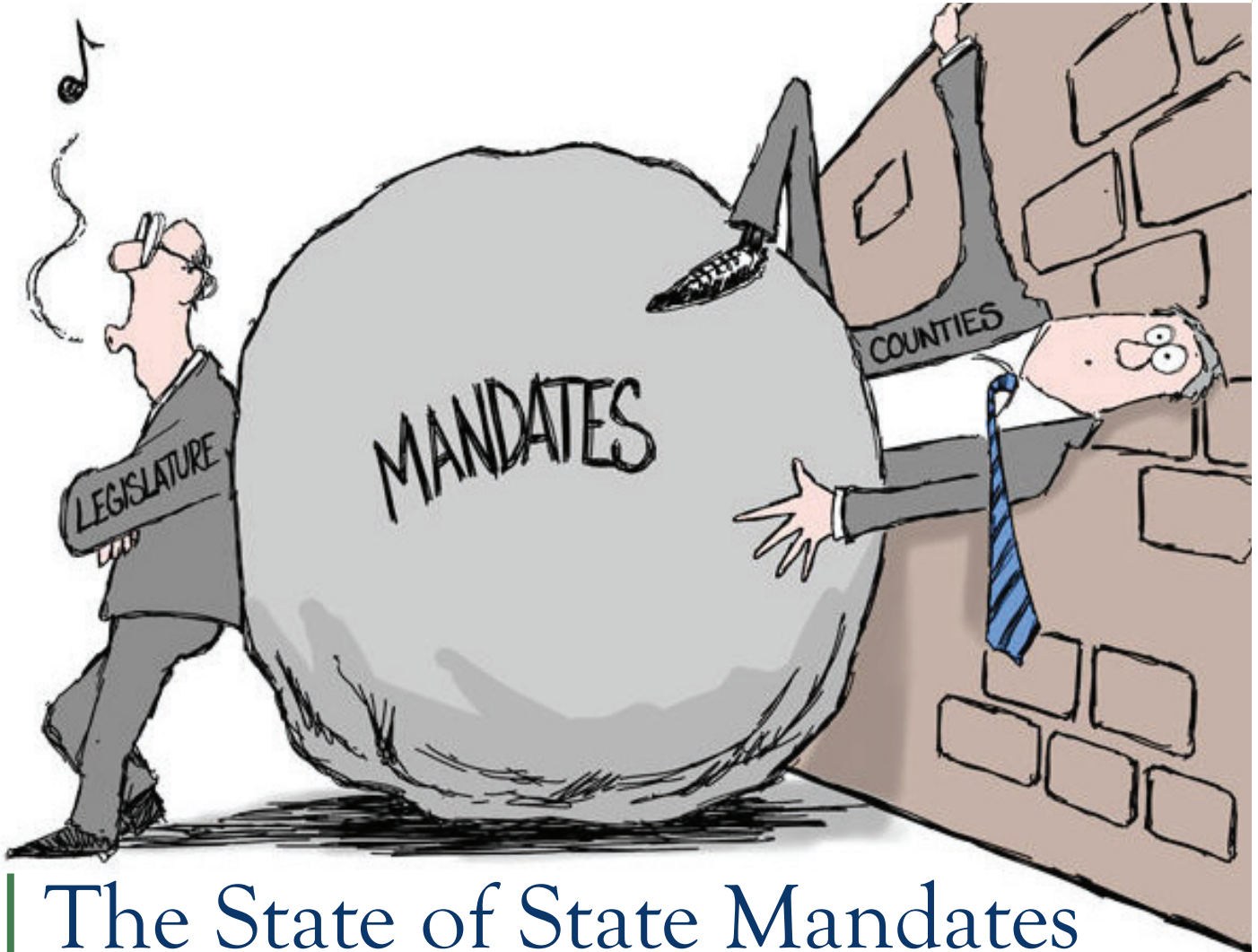




NYSAC
NEW YORK STATE
ASSOCIATION OF COUNTIES

STATE OF MANDATES



The State of State Mandates and How We Got Here

DEROGOR
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JANUARY 2019

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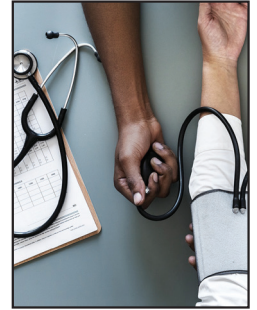
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State of Mandates

Counties in New York differ greatly from other local governments across the state and nation due to the large number of state programs counties must administer and fund with local resources. Counties are required under New York State law to implement and finance more than 40 state-defined and - controlled programs, including:

- Medicaid;
- Public assistance for adults and families;
- Indigent criminal defense legal services;
- Child welfare;
- Preschool special education;
- ... and dozens more.



The State partially reimburses counties for administering and paying for these mandated services, but the shortfall is made up by county property taxpayers. **Up to eighty percent of a county's total budget can be dedicated to paying for state and federal mandates.** In most states, counties are not required to pay for such a large array of state and federal programs. This is one of the reasons that New York's property taxes are higher than most other states.

Additionally, rating agencies state our budgets are inflated because of the state "float" for state mandates.

When the New York State Comptroller reviews county financial situations to determine their respective Fiscal Stress Score, one of the criteria includes operations and expenses that counties don't control.

The purpose of this report is to examine the origins of state mandates and propose solutions for meaningfully reducing property taxes in New York State. Counties maintain that any state-mandated increase to county services or salaries, as a matter of equity and fairness, should be funded by the State.

Defining "Mandate"

A mandate occurs when the state or federal government directs a county to:

- Implement a program or provide a service (e.g. Medicaid, welfare, child support collections, etc.) created and defined by the state/federal government;
- Meet an environmental or labor standard;
- Construct/upgrade a facility (e.g. courthouse, jail, etc.) subject to prevailing wage and Wick's Law requirements; or
- Provide a tax break or exemption. (In a typical county, anywhere from 15% to 30% of the value of all property is exempt from property taxes.)

A mandate usually requires a county to strictly adhere to rules set by the federal/state government that defines the scope, eligibility, frequency of service, or amount of benefit. Counties have virtually no ability to control the costs of these services.

Mandates come in three forms: funded, unfunded, and underfunded. On some occasions, the state or federal government will provide all financial resources necessary to carry out the mandate. For example, SNAP benefits come with a 100% federal reimbursement. These are funded mandates.

However, even though they are funded, the state or federal government is directing how the local government workforce must operate. This lessens local control.

Usually, a mandate comes with partial reimbursement from the State or no reimbursement at all, leaving the cost of supporting the state mandate on local taxpayers. These are underfunded and unfunded mandates, respectively.

I. The Origin of State Mandates

County Consolidated Law

Consolidated County Law provided the framework for the operation of county government. Adopted in 1892, Consolidated County Law is the root of the modern county's role in almost all jurisdictions. It codified elected officials and some general functions, including those in the table.

County Law also granted counties the authority to create towns, balance power between cities and towns, and act as the guarantor of town and school district tax levies.

County responsibilities have changed dramatically over time as the State redefined its own role (and, by extension, the county role) in delivering and paying for government services.

Today, county governments are a primary service deliverer and financier in New York State's decentralized state service delivery.

Functions Codified in Consolidated County Law
Treasurer (chief fiscal officer)
Clerk (custodian of official record)
Sheriff (maintain law and order)
District Attorney (prosecute crime)
Judges
Coroners
Superintendents of the poor
Nursing homes
Highway superintendents (maintain roads and bridges)

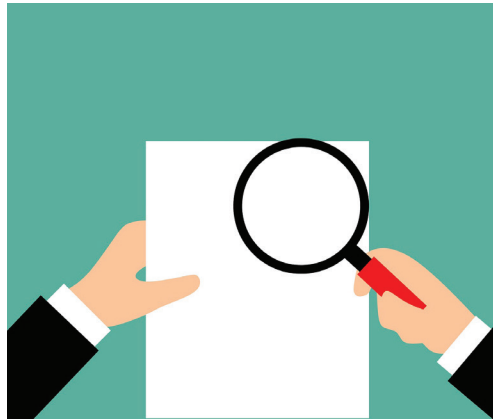
State Reforms to Reduce Duplication and Waste

Background

Prior to the 1920s, state government provided few direct services, and offered even less guidance to local governments on what services to provide or how. As the population grew and the demand for public services exploded, counties had to figure out what services the public needed beyond those they were already required to provide. Property taxes, the only significant revenue source for local governments, increased to meet the demand for these new services. When demands from certain interest groups were beyond the capacity of local governments to fund, they were directed to state government representatives for funding.

A combination of factors – including a lack of coordination between all levels of government, a lack of clear authorization regarding which level of government was to provide different services, and the limited flexibility and authority to raise revenues at different municipal levels – created a patchwork of government service delivery. During Franklin D. Roosevelt’s term as governor of New York (1929– 1932), one of his priorities was to ensure state aid to localities was not wasted and that local governments provided quality and consistent services.

Shift Towards Strong Central Control



In 1935, the NYS Legislature created a temporary commission on State Aid to Municipal Subdivisions, with the primary objective to look at how state aid could reduce pressure on local property taxes. The commission maintained that local governments were prone to spend excessively because their financial commitment to state- supported programs was not substantial enough.

Their solution was to provide for strong central control by the State and begin substantial cost shifts from state- supported programs to local taxpayers.

Over time, state control usurped any local flexibility to control costs, and the county’s fiscal share increased. Counties were now required to raise local taxes to support ambitious state programs. This outcome was antithetical to the commission’s objective to reduce pressure on local property taxes. The State’s desire to more fully control service delivery led to the gradual but relentless expansion of fiscal and administrative mandates and the imposition of substantial new costs on counties.

Introduction of Specialization

In the post-World War II era, there was a movement away from general purpose government and towards specialization. This “specialization” required counties to administer and partially fund welfare, social services, and health programs, while specifically precluding towns, villages, and cities from providing the same services. In other cases, counties, towns, villages, and cities were all allowed to provide certain services under State Law, including public safety, waste disposal, parks, and transportation. Ultimately, the State granted authority to create special-purpose local districts designed to perform a single function (e.g. schools districts, water, sewer, fire protection, lighting, etc.). Today, school districts levy over 60 percent of all the property taxes collected in New York State.



II. Brief History of Existing State Mandates

Some of the state-mandated programs and services that counties must provide and fund include:

Medicaid	PINS	Adoption Services
Community College Costs	Domestic Violence Assistance	Child +Adult Protective Services
County Jails	District Attorneys	Child Support Enforcement
Emergency Assistance for Families	Personal Care Assistance	Court Security
Public Health	Elections	Rabies Control
Mental Health	Service Coordination	Consumer Protection
Substance Abuse	Veteran's Services	Safety Net/Homeless Assistance

State Mandates Mask State Government Spending

State government has for decades used local taxes to mask the cost of its programs, such as Medicaid, social services, and early learning programs. Using the state mandate process, the state can enact a program or service that lawmakers and the Governor deem worthy and fund it with local tax revenue. That way it does not impact the state budget or the State's five-year financial plan. This has been the practice for too long in New York State, and county and local taxpayers can no longer afford it.

Below and on the following pages, find an abbreviated timeline of state-imposed mandates in New York State.

Early Mandates

Pre
1950

- New laws in 1911 regulate hours of work, workers compensation, etc.
- Wick's Law, established in 1924, mandates that counties act as general contractors when undertaking construction projects and building renovations.
- In 1929, the state requires county welfare districts to administer income transfer payments (home relief), among other social insurance programs.

Early Mandates, Continued

1950s

The 1950s brought the first community colleges, and the 1970s brought incentives for a huge expansion. Today, the net operating costs of the community college system is about \$2 billion annually, with a state share of about \$470 million, or 24%, which is far short of the 40% promised to counties initially.

1960s

The 1960s marked a huge expansion of mandates to counties, including:

- New York State's Medicaid program, which began in 1966 with a first year county cost of about \$20 million. Today, the county cost is \$7.5 billion.
- Persons in Need of Supervision (PINS) is established in 1962.
- Indigent defense is made a primary responsibility of counties. By 2016, the county costs were \$389 million (80%) and state costs were \$99 million (20%).
- Public assistance programs are expanded greatly, with 50/50 state/county cost sharing of the nonfederal share established. Home relief has gone from a 50/50 state/local share to a 29/71 state/local share.

1970s

• The State established Taylor Law, which defines the rights and limitations of unions for public employees, followed by the Triborough amendment, which defines how local government must negotiate with their employees.

- Environmental control mandates shift costs to county health departments, requiring counties to pay 40% of capital. The cost of this mandate rivaled the cost of welfare mandates.
- Revenue sharing is enacted, with 21% of state Personal Income Tax (PIT) set aside for local governments.

1980s

• Early Intervention begins in the late 1980s.

• Medicaid is expanded. The State does take more fiscal responsibility for certain long-term care expenses, but local costs continue to grow.

• While counties had responsibility for probation long before the 1980s, the state share of program funding in 1989 is only 53.5%. Today, the state share is around 10%. Mandates within this program have expanded dramatically to the point where about half of a probation officer's time is spent meeting state mandated requirements, even though the state share of funding dropped dramatically.

1990s

• State Law requires a 75% state share of preschool special education, but this is never achieved. The permanent law (even today) calls for a state share of 69.5%, and each year the Legislature and Governor "notwithstands" this requirement and provides only a 59.5% state share. In 2015, the notwithstanding clause cost counties \$171 million. Had the state abided by the original law of 75% state share, county costs would be \$265 million per year lower today.

• \$80 million in revenue sharing for counties ends. The loss of revenue sharing is part of a larger agreement that envisioned the State meeting, for the first time, its 75% preschool special education funding share. The State never followed through with their end of the deal.

2000s

• The State enacts the largest Medicaid expansion in the history of the program in 2001. Many counties experienced annual double digit increases in property taxes to support rising Medicaid costs. In addition, 36 counties and NYC increase local sales taxes to keep their heads above water as enrollment and costs grow. The State implements a 3% Medicaid growth cap in 2006 in recognition that the state-imposed Medicaid expansion was wreaking havoc with county budgets.

• The State enacts substantial pension sweeteners for all ERS and PFRS employees. Poor retirement fund returns (driven by two recessions), combined with the pension enhancements, led to a nearly 1700% increase in county retirement costs by 2014, with annual costs increasing from \$69 million to

\$1.2 billion. By 2012, skyrocketing costs require the state to prospectively repeal most of these pension enhancements for newly hired workers; however, today, about 85-90% of the state and local workforce is subject to the enhanced benefits enacted a decade earlier. County pensions costs peak at 25% of the aggregate county property tax levy by 2014.



The Great Recession

The Great Recession (2008-2012) decimated local revenues and the state budget. The State reduced reimbursements to counties by nearly \$400 million annually without reducing any of the costs of state-mandated programs. These reductions included the elimination of the state share for local social services administration and a reduction in the state share of funding to support child welfare, Early Intervention, Safety Net, Article VI public health, and community college full-time equivalent (FTE) aid. There were also across-the-board two-percent cuts to a wide variety of programs counties pay for on behalf of the state and receive partial reimbursement for later. Between 2001 and 2014, state reimbursement to counties dropped from 15.7 percent of total county budgets to 10.3 percent. Most of these cuts are still in place today.

State Mandates in Recent Years

2011	<ul style="list-style-type: none"> In 2011, the State's actions of 1935 come full circle. The State enacts a local property tax cap of 2% or inflation, whichever is lower, in an effort to control local property tax growth.
2014	<ul style="list-style-type: none"> The property tax freeze rebate program, enacted in 2014, requires all local governments and schools to submit government efficiency plans that were to achieve savings in FY 2017, 2018, and 2019.
2015	<ul style="list-style-type: none"> County Medicaid costs are capped at zero percent growth in 2015 to help counties meet the property tax cap. NYC and county costs for Medicaid are locked in at \$7.6 billion annually and, after 10 years of being capped, they are not as closely linked to actual Medicaid caseloads or costs, and the payments to the State function more as reverse revenue sharing.
2016	<ul style="list-style-type: none"> Historically, the State has funded 100% of the incremental increase in district attorney salaries related to state judicial salary increases. However, beginning in 2016, the state budget does not include funding for state-mandated DA salary increases. The State issues an executive order—Code Blue—requiring homeless to be sheltered when the temperature dips below 32 degrees.
2017	<ul style="list-style-type: none"> The State imposes the implementation of Raise the Age on counties and links adherence to the state property tax cap as an eligibility requirement for full state reimbursement of the costs incurred to implement the new state mandate. The State enacts the County-Wide Shared Services Initiative, which requires county leaders to convene municipal leaders to develop a shared services plan that would save property tax dollars. In 2018, the initiative is extended through 2021. The State expands counties' Indigent Defense Services to include off-hour arraignment and capping public defender caseloads, with a promise to provide later reimbursements.
2018	<p>For the third consecutive year, the State fails to reimburse counties for state mandated salary increases for District Attorneys.</p>

III. Impact of Mandate Growth on County Budgets

The State's efforts to control service delivery, as well as their efforts to eliminate duplication and waste, resulted in an overreliance on property taxes to fund state services. Today, 80 percent of a typical county's total budget is dedicated to paying for state and federal mandates.

The table below shows that the cost of nine state-imposed mandates is equal to a huge share of statewide county property taxes – peaking at 100% in 2014

	2010	2011	2012	2013	2014	2015	2016	2017
Medicaid*	\$2,081,000,000.00	\$2,135,000,000	\$2,203,014,912	\$2,238,900,901	\$2,255,650,783	\$2,255,650,783	\$2,255,650,783	\$2,255,650,783
TANF - Family Assistance	\$92,000,000.00	\$91,000,000	\$90,000,000	\$0	\$0	\$0	\$0	\$0
Safety Net/TANF ⁵	\$204,000,000.00	\$215,000,000	\$227,000,000	\$315,251,088	\$332,195,371	\$324,688,946	\$300,379,924	\$285,274,372
Child Welfare	\$270,000,000.00	\$270,000,000	\$275,000,000	\$280,500,000	\$286,110,000	\$291,832,200	\$297,668,844	\$303,622,221
Special Education Pre-K ²	\$193,900,000.00	\$207,240,882	\$223,155,000	\$241,007,400	\$245,827,548	\$246,573,529	\$258,646,500	\$258,646,500
Early Intervention ¹	\$60,000,000.00	\$64,600,000	\$69,600,000	\$74,959,200	\$75,708,792	\$75,708,792	\$76,465,880	\$77,230,539
Indigent Defense ³	\$133,812,147.00	\$140,054,572	\$141,857,339	\$150,812,631	\$156,524,780	\$163,711,970	\$165,594,544	\$170,893,569
Probation	\$116,000,000.00	\$123,200,000	\$130,800,000	\$138,909,600	\$147,521,995	\$156,668,359	\$166,381,797	\$173,369,833
Youth Detention	\$29,000,000.00	\$31,000,000	\$33,100,000	\$35,383,900	\$37,825,389	\$38,581,897	\$39,353,535	\$40,140,606
Pensions	\$461,978,835.00	\$687,481,228	\$942,382,326	\$1,056,401,297	\$1,186,635,833	\$1,162,903,116	\$915,764,986	\$924,712,406
Cost of 9 State Mandates	\$3,641,690,982.00	\$3,964,576,682	\$4,335,909,577	\$4,532,126,017	\$4,724,000,491	\$4,716,319,592	\$4,475,906,793	\$4,489,540,828
Property Tax Levy (w/o NYC) ⁴	\$ 4,516,741,102	\$4,528,799,053	\$4,637,807,445	\$4,702,246,905	\$4,742,856,905	\$4,832,672,795	\$4,876,589,165	\$4,970,368,437
Cost of These Mandates in Comparison to County Tax Levy	81%	88%	93%	96%	100%	98%	92%	90%

*These nine state mandates were selected due to their prominence and ability to quantify through state appropriations and other veritable sources (Pension costs are included in annual reports from the State Comptroller). The state share of funding for many of these mandates must be appropriated in the State Budget each year. Ironically, since the state share is a reimbursement to counties for costs already incurred by a county to fund a state program, the actual county spending is not included in the State Budget.



The County Response: Governing by Triage

To keep from raising taxes amid excessive state mandates and state funding reductions since the Great Recession, counties have cut services. Counties have also privatized major assets and services, including:

- County nursing facilities (Since 2006, 18 county nursing homes have been sold, closed, or merged with private facilities).

- Certified home health agencies (nearly 50 closed or sold in the last decade).

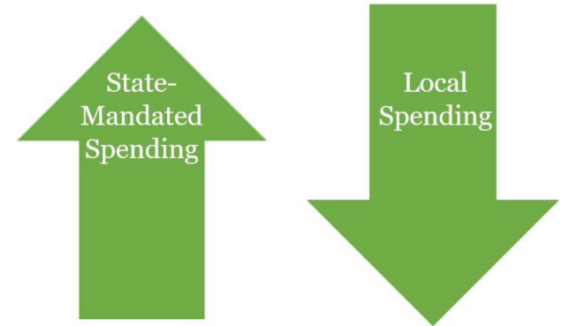
- Mental health agencies.
- Land, buildings, equipment.

The triage has continued from here, as counties have been forced to:

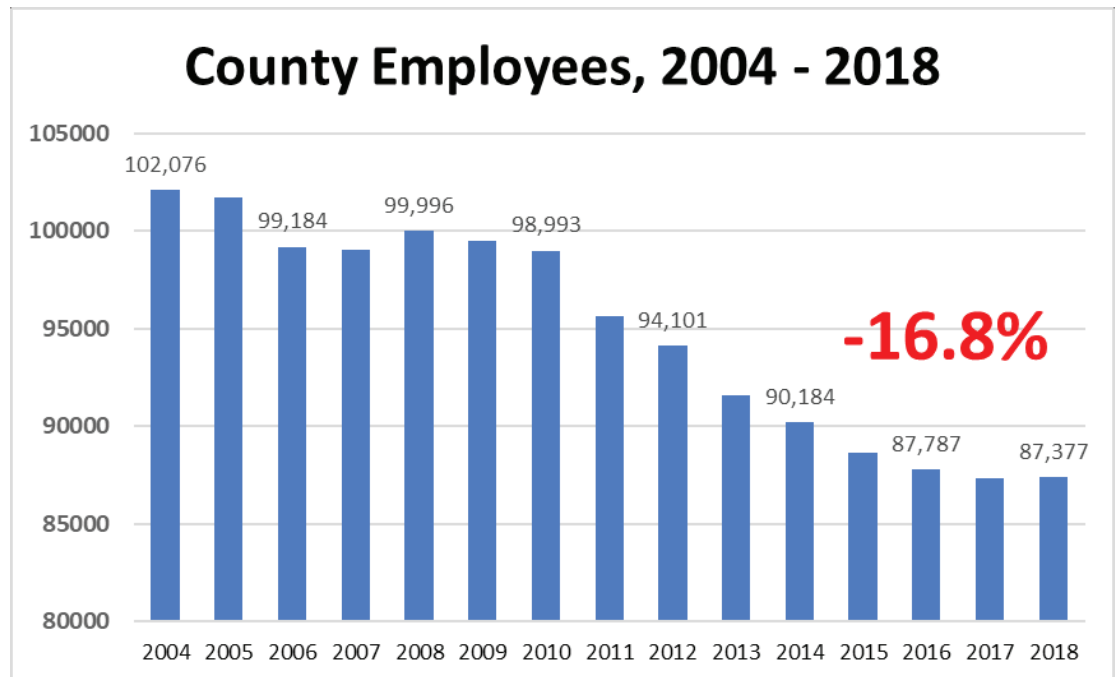
- Cut staff (see graph);
- Deplete reserves;
- Delay or reduce capital construction and maintenance;
- Borrow for operating expenses and pension costs;
- Reduce payments to not-for-profits and cultural institutions; and
- Close facilities, including clinics, nursing homes, museums, and parks.

What does it mean locally?

Average County (past five years)



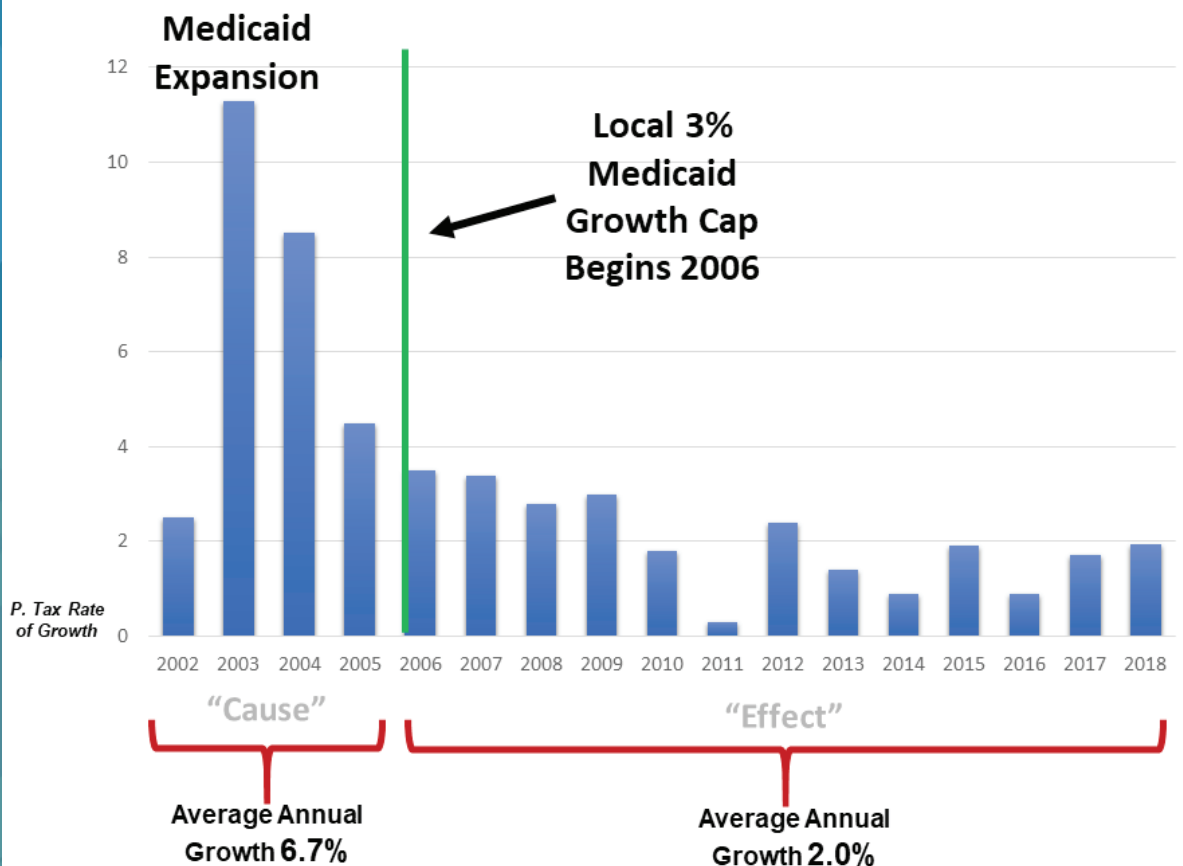
County Employees, 2004 - 2018

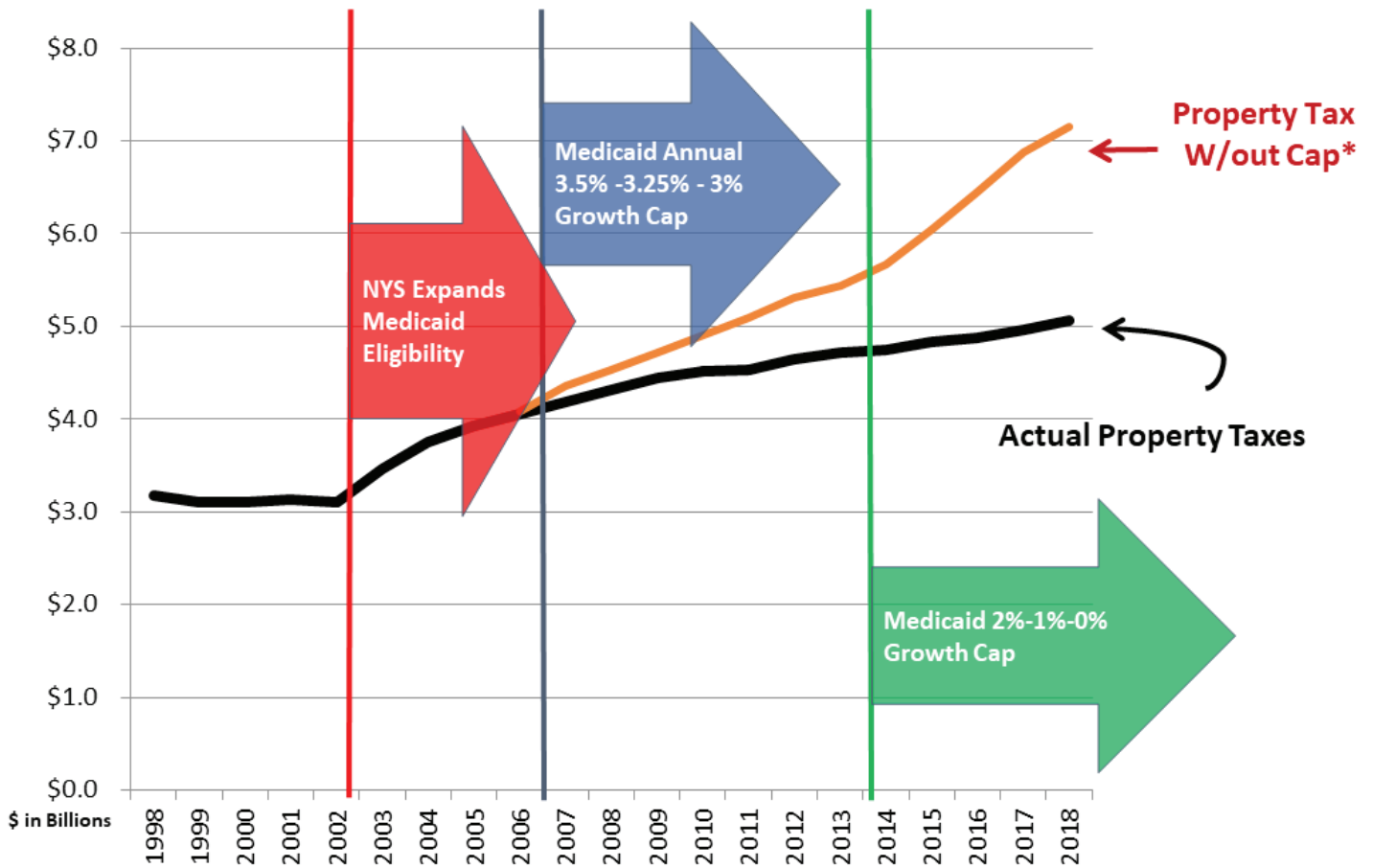


IV. Recommendations for Reducing County Property Taxes

Counties and local governments in New York work in the trenches every day to provide direct services to residents, and they continue to streamline their operations as much as they can under state law. Attacking the root cause of high property taxes in New York requires the State to be an active partner in changing state laws and financing mechanisms that once and for all reverse the overreliance on locally-raised revenues to support statewide programs.

Mandate relief can and has lowered the property tax burden. In 2005, the State Legislature and Governor enacted a cap on the growth of local Medicaid costs at 3.5%, 3.25% in 2006 and 3% in 2007 and thereafter. Then, in 2015, State Leaders capped these local Medicaid costs at 0%. County property tax growth trends in that period first stabilized and then began to lower, as indicated by the two charts below, demonstrating that state mandate relief works to reduce the state's growing property tax burden.

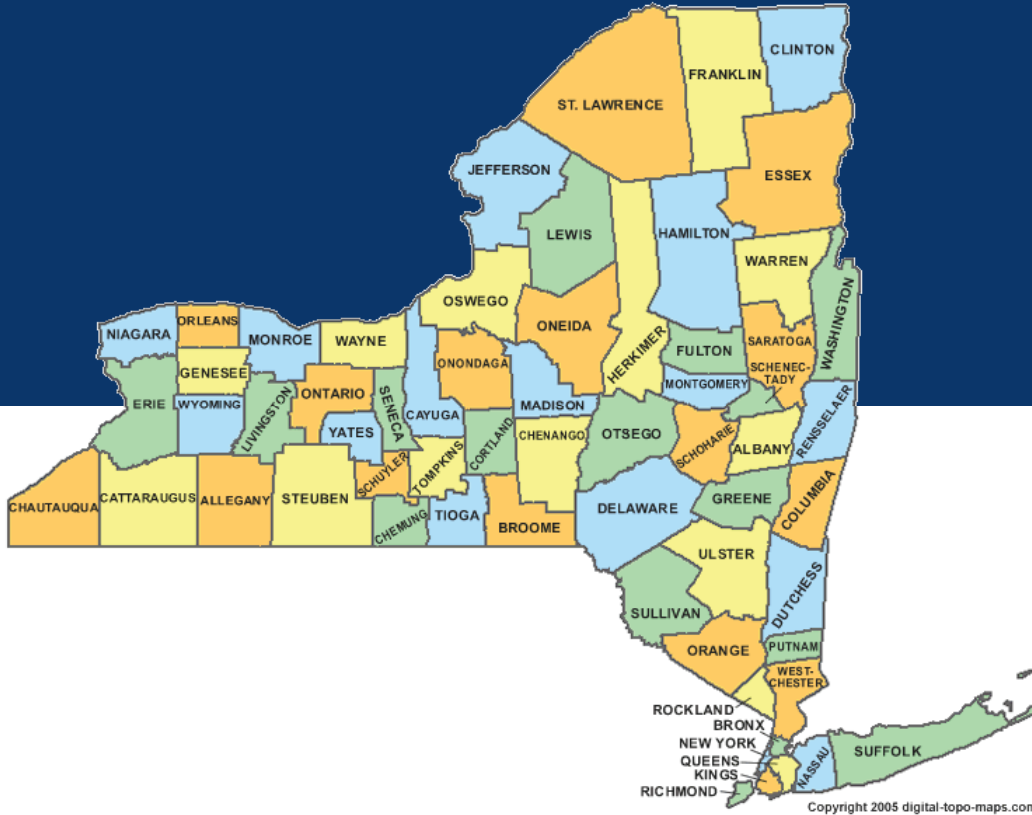




* NYSAC Assumes 4% annual growth without caps

Increase Transparency of State Program Expenditures

Counties support a review of our total combined spending to begin addressing our global budget and taxation in New York State. There should be an evaluation of the services we spend tax dollars on, why, and the most affordable and sustainable way to finance all combined services at each level of government. The first tenet of effective and efficient governing should always be the following: Decisions are always better when the full cost and consequence of the decision is borne by the entity making it.



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