

Fines and Fees: Raising Revenue at the Community's Expense

April 2020

THE CORONAVIRUS PANDEMIC HAS CREATED AN URGENT NEED FOR POLICY ACTION that addresses both the public health and economic impacts of COVID-19. People with low incomes and who work for low wages are now especially at-risk during this time because health and wealth are linked.¹ Policymakers at the state and local levels must prioritize the health and well-being of susceptible New Yorkers, including the economically vulnerable, and end policies and practices that have caused and continue to cause undue financial hardship. Elected leaders should consider suspending collection actions for outstanding fines, fees, and court debt, including for those who are currently incarcerated. As the pandemic grows in our state, and unemployment numbers continue to rise, New York must provide immediate economic relief to vulnerable and marginalized people and communities.

Statewide Overview

Since the Great Recession, local governments across the state continue to grapple with state budget cost shifts that create budget shortfalls at the local level.² As local governments seek to find ways to raise revenue to deal with the lack of adequate state funding, a damaging practice has proliferated: the levying of fines and fees. This practice has had a disproportionate impact on low-income communities and communities of color. According to the Brennan Center, “The net gain might be far less than they have imagined, the losses far more damaging³.” The expense of fines and their associated fees means many people are unable to pay upfront. And because income-sensitive payment plans are not offered, governments end up spending money trying to collect fines and fees through officer and court actions, expenses which are not tracked.⁴ Simply put, levying fines and fees is not a fiscally sound or responsible way to raise revenue for any level of government, but especially when racial and economic harms are factored in.

New York State’s Real Property Tax Cap, first instituted in 2011, needs to be re-examined in the context of fines and fees and the economic and social harm fines and fees cause. The stated purpose of the cap is to restrict annual property tax increases to 2 percent or the rate of inflation. Whichever measure is the lesser is then applied to all local governments, special districts, and school districts.⁵ A supermajority, defined as 60 percent of all votes cast, is required for an override of the property tax cap.¹ The cap was made permanent in the fiscal year 2020 state budget with promises of/as state officials touted billions of dollars in savings for homeowners and businesses annually. But the budgetary pressure property tax

¹ Supermajority requirements have been found to have roots in anti-black racist policies created post-Reconstruction. See *Advancing Racial Equity With State Tax Policy* <https://www.cbpp.org/research/state-budget-and-tax/advancing-racial-equity-with-state-tax-policy>

caps place on local governments forces them to raise revenue via alternative means. Continued pressure could accelerate the practice and widen existing inequities.

As evidence of the economic and social harm caused by the levying of fines and fees mounts, fiscal policy experts and justice and equity advocates are calling on state and local governments to critically examine the issue of relying on fines and fees as a revenue source and to eliminate the practice. Study after study has found that low-level crimes and violations, including traffic violations, are being punished with hefty fines and associated fees. States and localities increasingly rely on fine and fee revenue to fund both law enforcement and the courts, which exacerbates and perpetuates the problem.⁶ In New York State, fine and fee debt can lead to the suspension of one's driver's license and even incarceration.⁷ The majority of all New York State driver's license suspensions are for traffic debt, and these suspensions disproportionately harm low-income communities and communities of color.⁸ According to the Driven by Justice Coalition, New York issued nearly 1.7 million driver's license suspensions for traffic debt over 28-months between 2016 and 2018.⁹

When a driver's license suspension results from fines and associated fees—which include the state's mandatory surcharge, which is a fee assessed to every person convicted of a felony, misdemeanor, or violation¹⁰—the economic impact on the individual has a ripple effect. First and foremost, their livelihood is endangered if they rely on a car to get to and from work, which nearly 60 percent of New Yorkers do.¹¹ People with traffic debt suspensions face an untenable choice: stop driving and lose their means of reliable transportation to and from their place of work, the grocery store, healthcare facilities, child care centers, and more, or continue to drive and risk criminal charges. Before the pandemic, public transit systems already suffered from a lack of funding¹² and transit deserts existed statewide. Now with the addition of social distancing requirements, the transportation issues already faced by people in low-income communities and by people who earn low wages have been compounded.

Traffic fines can make up a sizable percentage of all fine revenue relied upon by local governments in their annual budgets. In Buffalo's fiscal year 2019-20 budget, traffic fines account for 24 percent of all fine revenue anticipated; In Poughkeepsie's fiscal year 2019 budget, traffic fines account for 46 percent of all fine revenue anticipated.¹³ An inability to pay these traffic fines will result in the suspension of one's driver's license. Driving with a suspended license—as most drivers with suspended licenses continue to do—is a criminal offense in New York State. State law regarding traffic fines is rigid and inflexible: reduced, waived, or deferred payment is not allowed, nor are partial payments. The state also does not allow community service as an option. These restrictions mean lower-income New Yorkers are faced with a system that penalizes them simply for the inability to make a lump sum payment. This explains why many people with suspended licenses continue to drive and risk facing criminal charges when caught: they are left with few to no other options.

Cost Breakdown of a “average” window tint traffic violation ticket in NYS

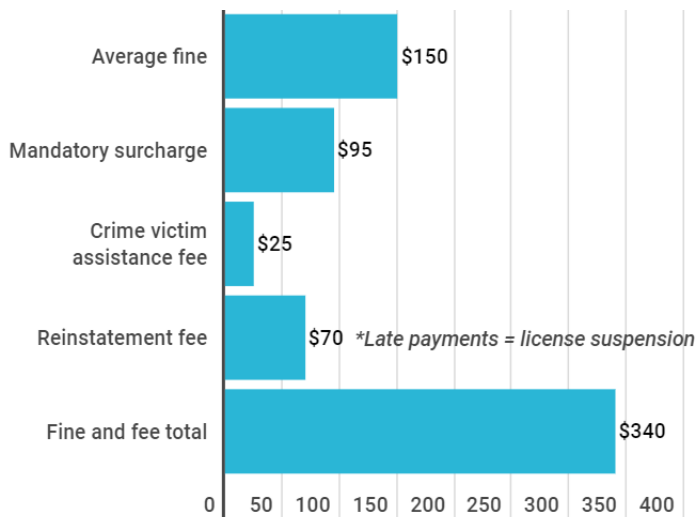


FIG. 1 Source: New York State Department of Motor Vehicles and Fines and Fees Justice Center.

Between 2010 and 2017, 31 city governments, out of 62, in New York State reported an increase in anticipated fine revenue in their annual budgets, with a median increase of 25 percent.¹⁴ A 2017 study by political science researchers Michael Sances and Hye Young You from the University of Memphis and Vanderbilt University, found that the use of fines and fees for local revenue is common in cities with larger black populations.¹⁵ Cities like Yonkers, Poughkeepsie, and Buffalo, all of which have a larger share of Black residents than the state average of 15.6 percent, saw dramatic increases in their per capita fine amounts. In Yonkers, where 18.4 percent of the population is Black, the 2010 inflation-adjusted per capita fine amount was \$60.17. In 2017, it was \$97.33. In Poughkeepsie, where 37.7 percent of the population is Black, the 2010 per capita fine amount was \$36.49; in 2017, it was \$48.23. And in Buffalo, where 36.7 percent of the population is Black, the 2010 per capita fine amount was \$27.95; in 2017 it was \$41.41. For a system to be accountable and just, it must be transparent. As the issue of fines and fees and the social, racial, and economic harm they cause is called into greater focus in New York State, it is essential to know the amount of money courts are assessing and collecting from fines and fees—particularly the mandatory surcharge - and the disposition of the collected monies.¹⁶

Ticket Fines and Fees Do Not Affect Us All Equally

	Buffalo	\$270 as a share of monthly income	\$340 as a share of monthly income	Poughkeepsie	\$270 as a share of monthly income	\$340 as a share of monthly income	Yonkers	\$270 as a share of monthly income	\$340 as a share of monthly income
Median White Income	\$46,850	7%	9%	\$49,926	6%	8%	\$66,966	5%	6%
Median Asian Income	\$35,307	9%	12%	N/A	NA	NA	\$93,196	NA	NA
Median Black or African American Income	\$27,195	12%	15%	\$37,354	9%	11%	\$50,403	6%	8%
Median Hispanic Income	\$22,309	15%	18%	\$36,794	9%	11%	\$49,832	7%	8%

FIG. 2 Source: Census. Estimated Median Income of householder by Race/Ethnicity, 2014-2018. *PolicyMap*. www.policymap.com

With local governments facing even greater funding shortfalls in the wake of COVID-19, it is natural to assume that the use of fines and fees will once again be explored, as they were following the Great Recession. This could include raising existing fines or imposing new fines and fees. This will, once again, have the greatest impact on community members who have the least resources. Local governments should be cautioned that the use of fines and fees is not a straightforward proposition. While monies may be levied, the economic costs associated with this process are often overlooked, including expenses generated by the use of law enforcement, the court system, and the debt collection process. But we must also consider the social costs of fines and fees that lead to trapping people in inescapable poverty, which in turn acts to destabilize our communities. As we look ahead to restarting our economy, we must ensure that all New Yorkers can safely return to work and resume their daily lives without the economic burden of onerous fines and fees.

Recommendations

- Pass the Driver's License Suspension Reform Act (S3548B/A7463B), which ends the practice of suspending driver's licenses due to traffic debt and creates an affordable payment plan option.
- Eliminate the property tax cap or at the very least 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.
- Remove the undemocratic supermajority provision for school budgets and allow exemptions for matters beyond the control of local governments and school districts.
- Increase AIM funding so local governments do not rely on fine and fee revenue to fund budget shortfalls.
- Ensure that any fine and fee monies collected by the courts are clearly and transparently reported, along with the disposition of collected monies. This can be accomplished by enforcing existing statutory reporting requirements contained in the Criminal Procedure Law.
- The Comptroller should release an updated report on the Justice Court Fund. The last report is from 2010.

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The Fiscal Policy Institute is an independent, nonpartisan, nonprofit research and education organization committed to improving public policies and private practices to better the economic and social conditions of all New Yorkers. FPI's Immigration Research Initiative looks at immigration issues in New York State, and around the country.

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- ¹ The Aspen Institute, Exploring the Important Link Between Health and Wealth. (2019) <https://www.aspeninstitute.org/blog-posts/exploring-the-important-link-between-health-and-wealth/> (Accessed April 2, 2020).
- ² New York State Association of Counties, *Counties Support Funding for Policies in State Budget, Preventing Cost Shifts to Counties*. (2019). https://www.nysac.org/blog_home.asp?display=830
- ³ Brennan Center for Justice, *Fees, Fines, and Ability to Pay*. (2020). <https://www.brennancenter.org/our-work/analysis-opinion/fees-fines-and-ability-pay> (accessed March 6, 2020).
- ⁴ Brennan Center for Justice, *The Steep Costs of Criminal Justice Fines and Fees*. (2019). https://www.brennancenter.org/sites/default/files/2019-11/2019_10_Fees%26Fines_Final5.pdf (accessed March 6, 2020).
- ⁵ Rockefeller Institute of Government, *As Albany Debates a Permanent Property Tax Cap, How Is the Cap Affecting School Budgets?*. (2019) <https://rockinst.org/blog/as-albany-debates-a-permanent-property-tax-cap-how-is-the-cap-affecting-school-budgets/> (accessed March 5, 2020)
- ⁶ Council of Economic Advisers, *Fines, Fees, and Bail. Payments in the Criminal Justice System That Disproportionately Impact the Poor*. (Washington, D.C. 2015). https://obamawhitehouse.archives.gov/sites/default/files/page/files/1215_cea_fine_fee_bail_issue_brief.pdf
- ⁷ Eisen, Lauren-Brooke, & Menendez, Matthew (2019). *The Steep Costs of Criminal Justice Fees and Fines*. Retrieved from <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines>
- ⁸ DrivenbyJustice.org. Accessed April 6, 2020.
- ⁹ Driven by Justice, *Opportunity Suspended*. <https://srln.maps.arcgis.com/apps/Cascade/index.html?appid=6737492c501444f885e0e9619cf8056f> (accessed March 6, 2020).
- ¹⁰ Fines and Fees Justice Center, *New York Should Re-examine Mandatory Court Fees Imposed on Individuals Convicted of Criminal Offenses and Violations*, November 20, 2018. <https://finesandfeesjusticecenter.org/articles/new-york-should-re-examine-mandatory-court-fees-imposed-on-individuals-convicted-of-criminal-offenses-and-violations/>
- ¹¹ Census. *Estimated percent of workers who drove to work in 2014-2018*. PolicyMap
- ¹² New York Public Transit Association, Inc., *Fix NYX, But Let's Fix All of NYS: Statewide Action Needed to Fund Transit Services*. 2019.
- ¹³ Analysis of General Fund Revenue Sources for the City of Buffalo and City of Poughkeepsie.
- ¹⁴ Data analyzed by FPI from the Office of the New York State Comptroller.
- ¹⁵ Lopez, German, *Study: cities rely more on fines for revenue if they have more black residents*, July 7, 2017. <https://www.vox.com/identities/2017/7/7/15929196/police-fines-study-racism>
- ¹⁶ Harvard Law School, Criminal Justice Policy Program, *Confronting Criminal Justice Debt*. (2016). <http://cjpp.law.harvard.edu/assets/Confronting-Crim-Justice-Debt-Guide-to-Policy-Reform-FINAL.pdf>