Promising PILOTs

A Look at How Baltimore and Other Cities Manage Tax Gaps with Non-Profit Institutions

Office of Comptroller Bill Henry

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GLOSSARY

Anchor Institutions - Universities, Hospitals, and other enduring organizations that play a vital role in their local communities and economies.

Capital Funds - Resources that cover the large and long-term infrastructure projects of the City.

Charitable 501 (c)(3) Organizations - Non-profit organizations that qualify for tax-exempt status. These organizations operate exclusively for one of the following purposes: religious, charitable, scientific, literary, educational, testing for public safety, the prevention of cruelty to animal or children, or the development of amateur sports.

Collective Payment - Grouping of statements for all individual entities. This allows for handling payment of all associated entities using a collective bill account.

Enterprise Funds - These resources are used to budget and account for operations, including debt service, that are finance and operated as on ongoing concern. These resources in the City's budget, include Conduit, Parking, Stormwater Utility, Water Utility, and Wastewater Utility funds.

General Funds - These resources are the City's largest and principal fund, supported by locally generated revenues and some State Aid. These resources are used to budget and account for all activities not required by law, accounting practice, or management objective to be separately budgeted. These resources have the most flexibility in how they can be spent. **

Grant Funds - These resources are used to budget and account for all activities that have restricted uses supported by dedicated revenue. These resources consist of Federal, State, Special Revenue, and Private Grant funds.

Operating Funds - Resources that cover the everyday activities and services of the government.

Payment in Lieu of Taxes (PILOT) - Payments to local governments that help offset losses in property taxes. In this case, these payments are come from non-profit institutions that aren't subject to property taxes.

LETTER FROM THE COMPTROLLER

Dear Baltimore,

If you're reading this report, you're probably wondering, like I am, how Baltimore can address the significant budget gaps caused by non-profit property ownership. Maybe you've also wondered why your property taxes are higher compared to neighboring areas. This report aims to explore the middle ground between these two questions.

Baltimore City's non-profit anchor institutions offer vital services to residents and perform essential work. They also possess valuable real estate, significant wealth and diverse assets, while contributing significantly less to the City's general fund than they consume.

In 2016, Baltimore City initiated a 10-year PILOT (Payment in Lieu of Taxes) agreement with the city's 14 largest non-profit organizations, known as the "meds & eds." This agreement requires these institutions to make contributions based on their size and community benefit impacts. While the collective payment amounts to $6,000,000 per year, the properties in question would otherwise generate $108,317,863.00 in revenue and require $47,659,860.00 in city services.

With this PILOT set to expire in two years, we've researched how other cities have tackled similar issues and reviewed our own history with this challenge. Based on our findings, we've developed some recommendations.

1. PILOT agreements and negotiations should be public and transparent to ensure accountability and community involvement.
2. Municipalities should collaborate with nonprofits to negotiate PILOTs, as voluntary payments are most effective when there's a partnership.
3. PILOT agreements should use concrete, quantifiable methods to determine contributions, reducing perceptions of unfairness and increasing compliance.
4. Agreements should specify a base payment but adjust for inflation each year, maintaining the value of the contribution.
5. Cash contributions should be adjusted for public benefits provided, with a standard methodology for calculating these benefits.
6. Agreements should allow for adjustments based on acquiring or relinquishing property, ensuring fairness and sustainability. PILOTs that provide additional payments when land becomes tax-exempt under nonprofit ownership could help ensure that local governments can continue providing the same services.
7. PILOTs should be multi-year, with 10 years being the minimum - providing predictable revenue streams for local governments and budget stability for nonprofits.
8. Agreements should specify a payment in the base year but adjust for inflation each year.

9. Local governments should track and publish PILOT contributions to encourage participation and transparency.
10. State governments should provide grants to reimburse local governments for revenue loss due to property tax exemptions, particularly when the state benefits economically from the nonprofit. Baltimore City should advocate for this type of program at the General Assembly.

These best practices are designed to establish fair, sustainable, and collaborative PILOT programs that benefit municipalities as well as anchor institutions. I trust this report will serve as a foundation for the Administration's discussions with the meds & eds. It's crucial that these discussions are public, transparent, equitable, and thoughtful.

Your feedback is valuable, as this process involves us all. Thanks!

Bill Henry

Baltimore City Comptroller

INTRODUCTION

Fifty years ago, when Baltimore City needed to fund schools, expand libraries, or pay for parks and other city services, they relied on tax revenue from manufacturing companies. General Motors, Armco Steel, Continental Can, Western Electric, and Bethlehem Steel employed thousands of people and provided a necessary tax base to fund vital services for the City.

But Baltimore City's economy has changed. As those industrial jobs dried up and many companies left the area, local government could no longer count on those tax dollars to support City services. Baltimore's economy has shifted from a reliance on manufacturing companies to a host of expanding hospitals and universities – many of which, because of their tax-exempt status, the City cannot rely on to provide those needed tax dollar revenues.

In recent years, revenue pressures and greater scrutiny of the nonprofit sector in Baltimore City, as well as other local governments, have led to an escalated call for payments in lieu of taxes (PILOTs), which are negotiated voluntary payments made to municipalities by tax-exempt nonprofits in place of property taxes for the city services they receive. These PILOT programs have been one of the only methods for municipalities to gain needed revenue from charitable organizations that are by law exempt from paying property taxes.

In Baltimore and across the country, most nonprofit sector wealth, property, and assets are heavily concentrated among a relatively small percentage of organizations – primarily universities and hospitals. These institutions are the primary beneficiaries of tax exemptions, even though they have more resources and utilize a more significant portion of taxpayer City services.

Hospitals and universities not only possess greater wealth and assets than most other nonprofits and thus have a higher ability to contribute financially, but they disproportionately erode the City's tax base by owning the most extensive and most valuable real estate – all tax exempt.

Today, a shrinking number of Baltimore City property owners already pay the highest property tax rate in Maryland and their local income tax rate is the highest allowable in the state. One of Baltimore's biggest challenges is to find a way to balance the benefits provided to the community by nonprofits with the City's legitimate need for adequate revenue to pay for mandatory increases in funding for public schools, aging infrastructure, and other essential city services. And this must be done without imposing more costs on local residents who already pay higher property taxes because nonprofits are removed from the tax rolls.

Why Tax Exempt?

Charitable 501(c)(3) organizations, including most nonprofits active in the arts, education, health care, human services, and religion, are exempt from property taxes in all 50 states. However, the criteria nonprofits must satisfy to qualify for a property tax exemption are determined at the state level – in state courts' constitutions, statutes, and rulings. In the State of Maryland, nonprofit institutions are exempt from paying property taxes on the assessed value of their property per Maryland State law – MD. Code Ann., Tax-Prop. § 7-202(b).

Legislatures and courts have historically rationalized the tax exemption by pointing to the significant public benefits these organizations provide to the communities and states in which they are located. Laws dating back hundreds of years were set up for nonprofits such as schools, churches, and public charities under the notion that these institutions, which do not make a profit, operate solely for the public good and therefore should not be subject to paying property taxes.

Today some nonprofits reduce spending by municipalities by providing services that would otherwise have to be provided by local governments. However, nonprofits also impose significant costs on municipalities because they rely on and consume public services – services that have become increasingly more difficult for local governments to pay for.

BALTIMORE CITY NONPROFITS

More than 18,000 properties owned by nonprofits are fully exempt from real property taxes in Baltimore City, yet they impose significant costs for police and fire protection, street maintenance, and other public services. These nonprofits comprise only 7.5% of the City's real property but are some of the largest and most valuable. If taxed, these properties would represent 30% of the taxable base and would generate $389 million in yearly tax revenue.

Baltimore has nearly one-fifth (20%) of all tax-exempt property in Maryland. In comparison, Prince George's County has 10.9% and Baltimore County has 9.4% -- far fewer tax-exempt properties than Baltimore City. Because Baltimore City relies on property taxes for half its revenue, this "tax loss" from the largest nonprofits means that the burden of financing public services falls solely on residents and local businesses.[1]

[1] Robert Cenname, "City Council Bill 19-0174R – Anchor Institution's PILOT Agreement for Real Property Taxes" City of Baltimore, Legistar, December 17, 2019. https://baltimore.legistar.com/LegislationDetail.aspx?ID=4207969&GUID=6D63EB70-C1A0-43FF-9CFE-21EB0B80E031&Options=ID|Text|&Search=19-0174r.

BALTIMORE CITY'S BUDGET AND PROPERTY TAXES

Baltimore City's budget has two major components – operating funds, which cover the everyday activities and services of the government, and capital funds, which cover the City's extensive, long-term infrastructure projects.

The total fiscal year 2024 operating budget is $3.53 billion and has three fund sources: Enterprise, Grant and General Funds.[2]

Enterprise Funds make up $590.2 million of the operating budget and come from utility fees such as water, wastewater, and stormwater, which have specific user fee rates established by the Director of Public Works. These funds are self-supporting in that the fees received from users go right back into the service, and General Fund dollars are not used.

Grant Funds make up $739.2 million of the operating budget and come from federal, State, or private grants. These funds can only be used for specific programs and services and are often time limited.

General Funds comprise $2.2 billion of the operating budget, where most of the funding for operating the City comes from. These are the funds that the City has the most flexibility in maneuvering to meet needs or requests. Property tax revenues represent 50% of the funding source for the City's General Fund – 44% from real property taxes and 6% from personal property taxes. **(See table on next page)**

[2] Baltimore City Department of Budget and Management, "FY24 Executive Summary Final Draft," accessed March 21, 2024, https://bbmr.baltimorecity.gov/sites/default/files/FY24%20Executive%20Summary%20Final%20Draft.pdf.

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Exhibit 7.6
County Real Property Tax Rates in Fiscal 2019-2023
(Per $100 of Assessed Value)

County	2019	2020	2021	2022	2023
Allegany	$0.9750	$0.9750	$0.9750	$0.9750	$0.9750
Anne Arundel	0.9020	0.9350	0.9340	0.9330	0.9330
Baltimore City	2.2480	2.2480	2.2480	2.2480	2.2480
Baltimore	1.1000	1.1000	1.1000	1.1000	1.1000
Calvert	0.9370	0.9370	0.9320	0.9270	0.9270
Caroline	0.9800	0.9800	0.9800	0.9800	0.9800
Carroll	1.0180	1.0180	1.0180	1.0180	1.0180
Cecil	1.0414	1.0414	1.0414	1.0279	1.0143
Charles	1.2050	1.2050	1.2050	1.2050	1.2050
Dorchester	1.0000	1.0000	1.0000	1.0000	1.0000
Frederick	1.0600	1.0600	1.0600	1.0600	1.0600
Garrett	0.9899	1.0560	1.0560	1.0560	1.0560
Harford	1.0420	1.0420	1.0420	1.0279	0.9779
Howard	1.1900	1.2500	1.2500	1.2500	1.2500
Kent	1.0220	1.0220	1.0220	1.0120	1.0120
Montgomery	0.9927	0.9907	0.9912	0.9905	0.9915
Prince George's	1.3740	1.3740	1.3740	1.3740	1.3740
Queen Anne's	0.8471	0.8471	0.8471	0.8471	0.8300
St. Mary's	0.8478	0.8478	0.8478	0.8478	0.8478
Somerset	1.0000	1.0000	1.0000	1.0000	1.0000
Talbot	0.6061	0.6372	0.6372	0.6565	0.6820
Washington	0.9480	0.9480	0.9480	0.9480	0.9280
Wicomico	0.9398	0.9346	0.9286	0.9195	0.9070
Worcester	0.8350	0.8450	0.8450	0.8450	0.8450

Note: The rates in Charles, Howard, Montgomery, and Prince George's counties reflect special rates for services not funded from the general county property tax rate.

Source: Department of Legislative Services

Baltimore City's property tax rate of 2.248% per $100 in assessed value is by far the highest in Maryland, at 222% of the state average.[3]

[3] Maryland Department of Assessments and Taxation, "Tax Rates for Fiscal Year 2023-2024," accessed March 21, 2024, https://dat.maryland.gov/Documents/statistics/TaxRates_2023-2024.pdf.

Several factors contribute to Baltimore City's high property tax rate, including aging infrastructure, population reductions, a lower median household income than other jurisdictions, property vacancy rates, real property tax incentives (projected to cost $103.4 million in FY24), and property tax exemptions given to nonprofits. Any attempt to reduce the high property tax rate in Baltimore City to make it more comparable to neighboring municipalities would have to be done by either finding alternative revenue sources to offset the reduction, or an equivalent decrease in the level of services the City provides.

Unlike many of its suburban neighbors, Baltimore has a declining population and a low tax base, but higher demands for City services such as health, housing, and other social services. With property tax rates already astronomically high and the City's local income tax rate already the highest allowable in the state, Baltimore's challenge is to balance the benefits provided by nonprofit organizations with the City's legitimate need for adequate revenue to provide essential city services, mandatory increases in funding for public schools, and equitable distribution of the tax burden across various groups of property owners.

Despite the benefits these institutions provide, including valuable services and jobs for residents, they depend on a range of public services for their operations. Many City residents and elected officials believe that the largest, tax-exempt nonprofits need to contribute more toward the City services they use and are provided. Like other cities, Baltimore has entered into agreements for "payment in lieu of taxes," known as PILOTs, to recover a portion of lost property tax revenue and ensure that all organizations contribute toward the public services they benefit from.

PILOTS IN BALTIMORE CITY

In 2010, amidst the global financial crisis, Baltimore faced a $121 million budget shortfall. To balance the budget, then-Mayor Stephanie Rawlings-Blake introduced a plan that included an "exempt bed property fee" or bed tax of $350 per bed per year on the city's largest colleges, universities, and hospitals. The measure was estimated to generate $4 million in tax revenue.

The Maryland Hospital Association (MHA) and the Maryland Independent College and University Association (MICUA) felt it was bad public policy to tax their members' real estate. Then City Councilman Bill Henry pointed out that "the bed fee is inequitable" because it was literally tied to dorm and hospital capacity, which was unfair to institutions such as Loyola University Maryland, which was richer in beds than real estate. Loyola would have paid more than $1.1. million, or over a quarter, of the total $4 million the proposed "bed tax" would have generated.

He felt that a simple bed fee paid equally by hospitals and colleges was inherently unfair. Hospitals would be able to spread that annual cost over dozens or even hundreds of customers who each were likely to only be in the hospital for a few days, while colleges would be forced to pass that entire annual fee on to only one customer each year – the student who lived on campus for a whole year.

Furthermore, smaller universities that had been encouraged by community associations to house as many students as possible on campus, rather than letting them live in the surrounding neighborhoods, would be obligated to pay a higher bed tax than much larger and wealthier universities that had made calculated decisions to have students housed off-campus in properties not owned by the university.

For instance, a policy that was literally tied to dorm and hospital capacity would have left a relatively small university like Loyola paying a much higher bed tax than the much larger, wealthier Johns Hopkins University. Loyola had the most beds of all the colleges because of their conscious efforts to encourage as many students as possible to live on campus. Under this policy, Loyola would have ended up paying $1.1 million on their 3,300 dorm beds -- or over a quarter of the total $4 million the proposed "bed tax" would have generated. In contrast, the much wealthier Johns Hopkins institutions – which include the Homewood campus, the Peabody Institute, the East Baltimore Hospital and medical school, and Bayview Hospital – only have a combined total of about 4,600 beds.

After negotiations with MHA and MICUA, the bed tax proposal was dropped in exchange for a six-year PILOT agreement beginning in fiscal year 2011, totaling $20.4 million. Under the agreement, 16 of their members would make cash payments, termed "special assessments," with payments purposely front-loaded in recognition of the immediate fiscal crisis.[4]

As this 2010 agreement was set to expire, Baltimore City negotiated a subsequent PILOT agreement, known henceforth as "the MOU" with the 14 "anchor institutions," which were required to pay the City a collective $60 million over ten years, beginning in fiscal year 2017.

[4] Property Tax Exemptions and Payments in Lieu of Taxes in Maryland, Department of Legislative Services, Office of Policy Analysis, July 2014. https://dls.maryland.gov/pubs/prod/InterGovMatters/LocFinTaxRte/Property-Tax-Exemptions-and-PILOT-in-Maryland.pdf

The current MOU used the following framework for calculating a fair contribution from each participating institution:

- the City calculated a baseline taxable amount based on the determination that 44% of the General Fund budget was comprised of services that were utilized by tax-exempt entities,
- then, the City agreed to give up to a 75% credit to account for tangible community benefits and contributions made by the participants.

The $60 million the City ultimately accepted as a collective payment amount was well below the proposed payments from each institution, even net of a generous community contribution credit.[5] It is estimated that these 14 institutions collectively own more than $5 billion worth of property and if taxed, would bring the city about $120 million a year. Furthermore, Baltimore City's Department of Finance estimates that the 14 nonprofits in the current PILOT agreement use about $47.6 million worth of municipal services a year after deducting community benefits and contributions they make to the City. By this calculation, these nonprofits underpay the city by $41 million annually - $47 million worth of services minus the $6 million in PILOT payments. The table below shows the payment scenarios under different rates (equivalent property taxes, estimated City service percentage, and current contribution), using Fiscal 2020 assessed values.[6]

[5]Henry Raymond, "Nonprofit Assessment Agreement July 1, 2016 through July 30, 2026", City of Baltimore Legistar, May 31, 2016. https://ia903109.us.archive.org/25/items/6520065-Nonprofit-Assessment-Agreement/6520065-Nonprofit-Assessment-Agreement_text.pdf

[6] Robert Cenname, "City Council Bill 19-0174R – Anchor Institution's PILOT Agreement for Real Property Taxes" City of Baltimore, Legistar, December 17, 2019. https://baltimore.legistar.com/LegislationDetail.aspx?ID=4207969&GUID=6D63EB70-C1A0-43FF-9CFE-21EB0B80E031&Options=ID|Text|&Search=19-0174r.

Institution	Contribution	Net Exempt Percentage	Equivalent Property Tax	Estimated City Service Percentage
Bon Secours	$74,880.00	$22,641,300.00	$508,976.00	$223,950.00
Johns Hopkins Hospital & Medical Center	$1,399,972.00	$1,776,049,110.00	$39,925,584.00	$17,567,257.00
MEDSTAR (Harbor-Union Memorial - Good Samaritan)	$558,322.00	$187,450,812.00	$4,213,894.00	$1,854,113.00
Mercy Medical Center	$226,208.00	$443,578,132.00	$9,971,636.00	$4,387,520.00
Sinai Lifebridge	$316,116.00	$176,250,730.00	$3,962,116.00	$1,743,331.00
St. Agnes Health Care	$190,462.00	$201,895,300.00	$4,538,606.00	$1,996,987.00
University of Maryland Medical Center & Midtown	$930,158.00	$746,803,832.00	$16,788,150.00	$7,386,786.00
Johns Hopkins University	$1,860,426.00	$862,520,358.00	$19,389,458.00	$8,531,361.00
Loyola University Maryland	$329,630.00	$234,361,400.00	$5,268,444.00	$2,318,115.00
Maryland Institute of Contemporary Art	$69,554.00	$116,281,000.00	$2,613,997.00	$1,150,159.00
Notre Dame of Maryland	$44,272.00	$50,578,400.00	$1,137,002.00	$500,281.00
Total	**$6,000,000.00**	**$4,818,410,374.00**	**$108,317,863.00**	**$47,659,860.00**

Under these estimates, the city's largest nonprofit, Johns Hopkins, receives $26.1 million in services and pays $3.25 million in PILOT payments. UMMS, which operates the University of Maryland Hospital, Midtown medical campus, and a biopark research center, receives $7.4 million in services and pays $930,158 under the PILOT. Loyola University benefits from $2.3 million in city services and pays $329,630. Mercy Hospital receives $4.4 million in city services for its $226,208 payment. MedStar hospitals, including Harbor Hospital and Union Memorial, pay $558,322 in PILOT contributions in return for $1.85 million in services. And the Maryland Institute of Arts (MICA) receives $1.15 million in city services and pays $69,554 in PILOT contributions.

In October of 2019, Councilman Eric Costello introduced City Council Bill 19-0174R[7], Anchor Institutions' PILOT Agreement for Real Property Taxes, a resolution calling on signatories to the 2016 MOU – including the city's medical and educational anchor institutions – to brief the council on the efficacy of the 2016 PILOT agreement and the feasibility of options for reopening and renegotiating the agreement. A 2+ hour informational hearing was held on the evening of December 19, 2019.

One of the drivers behind activists and Council members wanting to discuss reopening negotiations of the PILOT agreement was that the recommendations from the state's Kirwan Commission had just come out. The commission proposed that $4 billion more be spent on education by the state and localities in coming years, including an additional $329 million from the City by 2030.

However, the language of the existing agreement explicitly stated that the City would not assess new taxes or costs against the institutions until the deal's expiration in 2026. The institutions claimed that the arrangement's longevity was the main reason they agreed to sign on and that any attempt by the City to back out of their agreement would set a dangerous precedent. The Resolution was later withdrawn.

Given the City's obligation to fund education, the already high property tax rate for residents and businesses, and the income tax rate currently the highest allowable, the current PILOT agreement is untenable. Under newly updated Kirwan funding formulas, the City's required contribution has grown by $49.5 million in Fiscal 2023 and $79.5 million in Fiscal 2024, a 49% increase over two years. City contributions for City Schools' operations total $392.7 million in Fiscal 2024. But a comprehensive solution to pay for this and shift this additional tax burden away from residents has yet to emerge.

As the City looks to negotiate a new PILOT agreement before the 2026 expiration date of the current agreement, it is essential to look at the examples of other cities that show that a more equitable system may be within our means to achieve.

[7] Ibid.

PILOTs In Other States

In this section, we look at municipalities that are securing more funding through Payments in Lieu of Taxes (PILOTs) agreements than Baltimore with fewer participants. Additionally, in 2012, Boston, New Haven, and Providence emerged as the top three localities receiving PILOTs, with Baltimore ranking fifth. The purpose of this section is to identify ways to emulate success in high-yielding PILOT agreements.

BOSTON, MASSACHUSETTS

Boston may be the leader in setting an example for other municipalities to follow in negotiating PILOT agreements with anchor institutions and collecting much-needed revenue lost from their tax-exempt status. In Boston, where half the City's relatively modest land mass is not subject to taxation, the City must be compensated for these enterprises' significant use of roads, transit, utilities, and other city services.

In January 2009, Mayor Thomas Menino established a PILOT Task Force to review and improve the relationship between the City and tax-exempt institutions, specifically Boston's primary educational and medical institutions. Task Force members included university presidents, hospital executives, and other high-level people in the nonprofit community.

At that time, most of these tax-exempt, land-owning institutions were making a voluntary PILOT contribution to the City to help cover the cost of providing essential City services. However, much like in Baltimore, the contributions varied considerably between the institutions relative to the land they owned and the estimated loss in property tax revenues.

The Task Force's primary objectives were:

- Set a standard level of contributions - in programs and payments - to be met by all significant tax-exempt landowners in Boston.
- Develop a methodology for valuing community partnerships made by tax-exempt institutions.
- Propose a structure for a consolidation program and payment negotiation system, which will allow the City and its tax-exempt institutions to structure longer-term, sustainable partnerships focused on improving services for Boston's residents.
- Clarify the costs associated with providing City services to tax-exempt institutions.
- If necessary, provide recommendations on legislative changes needed at the City or state level.

The City ultimately adopted the following PILOT Program guidelines based on the recommendations of the Task Force, which went into effect beginning in Fiscal Year 2012:

- Participation in the PILOT Program is voluntary.

- All institutions with tax-exempt property valued at more than $15 million should be asked to participate.
- PILOT contributions should be 25% of what the institution might expect to pay in real estate taxes if the exempt property were taxable.
- Institutions should receive up to a 50% PILOT deduction for qualifying community programs that uniquely benefit Boston residents. In the case of exceptional partnership opportunities, the 50% cap may be exceeded.
- The new PILOT formula should be phased in over a 5-year period starting in Fiscal Year 2012.
- If an institution pays standard real estate taxes on a property it uses for its charitable purpose, it may receive a PILOT credit.

The 21 participating schools and colleges — which include institutions such as Harvard, Boston and Northeastern universities — met 70% of Boston's requested PILOT payment in fiscal year 2023, providing just over $15 million in cash and $32 million in credited community benefits. The 15 participating medical institutions met 90% of the requested amount, providing $20.2 million in cash and just over $29 million in credited community benefits. And the nine participating Cultural nonprofits, such as museums, the Boston Symphony Orchestra and the New England Aquarium, met just 35% of the requested amount, paying the City nearly $490,000 and contributing just over $1 million in community benefits.

In total, the city received just over $35.7 million in cash contributions in fiscal year 2023, 76% of the amount requested, from 45 private institutions that owned tax-exempt property valued more than the $15 million threshold established in the PILOT guidelines. More striking, the City of Boston has collected $326.7 million in cash contributions from participating institutions over the past ten fiscal years – over five times the $60 million Baltimore City will collect in PILOT payments throughout its 10-year agreement.

Though City officials in Boston would like to see nonprofits meet their requests in full and would prefer greater cash contributions over community benefits credits, "the program has been really successful," with strong participation from nonprofits, said Nick Ariniello, Commissioner of Assessing for Boston. The city is more focused on maintaining relationships and participation than increasing the already high level of engagement, he said.

Across the river, Cambridge, Massachusetts started collecting payments in lieu of tax from Harvard and MIT around the 1960s. And in 2005, it struck a 50-year deal in which the two institutions would pay the City $5 million a year with annual increases of 2 percent. Cambridge also requires that when either university buys a property, the institution pays the full property tax the first year and a declining amount over the next four years. This allows the City to adapt to the loss of revenue when properties being taxed are removed from the City's tax base.

In structuring their PILOT agreements and calculating what to request institutions pay, Boston decided that the property value was the more appropriate method. Alternatively, Cambridge uses the square footage of real estate to determine PILOT requests. Cambridge's agreements may be more appropriate in municipalities where tax-exempt real estate is difficult to value.

NEW HAVEN, CONNECTICUT

New Haven, which has one of the highest levels of tax-exempt property in Connecticut, has long struggled with finances. Facing a $50 million budget gap in 2020, newly elected New Haven Mayor Justin Elicker campaigned on the promise of asking Yale University to increase its annual contributions from $13 million (almost matching what the 21 education institutions paid in cash to Boston in fiscal year 2021) to $50 million on the property they owned, estimated to be worth roughly $6.6 billion – a nearly fourfold increase, but still a fraction of the taxes that would be paid from a non-exempt property owner.

In November of 2022, following pressure from the Mayor and community organizers, the university pledged to increase its payments by $52 million over six years, for a total contribution of about $135 million during that period – roughly $22.5 million a year. Yale also agreed to pay the City, over a 12-year period, on property they acquire and subsequently becomes tax-exempt. Although the $52 million over six years was well below what advocates and the Mayor wanted Yale to contribute, it was nonetheless a significant increase.

Noteworthy here is that the Mayor's very public, transparent negotiations, along with significant community involvement and participation, not only kept up pressure on Yale University to pay more, but it also led to the State of Connecticut agreeing to more than double the amount it provided New Haven annually through the state's PILOT Reimbursement Program.[8] New Haven now receives about $90 million from the state each year.

Connecticut is one of a handful of states that recognizes the significant economic benefits some large, nonprofit institutions bring to the entire state and reimburses local governments for lost property tax revenue. The State understands that it benefits from assisting New Haven financially because doing so helps maintain Yale's ability to attract students and stimulate the surrounding economy. With the increased contributions from Yale and the State, New Haven was able to pull itself out of its financial crisis.

State-funded PILOT programs should be in place in more municipalities, particularly when the state creates the property tax exemption for nonprofits. In addition, nonprofit property, particularly hospitals

[8]Rute Pinho, "History of PILOT Program Reimbursement Rates," Connecticut Office of Legislative Research, August 30, 2023. https://www.cga.ct.gov/2023/rpt/pdf/2023-R-0190.pdf

and universities, are highly concentrated in a few jurisdictions – namely college towns, state capitals, and central cities, but typically benefit residents of an entire state and, in some cases, the whole world.

PROVIDENCE, RHODE ISLAND

In 2021, Providence, Rhode Island, City Council members asked the Finance Department and the Mayor's office to review the city's PILOT agreements and write a report ahead of a June 2023 expiration date of a 2003 PILOT agreement that had not yet been amended to renew. Like Baltimore, property taxes are the largest revenue generator for the City of Providence.

According to the report published by the City's chief financial officer Lawrence J. Mancini and finance director Sara Silveria, nearly 39% of the city's land parcels (or 44% of all properties), accounting for about $8 billion in assessed value, are owned by tax-exempt nonprofits. The largest nonprofits, universities and hospitals, own 28% of Providence's total land parcels. The total assessed value of the land owned by these large, tax-exempt institutions is over $3.56 billion. If these properties were taxed in full, the City would collect more than $130 million in revenue each year.

Incorporating the goals that the report stated would be needed to "strengthen the fiscal stability of the city's future" concerning PILOT agreements, the City reached an historic agreement with its four largest colleges, who agreed to pay more than $200 million over 20 years. The payments were more than double what the four institutions paid over the previous 20 years.

Two different agreements make up the new PILOTS. The first calls for Brown University, Providence College, Rhode Island School of Design, and Johnson & Wales University to make payments of $177 million over 20 years. In 2024, the first payment from the four colleges will be $7 million. Brown will pay just over $5 million, Providence College will pay $725,000, and RISD and Johnson & Wales will each pay $600,000. Those same four institutions only paid a combined $2.3 million in 2023. The payments will initially increase by 2 percent annually and eventually increase by 3 percent toward the end of the agreement. The agreement details are in the memorandum of understanding (MOU) passed by the City Council.

The Mayor's office entered into a second, separate memorandum of agreement (MOA) with Brown University for an additional $46 million over ten years. That agreement includes several provisions that would give Brown a "credit" on their payment for development projects that generate tax revenues or previously tax-exempt property owned by Brown being returned to the commercial tax rolls.

In total, the four colleges will make $223.5 million in direct payments to the City of Providence from 2024 to 2043 (just over $11 million per year), compared to $94 million under the previous agreements. The four schools also agreed to match the dollar amount of their direct financial payments to the City through community contributions, including financial and non-financial support programs, services, and activities that directly benefit city residents and students. This is significant because the institutions were not given a credit against their cash PILOT payments for community contributions; they had to *match* the actual amount they paid into the PILOT with additional community contributions.

The MOU outlines five areas that the City and the institutions will address collaboratively with all, or a substantial portion of, the direct payments earmarked for city investment and expenditure in five priority areas:

- pre-K -12 education;
- equity, diversity and inclusion;
- community safety and well-being;
- promotion of the City as a safe, vibrant and inviting place to live, work and learn;
- and climate change and resiliency and adaptation infrastructure and policy.

The MOU requires the City to report annually on the impacts of the institutions' voluntary financial payments on the Providence community.

Assuring institutions that the money they contribute will be earmarked for areas they consider priorities and holding the City accountable for that, may be critical factors in getting tax-exempt institutions to enter into more generous PILOT agreements.

In a news release, Mayor Brett Smiley stated, "I am incredibly proud of the new agreement we are proposing today, which makes Providence a national example for collaboration and positively impacts our city for generations to come. Our city needs these funds in order to keep paying our bills on time and to provide the highest quality city services we all deserve."

By following best practices laid out in the report, such as creating a standardized formula to determine what contributions each institution will make, allowing the contributions to be adjusted annually based on services to the city by an institution, providing for an adjustment to the annual contribution based on acquisition or relinquishment of new property by an exempt institution, and ensuring the agreements were multi-year agreements, Providence's PILOTs may well become a model for other cities to follow to stabilize their fiscal future while both preserving existing services and providing their cities and towns the flexibility to invest in future needs.

"It is critical that the city and large tax-exempt property owners form transparent, collaborative agreements that outline fair contributions and that our anchor institutions can contribute to our shared future while maintaining a high quality of city services for residents," read the report. [9]

Although less, Providence, like Connecticut, receives aid from the state, which runs a program that reimburses up to 27% of taxes that would have been collected if a tax-exempt entity were taxable. Although state aid plays a big part in the city's fiscal stability, it should be noted that it is never a sure thing, given that all state aid is subject to annual appropriation in the budget.

CONCLUSION AND RECOMMENDATIONS

Tax policy in any municipality is critical because it is directly and irrevocably connected to the quality-of-life residents are going to have. Will there by adequate education? Will there be quality health services? Will there be ample parks and recreation areas? Will there be enough police and firefighters? Will our roads and bridges be safe? These are all things taxes pay for. A decline in tax revenue directly corresponds to a decline in the quality of life for residents.

Two significant factors have not changed since Baltimore's last PILOT agreement was reached with its anchor institutions in 2010 -- the City's fiscal stress is exacerbated by lost property tax revenue from exempt nonprofits, and other residents are still forced to pay higher property taxes to make up for that loss. If anything, changes have worsened the situation: inflation has gone up; new Kirwan funding formulas require the City to contribute $392.7 million in Fiscal 2024 for City Schools' operations; a lawsuit regarding accessibility could cost the City $650 million; and the City has recently paid out close to $23 million in settlements connected to the disgraced Gun Trace Task Force. Any new PILOT agreements must reflect these financial realities.

Given the significant differences across municipalities, no cookie-cutter formula or a single set of recommendations can be applied to all cities when devising PILOT agreements. But as City officials and leaders of Baltimore's major anchor institutions look to 2026, when the current PILOT agreement expires, Boston and Cambridge's PILOT programs, the Yale-New Haven collaboration, and Rhode Island's PILOTs with its four institutions of higher education, provide useful models and include best practices that should be considered when negotiating a new, beneficial PILOT agreement.

[9] "New report sheds light on Providence's pilot program with tax-exempt organizations," The Boston Globe, January 19, 2022, https://www.bostonglobe.com/2022/01/19/metro/new-report-sheds-light-providences-pilot-program-with-tax-exempt-organizations/

BEST PRACTICES FOR SUCCESSFUL PILOT PROGRAMS:

- **Municipalities should work collaboratively with nonprofits when seeking and negotiating PILOTs. Because PILOTs are voluntary payments, the best PILOT initiatives arise out of partnerships between municipalities and nonprofit organizations.**

Boston's Task Force, set up to review and improve the City's PILOT programs, is a leading example in this regard. Representatives from Boston's largest exempt organizations were invited to participate in the formulation of PILOT policymaking, driven by consensus. The recommendations of the Task Force cover many essential features of a systematic PILOT program.

- **PILOT agreements should standardize a formula that determines an institution's contributions. Using concrete and quantifiable methods reduces the appearance of unfairness, which increases exempt organizations' willingness to comply with municipal PILOT requests.**

In Boston, for example, about 25% of the City's budget goes to core public services that directly benefit nonprofits, so the PILOT Task Force determined that nonprofits that own property worth more than $15 million should each pay 25% of what they would have paid in real estate taxes.

In the case of Baltimore's PILOT agreement, the methodology used to determine how much each hospital, college and university was asked to contribute to the combined $6 million yearly payment is not spelled out in the 2016 MOU.

- **Cash contributions should be adjusted annually for public benefits provided to residents. City officials and nonprofit leaders should work together to identify which services would be most valuable for residents and most appropriate for each nonprofit to provide. But there must be a standard methodology used to calculate those community benefits. Giving credit for community benefits acknowledges that nonprofits provide services that would otherwise not exist or would come out of city budgets.**

In Boston, institutions receive up to a 50% PILOT deduction for providing services that directly benefit residents of the City, such as scholarships, cultural events, preventative medical care, and the development of safe, affordable housing. In addition, nonprofits may receive additional credit for "extraordinary community services," which has been a valuable tool for projects and programs that have improved the quality of life of the City's residents.

In Providence, on top of the cash payments, a dollar-for-dollar match is required in community contributions – no credits are given to agreed-upon cash contributions.

- **Agreements should provide the opportunity to adjust annual contributions based on acquiring or relinquishing new property by exempt institutions. PILOTs that provide additional**

payments when land becomes tax-exempt under nonprofit ownership could help ensure that local governments can continue to provide the same level of services.

Cambridge requires that when either MIT or Harvard buys a property, the institution pays the full property tax the first year and a declining amount over the next four years.

Yale University agreed in 2022 to the establishment of a 12-year sliding scale for payment of local property taxes on any property purchased and subsequently converted to tax-exempt status by the university. Under the agreement, Yale will pay the City of New Haven 100% of a property's local property tax amount for three years after acquisition. The university will then have to pay the city a sliding scale of payments that reduces by 10% each year from the fourth year to the 12th year after acquisition, resulting in no property taxes paid on that property from the 13th year on.

- **Municipalities should listen to each institution's priorities and earmark PILOTs for services consistent with a non-profit's mission and/or target a PILOT to fund activity that directly benefits the institution or supports its mission.**

The most recent MOU between the City of Providence, Brown, Johnson and Wales, Providence College, and RISD outlines five specific areas that the city and the colleges and universities have agreed to address collaboratively, with all or a substantial majority of the PILOT payments earmarked for city investment and expenditure in the following areas of priority:

  - pre-K -12 education;
  - equity, diversity and inclusion;
  - community safety and well-being;
  - promotion of the City of Providence as a safe, vibrant and inviting place to live, work and learn;
  - and climate change and resiliency and adaptation infrastructure and policy.

- **State governments should provide grants to reimburse overburdened local governments for the loss of revenue due to property tax exemptions, particularly when the entire state derives significant economic benefits from the nonprofit.**

Both the state of Connecticut and Rhode Island reimburse local governments that host nonprofit tax-exempt hospitals and universities. State aid plays a big part in New Haven's and Providence's fiscal stability.

- **PILOTs should be multi-year agreements – with 10 years being the minimum. This provides for a predictable revenue stream for local governments and a known budget number for nonprofits.**
- **Agreements should specify a payment in the base year but adjust for inflation each year.**

In Providence's agreement PILOT payments adjust for inflation – payments increase by 2% annually in the beginning, and eventually increase by 3% toward the end of the agreement.

Baltimore's PILOT agreement makes no provision for inflation. The agreed-upon 2017 annual $6 million payment will be worth $4.98 million in 2026 at 2% annual inflation and just $4.65 million at 3% annual inflation rate.

- **PILOT agreements and their negotiations should be a public and transparent process.**

In New Haven, the Mayor's very public, transparent negotiations, along with significant community involvement and participation, not only kept up pressure on Yale University to pay more but also led to the State of Connecticut agreeing to more than double the amount it provided New Haven annually through the state's PILOT Reimbursement Program. New Haven now receives about $90 million from the state each year.

- **Local governments should track and publish PILOT contributions detailing total amounts – both cash contributions and community benefits credits – made by each nonprofit. Universities and hospitals may be more inclined to pay into PILOT agreements if they see other universities and hospitals doing so and know the public is privy to the information.**

Boston has been tracking this information since 2007 and has detailed payment information for each institution on the City's website.[10]

With the growing number of nonprofit tax-exempt institutions in many localities, no municipality has figured out a comprehensive solution to pay for the growing fiscal burdens on cities to fund education, infrastructure, emergency response, digitization, and other essential services. But for now, PILOT agreements may be one of the only methods to collect a portion of much needed revenue from otherwise tax-exempt organizations. But these are still voluntary payments that are not legally or constitutionally required – they are an ask. There is no authority in any state to require the imposition of PILOTs, but there are several options and best practices currently being followed for negotiating a collaborative, transparent, public, and fair PILOT agreement.

This report was written by Christine Griffin, PhD with support from KC Kelleher, Abigail Belayneh, and Geoff Shannon.

[10] "Payment In Lieu of Tax (PILOT) Program | Boston.gov," accessed March 21, 2024, https://www.boston.gov/departments/treasury/payment-lieu-tax-pilot-program.