



A YEAR IN REVIEW (2018)

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THE YEAR IN REVIEW

The Center for Cost Effective Governance is proud to submit this Year in Review publication. The center was incorporated in late 2017 as a 501(c)(4) nonprofit. Followers are aware that this entity was preceded by the Center for Cost Effective Government, which was established in 2012 as a 501(c)(3) nonprofit corporation. While the (c)(3) continues to exist, most operations have been transferred to the (c)(4), which permits our membership to engage in more varied activities, especially in relation to advocating for legislation.

The center has continued its work on some of the groundbreaking activities commenced years ago, while also embarking on new endeavors that seek to make government more affordable for our taxpayers.

In the process, we have issued numerous white papers and opinion pieces. We participated in radio and televised events and participated in educational forums at various organizations, including the Coram and Centereach Civic Associations, the Sayville Rotary, the Great American Real Estate Group, the Long Island Real Estate Investors Group, Americans for Legal Reform, and the Long Island Association of Small Businesses.

We have continued on our earlier efforts to promote consolidation and coordination on the school level, and other jurisdictions, to maximize efficiency through joint purchasing. The state of New York has begun incentivizing jurisdictions to cooperate in these consolidations and joint activities.

Over the past year, the center has taken it to a new level by seeking landmark legislation that would permit schools, for the first time, to be able to make purchases off the federal vendor list. Many states, including New York, authorize schools to purchase from a state approved list that maximizes savings by opening their bids to a larger number of competitors. Considering it works well at the state level, the results could be even more profound if schools are permitted to buy off of the larger federal vendor list.

The center reached out to Long Island Congressman Lee Zeldin, who was receptive to the idea of drafting legislation to do just that. In conducting his research, the congressman was surprised to learn that no one had brought up the proposal in the past. Fortunately, the center has, and now we have a bill pending on the federal level that if passed, would permit schools in all 50 states to take advantage of the high- volume discounts made available through these larger lists.

The center has also taken the lead to have schools return illegal, excessive escrows that are being hoarding in their coffers. New York state law limits how much surplus a school can maintain, so that tax rates are not kept artificially high. The center, however, highlighted the fact

that schools are ignoring the law because there is no enforcement mechanism. The center took the lead in bringing together business organizations and taxpayer advocacy groups to help draft legislation that is now pending in the state legislature to return these excess revenues. The ramifications could be huge, since there is \$2.4 billion presently held by the schools above the legal limit.

The center also has been a vocal outlet in being a counterbalance to those who claim that further taxation is the answer to the problems within our failing schools. The center has written numerous pieces debunking myths propagated by various special interests claiming that low wealth districts are being held back by inadequate funding. The research produced by the center clearly indicates that many lower wealth districts actually are spending more per pupil than some of their higher wealth neighbors due to the exponentially larger amount of state aid they are receiving. The center raises this point to compel our leaders to focus on the true roots of the problem and not use inadequate funding as an excuse for even further tax hikes.

Perhaps the biggest challenge awaiting taxpayers in the upcoming year is the need to extend the highly successful 2% property tax cap. The center has been taking the lead in educating the public that the cap is not permanent, and, in fact, is scheduled to expire in 2019.

The center considers this the number one priority for the residents of New York State for the upcoming legislative session, and has rallied together approximately a dozen businesses and tax advocacy groups under the umbrella of a newly formed organization, Make New York Affordable, for the purpose of promoting state legislation that protects our taxpayers. Some of the groups involved include: Reclaim New York, Tax Pac, Long Islanders for Tax Relief, and the Long Island Association of Small Businesses.

The group is concentrating on two items for the upcoming session: expanding the tax cap and eliminating the Scaffold Law, a uniquely New York law, which holds building owners 100% liable for injuries at their locations, regardless of the contributory negligence of the workers involved. Watchdog groups have estimated that these onerous provisions have been partly responsible for New York insurance rates far exceeding rates in the rest of the country.

The center has been a counterbalance to the many special interests that constantly seek higher taxation and more spending coming out of local and state governments. Highly problematic is the fact that public sector unions exert a disproportionate amount of influence over the legislative process and put pressure on legislators to spend more dollars for wages, benefits and provisions that primarily benefit their memberships.

The problem is exacerbated by the fact that public sector unions often receive administrative union leave, which uses taxpayer dollars to free up union leaders from their taxpayer-funded jobs so they can concentrate on promoting the union's interests. While the center does not begrudge any union from advocating on its own behalf, we believe that, as in the private sector, it should be union dues that free up union leaders to do their union business. Any taxpayer

dollars used for that purpose should be deemed an unconstitutional gift of public funds to private entities.

The center teamed up with the Government Justice Center to initiate litigation to prohibit such expenditures in the future. This can have major impact since Suffolk County alone spends \$3 million a year for union leave, while the feds expend over \$160 million.

The center has also concentrated over the past year on promoting good government reform. One of these is the implementation of councilmanic districts. In many towns, board members are elected at large, which makes it difficult for challengers to have a fair shot at getting elected. By carving the town into smaller districts, minority communities can be better represented and each area of the town would have its own representative to fight for its interests. Also significant is that lesser funded candidates would not have to get on their hands and knees to party leaders and special interest groups in order to get their messages out.

The center has also been at the forefront in seeking election law reform. New York state is known for having some of the most archaic and byzantine election laws in the nation. The center has promoted more early voting and easier access to the ballot, while discouraging voter fraud. The center has published a number of op-eds to highlight these needed reforms.

The center has also made a push for term limits and greater transparency in the budgeting process. We have been educating the public that county budgets are being voted on after election, rather than before taxpayers go to the polls. This has led to numerous instances where elected officials have boasted about a proposed tax freeze or tax cut before election, only to turn around days thereafter to reverse themselves and impose a tax increase.

The center has also been one of the few outlets that has sounded the alarm about potentially crippling increases in utility rates coming our way. We have decried increasing fares to our rail commuters that have resulted from ridiculous employee contracts and outlandish rules and regulations that make these utilities remarkably inefficient. The center has exposed where these inefficiencies exist and has called for major reforms.

The center played a key role in educating the public as to the costs associated with windmill projects and the closing of nuclear power plants, both of which are being partly subsidized by the ratepayers. Without taking a position on the worthiness of the projects themselves, the center believes that the government has a responsibility to be transparent with ratepayers and let them know what the true cost of these projects will be.

The groundwork has been laid for some major breakthroughs over the coming year. A victory in the union leave lawsuit or passage of the federal vendor list will have reverberations throughout the entire nation. A victory in extending the tax cap or returning excessive school spending scores to the public can have a positive impact on our over beleaguered taxpayers. And the type of good government reforms espoused by the center will be more likely to pass because of our efforts.

It is our hope that upon the publishing of our next Year in Review white paper, we will have seen a great number of successes based on the hard work employed by the members of our center over these past few years. We thank all those who have been supportive of our efforts to make our governments more cost-effective.

FORCING RETURN OF EXCESSIVE SCHOOL ESCROWS

Long before Newsday published its exposé, noting how scores of school districts throughout Long Island were illegally hoarding escrow funds beyond the state limit, the Center for Cost Effective Governance was sounding the alarm that this illegal fleecing of taxpayers must come to an end.

Our center assembled many of the audits conducted by the New York State Comptroller and engaged in an educational initiative to alert the public about this activity that very few people – even seasoned insiders – were aware of.

We, thereafter, convened a meeting with a representative of the state Comptroller's office and Long Island business leaders. We joined forces with the Association for a Better Long Island, which initiated litigation to invalidate the illegal escrows in the Elmont School District. One of our invited guests at the meeting was the Long Island representative to the MTA board. He noted that the MTA was forced to return any excess funds, and that the comptroller was granted the authority to intercept any state aid to the MTA to offset the difference.

The meeting led to the center reaching out to state legislators, seeking their sponsorship of legislation that would give authority to the comptroller to return these excessive school surpluses directly to the taxpayer.

As our center continued to keep this issue in the limelight, the mainstream media eventually caught on. In the summer of 2018, the Long Island daily newspaper, Newsday, printed a large exposé, highlighting the fact that dozens of districts were operating in violation of New York State law, which limits the amount of surplus that can be maintained by the schools. In essence, any surplus above 4% on certain line items would have to be returned to the public. It was found that these districts were not complying because there are no teeth in the present law that would authorize the comptroller to reclaim the money. Thrusted by the momentum gained through the article, the center reached out to legislators, once again, to draft legislation that would provide such authority to the comptroller. The center was successful in having Long Island Assemblyman Michael Fitzpatrick introduce a bill that the center helped draft.

The center thereafter reached out to majority members of the Assembly and Senate seeking co-sponsorship in both chambers. We have received inquiries from various officials and are hoping that there will be a two house bill in place for the upcoming 2019 legislative session in Albany. The bill would authorize the comptroller to intercept state aid to any district that is hoarding escrows above the legal limit and return that same amount directly to the taxpayers. Given that there is \$2.4 billion in taxpayer money improperly held in these escrow accounts, the passage of this bill could have significant impact on our over-beleaguered taxpayers.



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September 12, 2018
Contact 631-877-0940

Center for Cost Effective Governance calls for state law to return excessive school escrows to taxpayers.

The Long Island based Center for Cost Effective Governance, a fiscally conservative think tank, is calling upon the state legislature to pass legislation requiring the return to taxpayers of any funds held in escrow accounts that exceed the legal limit of 4%.

Last month, Newsday ran an article and editorial decrying the fact that scores of districts on Long Island are defying state law that places limits on how much reserves can be maintained within the district coffers. State law already requires that the schools hold no more than 4% of any surplus funds, so that taxpayers are not unnecessarily required to pay taxes that are higher than what is needed to run the district.

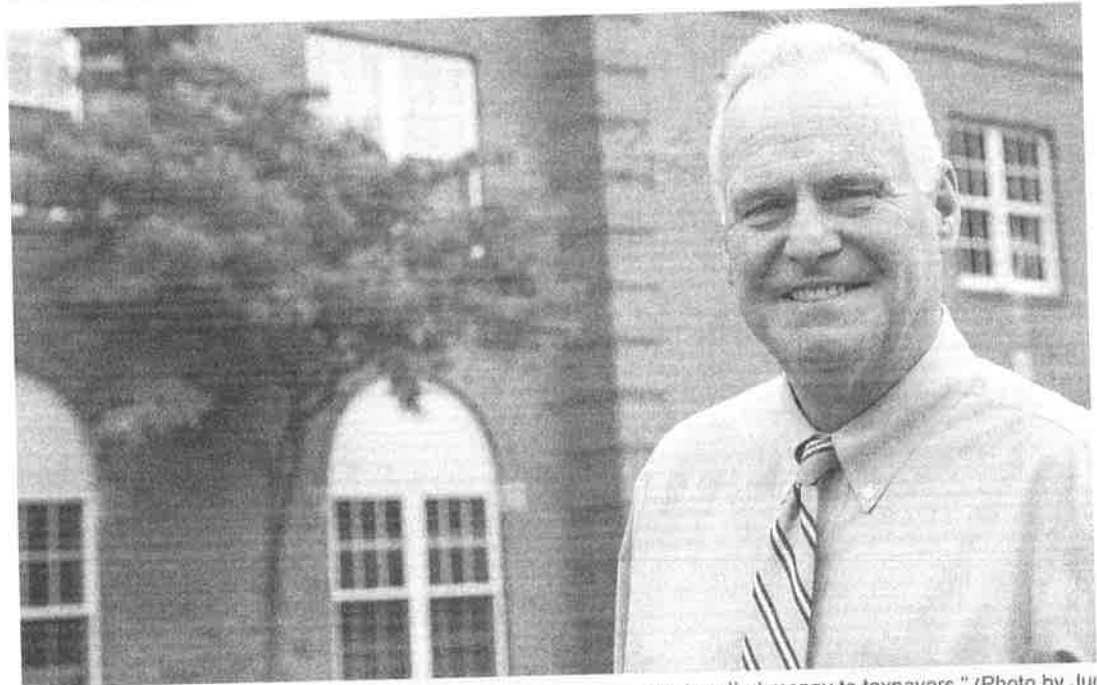
The problem, according to the Center's executive director, Steve Levy (former New York State assemblyman and County Executive), is that there are no teeth in the present law permitting the state comptroller to exact a penalty against a district that ignores the law.

Consequently, reserves have ballooned by over 80% over the last decade, now exceeding \$2.44 billion, according to Newsday. The rate of inflation over that period was a mere 16%. The amount held in reserves now amount to approximately 20% of overall school spending.

At a meeting Levy organized last year with the state comptroller's office and the Association for a Better Long Island (a group representing the business community suing the Elmont School District for its excess reserves), it was recommended by Mitch Palley, the Suffolk County representative on the board of the Metropolitan Transit Authority (MTA), that legislation be enacted that would provide the comptroller with the same authority to claw back excessive escrows for schools, as he has for the MTA. The bill being suggested by the Center would authorize the comptroller to intercept state aide, otherwise directed towards a district, and provide for an amount equivalent to the excessive escrow to be forwarded directly to the individual tax payers.



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Michael Fitzpatrick: "They either have to adhere to the cap or return that money to taxpayers." (Photo by J...

Rainy days and money

By: David Winzelberg | September 28, 2018 | Comments Off on Rainy days and money

A New York State lawmaker plans to introduce legislation aimed at keeping school districts from over-indebting themselves and discourage districts from holding onto more money than they're entitled to.

Assemblyman Michael Fitzpatrick, R-Smithtown, says he is currently drafting a bill that will allow the state comptroller to deduct a portion of a school district's state aid if the district attempts to keep illegal budget surpluses, sometimes called "rainy day funds."

Current state law restricts school districts from holding more than 4 percent of any surplus funds so that they are not unnecessarily required to pay taxes that are higher than what is needed to run the district.

However, there is no specific method for enforcing the law. Instead, it is left up to the commissioner of education to deal with violators and there is little recourse to claw back surplus funds, which on Long Island are quite common.

In fact, cash reserves held by school districts in Nassau and Suffolk counties now exceed \$2.44 billion, an increase of more than 80 percent in the last decade, according to Newsday. The amount of surplus funds currently held by Long Island districts comes to about 20 percent of overall school spending.

Former Suffolk County Executive Steve Levy, president of government watchdog group Common Sense for Long Island, says schools are ignoring the law.

"We understand there's a need for a rainy day fund, but taxpayers are scratching their heads as to why we need it."

spending continue to rise while enrollments are declining," Levy told LIBN.

Levy, who heads the Center for Cost Effective Governance, has been lobbying for legislation that will persuade school districts to abide by the law and keep from stockpiling reserve funds.



Steve Levy: "We're just the law be enforced." (F Walker)

"Without teeth in this law, the limit on accumulating escrows is worthless," he said.

Between April 1, 2010 and March 31, 2017, the state comptroller's office completed 862 school audits focusing on the state's 691 school districts, 36 BOCES and 49 charter schools excluding New York City, and found that 289 districts retained extra money.

The auditors reported that many school districts were inflating the amount of required revenue in several ways, including appropriating their fund balance down to the statutory level, which was not likely to be used in the year's budget; overestimating necessary expenditures; keeping excess amounts in various reserves; and underestimating anticipated revenues.

"In most cases where excess money was retained, districts used two or more of these practices simultaneously," Brian Butry, a spokesman for Comptroller Tom DiNapoli's office, said via email. "For example, a district overestimating expenditures would then appropriate fund balance that was not needed and subsequently leave money left over at the end of the fiscal year to overfund reserves. These practices, especially when done over several years, result in officials effectively maintaining a fund balance that is larger than allowed by law."

Fitzpatrick's bill would enforce the surplus cap by allowing the comptroller to intercept a school district if it covers the amount of money they are holding in their account over and above the 4 percent limit.

"I understand why they're doing it, but they either have to adhere to the cap or return that money to the public," Fitzpatrick said. "Why are they squirreling this money away? They say it's for unanticipated expenses. It's overestimated expenses and not giving this money back. I don't believe there's an excuse for overestimating money. They know what their pension contributions are going to be."

However, school officials defend their practice of maintaining rainy-day funds and would like to hold on to them. The New York State School Boards Association is supporting a bill introduced by state lawmakers last year that would increase the allowable reserves to 10 percent, two-and-a-half times the current limit.

In a memo of support, NYSSBA argued that a school district's fund balance helps school districts deal with unexpected costs, including special education expenses and emergency facility needs.

"For example, in some districts, the unplanned enrollment of just one or two high-cost special education students can have a significant negative impact on the budget," the NYSSBA memo said. "A healthy fund balance allows school districts to address revenue shortfalls, mid-year funding reductions and other cash flow issues. If the current limit equates to less than three weeks of a full school year."

Both Fitzpatrick and Levy said they would be open to raising the surplus limit slightly, as long as the state could claw back reserves over that amount. But 10 percent, they said, is excessive.

"We would be willing to compromise, perhaps if the schools wanted to increase their reserves from 4 percent, if all of the extras were returned to the public, but we're not crazy," Levy said. "We're not going to have a reserve at the 10-percent level, because that defeats the purpose of the law."

The Association for a Better Long Island has also been advocating for stiffening enforcement of the surplus limit. Attorney Laureen Harris, ABLI president and a partner in the Uniondale-based Cronin, Cronin & Associates law firm, filed a lawsuit last year against the East Meadow School District, Commissioner of Education Thomas H. Liotta and the state Department of Education after East Meadow schools piled up a reserve fund of \$10 million.

in three years, essentially over-taxing property owners. The suit was filed on behalf of an East Meadow after the district and the commissioner dismissed the claim, arguing that the comptroller's audit that our money was unreliable because it was done more than 12 months prior.

"This is about stealing and how to get them to stop," Harris said. "Something has to be done."

The state attorney general's office asked for a change of venue and the judge in the case moved it to plans to challenge the venue change and bring the case back to Long Island.

"We want them to look the taxpayer in the eye and tell them how they're ripping them off," Harris said.

Meanwhile, Fitzpatrick, if re-elected in November, plans to introduce his bill when the next assembly session starts in January and he's hoping to recruit some co-sponsors from across the aisle. He also hopes the bill will start a conversation on dealing with "structural cost drivers" like pension benefits and healthcare.

The assemblyman acknowledged that school districts are often treated as sacred cows and politicians historically have been hesitant to rein them in because the teachers' union and other labor organizations are "significant" political forces in the state.

"Quite frankly, I think that Democrats and unfortunately too many Republicans are just willing to look the other way and not challenge them," Fitzpatrick said. "There's no need to be argumentative or antagonistic, but under the current federal tax law, we have declining enrollment, we have rising costs and we have a need to address structural cost drivers."

A spokesman for New York State Union Teachers, Carl Korn, said Fitzpatrick's effort is misguided.

"Superintendents, school business officials and school boards are experts in budgeting and know how school districts need to hold in reserve to meet projected expenses," Korn told LIBN. "In an election year, why would Assemblyman Fitzpatrick want to take money away from Long Island schools? Because that's what his bill becomes law."

Levy, however, lauded Fitzpatrick, calling him a champion of taxpayers. He added that his bill will help school districts get their slush funds in check.

"This is not asking to push a boulder over a mountain," Levy said. "This is already the law. We're just asking for the law to be enforced."

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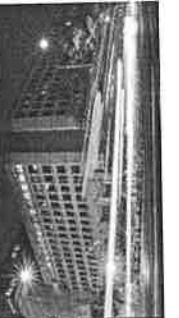
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Section 1. Section 3604 of the education law is amended by adding a new subdivision 8-a to read as follows:

8-a. No school district shall be eligible to receive the full apportionment of state aid to which it is entitled under other provisions of this chapter if evidence is found by the state comptroller when an audit is conducted and such audit finds that a district has inappropriate excess of their unexpended surplus funds and such school district did not reduce the school tax levy in a proportion equal to the excess of four percent of the current year school budget as required under section thirteen hundred-eighteen of the real property tax law, commencing with the two thousand eighteen-- two thousand nineteen school year. The commissioner shall withhold from the full apportionment of such state aid an amount equal to the excess of four percent in such unexpended surplus funds of the current year school budget.

§2. This act shall take effect immediately.

Excessive school-budget reserves burn taxpayers



A New York State comptroller's audit found that Plainedge officials overestimated expenses, including costs of employee benefits and special education, by more than \$15 million over three consecutive years. Above, Plainedge Senior High School in North Massapequa. Photo Credit: Danielle Finkelstein

By The Editorial Board

Updated March 7, 2018 5:03 PM

During the 2015-16 school year, just over 11 percent of the property taxes collected by the Plainedge School District went unspent. For the 2013-14 school year, it was much the same, with more than 12 percent of the taxpayer dollars left in the district's piggy bank of unrestricted cash reserves, which is against the law.

The state comptroller criticizes districts when they've let more cash pile up than they are allowed. This is not boring accounting. Plainedge is the 28th Long Island district to be admonished for exceeding the limit since 2014. Leaders of these districts generally say they are being conservative, making sure they have money for emergencies.

Plainedge's board president and superintendent argued exactly that, claiming the district's practices provide long-range fiscal stability and enable it to provide quality programs. And they pointed to its zero increase in taxes for 2017-18 to argue the district isn't overtaxing. That, though, ignores hikes in 2016-17 and 2015-16. What it does make clear, however, is that the idea that taxes could go down is never entertained.

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In Plainedge's case, the unrestricted reserves aren't the only extra money piling up. Four other reserve funds were overfunded, including one that held \$7.2 million but spent only \$1.2 million a year on average.

If school leaders want to argue that the legal limit on unrestricted reserves of 4 percent of the total budget is too low, they need to fight for a change of the law in Albany. As it stands, particularly in light of tax changes that will limit the federal deductibility of such taxes, they need to stop collecting money people can't afford to meet expenses that don't exist. — *The editorial board*

LI schools' cash reserves hit \$2.4B high

Reserves grew more than 80 percent Islandwide during the past 10 years, state data show. Education leaders say the funds are essential to financial stability, but taxpayer advocates decry the accumulation.



Lorna Lewis, superintendent of the Plainview-Old Bethpage school district, in the auditorium of Stratford Road Elementary School in Plainview on Aug. 10, with construction underway on the air-conditioning and sound systems. New seating also was installed. Photo Credit: Corey Sipkin

By John Hildebrand and Michael R. Ebert

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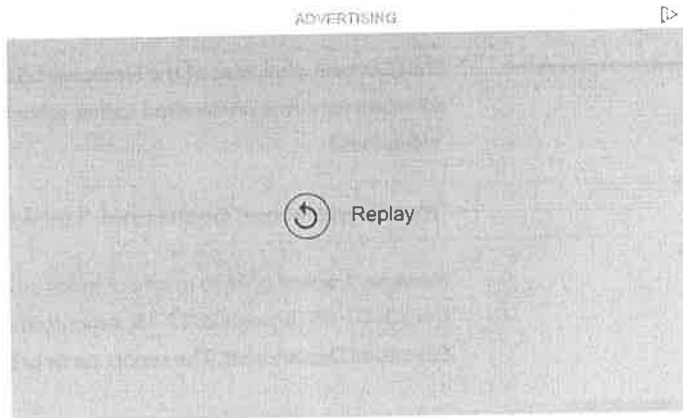
Updated August 25, 2018 8:40 PM

Cash reserves stockpiled by Long Island school districts are at a record high of nearly \$2.44 billion, which officials said will help strengthen school security this year, carry out building improvements and repairs, and serve as a hedge against future economic challenges.

The accumulation of funds, however, has infuriated critics who contend that districts should apply more of their surplus money to provide relief for the Island's homeowners, whose tax bills are among the nation's highest.

State Comptroller Thomas P. DiNapoli said in a statement the accumulation means that increasing numbers of districts exceed the state's legal limit. The agency reports abuses, but is not empowered to penalize offenders.

Cash reserves, officially designated as fund balances, raise issues that have been argued locally and in Albany for more than a decade. The cash concentrations have grown more than 80 percent in Nassau and Suffolk counties during the past 10 years, increasing from \$1.33 billion in the 2007-08 school year to almost \$2.44 billion in 2017-18, a Newsday review of state data shows.



Fund balances statewide, meanwhile, rose more than 90 percent to a total of nearly \$7.72 billion. The increase in reserves is especially striking when contrasted with predictions made by school leaders six or seven years ago that their districts might soon exhaust such funds.

In fact, the state figures show that reserves generally rose during that period. The growth consistently outpaced inflation in the metropolitan area, which increased 16 percent from 2007-08 to 2017-18, Newsday's review shows.

School spending and taxation together represent a major economic and political issue on Long Island, where such levies account for two-thirds of property owners' tax bills. A recent analysis by ATTOM Data Solutions, a real-estate information firm, concluded that Nassau County was one of nine large counties across the United States where homeowners pay more than \$10,000 a year in property taxes, and that Suffolk County was close behind at \$9,333.

"A good credit rating from Moody's is essential for districts to borrow money at low interest rates, which saves money for school districts and their taxpayers," said Borges.

One development that has local educators worried is the new federal tax law that caps taxpayers' deductibility of state and local taxes at \$10,000.

Many school officials fear that homeowners may grow more resistant to increases in property taxes if they find that the higher amounts cannot be deducted from their federal taxes.

School budgets and taxes provide a target when the public becomes upset over taxation issues. School officials said some districts may propose in next year's budgets that they spend down reserves, rather than raise taxes and risk a revolt by voters.

"The school budget is the only municipal budget you get to vote on," said Robert Vecchio, president of the William Floyd school board, who also sits on the executive committee of the New York State School Boards Association. "School budgets are the only place where people can take their anger out."

Another concern among school administrators is that any future cuts in federal Medicare funding could put pressure on states to make up the difference, leaving less money available for public education.

"The only way to be prepared for that is to have the reserves as healthy as possible now," said Joseph Dragone, assistant superintendent for business and administration in the Roslyn school system.

If districts do reduce their cash stockpiles next year, it would mark only the second time in 11 years that such reductions have occurred. Total reserves in the Nassau-Suffolk region dropped slightly in 2015-16 — by 1.52 percent — but then bounced back, with a 7.34 percent increase the following year.

School surpluses are growing, in part, because some districts never actually spend the appropriated fund balances that appear in their budgets — ostensibly, to be used as revenues. Instead, those districts employ accounting practices that result in unspent cash surpluses being rolled over, year after year.

In addition, Newsday's review found that 26 of the districts in the Nassau-Suffolk region had unrestricted fund balances at the end of 2017-18 exceeding the state's 4 percent statutory limit. Twenty-two districts topped 4 percent in 2007-08, though comparisons are inexact, because the state's limit then was 3 percent.

Ninety-five districts reported staying within limits this past year.

School systems with some of the largest cash deposits in 2017-18 included tiny Oysterponds on the North Fork, with unrestricted reserves equivalent to 16.5 percent of its annual budget; Merrick, with 12.74 percent; Seaford, with 10.64 percent; and Connetquot, with 10.28 percent.

Merrick's superintendent, Dominick Palma, confirmed the 12.74 percent figure while noting that his district has reduced its unrestricted reserves from higher levels in the past. This year, he added, Merrick plans to spend \$1.5 million in reserves for security improvements, plus \$500,000 to replace heating and air conditioning that recently broke down at the district's Birch Elementary School.

Palma defended the need for an unrestricted fund cache beyond the state's 4 percent limit.

"Our response now, and it always has been, that they need to raise the limit," the schools chief said.

DiNapoli's office noted that the 4 percent limit is a statutory requirement.

Between April 1, 2010, and March 31, 2017, the state comptroller's office completed 862 audits of educational systems across the state — mostly school districts, but also including a number of BOCES and charter schools. Inflated reserves were found in 289 cases, the office said.

One recent audit found that the Mount Sinai system, over a three-year period, overestimated expenditures by more than \$7.5 million and underestimated revenues by \$1.7 million. State auditors reported that this caused the district's reserves to balloon from \$12.4 million in 2014-15 to \$16.6 million in 2016-17.

Mount Sinai generated operating surpluses in each of those years, which resulted in appropriated fund balances never being spent, the auditors concluded in a report released in June. That caused overtaxation of local property owners, they wrote.

District officials responded by pledging to reorganize reserves to make sure they complied with state law. The officials asserted, however, that their buildup of reserves allowed them to hire armed security guards in a timely manner to provide students and staff with greater protection.

State auditors are not the only ones suggesting that many districts overtax residents.

Nick Pennacchio, 71, a retired budgeting and financial specialist who lives in Mineola, is among many individual taxpayers who believe that districts are piling up excessive reserves.

Pennacchio said he has observed firsthand the impact of high tax rates, having served as board president at the Corpus Christi Catholic School, which closed in 2010.

"Parents just couldn't afford to keep paying for Catholic education when they were paying taxes for public schools, too," Pennacchio said. "Maybe they could raise taxes at a lower rate if they applied the reserves. And that's something we never see discussed."

Elsewhere, some school administrators said they've done their best to hold unrestricted reserves within the state's 4 percent limit, even when results have been financially painful.

North Bellmore, for example, cut 10 teaching positions from its payroll this year, after determining that reserves had dipped to the point where the district could no longer fall back on such funds to maintain its full workforce. The district estimates that in 2018-19 its unrestricted fund balance will drop to the equivalent of 2.6 percent of operating expenses.

"We're kind of proud that we've always stayed within the limits of what the law allows us to do," said Mark Schissler, the district's assistant superintendent for business.

Across the Island, many districts detailed plans in their tax report cards to spend millions of reserve dollars on purposes ranging from teacher retirement incentives and unemployment claims, to renovations of school auditoriums, science labs, gyms and ballfields. The planned expenditures are similar to those budgeted in the past, when there was no state reporting requirement.

Huntington and Long Beach are installing protective vestibules at school entrances, for example. Hauppauge and Port Jefferson have scheduled roof repairs. Locust Valley is building a new playground at a primary school, while North Babylon is installing theatrical lighting at its high school.

James W. Polansky, Huntington's superintendent, said extensive renovations in his district are being funded through capital reserves accumulated gradually over the years, rather than through special bond issues. Projects include replacement of roofs, boilers, doors and bathroom tile, as well as the security vestibule.

"It saves the taxpayers money," Polansky said of the avoidance of bond borrowing.

Some tax activists living in other districts complained that the newly itemized tax report cards seemed sketchy at best. Dozens of entry lines provided for listing use of reserves were left blank, or with such notations as "no use planned."

"It just seems very vague," said Steve Boder, a retired business executive who lives in Plainview and has publicly criticized a buildup of reserves in his own district.

At the national level, some fiscal experts have concluded that local governments, including school districts, need far more unrestricted reserves than the 4 percent allowed in New York.

The Government Finance Officers Association, a national group based in Chicago, recommends that school districts maintain unrestricted balances equivalent to no less than two months' operating expenses. That works out to about 16 percent.

Under state rules, school systems can put aside restricted reserves for 15 specific purposes. The creation of some of those accounts — for example, money to cover capital construction — requires voter approval. Other restricted funds, such as reserves for insurance, unemployment and workers' compensation, can be created at school boards' discretion.



Excessive
School
Escrows

NYS law limits escrows to 4%.

76 districts had excessive escrow accounts.

Unnecessarily high escrow = higher taxes

MTA rules contain provision for Comptroller to claw back excess escrows.

CREATION OF MAKE NY AFFORDABLE

The center's board places a strong emphasis on networking and collaboration with state and local businesses and organizations. The center also believes in advocating on behalf of homeowners and taxpayers to assist in ensuring a vibrant economy and conditions that are affordable for residents. Keeping in line with these values, earlier in the year, the center endeavored to mobilize a number of prominent New York state business groups and taxpayer advocates into a consortium under the umbrella of Make NY Affordable. Participants include:

Long Island Contractors Association
Long Island Builders Institute
Long Islanders for the Advancement of Small Business
Reclaim NY Initiative
Long Island Board of Realtors
Hauppauge Industrial Association
Tax Pac
Long Islanders for Tax Relief
Long Island Real Estate Investors Association
Commercial Industrial Brokers Society
Big I of Suffolk (Insurance coalition)

The objective of this alliance is to speak in a singular voice to maximize our clout in order to enact our mutually agreed upon reforms. For the 2019 legislative session, the center has set its sights on the introduction and passage of two important pieces of legislation: Fixing the tax cap at 2% and reforming the Scaffold Law.

1. EXTENDING THE 2% PROPERTY TAX CAP

The Center for Cost Effective Governance recognizes that tax caps play an indispensable role in helping to control excessive spending and taxation. The 2% property tax cap passed in the New York State legislature in 2011.

The cap has been very successful in stemming the growth of property tax increases. In fact, the average annual tax increase from 2000 through 2011 was approximately 6%. After the tax cap was implemented, this figure decreased to approximately 2%. Had the tax rate continued to increase at the former level, Long Island taxpayers would have

been forced to shell out an additional \$7.6 billion over what they paid.

The tax cap forces governments to prioritize their spending. The law provides that the cap can be exceeded via a vote of 60% of the public in school board elections, or a super majority of the board or legislature at the municipal level.

The number of districts that are actually exceeding the cap has diminished dramatically. In fact, in the 2018-19 fiscal year, only two districts successfully exceeded the cap.

The center has been critical of various loopholes – including spending on pension growth and payments for interest on bonds – that still exist within the cap laws. This incentivizes schools to bond more frequently and for larger amounts. The center has been critical of schools incorporating what would otherwise be operating expenditures into these bonds, because they are exempt from the parameters of the cap. Nevertheless, the cap, for the most part, has been a major success.

Unfortunately, most people are unaware that the cap was implemented on a mere temporary basis. The Assembly insisted that the cap be in effect for only four years, thereby requiring that it be extended by a vote of the legislature. The Assembly tied the passage of the cap to an extension of rent stabilization laws.

The cap was extended in 2015 for an additional four years. The Republican dominated state Senate made extending the cap a priority, while the Assembly fought for extending rent stabilization provisions.

The dynamics in Albany will be changing in 2019, given the fact that Democrats have taken control of the Senate. The question remains whether they will be as aggressive in seeking the caps renewal as was the previous iteration of the Senate. The center has been communicating with Long Island delegation for the past year seeking to have this issue be the region's number one priority.

2. **MODIFYING THE SCAFFOLD LAW**

The Scaffold Law maintains that building owners can be held entirely liable for worker related accidents that occur at the job site, even if the worker is in some part responsible. New York is the only state that allows this provision. This has led to a spike in insurance rates - with some analysts suggesting increased construction costs of a projected \$10,000 for each new home built - further placing us at a competitive disadvantage comparative to other states.

Documents from the Metropolitan Transportation Authority's board meeting show that insurance costs on East Side Access plan, the decade-delayed effort to link the Long Island Rail Road to Grand Central, have ballooned 557% from the original estimates. The group Lawsuit Reform Alliance of New York blames the Scaffold Law for some of that increase. It also estimates that an additional \$300 million in costs were incurred on

the reconstruction of the Tappan Zee Bridge, simply because of these onerous provisions. A bill presently sitting in committee in the state legislature seeks to amend the law to limit liability of the owner to the extent of the owner's negligence.



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David Pennetta, Paul Wernersbach and former Suffolk County Executive Steve Levy / Photo by David Wir

Group pushes to make tax cap permanent

By David Witzelberg | May 21, 2018 | Comments 0 | [Group pushes to make tax cap permanent](#)

A coalition of Long Island business and civic leaders are supporting an effort to make the controversial cap permanent.

The state law, which is slated to sunset in two years, limits suburban school districts municipalities and taxing districts from annually increasing their property tax levies to 2 percent or the rate of inflation, wh less.

First in effect from 2012 to 2016, the state legislature voted in 2015 to extend the law through 2020.

The group, called Make NY Affordable, is urging state elected officials to pass legislation that would cr permanent 2 percent cap now, before the balance of power shifts in the state senate.

"If we don't get it this year, the cap is in jeopardy," says Steve Levy, the former Suffolk County executiv leading the effort. "We don't want to have to do this every four years. They have to go to the mat this y a top priority."

Levy, who also heads a political consulting firm called Common Sense Strategies, claims the tax cap l successful, saving "billions of dollars" since its inception.

"From 2002 to 2012, the average tax increases for Long Island school districts was 6 percent a year,"
"That's just unsustainable."

Laura Pandelakis and Anita McDougal, leaders of Long Islanders for Taxpayer Reform, who have joined the effort, agree that the cap is especially essential here, where property taxes are some of the highest in the state.

"If school districts and municipalities are allowed to raise taxes to whatever they want, it's fiscal suicide," Pandelakis said.

Pandelakis said the cap isn't restrictive enough.

"We need to tighten it further, she said. "We need to make it permanent, otherwise there'll be 7 to 8 percent increases. People will push it up and up."

Taxpayer advocates also point out that specific exemptions, such as brick-and-mortar development that increases the value of a school district's taxable property, contributions toward employee pensions above a certain amount, the local portion of capital expenditures, allow districts to pierce the cap. Last week, voters in the East Islip District passed a \$59.9 million bond for capital improvements, which wasn't governed by the state's cap.

Andrea Vecchio, who heads the East Islip TaxPAC, said those loopholes in the cap are a hard thing for taxpayers to understand.

"I'm against this exemption because it allows the districts to exceed the cap," Vecchio said. "We're now 18 years. It's like another mortgage and it's on the backs of all the taxpayers in the district."

Other supporters of the effort to make the cap permanent say the situation will only worsen after this year. Long Island homeowners can only deduct up to \$10,000 of their property taxes.

"This is the most important challenge facing Long Island that we can ever imagine," says Paul Werner, a member of the Long Island Board of Realtors' Board of Directors. "As a member of LIBOR, which has 10,000 members, our goal is to keep home ownership and real estate investment affordable for everyone."

David Pennetta, strategic officer for the Commercial Industrial Brokers Society of Long Island, said commercial property owners in the area are also under extreme tax pressure, needing a permanent tax cap to try to prevent the situation from getting any worse.

"On the commercial side, you have property owners paying \$10 a foot and the taxes are more than what they are making on the building," Pennetta said. "The tax cap is something that's essential. We've always had a broadening tax base. We don't have that anymore."

Though the tax cap has made school budget votes easier to pass, Brian Fessler, deputy director of the State School Boards Association, said his group's membership is generally opposed to the tax cap.

"Since the tax cap was enacted, we run under the understanding that even though it has a sunset clause, it's here to stay for the foreseeable future," Fessler told LIBN. "We are working to try to address inequities in the cap. Focusing on tweaks to make the tax cap more fair and equitable in terms of how it affects school districts and are good for both school districts and taxpayers alike."

Despite spending 25 years as a teacher before entering politics, Assemblywoman Christine Pellegrino isn't averse to having controls on school spending, though she shied away from endorsing a permanent cap.

"With the tax cap set to expire in two years, we need to ensure solutions that both fully and adequately fund schools, ensure that Long Island gets its fair share of funding and keeps property taxes down," Pellegrino said in an email. "Long Island families are already overburdened by property taxes which is why I will support legislation that would extend the tax cap while also require adequate funding for our schools from Albany."

Mark LaVigne, deputy director of the New York State Association of Counties, said the state needs to take fiscal responsibility for the programs that they require counties to fund and deliver at the local level. They are restricted by the tax cap, LaVigne said they are responsible for \$7.5 billion a year through property taxes towards the state's Medicaid program.

"We'd support making the tax cap permanent if the state reduces the cost burden on counties and local governments," LaVigne said. "It's disingenuous for the state to pass tax cap legislation when they are in control over property tax levies across the municipalities."

Vecchio says it is imperative that the tax cap is made permanent to ensure there's a hold on school and local spending.

"Little by little, they're bleeding us dry," she said.

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BRIDGETOWER ME



May 11, 2018

Contact 631-877-0940

Tax Cap must be made permanent before it's too late
by Steve Levy

New York State's property tax cap, which has saved over \$7.6 billion for School property taxpayers in just the first four years since its inception in 2012, is on the verge of becoming extinct. Few realize that when the cap was first passed, it was only for a short period of time.

While Governor Cuomo and the state Senate majority wanted it to be permanent, then-Assembly Speaker Sheldon Silver insisted that it be tied to passage of rent regulations and sunset after four years. It came up for renewal in 2015 and passed with little fanfare. It was extended out to the 2019–20 legislative session.

In a typical Albany session, this wouldn't raise much of an eyebrow. However, there is the potential for a seismic powershift in the state Senate this November, which could tilt the balance of power from suburban Long Island legislators to New York City officials whose constituents don't list property taxes among their biggest issues. The last time this happened in 2009, a massive payroll tax was enacted on suburban businesses to help fund the MTA.

The state Assembly has never been an ardent supporter of the concept of a property tax cap. Municipal unions and school districts recoil at what they claim is an artificial constraint that the cap places on their ability to expend funds as they wish. Some anti-tax entities even filed a lawsuit to invalidate it. They lost.

But having lost the battle, they still may win the war, if they are able to convince a newly constituted state Senate that the cap be allowed to sunset. This is not some pie in the sky scenario. Gubernatorial candidate Cynthia Nixon has already made the abolition of the cap part of her platform.

Suburban incumbents who traditionally held control of the Senate are facing a huge challenge this November.

The odds of the Long Island Senate block keeping power are daunting.

That is why it is so essential that the Long Island Senators, who still maintain control of the Senate, make the permanency of the tax cap their number one priority as this session winds down. They floated this bill in the past, only to see it the whimper out. But, as we have seen, they hold a great number of cards, given the fact that the Assembly must negotiate with them to pass not only a budget, but end of year resolutions as well.

We've seen from the past that a block of senators can get its way on a priority issue if it is made clear from the outset that nothing else will move forward without it. There are a plethora of issues that are worthy for consideration in the last few weeks of session, but none are as important to suburban taxpayers than making the cap permanent.

This may be the last chance in a while that suburban senators hold a semblance of power. If they lose control, there will be no champion in power to make the extension possible. New York City legislators will be able to extend rent regulations without the need to compromise with the Long Island delegation.

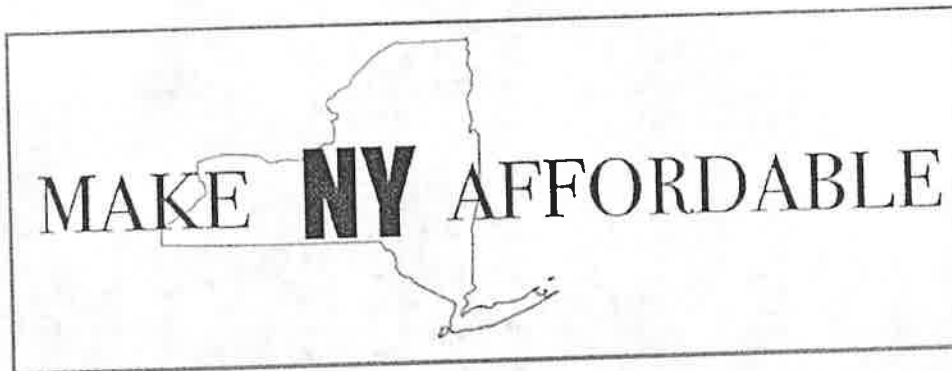
Certainly, the cap is not a panacea. While it's stated to be at 2%, there are many loopholes. Pension costs, interest on capital improvements, tort settlements and rising property assessments, all are exempt from the cap. Nevertheless, according to the Empire Center, the average increases in school tax levies in the six years since the cap's inception is approximately 2%, compared to the over 6% that was the norm in the decade prior to the implementation of the cap.

The fact is, forced prioritization works. And while there were dire predictions of chaos that would ensue within the schools, it never came to pass.

New York has seen the largest exodus of residents to cheaper pastures than any other state in the nation. According to the LI Index, 41% of our young people, ages 18 to 34, still live with their parents. Fewer and fewer Long Islanders, according a Long Island Association poll, consider themselves part of the disappearing middle class (58% today, compared to 67% in 1990).

The cap alone is not going to change this, but it will at least help many keep their heads above water for a while. So let's make the cap permanent so that we can start concentrating on our efforts to actually reduce the tax burden by eliminating costly state mandates, such as mandatory arbitration, the Triborough Amendment, and unsustainable defined benefit pensions.

Steve Levy is President of Common Sense Strategies, a political consulting firm. He served as Suffolk County Executive, as a NYS Assemblyman, and host of "The Steve Levy Radio Show"



February 7, 2018

Dear Legislator,

The undersigned is a consortium of numerous taxpayer advocacy groups around the state joining together under the umbrella of Make NY Affordable.

We are united in our goal to obtain passage of two important pieces of legislation before the New York State Legislature this session.

The first is to make the 2% property tax permanent.

New York continues to lead the nation in the number of residents who are fleeing the state for cheaper regions. It is quite clear that it is the exorbitant cost of living here in the state that is causing this exodus. Our property taxes are amongst the highest in the nation. The 2% cap passed several years ago has not reversed the tide, but it least has provided some hope of stability. It is imperative taxpayers know there is a commitment to keep the cap in place. This is especially so given that New Yorkers will be losing the deduction for state and local taxes over \$10,000.

Our second goal is passage of legislation (S. 6876/ A. 5624) that will reform the Scaffold Law. New York is the only state in the nation that holds building owners 100% liable for any accidents that occur at the job site, even if it is caused by the employee. This has led to our insurance rates being for greater than in other states, putting us in a competitive disadvantage. It is estimated that the construction cost of every new home in New York is increased by \$10,000 due to the high insurance rates resulting from this archaic law. We strongly urge you to support the revocation of this law.

Make NY Affordable has a constituency of approximately 200,000 people on our mailing list. We intend on notifying each of our members how our legislators will be voting on these measures. Therefore, we respectfully request that you inform us as to whether you will vote in

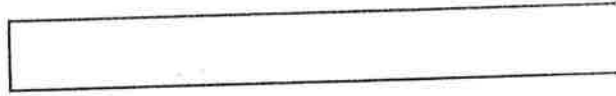
contain wording clearly alerting voters to the extent that the bond would have on the cap and the real dollar tax impact upon the average household.

The good news is that there is such an amendment that has been introduced in the state legislature. Our Center has been promoting its adoption. The bad news is the state legislature continues to bottle this reform up in committee.

Once again, the status quo is winning in Albany. If you are tired of paying a 7 percent tax increase when your school is telling you the budget is within the 2 percent cap, give a nudge to your state rep to change this madness.

Steve Levy is Executive Director of the Center for Cost Effective Government. He served as Suffolk County Executive, as a NYS Assemblyman, and host of "The Steve Levy Radio Show."

Steve Levy



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Fwd: s 6876

Steve Levy (makenyaffordable@gmail.com)

To: you Details ▼

Steve Levy, **Executive Director**
Center for Cost Effective Governance
228 Barrett Avenue
Bayport, NY 11705
631-877-0940

Begin forwarded message:

From: Steve Levy <makenyaffordable@gmail.com>
Date: April 4, 2018 at 4:24:22 PM EDT
To: Intern Fred <fphilantrope@gmail.com>
Subject: Fwd: s 6876

Steve Levy, **Executive Director**
Center for Cost Effective Governance
228 Barrett Avenue
Bayport, NY 11705
631-877-0940

Begin forwarded message:

From: Michael Reid <reidm@nysenate.gov>
Date: March 14, 2018 at 5:28:24 PM EDT
To: makeNYaffordable@gmail.com
Subject: s 6876

RE: your letter of 2/28

Thank you for your letter. You specifically asked about the so Scaffold Law repeal (S.6876).

Senator Brooks supports your position in both these proposal
Please feel free to contact me if I may be of assistance.

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Steve Levy (makenyaffordable@gmail.com)

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228 Barrett Avenue
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Begin forwarded message:

From: Steve Levy <makenyaffordable@gmail.com>
Date: June 5, 2018 at 3:26:54 PM EDT
To: "Intern, Nicholas Manfredi" <nicholas.manfredi@stonybrook.edu>
Subject: Fwd: Response to letter

Steve Levy, Executive Director
Center for Cost Effective Governance
228 Barrett Avenue
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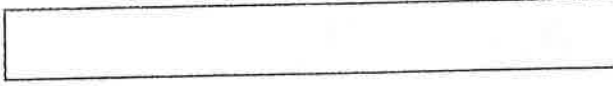
From: "Assemblyman Monteseano" <montesam@assembly.state.ny.us>
Date: March 12, 2018 at 2:23:24 PM EDT
To: <makenyaffordable@gmail.com>
Subject: Response to letter

March 12, 2018

To whom it may concern,

I am writing to you today in response to your recent letter regarding 2 important pieces of legislation; the 2% property tax cap and the Scaffold law. Thank you for taking the time to write.

I want to assure you that I support both pieces of Legislation. The 2% property tax cap is very important for the residents of New York and most especially to Long Island. The Scaffold Law (A.5624) is also important for New Yorkers. It is currently in the Judiciary committee so please be aware of my continued support if it should



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Steve Levy (makenyaffordable@gmail.com)

To: you Details ▾

Steve Levy, Executive Director
Center for Cost Effective Governance
228 Barrett Avenue
Bayport, NY 11705
631-877-0940

Begin forwarded message:

From: Steve Levy <makenyaffordable@gmail.com>
Date: May 9, 2018 at 3:59:02 PM EDT
To: Intern Fred <fphilantrope@gmail.com>

Dear Make NY Affordable members,

As you know, we are working hard to ensure that our Long Island de
We are asking that every one of our organizations contact its thousa
issue this is.

Below is a sample letter that can be sent to the legislators. A handw
but we understand it may be the easiest to carry out. I am also attac

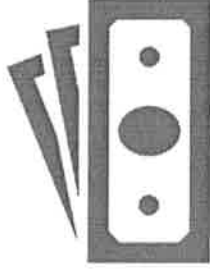
Please remember the session ends in mid-June, so we need to get t

Sincerely,
Steve Levy

Steve Levy, Executive Director
Center for Cost Effective Governance
228 Barrett Avenue
Bayport, NY 11705
631-877-0940

Reply Reply All Forward

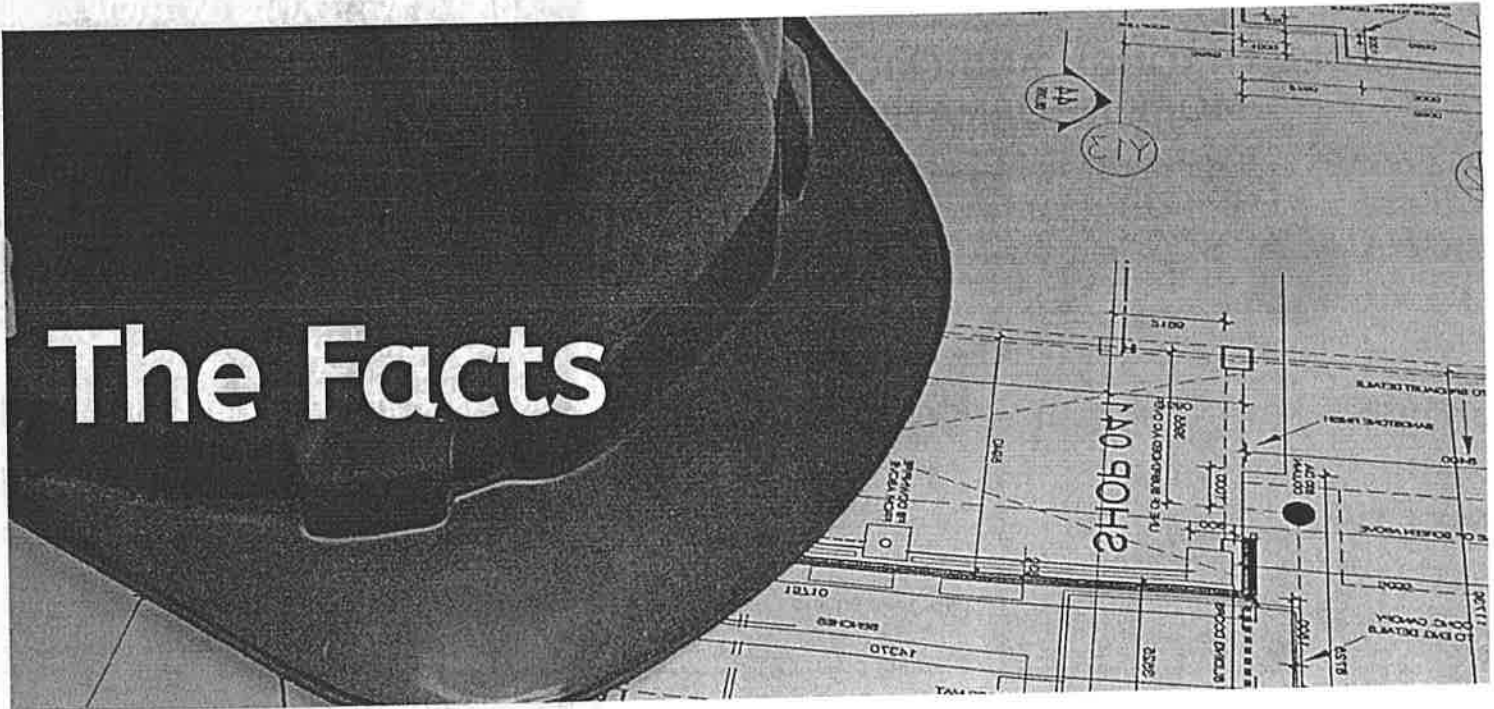
Making Tax Cap Permanent



- 7.6B in school taxes saved from 2012-2016.
- Cap expires in 2019.
- 41% ages 18-34 still live with parents on LI.
- Fewer on LI consider themselves middle class.
 - 67% in 1980, 59% today.
- Average tax increase from 2000-2012 was 6%, after cap average is 2%.
- 2000-02 budgets increased 7% per year.

SCAFFOLD LAW REFORM

HOME THE FACTS MEDIA ABOUT US
TAKE ACTION



*What is the
“Scaffold*

**FACT: If you live
in New York, you**

number of lawsuits has increased by 500% since 1990, despite a decreasing rate of injuries. Because of this, the cost of insuring construction projects is as much as 10 times higher than other states.

The tremendous costs of the Scaffold Law have an impact across New York: construction costs go up, fewer workers are hired (with some being laid off), consumers pay higher prices for goods and services, and the economy suffers.

How should the Scaffold Law be fixed?

The current standard of "absolute liability" must be replaced with a standard of "comparative negligence." Under this standard, liability is apportioned by a jury, in proportion to actual fault. This common-sense reform would not prevent injured workers from bringing lawsuits for their injuries. It would simply give New York property owners, business owners, and contractors the chance to defend themselves in court when a worker's own negligence is a contributing factor in an accident. This is the way every other state and virtually every other area of our civil justice system functions.

Scaffold Law hurts workers

- According to a recent study by Cornell University, the Scaffold Law is correlated with 677 additional construction injuries each year. ¹⁴
- Illinois repealed its Scaffold Law in 1995, and construction related fatalities decreased by 26% over 5 years. ¹⁵
- Reforming the Scaffold Law would create over 27,000 jobs in the construction industry.

Documents from the Metropolitan Transportation Authority's board meeting last week show that insurance costs on East Side Access, the decade-delayed effort to link the Long Island Rail Road to Grand Central, have ballooned 557% from the original estimates.

penalizes Gateway project

That was all the opportunity opponents of New York's "scaffold law" needed to call attention to the statute, which is unique to the state.

- > Habitat Magazine: Diverse Group Pushes to Reform State's Scaffold Law
- > Insurance Insider: Nationwide E&S pulls back from NY construction

...

"Insurers, it has been documented over and over, have left the market because of the scaffold law," said Tom Stebbins, of the Lawsuit Reform Alliance of New York, a tort-reform group. "These are billion-dollar policies and people don't want [to sell] them. That should tell you something."

RECENT COMMENTS

- > THANKS FOR MAKING SCAFFOLD LAW REFORM DAY AT THE CAPITOL A SUCCESS! - Scaffold Law Reform on Can't Make it to the Scaffold Law Reform Day at the Capitol?

Stebbins noted that numerous judicial rulings in the past decade have expanded the scaffold law's application to cover more and more workers hurt on the job, and he cited a report Willis itself published in 2017, which identified the law as the "primary culprit" for New York's "highly litigious environment." The result has been what Willis, which did not respond to a request for comment, termed an "insurance crisis."

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Read the full article here.

S T A T E O F N E W Y O R K

1602

2017-2018 Regular Sessions

I N A S S E M B L Y

January 12, 2017

Introduced by M. of A. HAWLEY, KOLB, CROUCH -- Multi-Sponsored by -- M.
of A. BARCLAY, GIGLIO, OAKS -- read once and referred to the Committee
on Labor

AN ACT to amend the labor law, in relation to the use of scaffolding and
other devices for use by employees

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 240 of the labor law, as amended
2 by chapter 241 of the laws of 1981, is amended to read as follows:
3 1. All contractors and owners and their agents, except OWNERS OF
4 FARMS, owners of one and two-family dwellings AND OWNERS OF MULTIPLE
5 DWELLINGS who contract for but do not direct or control the work, in the
6 erection, demolition, repairing, altering, painting, cleaning or point-
7 ing of a building or structure shall furnish or erect, or cause to be
8 furnished or erected for the performance of such labor, scaffolding,
9 hoists, stays, ladders, slings, hangers, blocks, pulleys, braces, irons,
10 ropes, and other devices which shall be so constructed, placed and oper-
11 ated as to give proper protection to a person so employed.

12 No liability pursuant to this subdivision for the failure to provide
13 protection to a person so employed shall be imposed on professional
14 engineers as provided for in article one hundred forty-five of the
15 education law, architects as provided for in article one hundred forty-
16 seven of such law or landscape architects as provided for in article one
17 hundred forty-eight of such law who do not direct or control the work
18 for activities other than planning and design. This exception shall not
19 diminish or extinguish any liability of professional engineers or archi-
20 tects or landscape architects arising under the common law or any other
21 provision of law.

22 S 2. The opening paragraph of section 241 of the labor law, as amended
23 by chapter 670 of the laws of 1980, is amended to read as follows:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD02284-01-7

1 PROVIDER, BASED UPON CURRENT DATA AVAILABLE TO SUCH IN-STATE PROVIDER,
2 ESPECIALLY WHERE SUCH IN-STATE PROVIDER OPERATES AS AN EXCESS LINE
3 INSURER FOR RISKS IN ANOTHER STATE; (15) AMOUNTS SPENT BY INSURER FOR
4 RISK MANAGEMENT PROGRAMS, OR REQUIRED TO BE SPENT BY INSURED AT THE
5 BEHEST OF THE INSURER, WHICH PROGRAMS ARE DESIGNED AND INTENDED TO
6 PROMOTE WORKSITE SAFETY, MORE PARTICULARLY AS IT RELATES TO HEIGHT
7 RELATED ACCIDENTS COVERED BY SECTION TWO HUNDRED FORTY OF THE LABOR LAW;
8 AND (16) THE AFOREGOING EXPERIENCE AND INFORMATION FURTHER SUBDIVIDED BY
9 QUALITY OF RISK AS MEASURED BY PRIOR LOSS EXPERIENCE, CONTRACTOR PAYROLL
10 RANGES, CONTRACTOR NUMBER OF EMPLOYEE RANGES, RISK MANAGEMENT PARTIC-
11 IPATION, AND OTHER RELEVANT IDENTIFIABLE DIFFERENCES IN EXPOSURE TO
12 INSURANCE LOSS. THE DATA PROVIDED BY INSURERS SHALL BE SEPARATED OUT SO
13 THAT A DETERMINATION CAN BE MADE THAT A CLAIM MADE OR PAID IS BASED
14 PARTIALLY OR TOTALLY UPON SECTION TWO HUNDRED FORTY OF THE LABOR LAW;
15 COVERAGE, AND NOT ANY OTHER PROVISION OF STATUTORY OR COMMON LAW IMPOS-
16 ING ANOTHER OR DIFFERENT OR SEPARATE STANDARD OF CARE OR DUTY TO AN
17 INJURED PARTY. SUCH FINANCIAL STATEMENT SHALL INCLUDE THE ENTIRETY OF
18 SUCH INSURER'S BUSINESS ACTIVITIES INSURING AGAINST RISKS OCCURRING IN
19 THIS STATE AND SHALL BE IN A FORM DETERMINED BY THE SUPERINTENDENT. THE
20 FORM SHALL BE SUFFICIENTLY ITEMIZED IN A MANNER THAT ALLOWS FOR AN ACTU-
21 ARIALLY SOUND ANALYSIS OF THE INCOME REALIZED BY THE INSURER FROM ALL
22 SOURCES DURING SUCH YEAR, INCLUDING BUT NOT LIMITED TO PREMIUMS, INVEST-
23 MENT INCOME, AND ANY OTHER CATEGORY OR CATEGORIES OF INCOME AS DETER-
24 MINED BY THE SUPERINTENDENT TO REFLECT THE FULL DISCLOSURE REQUIREMENTS
25 OF THIS SECTION AND THAT PORTION WHICH MAY BE SPECIFICALLY RELATED TO
26 SUCH COVERAGE. AT A MINIMUM, SUCH INFORMATION SHALL CONSIST OF THE ITEMS
27 SET FORTH IN THE STATEMENT OF INCOME, EXCLUDING THE CAPITAL AND SURPLUS
28 ACCOUNT SECTION OF THE PROPERTY/CASUALTY STATUTORY ANNUAL STATEMENT, AS
29 APPLICABLE TO THE INSURER'S NEW YORK STATE BUSINESS, AS WELL AS THE
30 OTHER INFORMATION DELINEATED IN THIS SUBSECTION. SUCH FINANCIAL STATE-
31 MENT SHALL ALSO CONTAIN A COMPREHENSIVE AND DETAILED DISCLOSURE OF THE
32 INSURER'S EXPENSES ACTUALLY INCURRED AND PAID DURING SUCH CALENDAR YEAR,
33 TO INCLUDE NORMAL BUSINESS EXPENSES, SALARIES, COMMISSIONS, CONSULTING
34 FEES, LEGAL EXPENSES, ADVERTISING COSTS AND ANY OTHER CATEGORY DEEMED
35 PERTINENT TO THE INTENT OF THIS SECTION. AT A MINIMUM, THE EXPENSE
36 INFORMATION REQUIRED SHALL CONSIST OF THE ITEMS SET FORTH IN THE UNDER-
37 WRITING AND INVESTMENT EXHIBIT - PART 3 - EXPENSES OF THE
38 PROPERTY/CASUALTY STATUTORY ANNUAL STATEMENT, AS APPLICABLE TO THE
39 INSURER'S NEW YORK STATE BUSINESS. WITH RESPECT TO SALARIES (INCLUDING
40 ALL OTHER FORMS OF COMPENSATION), EACH INSURER SHALL ITEMIZE THE SALARY
41 OF THE TWENTY MOST HIGHLY COMPENSATED EMPLOYEES OF SUCH INSURER DURING
42 SUCH YEAR, PROVIDED THAT THE NAMES OF SUCH EMPLOYEES NEED NOT BE
43 DISCLOSED. SUCH FINANCIAL STATEMENT SHALL ALSO PROVIDE THE PUBLIC WITH
44 A SYNOPSIS OF CLAIMS OR SETTLEMENTS PAID FOR SECTION TWO HUNDRED FORTY
45 OF THE LABOR LAW COVERAGE PURSUANT TO SUCH POLICIES OR CONTRACTS, LIST-
46 ING THE TOTAL OF SUCH CLAIMS AND SETTLEMENTS ATTRIBUTABLE TO SUCH COVER-
47 AGE. AT A MINIMUM, THE CLAIM INFORMATION REQUIRED SHALL CONSIST OF THE
48 ITEMS SET FORTH IN THE EXHIBIT OF PREMIUMS AND LOSSES OF THE
49 PROPERTY/CASUALTY STATUTORY ANNUAL STATEMENT, AS APPLICABLE TO THE
50 INSURER'S NEW YORK STATE BUSINESS AND IDENTIFIED AND CATEGORIZED SEPA-
51 RATELY FOR EACH ZIP CODE IN THIS STATE. SUCH FINANCIAL STATEMENT SHALL
52 BE SIGNED AND ATTESTED AS FULL, COMPLETE AND ACCURATE BY THE CHIEF EXEC-
53 UTIVE OFFICER OF THE INSURER, AND HE OR SHE SHALL BE HELD PERSONALLY
54 RESPONSIBLE WITH RESPECT TO THE ACCURACY OF THE CONTENT OF SUCH STATE-
55 MENT. THE SUPERINTENDENT SHALL PROVIDE INSURERS WITH A METHOD TO SUBMIT
56 THEIR FINANCIAL STATEMENTS ELECTRONICALLY VIA THE INTERNET, WHICH METHOD

CENTER SUES TO END TAXPAYER-FUNDED UNION LEAVE

Most people are unaware that their tax dollars are going toward paying union leaders in the public sector to be freed from the taxpayer funded position to concentrate on lobbying for the union's causes. The center does not begrudge union members the opportunity to advocate for its interests. There are legitimate grievances that must be litigated, and, of course, there are work rules, wages, and benefits that must be negotiated. But these items should be lobbied for by union leaders while paid for through their union dues. Unions in the private sector fund their union leaders activities through dues paid for by its members. Only in the public sector are the union members spared having to pay for union leave, and instead have taxpayers subsidize that effort.

Union leave results in double taxation to the taxpayers. First they are paying for the union leaders' activities that further the unions' interests, and then they are paying a second time for a replacement worker who will carry out the public functions that were originally intended to be performed by the union leader who is now on leave.

Various scholars throughout the nation have opined that this taxpayer funded union leave is nothing more than an unconstitutional gift of public funds for private purposes. This has led to a number of lawsuits seeking to invalidate these expenditures. The closest the opponents of taxpayer-funded union leave came to overturning the practice was in a lawsuit filed in Arizona in 2016, Both the lower court and the Appellate Division sided with the plaintiffs, who claimed that the expenditure of taxpayer dollars for union leave violated the state's constitutional ban on gifting public funds for private purposes. The defendant unions claim that so long as the provisions were negotiated by the parties, they could not be invalidated. By that logic, the parties would be able to negotiate a provision that paid African-American workers less money for the same work that a white worker performed. That would obviously be unconstitutional and the provision would be voided.

Would we allow management to negotiate a special gift to the union leaders, such as a private cruise or a gold watch. Obviously not. The fact it was negotiated would not overcome the fact that this is an illegal, unconstitutional gift of public funds to a private individual.

The advocacy of union leadership does not promote a public purpose. It is not teaching our children or patrolling our streets. It is furthering the wages and benefits of the union members. That is a private gain. In fact, it is rather ironic that this system forces taxpayers to foot the bill

for union leaders to lobby for higher wages and benefits that ultimately raises the taxes of those very same taxpayers. In essence, taxpayers are paying to negotiate against themselves.

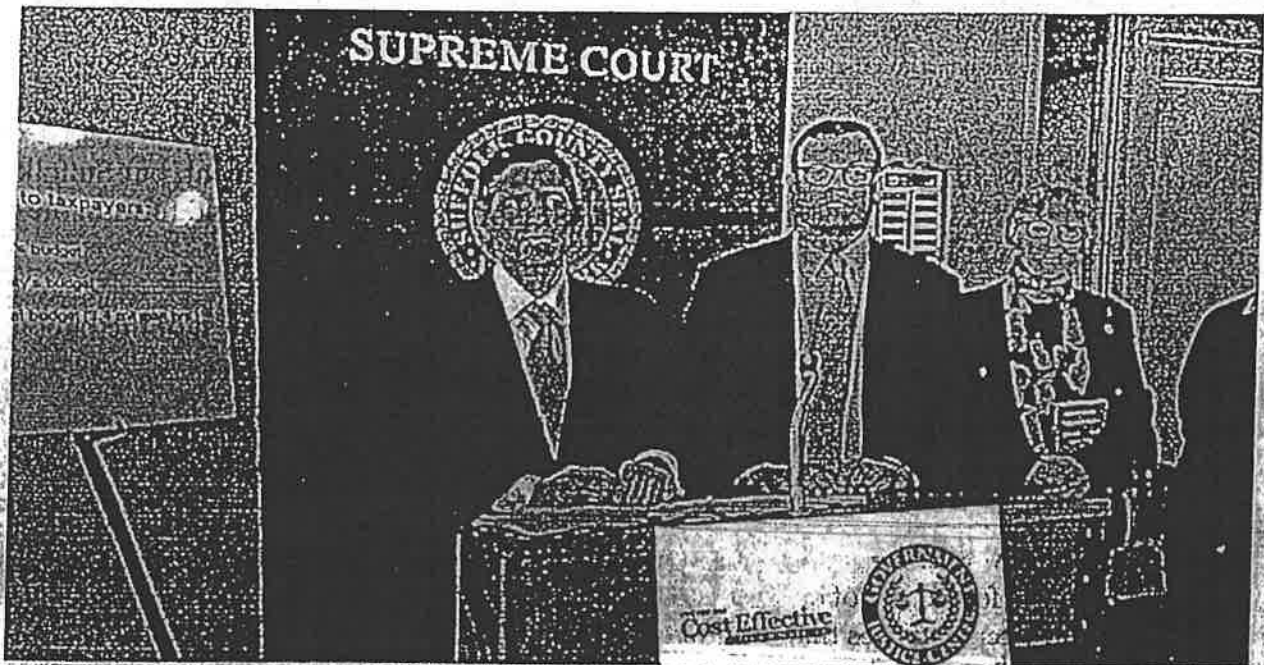
The Arizona Appellate Division's decision invalidating union leave went to Arizona Supreme Court in 2017. While the court usually had a 3 to 2 conservative advantage, one of the conservative judges had to recuse himself on the issue. His replacement, appointed by the Arizona government, was a liberal who tilted the final decision in favor of the union. The final 3-2 decision overturning the Appellate Division left in place the taxpayer subsidized union leave concept.

But the closeness of the decision and the victories in the lower courts have given hope to those in other states who are seeking to finally declare these payments as unconstitutional gifts.

The center combined forces with the Government Justice Center, based in Albany, to bring suit against union leave in New York. The Government Justice Center filed suit against the Syracuse school system, while the Center for Cost Effective Government brought suit against various unions in Suffolk County who have been employing the same practice.

In Suffolk alone, over \$3 million in taxpayer dollars annually is allocated for union leave purposes. In New York City, the figure is \$25 million. On the federal level, it's over \$160 million. As of the publication of this Year in Review white paper, the matter is pending in the New York State Supreme Court, Suffolk County. Hopefully, the center can set national precedent with a win in this case.

Long Island Business NEWS



Steve Levy and Cameron Macdonald announce lawsuits at State Supreme Court in Central Islip

Lawsuits aim to end public pay for union activities

By: David Winzelberg May 10, 2017 1 Comment

A joint effort of two nonprofit policy groups is aimed at stopping municipal governments from paying employees that take time off to work on union activities.

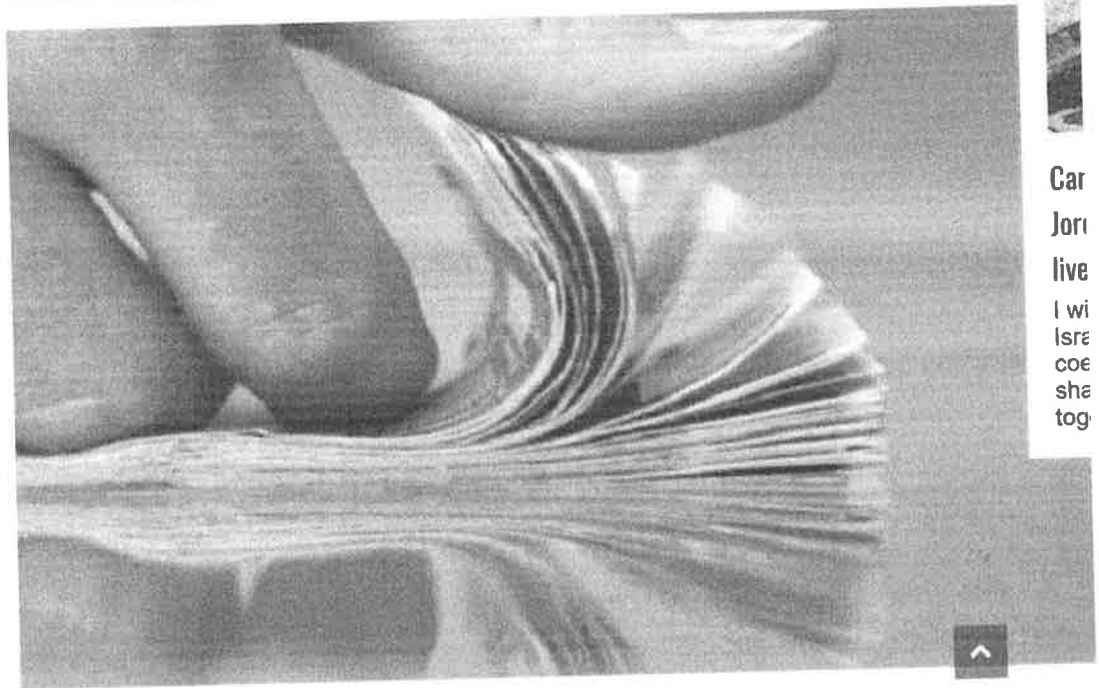
The Center for Cost Effective Government, headed by former Suffolk County Executive Steve Levy, and the Government Justice Center are behind the effort supported by lawsuits in three state courts targeting the practice known as "union leave," in which local governments and school districts spend millions of dollars every year to pay salaries and benefits of employees who leave their jobs to work on union business.

One of the lawsuits, expected to be filed in State Supreme Court in Central Islip this week, names several Suffolk law enforcement unions, including the Suffolk County Police Benevolent Association, as well as Suffolk's Association of Municipal Employees as defendants.

Filed by the Campolo, Middleton & McCormick law firm on behalf of plaintiff Kenneth Greenberg, a Suffolk resident, the suit claims that the employees' contracts reached through

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Levy: Why do taxpayers subsidize unions to lobby against taxpayers?

By Steve Levy December 2, 2016

Comments Off on Levy: Why do taxpayers subsidize unions to lobby against taxpayers?



We as a nation are in so many ways better off for having unions to advocate for workers' rights. But do taxpayers have an obligation to pay union leaders' salaries? I think it can be argued that taxpayers can be freed up from their regular jobs in order to lobby on behalf of the unions. In fact, I think it can easily be said that such taxpayer subsidies are unconstitutional, or at least may violate state statutes against gifts with a public purpose.

The Suffolk County Executive's 2017 budget calls for cuts to numerous bus routes serving the working class as well as cuts to a plethora of not-for-profit agencies. The county could free up \$2-3 million annually for these routes and agencies if we simply stop paying for the concept of "union leave."

As a former elected official who had a responsibility to negotiate with the unions on behalf of taxpayers, I never fully understand why I was negotiating against a full slate of union leaders who were being paid to lobby against taxpayers' interest. Now, don't get me wrong, I fully respect and appreciate the important role that union leaders play in ensuring their hard-working members are properly protected (and fully support the employees who get the benefits of a contract should have to pay their dues), but why should taxpayer employees be the bill for the union leaders to do their union work when the union leader is not performing any service? God bless these leaders for their advocacy, but they should be paid out of union dues.

At the same time that unions are being subsidized to the tune of \$3 million annually, the PBA union fur

so flush that they are able to expend hundreds of thousands of dollars on lobbying for or against and a new building they just purchased in Brentwood for \$4.5 million.

Wouldn't it make more sense to use money presently slated for union leave for our not-for-profits or to help the needy?

New York is not alone in having to deal with this burden. In fact, over \$122 million a year of taxpayer funds is expended to provide union leave for federal union leaders, according to the Mackinac Policy Center. The word is out that President-elect Trump will be seeking a revocation of this policy.

Meanwhile, many localities and states are pushing to end this taxpayer expense; through legislation in Idaho or by lawsuits in Pennsylvania. As recently as 2014, an Arizona court held the practice as being unconstitutional.

Will New York taxpayers finally be spared this burden as well? My efforts to end these payments were now, with painful cuts being implemented and the county selling off its buildings for cash, perhaps it's time for the legislature to reconsider.

Levy is president of Common Sense Strategies, a political consulting firm. He served as Suffolk County state Assemblyman, and host of "The Steve Levy Radio Show."

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FOR IMMEDIATE RELEASE

CONTACT: 631-877-0940

info@CenterforCostEffectiveGovernment.org

May 10, 2017

Taxpayer advocates bring suit to end taxpayer subsidized union leave

On Wednesday, March 10th at 11 a.m., taxpayer advocates will converge on the steps of the Supreme Court in Suffolk County in Central Islip to announce the filing of a landmark lawsuit seeking the court to declare "union leave" unconstitutional. The "union leave" system provides millions of taxpayer dollars to municipal unions for their union leadership to be freed up from their taxpayer funded positions in order to lobby on behalf of the union's private goals.

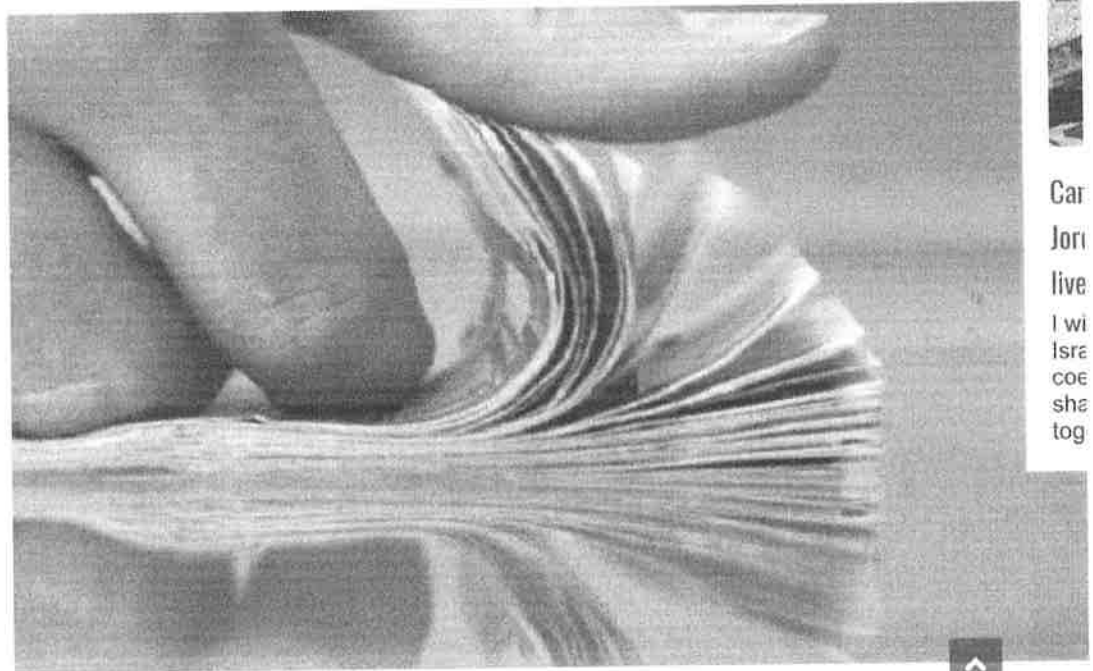
Numerous suits will be filed simultaneously throughout the state in three different judicial departments to declare union leave invalid on the county, school, and state levels.

Two taxpayer advocacy groups, The Center for Cost Effective Government (CFCEG) and The Justice Center, in conjunction with the Ronkonkoma, NY law firm, Campolo Middleton & McCormick, have spearheaded a joint venture to coordinate law suits on Long Island, in Albany and in Syracuse to enjoin governments from paying out any further union leave money.

An action on behalf of citizen plaintiff, Kenneth Greenberg of Mt. Sinai, NY, seeks to invalidate union leave for municipal unions on the county level. The suit in Syracuse is being brought against the Syracuse School District, while the litigation to be commenced in Albany seeks to prevent the state from using taxpayer funds for union leave for unions representing state unions.

The plaintiffs allege that the concept of union leave violates the Gift Clause of the New York Constitution, which prohibits giving taxpayer funds for nonpublic purposes. The plaintiffs insist that work done to bolster the wages and benefits of employees, as well as lobbying for

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Levy: Why do taxpayers subsidize unions to lobby against taxpayers?

By Steve Levy December 2, 2016

Comments Off on Levy: Why do taxpayers subsidize unions to lobby against taxpayers?



We as a nation are in so many ways better off for having unions to advocate for workers' rights. But do taxpayers have an obligation to pay union dues? Can we be freed up from their regular jobs in order to lobby on behalf of the workers? In fact, I think it can easily be said that such taxpayer subsidies are unconstitutional, or at least may violate state statutes against gifts with a

purpose.

The Suffolk County Executive's 2017 budget calls for cuts to numerous bus routes serving the working class, as well as cuts to a plethora of not-for-profit agencies. The county could free up \$2-3 million annually for these routes and agencies if we simply stop paying for the concept of "union leave."

As a former elected official who had a responsibility to negotiate with the unions on behalf of taxpayers, I never fully understand why I was negotiating against a full slate of union leaders who were being paid to lobby against taxpayers' interest. Now, don't get me wrong, I fully respect and appreciate the important role that union leaders play in ensuring their hard-working members are properly protected (and fully support the employees who get the benefits of a contract should have to pay their dues), but why should taxpayers pay the bill for the union leaders to do their union work when the union leader is not performing any service for the taxpayer? God bless these leaders for their advocacy, but they should be paid out of union dues.

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New York is not alone in having to deal with this burden. In fact, over \$122 million a year of taxpayer funds expanded to provide union leave for federal union leaders, according to the Mackinac Policy Center in Michigan. The word is out that President-elect Trump will be seeking a revocation of this policy.

Meanwhile, many localities and states are pushing to end this taxpayer expense; through legislation in Michigan or by lawsuits in Idaho or Pennsylvania. As recently as 2014, an Arizona court held the practice as being unconstitutional.

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PRESS ADVISORY - Wednesday, May 10, 2016

CONTACT:

Steve Levy [631-877-0940](tel:631-877-0940)

Cameron Macdonald [443-621-8904](tel:443-621-8904)

TOPIC: Lawsuit to Stop Unauthorized Government Spending

WHEN: Wednesday, May 10, 2017, 11am

WHERE: John P. Cohalan, Jr. Courthouse (second floor vestibule outside Supreme Court wing), 400 Carleton Avenue, Central Islip, NY

WHAT: Representatives from the Center for Cost Effective Government (CFCEG) and the Government Justice Center, in conjunction with the Ronkonkoma law firm Campolo Middleton & McCormick, will announce a landmark lawsuit seeking to end an unauthorized practice by several local governments and school districts that is costing New York taxpayers tens of millions of dollars each year.

Speakers will include retired Suffolk County Executive Steve Levy, president of CFCEG, and Cameron Macdonald, executive director of the Government Justice Center.

purpose, just the interests of labor unions. There is no reason for taxpayers to foot the bill for this expense."

Competitive Enterprise

Goldwater Institute Oct 2014

"Governments at every level allow their employees to take "release time" from their regular jobs to serve as union representatives. But this is no mere "release"—in many instances governments pay public employees their normal salaries and benefits, even though they are actually working for the unions. Public employees use release time to negotiate higher wages and benefits, to file costly grievances against their employers, and even to engage in electoral politics and lobbying—all at taxpayer expense."

"This means that when unions dispute salaries, file costly grievances, or drag out attack campaigns against city officials, taxpayers are paying for both sides of every fight."

"The activities performed by employees on release time are varied, and often bear no resemblance to the duties for which the employee was hired. Moreover, in many instances, release time employees engage in activities that are often at direct odds with the interests of their public employers."

For example, release time is used to campaign for candidates for public office and lobby legislative bodies on bills (in many cases taking positions on legislation that is contrary to the employer's position). Taxpayers are, therefore, funding the political activities of a private organization that may be advocating for legislation with which many taxpayers vehemently disagree."

cannot determine the value."

Turkmen. an expenditure was forbidden if the primary beneficiary was a private entity and the municipality only incidentally benefited, finding that NPP was the primary beneficiary of the Agreement and that the public of Phoenix was only an incidental beneficiary.

Levy is president of Common Sense Strategies, a political consulting firm. He served as Suffolk County Executive and State Assemblyman, and host of "The Steve Levy Radio Show."



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previous CBAs, merely because it has been “bargained for,” does not make such agreement legal or enforceable.

The Defendants’ instant Motions to Dismiss largely ignore the black-letter premise that one cannot contract for something that is unconstitutional on its face; and just because one has a duty to negotiate, does not give free reign to include otherwise unconstitutional provisions in a CBA. *United Calendar Mfg. Corp. v. Huang*, 94 A.D.2d 176, 463 N.Y.S.2d 497 (2d Dept 1983). Further, the standard of review on motions under CPLR 3211, as filed by Defendants, is simply the objective sufficiency of the pleadings. *511 West 232nd Owners Corp. v. Jennifer Realty Co.*, 98 N.Y.2d 144, 152, 746 N.Y.S.2d 131 (2d Dep’t 2002). As such, these papers turn on the Complaint itself. The Complaint, as more fully discussed below, is clear, sufficient, and alleges a basis by which the Defendants may be found liable herein. The Defendants’ Motion to Dismiss this Complaint must then fail as a matter of law, and the Defendants’ Motions must each be denied in their entirety as a matter of law.

STATEMENT OF FACTS

Terms defined in the Affirmation of Patrick McCormick, Esq. dated November 30, 2018 shall have the same meanings here. This Court is respectfully referred to Plaintiffs’ Amended Complaint (*See* Defendant Suffolk County Superior Officers’ Association, Inc.’s Affirmation at “Exhibit A”, hereinafter “the Complaint”), for a full recitation of the relevant CBA provisions herein, the relevant facts and specific allegations.

STANDARD OF REVIEW

On a motion to dismiss under CPLR 3211, the court must take the allegations in the complaint as true and resolve all reasonable inferences in favor of the pleader. *Minskoff Grant Realty & Management Corp. v. 211 Manager Corp.*, 71 A.D.3d 843, 845, 897 N.Y.S.2d 485 (2d

of action under the law. *Id.* Whether the plaintiff can ultimately establish all of the allegations contained in the pleadings should not be considered on a motion to dismiss. *EBC I, Inc. v. Goldman Sachs & Co.*, 5 N.Y.3d 11, 19, 799 N.Y.S.2d 170 (2005). In the instant matter, Plaintiffs Complaint is clear, specific, and provides a well-articulated basis to establish the facts, elements and allegations necessary to sustain their demand for declaratory judgment. As such, Defendants motions but be denied as a matter of law on that basis as well.

Under CPLR 3211(c), the Court may notify the parties that it intends to treat the instant motion as one for summary judgment, although no documents or “evidence that could properly be considered on a motion for summary judgment” has been provided by Defendants herein, and Defendants have not requested such relief from this Court. Upon notice from the Court that it intends to convert these papers pursuant to this subsection, Plaintiffs reserve their right to submit additional papers pursuant to CPLR 3211(c): *Nonnon v. City of New York*, 9, N.Y.3d 825, 842 N.Y.S.2d 756 (2007).

Under the above standards, Defendants have not met their burden for dismissal of Plaintiffs’ Complaint under any law, and their motions must each be denied in their entirety.

ARGUMENT

A trial Court’s only task in evaluating a motion to dismiss under CPLR 3211 is to discern whether the Complaint sufficiently alleges the elements of the causes of action it asserts. The Complaint “is to be afforded a liberal construction. The court must accept the facts alleged in the Complaint as true, accord the plaintiffs the benefit of every possible favorable inference, and determine only whether the facts as alleged fit within any cognizable legal theory.” *Kempf v. Magida*, 37 A.D.3d 763, 764, 832 N.Y.S.2d 47 (2d Dep’t 2007). Under this standard, Plaintiff’s burden is only to have sufficiently alleged their causes of action. Defendants’ arguments,

County. *Bordelau v. State of New York*, 18 N.Y.3d 305 (2011). In fact, private Union leaders are paid through private dues. Exempting public employees from having to use their Union dues to free-up their Union leaders is an unjust enrichment from the taxpayers that the private sector Union simply cannot receive. Certainly, it would not be permissible for Union leave to be paid by the County for Union members to campaign for certain candidates. It must be noted that Plaintiffs herein have attempted to obtain records relating to the time periods wherein Union leave was exercised, to confirm their information that Union leave may indeed be being used for campaign purposes but has thus far been unable to obtain those records through FOIL requests to the County.

It must also be stated that Plaintiffs are not arguing, and it is not their position, that the members of the Defendants' should not be paid for their time performing their Union leave duties. The work performed by Union leaders is noble and appreciated; it has become part of the fabric of the American experience. The Plaintiffs' position is simply that it is unconstitutional, under the laws indicated above, that the County be paying for the same. The County and its taxpayers must prioritize their spending, and not expend for such superfluous, not to mention unconstitutional, purposes; every dollar spent on Union leave is a dollar not spent on police protection, educating our children or caring for the elderly. In *Lecci v. Nickerson*, 63 Misc.2d 756 (Nassau County, 1970), the Court held that neither a pension or payment for vacations or military leave constitute a gift. Plaintiffs do not and will not contest the validity of such expenditures and in fact maintain that it is unseemly to speak of Union leave in the same breath as the concept of compensating our brave military members for their service to this country. In fact, the Court in *Lecci* stated that "being in a contractual relationship, this Court will favor those

Defendants allege that Plaintiffs do not have standing to file the instant suit. Pursuant to General Municipal Law §51, Plaintiffs have alleged in their Complaint that not only are they Suffolk County taxpayers, but that they pay at least \$1,000 in real estate taxes per year as required by the statute. Plaintiffs have complied with all applicable and timely requirements of this statute thus far and shall comply with any other requirements of that statute, including furnishing a bond which is to be “*approved by a justice of the supreme court.*” No time requirement is placed upon the bond requirement but that it be at the “commencement” of the action. Defendants have not even Answered here. The Court has not approved any such bond, nor has any application for the same been made. Plaintiffs are ready, willing and able to fully comply with the statute, and Plaintiffs have complied with all possible prerequisites enumerated therein. Further, as discussed in more detail above, the Plaintiffs have unequivocally alleged in their Complaint that the practice of using County money for private benefit is wasteful of the County’s taxpayer dollars and they have been personally aggrieved due to their standing in that class. See Complaint at ¶4-5, 25-26,

Defendants allege that the statute of limitations has run here. However, Defendants erroneously apply a three-year statute of limitations when this action clearly sounds in contract and its remedy requested, a declaratory judgment, is similarly related to contract, and both have a six-year statute of limitations. CPLR §213(2). It has been held that under the New York Constitution, there is no reason to distinguish between benefits under a collective bargaining agreement and a contract. *Piro v. Bowen*, 76 A.D.2d 392, 430 N.Y.S.2d 847 (2nd Dept, 1980).

Further, Plaintiffs have alleged in their Complaint based upon the most recent CBA’s of Defendants, and within the applicable statute of limitations as described above. Defendants thus failed to meet their burden sufficient to warrant dismissal on that basis. “On a motion to dismiss

CENTER DEFENDS TAX CUTS

Education is a big part of the Center for Cost Effective Governance's purpose. In today's political climate, Americans are overwhelmed by partisan posturing and propaganda. It's hard for residents to know what to believe. The days of having non-partisan, objective reporting have in many ways been supplanted by panels of cheerleaders from one side of the isle or the other debating each other.

Take, for instance, the debate over tax cuts. Do they wind up increasing deficits, or bringing in more revenue, thereby lowering the pressure on deficits. There really shouldn't be any substantial debate on this issue, because it is a question that can be answered empirically with the facts.

The center, through its research, has shown that the implementation of tax cuts by various presidents have indeed been successful in actually bringing in more revenue than what was collected the year before the tax cuts were enacted.

That was the case with the Kennedy tax cuts in the 1960s, which increased revenues by \$153 billion (62%) over an eight year period.

The Reagan cuts that followed in the 80's also increased revenues. There were many who had the false impression that it was the tax cuts that led to soaring deficits in the Reagan years. Our center corrected the record. While it is true that the deficit increased markedly in the Reagan years, it was due to increased spending, primarily in the area of defense, and not due to lack of revenues. In fact, had spending been kept in check, the deficit would have been erased.

Fast forward to the tax cuts of 2017. Newsday inaccurately opined in one of its editorials that the tax cut was the cause of the rising deficit in 2018. Our center researched the issue and submitted a response resoundingly refuting this misinformation. In fact, we showed that overall revenue increased.

The Newsday article misleadingly gave the impression that federal revenues declined because corporate tax collections shrunk. While it is true that corporate receipts diminished, any such drop off was more than made up by increases to the treasury from individual income tax collections. Once established that there was an overall increase in revenue to the treasury, it

could not accurately be stated that the tax cuts played any role in the rising deficit. The center corrected the record by noting that any increase to the deficit was entirely due to a record setting \$1.3 trillion budget that Congress passed and the president signed.

Once again, if one wants to solve a problem such as the deficit, one first must understand the root of the problem. We cannot be distracted by stating the problem as something it's not, namely tax cuts.

The center sent a response to the Newsday article, which was published. Interestingly, the editors demanded factual back up to our claims. This is actually good journalism on their part. As shocking as it must have seemed to them, they had to concede that our figures were indeed backed up with the facts.

The center also prepared an op-ed published in various media outlets that included a wish list of tax cuts and mandate relief that would result in significant savings to the public.

OPINION / EDITORIAL

\$1B tax cut for the top 1 percent? That's rich



Treasury Secretary Steven Mnuchin said he was studying whether his agency had the power to let Americans factor in inflation in calculating their capital gains taxes. Photo Credit: AFP/Getty Images / STR

By The Editorial Board

Updated August 9, 2018 6:23 PM

President Donald Trump's tax package, which included a cut in the corporate tax rate from 35 percent to 21 percent, went into effect on Jan. 1. As a result, corporate taxes paid have dropped this year by one-third. And the Office of Management and Budget has hiked its 10-year deficit projection by \$1 trillion since January.


The annual deficit, up 20 percent so far in 2018, will reach \$1 trillion next year. A level of shortfall once considered catastrophic even during an economic crisis is now the norm even during boom times. But apparently, the administration feels even more fiscal carnage is called for.

While corporations and wealthy stockholders benefited tremendously from Trump's cuts, many middle-class taxpayers, particularly in areas with high taxes like Long Island, will be devastated by a \$10,000 limit to the federal deduction for state and local income and property taxes that will hit home when they file their taxes early next year. Now the Trump administration is considering a plan to create another \$100 billion in tax cuts almost exclusively for the wealthy.

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The Trump plan under consideration involves reinterpreting the word "cost" in the IRS code so that people selling assets can adjust their taxable profits on capital gains downward by indexing for inflation. Former President George H. W. Bush considered such a change through regulation more than 25 years ago, but deemed an end run around Congress to be illegal. Trump would need 60 Senate votes to pass it, which is unlikely.

Analysis has concluded that more than 84 percent of the benefit would go to the top 1 percent of earners. More than 63 percent of that \$100 billion would go to the richest 325,000 taxpayers in the country. It's a very bad idea. — *The editorial board*

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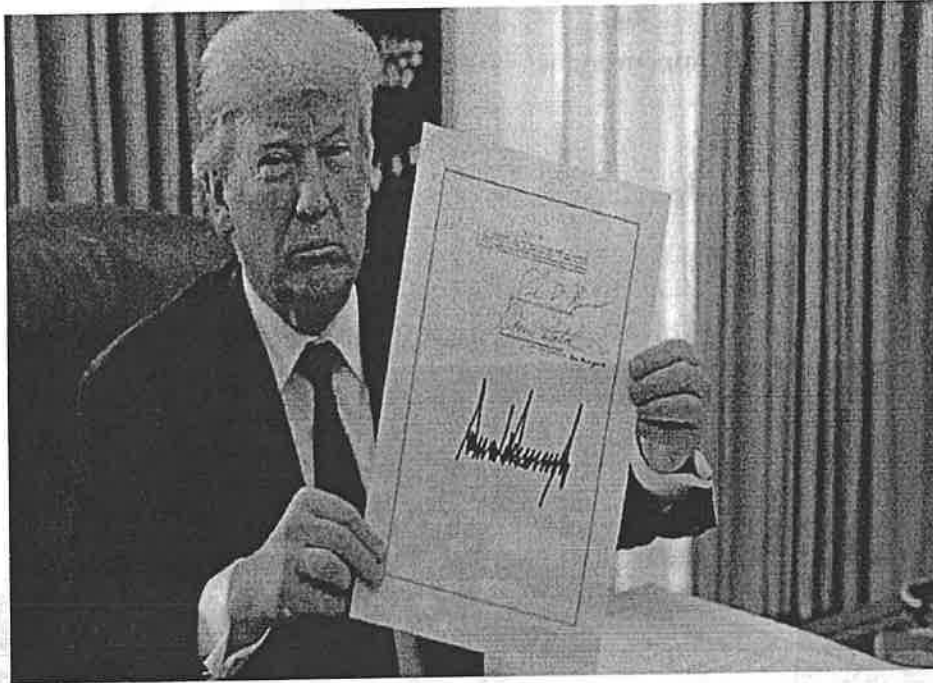
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By The Editorial Board

Newsday



Your Aug. 10 editorial "100B tax cut for top 1 percent?" is misleading in suggesting that the 2017 tax cuts led to lower revenues and a higher deficit. While it correctly cited lower corporate tax receipts, total collections including personal income taxes have grown by \$31 billion in the fiscal year that began in October, according to the Congressional Budget Office.

This isn't surprising; history proves that tax cuts work in raising revenue. President John F. Kennedy's tax cuts increased revenue by 62 percent over seven years (33 percent when adjusting for inflation), while President Ronald Reagan's cuts lifted revenues by 54 percent over six years (28 percent when adjusting for inflation), according to the Heritage Foundation.

Newsday is wrong to blame the tax cuts for the growing deficit. The real reason is excessive spending. Had federal officials not rammed through a record \$1.3 trillion budget, we would see a lower deficit, thanks to the tax cuts.

The tax law's cap on deductions for state and local taxes is flawed, but we can't ignore that local sales tax receipts are higher than projected due to the hot economy, or that the wealthiest Americans are now accounting for a higher percentage of tax payments. Data from the nonpartisan Tax Policy Center, reported in *The Wall Street Journal*, show the share of income taxes paid by the top 1 percent will reach 43.3 percent this year, compared with 38 percent last year.

Stove Levy, Bayport



Newsmax

The writer, a former Suffolk County executive, is executive director of the Center for Cost Effectiveness, a public-policy organization.



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2. Stop circumventing the tax cap

Since interest on bonds is exempt from the tax cap, more and more schools have been floating bonds of over \$200 million, which cost each household about \$250 per year for several decades. Make the cap a real cap. At the very least, require any bonding votes be held on the same day as the budget vote in May; not in winter, when folks are away.

3. Return school surpluses

Let this be the year the courts enforce provisions that require schools to return surpluses over four percent back to the taxpayers. This law has been ignored for too long. A law should be passed permitting the Comptroller to intercept state aid for districts keeping too much surplus, and return it directly to taxpayers.

4. Eliminate overtime from pensions

Employee shouldn't be able to double their pensions by working unlimited overtime in the last few years of service, thereby artificially increasing their base salary on which the pension is set. Six-figure pensions are becoming commonplace in public safety unions. It's unsustainable.

5. Allow schools to buy off of the federal purchasing list

At the Center's request, Rep. Lee Zeldin has sponsored a bill to allow schools to buy goods off the federal vendor list, as they can presently off the state list. The larger the pool, the lower the cost.

6. Abolish the Railroad Disability Board

Years after it was uncovered that 97 percent of retired LIRR employees were receiving disability pensions, reforms were supposedly enacted. The result? Ninety percent of employees are still being granted such pensions. Throw this board overboard and let claims be heard through a more balanced entity.

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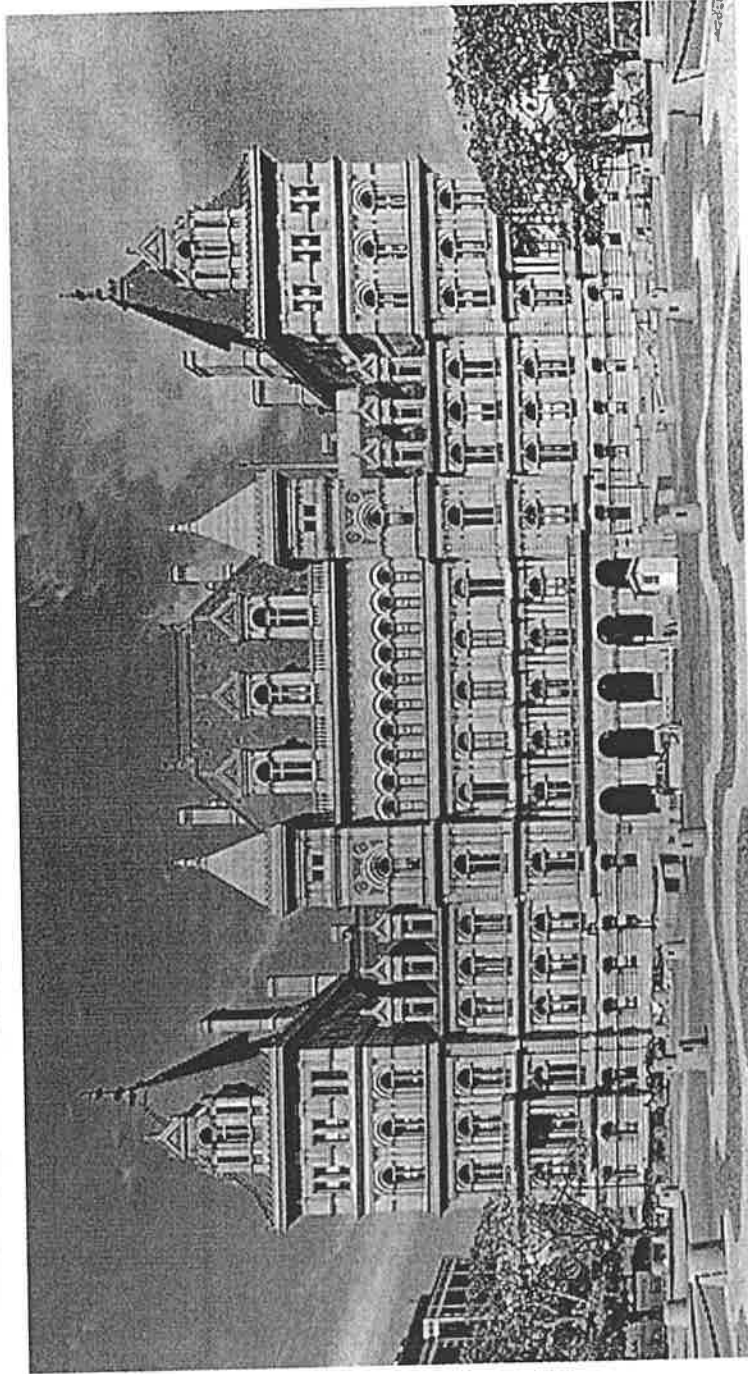
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New York State Capitol Building

Levy: Albany wastes another chance to make NY more affordable

By: Commentary | April 17, 2018

Comments Off on Levy: Albany wastes another chance to make NY more affordable

Another year, another New York state budget, and yet another lost opportunity to make the Empire State more affordable.

Tax Cuts

Kennedy Tax Cut

- 20-30% across the board.
- Approximate 5% annual growth.
- Revenue increase from 94B in 1961 to 153B by 1968, a 62% increase (32% adjusted for inflation).

Reagan Cuts

- Revenue grew 54% from 1983-89 (28% after inflation).
- Wages rose 12.2% for upper levels, 11.8% for lower.

2017 Cuts

- April revenues in 2018 increased by 13% over previous year.

MAKING SCHOOL PURCHASES MORE COST EFFECTIVE

The Center for Cost Effective Government has been leading the charge for a landmark law that would allow schools throughout the nation to purchase their goods and services off of the official federal vendor list.

Many schools in various states already have the capability of getting high volume discounts by purchasing their products off of pre-approved vendor list accumulated by their respective states. For instance, in New York, the state will put out a bid and seek competition from numerous private competitors to find the lowest price possible.

The federal government, however, has not been as open for schools to effectuate purchases from private companies enumerated on the federal list. The center believes this is a lost opportunity for thousands of school districts throughout the nation, which could otherwise be obtaining significant savings.

The feds do allow for purchasing off the federal list in very select areas, including some computer purchases and cyber security instruments. The Center believes there's no reason why the list should not be open for all other potential purchases as well.

The center was successful in convincing Long Island Congressman Lee Zeldin to sponsor a bill to do just that. The bill has attracted numerous cosponsors and is now in committee. Were the bill to pass, it would set a fabulous precedent and likely save millions of dollars for schools throughout the nation.

CENTER FOR

Cost Effective GOVERNMENT

Rep. Zeldin to speak at Center network event

Please join us for a free networking event and buffet (cash bar) as the Center for Cost Effective Governance welcomes US Congressman Lee Zeldin on Thursday, April 5 at Madison Steak House in Hauppauge from 6 PM to 8 PM.

Mr. Zeldin will be discussing the bill he is introducing on behalf of the Center that would allow schools to buy goods off of the federal purchasing list to effectuate additional bulk rate savings for taxpayers.

Also speaking will be Scott Matalon of Ameriprise Financial, who will discuss the impact of the new federal tax bill on New Yorkers.

Seating will be limited, so please RSVP as soon as possible to costeffectivegov@gmail.com

Sincerely,

Steve Levy
Center for Cost Effective Government

See what's happening on our social sites



Allowing school districts to utilize GSA supply schedules

Our Center for Cost Effective Government, on behalf of the many school districts with which we work, is respectfully requesting that your office consider assisting us in gaining access to the high volume discounts available through all of the various GSA supply schedules. Currently the General Services Administration and NYS General Municipal law only allows access to a select few GSA supply schedules.

As you know, school districts are presently able to utilize BOCES cooperative bids as well as New York State and various county contracts to make purchases. Federal GSA supply schedules offer even larger volume and potentially greater savings on a wide variety of items that may not be available on contracts at a more local level. There would seem to be no logical reason why school districts would be prohibited from amassing savings using this option.

This is especially critical at a time when schools are squeezed by our tax caps and the governor is calling upon schools and local governments to explore consolidations and work in a cooperative fashion.

The state can help school districts meet this high bar it set by working with the federal General Services Administration to allow school districts as well as other municipalities in New York State to participate in more than just one or two opportunities available through federal GSA supply schedules.

Interestingly, the law presently allows school districts to buy IT equipment from GSA supply Schedule 70. Why would the state request GSA to open the general supply schedule for IT products, but not, for instance, athletic equipment or furniture? State contracts may exist for some of the commodities offered by GSA supply schedules but the state contracts may not cover all items required by a municipality. GSA contracts would be an additional resource to fill this gap.

Therefore, we ask for your assistance in making more GSA schedules available for use in New York State. Please let us know if you will be willing to assist with this request.

[DISCUSSION DRAFT]115TH CONGRESS
2D SESSION**H. R.** _____

To amend section 502 of title 40, United States Code, to allow State and local governments to purchase from the Federal supply schedule, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. ZELDIN introduced the following bill; which was referred to the Committee on _____

A BILL

To amend section 502 of title 40, United States Code, to allow State and local governments to purchase from the Federal supply schedule, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the ["_____ Act
5 of 2018"].

DISPELLING MYTHS ABOUT SCHOOL SPENDING

The Center for Cost Effective Government has taken a stand against those who would mislead the public about how taxpayer dollars are being spent to finance our schools.

The center has sought to educate the public about the myth that poorer school districts in New York State are being underfunded. The center reacted to a letter published in Newsday which claimed that lower wealth school districts were being cheated by having less money dedicated toward its students than high wealth districts. This misconception is held by not only lay people, but by elected officials and education professionals. The theory is that students in low wealth districts are being short changed because less funding is being allocated for their educational needs. Research conducted by the center proves this theory to be a fallacy.

The center prepared a PowerPoint to clearly illustrate that the low wealth district underfunding narrative is misleading. While the purveyors of the misinformation stated that the low wealth district of Hempstead is being underfunded, the center notes that they had cherry picked their information. For instance, they note that Hempstead has a lower property tax base than wealthier nearby Garden City, but ignore the fact that Hempstead receives far more state aid than the wealthier surrounding communities. In fact, while Garden City received a mere \$5 million in aid, Hempstead received \$126 million. When all revenues are combined, low wealth Hempstead actually pays more per student than does the wealthier Garden City. Moreover, Hempstead spends more per student than the average school district in New York State and more than twice the average nationwide.

Educating the public about this fact is essential if we are to properly remedy the disparate test scores that presently exist within our school systems. For too long, many so-called experts have said that the disparities in test scores are directly related to funding. The facts supplied by the center prove this not to be the case. It is important that we not divert our attention, and instead focus on true causes of these problems. When it comes to our schools, there are many problems that need to be addressed, including lack of discipline, the curriculum, and family support.

We must stop harping solely on funding. The amount of funding to our schools in New York State doubled in a seven year period, despite the state having endured a horrific recession. Yet, test scores have not shifted noticeably. New York's overall test scores continue to lag behind most of the other states in the nation, despite the fact that it spends twice as much.

Income inequality a factor in school failure

Three May 27 opinion pieces under the title "Hempstead schools need bold action" highlighted one of the salient reasons why some schools fail. Money is an important factor. High-performing schools spend far more per pupil because their property taxes are usually higher.

This is where income inequality begins. While I don't blame parents and wealthier districts for wanting the best for their children, people in poor districts also want the best. They just don't have the resources to pay for it.

Income inequality divides us more than racial inequality. When everyone gets an equal shot at a bright future, only then will the playing field be leveled. Students in wealthy districts should not be the only ones to have a better shot at success. It benefits all of us if everyone succeeds. How to accomplish that is complex. But if we want it to happen, it can.

Susan Masone,
Huntington

problem. Unfortunately, continuing to hold onto this discredited concept punishes not only over beleaguered taxpayer, but also the very students that the dogooders claim to be advocating for.

Ms. Dogooder states that schools such as Hempstead, in Nassau County, are spending far less per pupil than wealthy districts, because they cannot raise enough in property taxes. This is simply false.

Ms. Dogooder is correct in her assertion that Hempstead, will raise less money from property tax collections than say, Garden City, a far wealthier zip code. But she seems to be unaware that disproportionately higher state aid granted to low wealth districts more than offsets any disparities in property tax collections.

For instance, while the wealthy district of Garden City garners \$5.7 million in state aid, Hempstead receives \$119 million. Thus, the \$27,000 average spending per-pupil in Hempstead, is actually more than the \$25,000 per-pupil spent in Garden City.

From 2006 to 2015, state aid to education increased by \$6 billion to a total of \$23 billion, despite a brutal recession in between. By 2018, aid had risen to almost \$27 billion, with lower wealth districts receiving the far more dollars per pupil.

The average New York State spending per pupil in 2015 was \$21,000, almost double the \$11,000 national average. Using Ms. Dogooder's logic, wouldn't that mean that New York test scores would be twice as good? Actually, our reading test scores for fourth-graders are below national average, according to "The Nation's Report Card", proving that simply pushing more money toward the problem is not the solution.

Perhaps if we instill more competition and discipline, along with higher standards, we would see better results. Rather than pretending that low performance is the

Income Inequality a Factor in School Failure

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Susan Masone,
Huntington

School Spending

2015 average spending per pupil

- New York State = \$21,000
- National average = \$11,000
- Nassau County = \$25,000
- Garden City = \$25,000
- Hempstead = \$27,000
- State Aid per district

2018 State Aid per district

- Half Hollow Hills = \$28M
- Central Islip = \$98M
- Brentwood = \$243M
- Hempstead = \$119M
- Garden City = \$5.7M
- State Aid grew 24% since Cuomo's first budget

SUPPORTING COUNCILMANIC DISTRICTS

This Center for Cost Effective Governance has been a consistent promoter of good government. Government access and transparency must be maximized. The center opposes efforts to dilute the power of each individual vote.

We believe that that is what happens through at-large elections of town board members. A New York State Supreme Court decision held that the at-large system in the Town of Hempstead was an unconstitutional violation of the rights of minorities to have adequate representation.

The at-large system is one where a candidate for the town board is elected from throughout the entire town. The candidate obtaining the most votes garnered throughout the entire town wins the election and attains the privilege to serve on the board. Theoretically, all five members of a particular town board can reside on the same block, even though the town may consist of dozens of different hamlets. In the case of Islip Town in Suffolk, all five members of the town board live in the wealthier portion of the town, south of Montauk Highway. Not a single minority was ever elected to the Islip Town Board, despite the fact that minorities comprise 25% of the town's population.

The court in the Hempstead case required that the town elect its councilmembers from six distinct councilmanic districts, each consisting of approximately equal population.

The councilmanic system is the superior system for myriad reasons. Candidates can be selected from their own communities. Areas that were often overlooked or treated as dumping grounds would now have an advocate speaking directly for them. Perhaps most importantly, the smaller districts allow lower financed candidates a chance of getting elected. The at-large system often forces the candidate to be beholden to the party leader, or the powers that be, to obtain the funding necessary to get elected. Smaller districts allow for candidates to bypass party power structure and obtain support directly from the people on the grassroots level, going door to door if necessary.

A number of groups have initiated a lawsuit against Islip Town to require councilmanic districts be imposed by the court. The center supports this lawsuit, not only to finally provide representation for minority communities, but also to enhance representation for those hamlets that have been underserved. Smaller districts require less money to wage an effective campaign, and that can help foster more freethinking, independent legislators.

In September, the center hosted a meeting with its members and the attorney who brought the case, Frederick Brewington. Mr. Brewington, a well-known civil rights attorney on Long Island, spoke for over an hour about the concept. A healthy debate about the pros and cons of the issue ensued thereafter.



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Levy: Councilmanic districts bring government closer to the people

By Commentary | July 10, 2018

Comments: Ofen Levy: Councilmanic districts bring government closer to the people



Steve LEVY

Earlier this month, the left-leaning advocacy group, Make the Road New York, demanded that Islip Town members be elected through local councilmanic districts, rather than at-large. While I usually agree with the group espoused by Make the Road New York, in this case, they are on the right

issue.

All Long Island towns should be electing their representatives through distinctly drawn districts that represent designated hamlets so that each of these communities is assured the attention they deserve. Yet, only as Brookhaven in Suffolk and Hempstead in Nassau, actually provide for this type of government that people.

The argument for the at-large system, where a council person is elected by garnering the most votes of the town's residents, is that the method prevents parochialism. Theoretically, decisions can be made for the good of the town, rather than by the "not in my backyard" opposition. But, with any vote, those representing outside an impacted area will still have a majority to rule the day. At least with councilmanic districts, the impacted community will have its own representative who can speak out on its behalf.

If, for instance, a waste transfer station was proposed for a particular community, one would hope that council members would take the concerns of the local residents into account. And, in most cases, they

type of analysis and advocacy for those residents would probably be more vigorously promoted by an is accountable just to those folks in the area. It's simple common sense.

That council district representative would not have the ability to veto a project, but would certainly be able to highlight its flaws and to garner the attention needed to make sure it is not rubber stamped.

Yet another important rationale for the district system is that it ensures that a local community is represented by someone who lives within that community. Presently, all four council members in Islip reside south of the Highway. That doesn't mean that any of those individuals are not going to take seriously the concerns of the highway. But if you are a Hispanic in Brentwood, or an African-American in Central Islip, you have to wonder whether someone from your community will ever be able to be sworn in as a councilmember in the town.

Decades ago, the Suffolk County Legislature in redrawing its district lines, created a district for the pre-minority communities of Brentwood and Central Islip. They have been represented by minority councilmembers ever since.

The legislature has also proven to be a better form of government than the old board of supervisors, because smaller districts provide the opportunity for underfunded, more independent candidates to have a shot at being elected.

As an underfunded 25-year-old unknown candidate for county legislature in 1985, I was example A of No one gave me a chance to win the race. I had little backing from the party, no big corporate sponsor name recognition. Yet, I was able, with just a \$5000 investment and a voracious door knocking campaign, to achieve a narrow victory.

That would never have been possible if the size of my district was four times bigger, as is the case for the town council. Carving the town into four distinct districts would make money far less important. It would reduce the need of a candidate to beg for the party leader's support, or to have to rely on special interests to win a reelection campaign.

Steve Levy is President of Common Sense Strategies, a political consulting firm. He served as Suffolk County Executive and as a state assemblyman.

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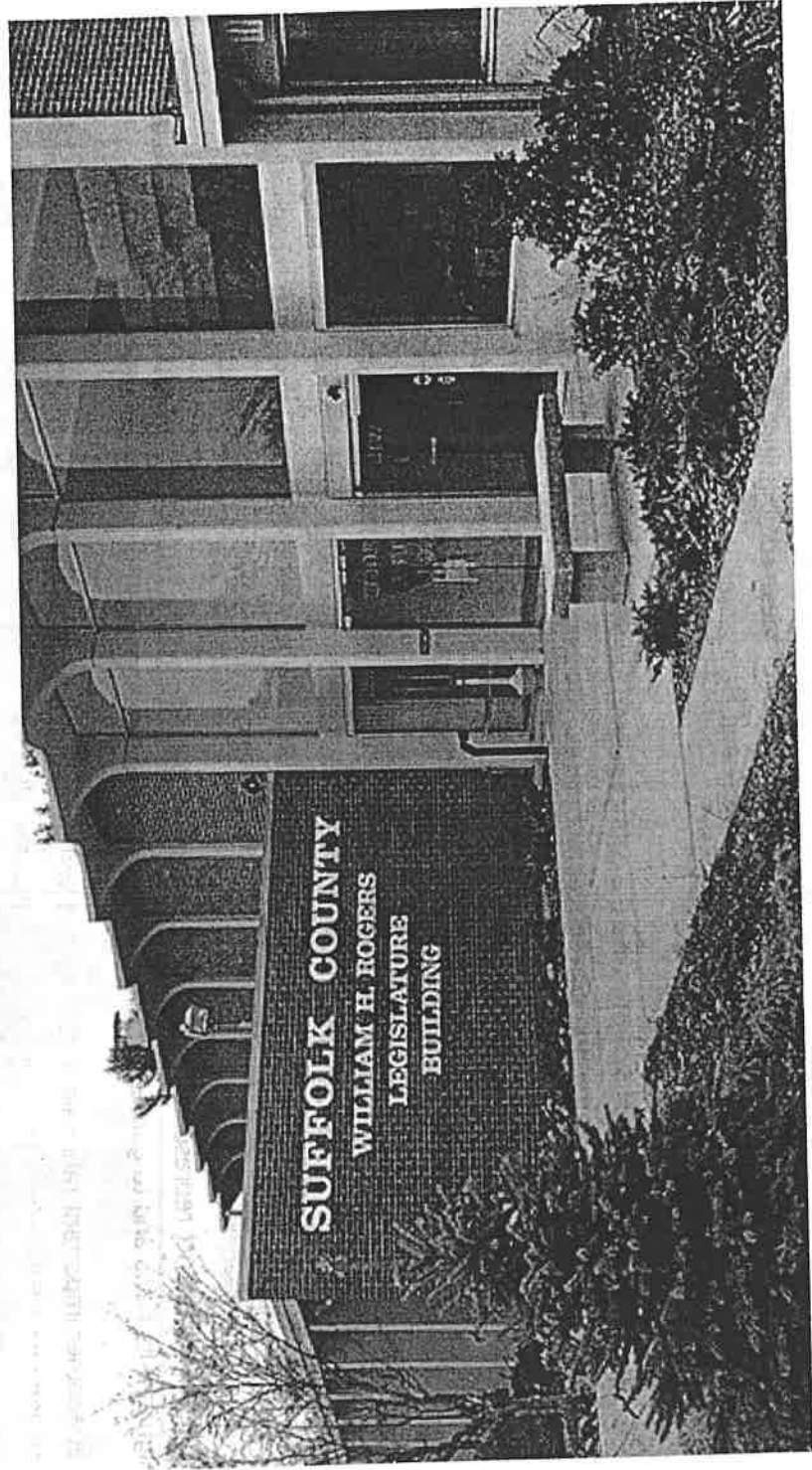
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Levy: Councilmanic districts bring government closer to the people

- By: Commentary July 10, 2018
- Comments Off on Levy: Councilmanic districts bring government closer to the people

CENTER FOR
Cost Effective
GOVERNANCE

September 12th, 2018

Few seats remaining. Must R.S.V.P. by September 17th

**Free Center network dinner to discuss:
Councilmanic districts and three paid months off for grandma's funeral.**

Greetings!

In addition to our discussion about councilmanic districts, our meeting at Madison Steak House on September 24 (6-8pm) will focus on a State bill that would require businesses to provide up to 3 paid months off for employees to grieve the loss of a family member, including grandparents.

Information regarding our councilmanic discussion is available below:

Our next Center meeting will be Monday, September 24th, 2018 at Madison Steakhouse from 6:00 pm - 8:00 pm. The topic of discussion will be whether councilmanic districts are preferable to electing town council members at large, throughout the whole town. Our featured guest is the prestigious civil rights attorney, Frederick K. Brewington of Nassau County. The buffet is free. Cash bar.

Please R.S.V.P. to costeffectivegov@gmail.com

Sincerely,

Steve Levy, Executive Director
Center for Cost Effective Governance

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| Councilmanic | Districts

Elects council members from one select area, rather than town wide.

More local and minority representation.

Less dependence on money or party bosses.

Only 3 LI towns (Brookhaven, Hempstead, N. Hempstead).

CENTER PUSHES FOR ELECTION REFORM

The center has set its sights on the archaic and byzantine election laws prevalent in New York State. New York State election laws have been labeled some of the most restrictive in the nation. The state has been notorious for bouncing people off the ballot for the slightest technicality.

New York is one of a minority of states that does not offer an opportunity for early voting. There have been discussions in some circles to bring forth legislation that would reform the state's election laws. The center has evaluated many of these proposals supporting some, while opposing others.

The center's goal is to enhance voter participation without sacrificing the integrity of the voting process. That is why the center is supportive of early voting and automatic voter registration upon an individual reaching his or her 18th birthday. There should be at least one weekend day prior to the first Tuesday of the month in November that would give working residents more flexibility in casting a vote.

On the other hand, the center supports purging from the voting list those who are deceased or have not voted in numerous election cycles. Maintaining ineligible people on the rolls could lead to potential fraud.

The center also opposes same day registration because it would be very difficult for untrained, part-time election inspectors to be able to automatically register someone at the very same time he or she is casting a vote.

The center believes that some voter identification laws are appropriate, especially if voters are still able to cast a vote without their ID, yet are provided the opportunity to present verification within a short period thereafter. The center rejects arguments that voter ID or purging the rolls of the deceased individuals are forms of voter suppression. In fact, it has never been easier to cast a vote in our nation. While voter fraud is indeed very rare, just a few bogus votes can tilt very close elections.

There is concern, however, when polling places are closed, thereby leading to long lines in which to wait before one can cast a vote. No one should have to wait more than 30 minutes to vote, and if this is happening, it is incumbent upon state officials to supply enough voting places

to lessen the wait.

The center has also been leading the charge to end the partisan gerrymandering of legislative districts. In prior years we have testified for the need to create independent panels (possibly headed by retired judges) to redraw district lines, rather than leaving the task to incumbent politicians, who are motivated by their own self-preservation.

The center has been educating the public about various lawsuits, presently working their way up to the Supreme Court, that could have a profound effect on how redistricting is performed in the future. One of our articles was published in the Washington Examiner on this very subject.

We also published op-eds promoting term limits and requiring that vacancies in public office be filled via special elections, as opposed to appointments from current elected officials.

Moreover, the center has expressed concern over the possibility of outside entities with nefarious intentions from hacking into electronic voting systems. We have been strong believers in the lever voting machines, which are hack-proof, and have experienced few, if any, problems in their decades of use. We abide by the notion that "if it ain't broke, don't fix it." Electronic machine mania came about after the hanging chad controversy of the 2000 presidential elections. Cottage industries sprung up encouraging state legislators to expend hundreds of millions of dollars to purchase their electronic machines without providing any more safety than existed with the lever machines. In fact, it could be said that our electoral process is now more in danger of being manipulated than was the case in the past.



Center for Cost Effective Government and Reclaim New York call for legislators to cast budget votes before Election Day.

The Center for Cost Effective Government, a fiscally conservative think tank based on Long Island, joined forces with the government watchdog agency, Reclaim New York, in calling for Suffolk County governments to vote on its budget, before, rather than after, Election Day. The Center is demanding that legislators from both parties approve a bill similar to the one introduced by Suffolk Legislator Tom Cilmi that would require budget votes to be cast before the election, and that they move this year's vote to Monday November 5th.

"Though this is not an election year for county officials, the law should be changed so the public has an opportunity to see what the tax rate will be before they go to the polls," said former County Executive Steve Levy, who presently serves as Executive Director of the Center.

Michael Watt, Reclaims Long Island Director, added, "Voters should have the right to hold their politicians accountable for their reckless spending. Punting the budget vote to after the election strips voters of that right. If Suffolk County legislators believe in their budget, they should be willing to face voters instead of hiding behind an election."

Levy noted that three years ago, Nassau legislators implemented a "Bait and Switch" in pretending to hold the line on taxes and fees before the election, only to turn around to raise them immediately thereafter.

This disingenuous process has been executed in Suffolk as well, said the former county executive. Levy noted that in 2011, legislators bragged in their campaigns about supporting a tax freeze budget introduced by the executive, only to implement a tax increase the very day after the polls closed. They also waited until after the election to reverse a landmark law they earlier passed that created an independent commission to take partisanship out of the district redrawing process.

“There is an answer as to whether we can stop this process that shields our elected representatives from accountability on the votes they cast. Officials should have to face the music with the voters if they engage in reckless budgeting practices that dramatically raise the people’s taxes. As the process presently stands, legislators get to have it both ways; they tell their taxpayers that they’ve held the line on taxes, and after election, can placate the unions and big spending special interests who want more money in the budget.”

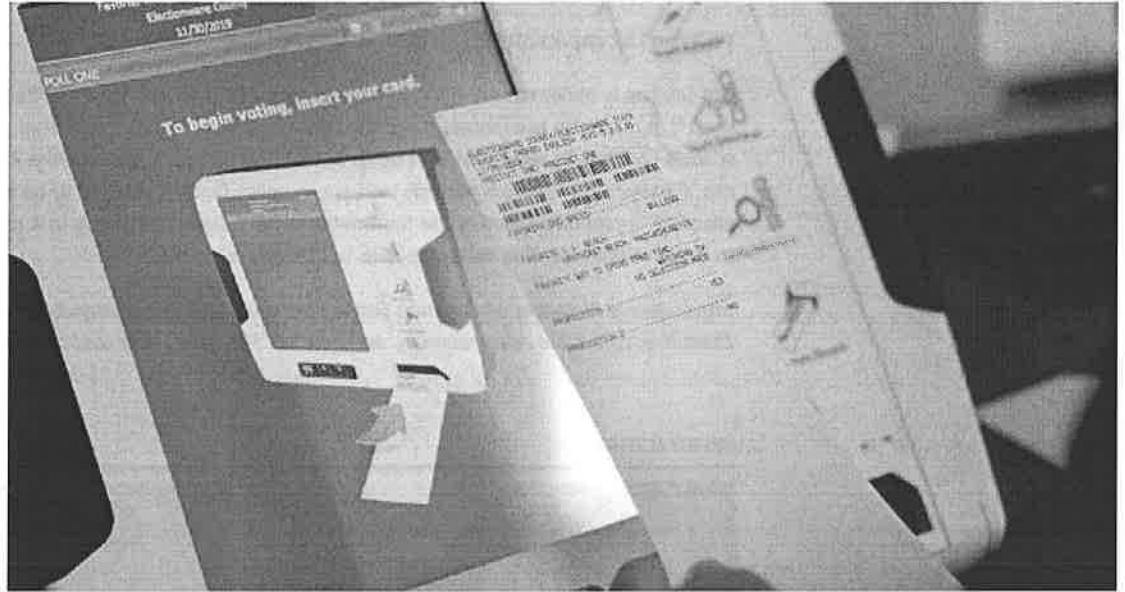
The Center’s Treasurer, Ed Kelly, stated:

“Legislators bank on the hope that voters will forget the bait and switch by the time the legislators face election two years down the road. Legislators will be more cautious with our tax dollars when they know their votes will be fresh in the minds of the public. Budget transparency is essential for a democracy to flourish.”

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AP Photo/David Goldman, File

Levy: On term limits, special elections and tax caps

By: Commentary September 11, 2018

Comments Off on Levy: On term limits, special elections and tax caps



Steve
LEVY

Two towns on Long Island are proposing major changes to their charter that the public should know about:

1. Hempstead proposal for special elections

Newly elected Supervisor Laura Gillen has proposed a law requiring special elections after a town-wide vacancy occurs. Traditionally, the town board would fill the vacancy via their own appointment allowing the appointed members to run as sitting incumbents. This type of governing perpetuates one party rule. Special election should be mandatory within 120 days of the vacancy. Let the people decide who will serve them.

2. Brookhaven proposal on longer terms

The Brookhaven town board will be considering a resolution to limit time served on the board to three terms. Our center supports the concept of term limits. There is a caveat, however, in that the term of the supervisor would be extended from 2 to 4 years. Conventionally, it's the holder of the executive position, such as the supervisor, who is provided with the longer term for the sake of continuity. For example, at the county level, the county executive is elected every four years, while legislators are elected every other year. Yet, presently in some towns such as Islip, it's the council members who run every four years. While it's worthy giving an administrator a longer term for more continuity, it's actually the council people who should be running every two years to mirror the practice presently employed on the council level.

Then there are these statewide issues:

Should employees get three months of paid leave to grieve for loss of grandparent?

A bill presently awaiting signature from Gov. Cuomo would force New York businesses to provide up to three-months of paid leave for any employee who suffers a death in the family, including that of a grandparent.



If you want to end gerrymandering, look to the Supreme Court and the judiciary

by Steve Levy | June 19, 2017 08:00 PM

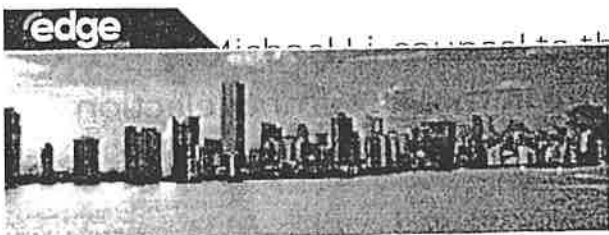
The partisan drawing of legislative districts, otherwise known as "gerrymandering," must be stopped if we ever wish to reverse the awful political gridlock that has engulfed our nation. A recent court decision may help put us on that path.

While the thought of ending gerrymandering might have been "pie in the sky" in the past, a judicial decision in a U.S. District Court in Wisconsin (*Witford v. Nichol*) this past November may have turned this entire issue on its head. The court invalidated the district lines drawn by the state legislature on the grounds that they were too partisan.

Just this week, news surfaced that the Supreme Court has announced that it will deliberate upon this very issue. Reformers can rejoice if the Supreme Court upholds this case.

Usually, in the past, the basis for invalidating the lines centered on the disenfranchisement of minority voters. In most other cases, however, courts demurred to the legislative branch. As U.S. Supreme Court Justice Felix Frankfurter said, usually "Courts ought not enter this political thicket."

If one set of lines can be disqualified for their overly partisan influence, then so too can potentially almost every set of lines in the nation. This relatively new criterion gives hope to those reformers who have been stifled in their efforts to make the redistricting process more equitable for voters and for elected officials not serving in the majority.



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disingenuously and shamelessly revoked the same law they had proudly touted as a needed good government reform just four years earlier.

It became clear to me at that time that it is indeed quite unlikely these needed reforms will ever come from elected officials whose only priority is self-preservation. If you want this unseemly partisan gerrymandering process discarded on the ash heap of history, read the Wisconsin case and consult a public interest lawyer to initiate litigation in your jurisdiction.

Steve Levy is executive director of the Center for Cost Effective Government. He served as Suffolk County Executive, as a New York State Assemblyman, and host of "The Steve Levy Radio Show."

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To avoid voter hacking, bring back the levers

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To avoid voter hacking, bring back the levers

By STEVE LEVY (/author/steve-levy) | NOVEMBER 29, 2016

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For months, Donald Trump spouted off during the presidential campaign about how rigged the electoral process is. Upon his election, of course, he no longer makes that claim.

Ironically, now some on the left, who weeks ago were mocking Trump's claims, are now suggesting that some voting machines were perhaps tampered with. Some computer geeks, including Democratic partisan John Bonifaz, are demanding a recount in states Trump unexpectedly won, like Wisconsin, Pennsylvania and Michigan. Media reports on networks like CNN are even openly wondering whether Russia was behind a mass hacking of our voting apparatus. (If there were any truth to Trump's rigging claims, it lies with the liberal media's concerted and admitted effort to abandon objectivity in the last election.)

But if some of these political elites are feeling anxious over a potential hacking, all I can say is: "serves you right." Those of us who vehemently fought the introduction of electronic voting machines over the last decade were ridiculed as being dinosaurs hanging on to so-called "obsolete" lever machines.

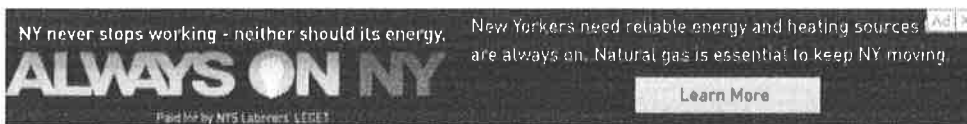
But, we argued, there was nothing obsolete about them. In fact, our motto was: "If it ain't broke, don't fix it." There was nothing wrong with our lever machines. They worked perfectly well for a century. They were cheap, reliable and, most importantly, un-hackable.

The rush to go electronic was precipitated by the infamous Florida "hanging chad" controversy in the 2000 presidential election. Was the butterfly ballot a disaster? Sure. So why not dump the butterfly and replace it with paper or lever ballots that were proven effective in thousands of other jurisdictions around the nation? Instead, the electronic cottage industry emerged, realizing that there were millions of dollars for the taking by convincing naïve election officials and dopey legislators that "new" meant "better."

The electronic machine lobby started throwing big bucks to politicians (<http://go.cityandstatemediacom/e/168882/-03-diebolds-political-machine/g41w3/36367008>), who began doing backflips to show the public how tech-savvy they were.

I couldn't believe my ears when I heard New York state was proposing spending over \$200 million to replace the dependable levers with the new, unproven electronic scanners. To make matters worse, Suffolk County was forced to spend over \$1 million to construct modifications to our election buildings to ensure the new machines would be stored in a temperature-controlled environment.

This colossal waste of money should have been reason enough to stop this absurd proposal in its tracks. But, more importantly, we warned that going electric would place our entire sacred democratic process in the vulnerable position of possibly being hacked by operatives with nefarious intent. We in Suffolk even brought legal action to stop this insanity. We lost.



So there you have it. The self-interested electronic machine lobby made investments through campaign donations and got the votes and funds they needed.

Meanwhile, dunderheaded legislators didn't raise a peep about possible cyber attacks. They were "assured" by the electronic machine lobby that it just couldn't happen.

The Clinton supporters alleging manipulation of the electronic machines probably won't be able to prove it. But their concern about future elections may be warranted. Is it time to go back to the basics?

And if the left is so concerned about the integrity of the democratic process, perhaps they can cease their illogical opposition to reasonable efforts to require voters to simply identify themselves with proper documentation. Those who oppose voter ID laws stress that claims of voter fraud are exaggerated. That's true enough, and conservatives should not pretend that this is a widespread problem. But when it comes to the sanctity of elections, every single vote matters.

While the number of illegal votes may be a small handful, the margin of victory in many state and local races is often less than that. By way of example, U.S. Sen. Al Franken of Minnesota won his 2008 race by 312 votes, a smaller margin than the number of votes his opponent claimed were illegally cast.







The balance of power in the New York state Senate currently rests on the recount of a handful of absentee ballots. And in the 2000 election, a shift of 500 votes in Florida would have given us President Al Gore.

Delegates at the Democratic National Convention claimed that requiring identification at polling station is racist, and yet they all needed to flash an ID card in order to get into the convention building. They claim it discriminates against the poor, but fail to recognize that ID is needed by many of these same folks to be eligible to collect a social services check. How is it racist in one instance, and not in the other?

I harken back to the day I was denied a county golf pass because I didn't have two acceptable IDs in my possession. Yet I could have voted under another name with no questions asked. Go figure.

The left and right disagree on many things when it comes to the electoral process. But for the sake of our democracy, let's unite in a joint effort to ensure that only those qualified to vote actually do. Let's also work together to dump these electronic machines and avoid even the slightest possibility that our political opposition – or even our international enemies – can illegally alter the outcome of our sacred democratic elections.

Steve Levy is president of Common Sense Strategies, a political consulting firm. He served as Suffolk County executive, a state Assemblyman, and host of "The Steve Levy Radio Show."

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Opportunity in the neighborhood



Starting my company in IC gives me a lot of pride.

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Con con is dead, but we still need these New York state reforms

Con con is dead, but we still need these New York state reforms

By STEVE LEVY (/author/steve-levy) | NOVEMBER 27, 2017

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The lopsided defeat of the constitutional convention ballot referendum this month was a setback for reformers hoping to bring about change to the byzantine procedural rules in New York state government that suppress reform and continue to concentrate power disproportionately in the small leadership oligarchy.

Opponents to the con con claimed it wasn't needed. We already have a process in place to amend the state constitution, they crowed. You just have to ask the state Legislature to pass a bill to place the measure directly on the ballot for a vote by the people. Good luck with that one.

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By CHRISTINA SAINT LOUIS (/author/christina-saint-louis)

It is precisely the Legislature's cowardly reluctance to support meaningful reform that prompted good government groups to seek to circumvent them through the convention. Now that the con con went down in flames, let's call the bluff of the measure's opponents who told us to petition our legislators.

► **RELATED: Constitutional convention ballot results**

(<http://cityandstateny.com/articles/politics/campaigns-and-elections/new-york-constitutional-convention-results-2017.html#.WhzCj7Q-fOQ>)

Here are some of the most needed reforms to the legislative process that can help New York have a less dysfunctional state government:

Open the committee process:

As a freshman assemblyman in 2001, I was aghast at how inconsequential the Albany committee process was. I had been a local legislator in Suffolk County, accustomed to having two-hour committee hearings during which both the public and officials actually debated the merits of a bill. Albany committee meetings lasted 10 minutes, and two were for the pledge. No public comment. Little to no debate.

In fact, the only bills on the agenda were the ones the committee chairs allowed to be placed there. If changes were made to the bills, it was usually in the legislator's office at the behest of a lobbyist.

Create an independent legislative budget office:



Suffolk County has an independent budget review office and Congress has the nonpartisan Congressional Budget Office, but there is no such independent entity on the state level. Any data comes from the partisan, agenda-driven staff of leadership.

Eliminate the Rules Committee

Just when you think you convinced your colleagues to support an important bill, you find you're not quite there yet. If the speaker wants to bury the bill, for ideological reasons, to pander to an interest group or simply to punish the sponsor for some nefarious reason, he just refers it to the Rules Committee, a.k.a., the "legislative graveyard."

End lulus for committee chairs and leadership

Much discussion has ensued over the years to increase legislative salaries from the \$79,500 base pay that has been in effect since the turn of this new century. A very legitimate argument could be made for the raise, but it must be coupled with an elimination of the extra stipends, known as lulus, that come with appointments to committee chairs and leadership positions. These lulus make individual legislators hostages to leadership. If you dare to show a streak of independence, your extra income will be snatched away.

Provide similar support staff for all legislators









As a rookie assemblyman, I was originally allotted \$70,000 to pay for the staffing of two offices – one local and one in Albany. This was impossible and leadership knew it. The secret was that they wanted you to beg the speaker to give you the resources you needed to carry out basic functionality. The response usually was, “OK, we will do you a favor, but don’t let anyone else know.” The implication is: Now you owe us. This nonsense must stop. Every legislator represents an equal number of constituents and deserve – regardless of seniority or party affiliation – the resources they need to properly perform their legislative duties without becoming beholden to legislative leadership. (Additional staffing to assist a committee chair for solely committee functions could be the exception.)

► **RELATED: How to reform Albany without a con con**
<http://cityandstateny.com/articles/policy/ethics/reform-albany-without-a-constitutional-convention.html#.WhzCprQ-fOQ>

So, to all the opponents of the constitutional convention, how about it? Will you join us in petitioning our sitting legislators to place these reforms on the ballot?

Steve Levy is president of Common Sense Strategies, a political consulting firm. He served as Suffolk County executive, as a state assemblyman and host of "The Steve Levy Radio Show."

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FIGHTING EXCESSIVE ENERGY COSTS.

The center has been educating the public on the potentially large increases that are about to hit ratepayers due to wrongheaded policies being promulgated by various officials.

The center believes it is essential that the media and elected officials be honest with the public when it comes to various energy policies. For instance, many editorials have been promoting the expansion of wind power. The center does not oppose alternative energies. In fact, it strongly supports measures that can help clean our environment. However, it is essential that proponents of these efforts be honest with the public regarding the cost of their implementation.

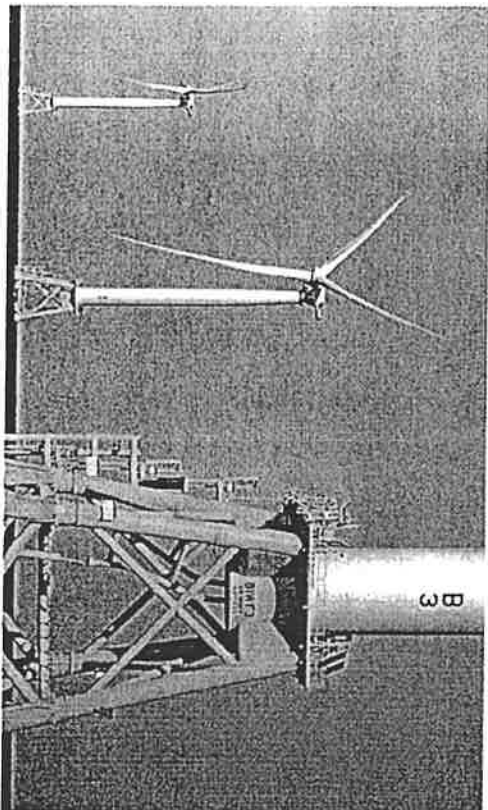
For instance, Newsday did a major editorial encouraging a windmill project off of Long Island, but never mentioned what the cost would be. Research by the center unveiled studies claiming that the cost can be 4 to 7 times more than would be the cost for traditional electric power. That does not mean the project should be scrapped, but that information must be made available to the public so that an informed decision can be made as to how to proceed with such a project.

The center has also been critical of policy that would require ratepayers throughout the state to subsidize the operations at three nuclear power plants in upstate New York. The plants are old, obsolete and non-competitive in the market. Yet, the state government has pushed to keep them open in order to meet an artificial deadline to have 50% of the state's energy needs met by non-fossil fuel energy by 2030. The cost for the subsidy is \$7 billion, which equates to \$7 million per job. The center does not take a stand for or against nuclear energy, but insists on the need for being honest with the public as to what the ultimate cost will be.

OPINION / EDITORIAL

By The Editorial Board

Wind power could blow LI away



September 16, 2018 8:01 AM

Change is in the air.

Or, more specifically, it's in the wind.

Wind energy is coming to New York. And that's good. It's an important part of the state's power portfolio in the fight against climate change. We've already seen the impacts of warming temperatures here on Long Island. The rising seas that threaten our coastline provide frightening evidence for the need to stop burning fossil fuels and start harnessing renewable forms of energy — like wind.

Advertisement



Gov. Andrew M. Cuomo has set a strong but not unreasonable goal of generating 50 percent of the state's electricity from renewable sources by 2030 — including 2,400 megawatts from offshore wind farms.

Powering up LI

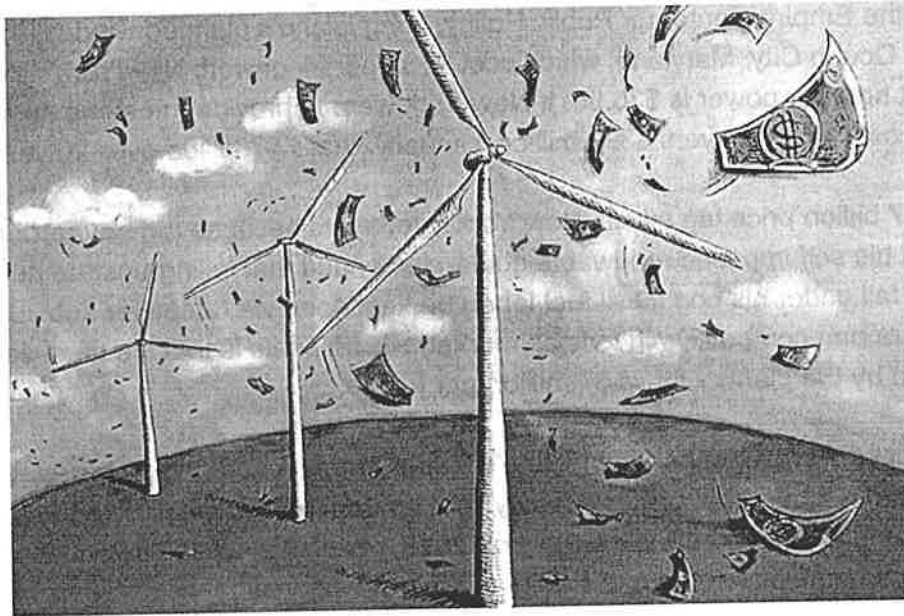
“Offshore” means off Long Island.

New York State will issue a solicitation for the first 800 megawatts this fall. But Long Island is already working on wind. In January 2017, LIPA contracted with Deepwater Wind for a 90-megawatt wind farm 30 miles off Montauk Point. The company's 5-turbine, 30-megawatt project off Block Island was the nation's first wind farm; its South Fork project would be the second.

The approval and permitting process is underway, and it's been instructive.



LONG ISLAND PRESS



October 2018

Contact 631-877-0940

Beware! Upcoming electric bill shocks

by Steve Levy

Newsday recently published an editorial promoting windmills off the Long Island shore. The editorial centered on whether windmills could coexist with the livelihood of fisherman. Ultimately, they concluded they can, and that the windmills should be built because it's good for the environment. Case closed.

Remarkably, the editorial completely ignored the enormous potential costs of the project and its impact on ratepayers.

As a former County Executive, I prided myself in promoting alternative energies, but never took the unrealistic view that renewables could replace all of our fossil fuels within the next few years.

However, politicians, including New York's Governor, are spouting the nonsense that we can mandate having renewables meet 50% of our energy needs in the next decade, without causing extensive economic hardship. They have an obligation to warn ratepayers that their electric bills are going to skyrocket, and that wind power could cost anywhere from 4 to 7 times more than traditional means,

Skyrocketing Energy Costs Projected

- LIPA will pay developer Deepwater \$1.62 billion over 20 years for power generated by 15 wind turbines.
 - That's about \$240 per megawatt-hour, or about \$200 on top of the owner can expect recoup for each megawatt-hour sold on L Island.
- Gov. Cuomo's upstate Nuclear bailout: Cost = \$7b to save the 1000 (\$7,000,000 per job.).

Tax Cuts

Kennedy Tax Cut

- 20-30% across the board.
- Approximate 5% annual growth.
- Revenue increase from 94B in 1961 to 153B by 1968, a 62% increase (32% adjusted for inflation).

Reagan Cuts

- Revenue grew 54% from 1983-89 (28% after inflation).
- Wages rose 12.2% for upper levels, 11.8% for lower.

2017 Cuts

- April revenues in 2018 increased by 13% over previous year.

| Councilmanic | Districts

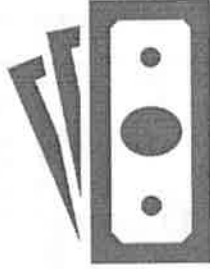
Elects council members from one select area, rather than town wide.

More local and minority representation.

Less dependence on money or party bosses.

Only 3 LI towns (Brookhaven, Hempstead, N. Hempstead).

Making Tax Cap Permanent



- 7.6B in school taxes saved from 2012-2016.
- Cap expires in 2019.
- 41% ages 18-34 still live with parents on LI.
- Fewer on LI consider themselves middle class.
 - 67% in 1980, 50% today.
- Average tax increase from 2000-2012 was 6%, after cap average is 2%.
- 2000-02 budgets increased 7% per year.