

COVID-19 Revenue Shortfalls Threaten Increase to Fines and Fees

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DECLINING REVENUES THREATEN NEW YORK STATE'S LOCAL GOVERNMENTS, starting with steep declines in sales tax revenue collections. This revenue stream, which annually totals just over \$16 billion for New York State's counties, cities, towns, villages, and school districts, is expected to shrink precipitously in 2020 and into 2021, exceeding the six percent decline realized during The Great Recession.¹ At the same time, the state's property tax cap limits local governments' ability to bolster local revenues. Moreover, Congress's continued decision not to pass a critical COVID relief package and flat funding from the Aid and Incentives for Municipalities (AIM) program from New York State create further fiscal constraints. This leaves the state's municipalities with few viable options to bolster local revenues. The combined effect of these constraints elevates the risk of economic harm for low-income New Yorkers and Black and brown New Yorkers.

New York State has over 1,600 local governments, each with its own governing body and taxing authority.² The state's property tax cap, first introduced in Fiscal Year (FY) 2011 and made permanent in FY2020, allows local governing bodies to override the cap with a 60 percent supermajority vote. There is strong evidence that supermajority requirements and property tax limits have their roots in racist policymaking, with early laws enacted to limit Black people's power to raise revenue for schools and public services.³ Constraining revenues in this manner produces another harmful effect: lawmakers will seek needed revenue by raising justice system fees. Those most impacted are those who can least afford to pay.⁴ While there has not been extensive research conducted about the effect of supermajorities on local government revenue-raising and spending, we know that over 500 localities⁵ across New York State have increased their reliance on fine and fee revenue since 2014.⁶ Summarizing findings that supermajority rules do not limit spending, Urban Institute suggested, "One explanation is that obtaining a supermajority requires buy-in from more district representatives, which leads to representatives exchanging favors or making deals to secure votes."⁷

Small towns and villages are the most reliant on fines and fees as local revenue sources, according to research conducted by the Vera Institute of Justice. More than 1,200 Justice Courts serve these towns and villages, and they have jurisdiction over a broad range of matters, including vehicle and traffic issues, evictions, and civil and criminal cases. However, the New York State Office of the Comptroller (OSC) estimates that 90 percent of the revenue collected stems from vehicle and traffic law offenses.⁸ The collected funds are then distributed to the state, county, and locality, as determined by statute. Since 2008, Justice Court collections have increased, despite a decrease in the number of courts from 1,255 to 1,210. The amount of revenue collected has also steadily increased over the years, with 2018 collections 10 percent higher than they were in 2008. And while this revenue may seem modest in some places, the

effect of the state’s actions to constrain local government revenues makes it an important, though harmful, source of income for many municipalities.

New York State Justice Courts Revenues and Collections, 2008-2018

	Total	State	County	Locality
2008	\$230,108,232	\$101,695,942	\$11,440,968	\$116,971,323
2009	\$246,265,687	\$115,690,733	\$10,687,753	\$119,887,201
2010	\$251,824,766	\$119,763,533	\$10,785,615	\$121,275,618
2011	\$243,874,960	\$112,625,895	\$9,811,328	\$121,437,737
2012	\$242,367,882	\$108,687,521	\$9,418,624	\$124,261,737
2013	\$238,766,399	\$106,123,701	\$8,987,492	\$123,655,207
2014	\$245,419,372	\$113,337,356	\$8,780,750	\$123,301,266
2015	\$248,721,330	\$112,904,558	\$8,613,776	\$127,202,996
2016	\$258,951,768	\$117,968,641	\$8,695,001	\$132,288,125
2017	\$249,864,398	\$111,805,137	\$8,493,933	\$129,565,328
2018	\$248,405,688	\$111,022,241	\$8,113,645	\$129,269,802

FIG. 1 Source: Office of the New York State Comptroller, Justice Court Fund Revenue Report data

The single largest source of state revenue to municipalities comes from the AIM program. Cities, towns, and villages across New York State receive unrestricted aid from the state’s General Fund through the AIM program. In FY2006, the state simplified AIM program funding by combining several funding streams into one “base grant” for municipalities.⁹ The state disbursed \$836 million to local governments through the AIM program that year.¹⁰ In FY2009, AIM disbursements totaled nearly \$1 billion, with additional monies added to provide enhanced funding to fiscally distressed municipalities.¹¹ But in the FY2011 Executive, Governor Patterson included changes to the AIM funding formula, which decreased AIM program funding according to how reliant a municipality was on the funding: municipalities that relied on these monies for more than 10 percent of their total revenue would see a two percent reduction; municipalities with less than a 10 percent reliance would receive a five percent reduction.

The FY2011 budget also eliminated AIM funding for New York City. In FY2012, AIM funding was again reduced, this time by Governor Cuomo, who was then in the first year of his first term. The enacted FY 2012 state budget permanently eliminated AIM payments for New York City and reduced AIM payments by two percent for towns, villages, and cities outside New York City.

Funding for the AIM program then remained largely flat from FY2012 until FY2020, when the Executive proposed eliminating AIM payments for towns and villages in which AIM funding accounted for less than two percent of their total expenditures. This change was enacted with the passage of the state budget and directly affected 1,300 towns and villages. AIM funding for cities and the remaining 137 towns and villages remained unchanged.¹² To address the revenue gap created by eliminating AIM payments to the affected 1,300 towns and villages, a section of the Tax Law was amended to provide a portion of county-imposed tax revenues to these towns and villages. This action allowed the state to reduce General Fund spending for the AIM program by \$59 million in FY2020. Flat AIM and AIM-related payments to local governments, the property tax cap, pandemic-related sales tax decline, and the state's authority to reduce FY2021 payments¹³ have now placed many local governments throughout New York State in fiscally tenuous positions.

With few options to bolster local revenues and an increasing need for government services, local governments may look to raise additional revenue through fines and fees. However, they frequently overlook the cost of collections and the toxicity of the revenue when making these budgetary decisions. The harm caused by reliance on fines and fees as a revenue source cannot be overstated or overlooked, as the burden overwhelmingly falls on those with the least ability to pay.¹⁴ New York State must critically examine its reliance on fine and fee revenue and the role that reliance may play in local government reliance on fine and fee revenue. With the state and country now over eight months into a pandemic that has laid bare our structural inequities, New York State's leaders must assess how the state funds government operations and how it funds local governments. Policymakers should continue to explore and enact progressive revenue-raising options to reduce harm to people and communities and further state goals related to economic and social justice.

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Recommendations

- Reform the property tax cap so that it is set to two percent or the rate of inflation, whichever is higher.
- Pass the End Predatory Court Fees Act, A11083.
- Pass S4322/A05968 which eliminates monthly parole fees.
- Restore General Fund cuts to the AIM program and change the payment formula to better assist fiscally distressed municipalities and municipalities with a high reliance on fine and fee revenue.

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.

Endnotes

¹ Office of the New York State Comptroller. “Under Pressure: Local Government Revenue Challenges During the COVID-19 Pandemic.” July 2020, <https://www.osc.state.ny.us/files/local-government/publications/pdf/local-government-revenue-challenges-during-covid-19-pandemic.pdf>

² New York State Department of State, Division of Local Government Services. “What do Local Governments do?”

<https://www.dos.ny.gov/lg/localgovs.html#:~:text=There%20are%201607%20general%20purpose.was%20time%2Dconsuming%20and%20arduous.>

³ Leachman, Michael et al. *Advancing Racial Equity With State Tax Policy*. Center on Budget and Policy Priorities. November 15, 2018. <https://www.cbpp.org/research/state-budget-and-tax/advancing-racial-equity-with-state-tax-policy>

⁴ Center on Budget and Policy Priorities. *Policy Basics: State Supermajority Rules to Raise Revenues, 2018*. <https://www.cbpp.org/research/state-budget-and-tax/policy-basics-state-supermajority-rules-to-raise-revenues>

⁵ A majority of localities, approximately 800, saw collections remain flat.

⁶ LaScala-Gruenewald, Angela, et al. *New York’s Ferguson Problem*. No Price on Justice, September 2020. <https://noprisonjustice.org/wp-content/uploads/2020/09/New-York-Ferguson-Problem-NPI-Report.pdf>

⁷ Reuben, Kim S. & Randall, Megan. *Supermajority Budget and Tax Rules How Voting Requirements Affect Budgets*. November 27, 2017, <https://www.urban.org/research/publication/supermajority-budget-and-tax-rules>

⁸ New York State Office of the Comptroller. “Report on the Justice Court Fund.” August 2010, <https://www.osc.state.ny.us/files/local-government/publications/pdf/justicecourtreport2010.pdf>

⁹ <https://www.budget.ny.gov/pubs/archive/fy0506archive/fy0506stateaid/fy0506aim.html>

¹⁰ Payments for FY 2006 included an increase of 12.75 percent for cities outside of New York City, and 3.75 percent for towns and villages. The increase was contingent on three factors, one of which was to minimize property tax growth. Creating multi-year financial plans and seeking cost savings initiatives were the other two factors.

¹¹ <https://www.budget.ny.gov/pubs/archive/fy0809archive/eBudget0809/fy0809localities/local/aim.html>

¹² <https://www.osc.state.ny.us/files/local-government/publications/pdf/account-code-for-aim-related-payments.pdf>

¹³ While the State Budget Director has not yet reduced AIM payments for FY 2021, twelve (12) cities have been subject to a 20 percent withholding from their payments, representing \$74 million in revenue. Those cities are Amsterdam, Auburn Buffalo, Corning, Lackawanna, Long Beach, Rensselaer, Rochester, Syracuse, Watertown, White Plains, and Yonkers.

¹⁴ Menendez et al. *The Steep Costs of Criminal Justice Fees and Fines*. The Brennan Center for Justice. November 19, 2019. <https://www.brennancenter.org/our-work/research-reports/steep-costs-criminal-justice-fees-and-fines>