorkers have health insurance.

Add Realistic Exemptions to the Property Tax Cap

Last year, the governor and the legislature made the property tax cap permanent. The Fiscal Policy Institute has for years argued that the property tax cap is the wrong way to fix the glaring inequities in our state and local tax structure. The state has yet to provide adequate school funding to address the shortfall in foundation formula funding for school aid that was the resolution to the Campaign for Fiscal Equity lawsuit. The foundation aid gap currently amounts to \$3.8 billion and the Executive Budget proposes only allocating \$504 million toward closing that gap, putting huge fiscal pressure on localities and shortchanging students around the state. The state has also squeezed local governments for years by flatlining Aid and Incentives to Municipalities (AIM) funding. The better solution would be for the state to act as a reliable partner and carry more of the costs they push down to school districts and local governments. To make sure residents do not face an unsustainable property tax bill, the state can also enact meaningful, targeted property tax relief in the form of a circuit breaker that will provide more substantial property tax relief to those who really need it.

The property tax cap is altogether too blunt an instrument. Since the cap has been made permanent, however, there are ways its damage could at least be mitigated. First, we should make it a true two percent cap. The cap should be set at two percent or the rate of inflation, whichever is higher, not whichever is lower as is current law. This year the comptroller has stated that the cap will be set at 1.81 percent.

The state should also remove the undemocratic supermajority provision for school budgets and allow exemptions for matters beyond the control of local governments and school districts.

Exemptions for schools should also be made for Board of Cooperative Educational Services (BOCES) services and program costs, enrollment growth (which is surging in some localities, especially on Long Island), payments and projects related to natural disasters, school safety and school resource officers,

Payments In Lieu of Taxes (PILOT), tuition payments for both general and special education, maintenance and repair of school buildings, retirement and healthcare costs, cost of energy (fuel for heating, cooling and transportation) and the effect of failed add-on ballot propositions.

Exemptions for local governments should include emergency expenditures resulting from damage to municipal infrastructure or equipment, expenses related to capital improvements for local governments and infrastructure investments intended to enhance the economic development capacity of a community, such as improvements related to municipal water, sewer, or transportation.

Increase AIM Funding to Decrease Pressure on Local Government

Local governments in New York carry a portion of the shared state/local expenses that is nearly unparalleled in the rest of the country.

Flatlining funding for general-purpose Aid and Incentives to Municipalities, as the governor has proposed in his executive budget, will only further exacerbate the difficulty localities have in addressing the fiscal challenges they face. AIM funding has been flat in nominal terms for nearly a decade, which means that it is down significantly in inflation-adjusted terms, and by well over 75 percent since 1980. Rather than continuing to put more fiscal pressure on local governments, the state should dramatically increase AIM to make up for years of inadequate funding levels.

Adopt a True Middle-Class Circuit Breaker

In the long run, New York State needs to dramatically reverse the fiscal pressure it puts on local governments by covering its fair share of the shared local/state expenses. That is the best way to reduce property taxes, and it would also help reduce the use of fees and fines as a source of revenue rather than a tool of governance.

As it moves toward this long-term goal, however, the state should also provide immediate aid to those who need relief from an unsustainably high property tax bill right now. The best way to do this is with a property tax circuit breaker.

A property tax circuit breaker has several key elements. It should:

- Set an “affordability threshold” as a percentage (such as six percent) of household income.
- Calculate a household’s property tax “overload”: the portion of the property taxes (on the household’s primary residence) in excess of the “affordability threshold.”
- Set a “benefit” percentage (such as 70 percent). A household’s circuit breaker credit would then be calculated by multiplying the household’s “overload” by the benefit percentage. The benefit level should be high enough to provide meaningful relief to overburdened households.
- Help renters, who are also affected by the high burden of property taxes—even though they do not directly pay the tax, they indirectly cover its cost through their rent payments. A well-designed circuit breaker should make sure that the effect of high property taxes on renters is also considered.

Fees and Fines

Between 2010 and 2017, 31 local governments in New York State (excluding New York City), saw an increase in fine revenue, with a median increase of 25 percent.¹ Criminal justice/public safety related fine and fee revenue is disproportionately extracted from low-income communities and communities of color.² In fact, analysis provided by the Fines and Fees Justice Center using 2016 traffic debt license suspension data shows that these suspensions disproportionately harm communities of color as well as high poverty communities.³

According to an Investigative Post article by Marsha McLeod “The cost of suspending driver’s licenses,” New York State suspends the licenses of more than a half-million residents annually, or nine percent of all drivers each year. Two-thirds of these suspensions result from the failure to pay traffic tickets or show up in court after receiving a traffic ticket. In Buffalo, police charged 14,000 drivers with driving with a suspended license between the years 2014-2017.⁴ This means that out of every 1,000 people of driving age, there are 182 license suspensions.⁵

Driving while your license is suspended is a criminal offense in New York State, yet many people with a suspended license have few other options about how to get to where they need to go. State law regarding traffic fines is rigid and inflexible: reduced, waived or deferred payment are not allowed, nor are partial payments. The state also does not allow community service as an option. Police data and community protests also suggest that Black and Latinx drivers, as well as drivers in high poverty areas, are targeted for traffic enforcement at greater rates than are white drivers. But despite an outcry from the community and a class action lawsuit, the fees and fines have continued. In fact, as fee and fine revenue soared last year—reaching just over two million dollars—the Buffalo Common Council voted to add 13 new traffic fees.

Finally, between January 2016 and April 2018, New York issued nearly 1.7 million driver's license suspensions for traffic debt. Traffic debt suspensions force an impossible choice: stop driving and lose access to work, childcare, health care, food, and other basic necessities, or keep driving on a suspended license and risk criminal charges and more unaffordable fines and fees. To address this problem New York should end driver's license suspensions for nonpayment of traffic tickets and for not appearing at a traffic hearing, reinstate all driver's licenses suspended for failure to pay or appear; and make affordable payment plans available. Evidence has shown that when reasonable payment plans are put in place it is more likely that the state will in fact collect the revenues from these fines.

Recommendations

- Do not penalize counties for exceeding a three percent growth rate in Medicaid. Instead the state should pick up more of the local share, not less.
- Increase Aid and Incentives to Municipalities (AIM) which has been flat funded for a decade.
- Adopt a true middle class circuit breaker to assist struggling families in paying their property taxes
- End driver's license suspensions for nonpayment of traffic debt and make affordable payment plans available.

¹ https://www.osc.state.ny.us/localgov/datanstat/findata/index_choice.htm

² <https://www.governing.com/columns/public-money/gov-court-fees-fines-debt.html>

³ <https://finesandfeesjusticecenter.org/story-map/new-york-drivers-license-suspensions/>

⁴ There are over 200,000 people of driving age in Buffalo, 82,000 of whom report driving to and from work.

⁵ <https://finesandfeesjusticecenter.org/story-map/new-york-drivers-license-suspensions/>