



ASSOCIATION OF TOWNS OF THE STATE OF NEW YORK

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Public Hearing on the 2024-2025 Executive Budget

before the

THE NEW YORK STATE SENATE FINANCE COMMITTEE AND
ASSEMBLY WAYS & MEANS COMMITTEE

Comments Submitted by the Association of Towns of the State of New York

Thank you for having the Association of Towns of the State of New York (AOT) offer testimony regarding the 2024-2025 Executive Budget and its impact on New York State's 933 towns. Fundamentally, local governments and the state have the same goal – create safe, vibrant communities for people to live in and visit, and working together is critical to achieving that.

The Association of Towns advocates for and assists the 933 towns in New York State that serve 9 million residents – about half the state's population. Towns are responsible for a number of essential services, including but not limited to, highway and bridge maintenance, local land use, and providing water and sewer services as needed in the community. Nowhere is New York State's diversity more apparent than in towns – the largest town in New York, and in fact, the United States, has a population of almost 800,000, and even the second largest town in the state has a population of approximately 500,000, making them both larger than any other city in the state except New York City. On the other hand, the smallest town in New York has a population of 30, and town populations run all along the spectrum. Though individual towns may have specific asks and needs, our asks for next year's budget are very basic in order to have a wider impact.

Funding For Local Governments

Year after year, the New York State Comptroller's Fiscal Stress Monitoring System shows that practically no towns are classified as being financially stressed, and that was the case yet again in the most recent 2023 report (see

<https://www.osc.ny.gov/files/local-government/publications/pdf/2022-fsms-munis.pdf>).

We are proud of that fact and know our members are responsible financial stewards; however, the status of towns is not nearly that simple. With increased costs, state mandates, and efforts to keep real property taxes low, more and more towns are forced to delay necessary and fundamental infrastructure improvements that benefit the public. We have spoken to members of the Legislature who asked what kind of impact an amount like \$20,000 in AIM funding, for example, actually has on a town. Of course, \$20,000 isn't going to cover the cost of improving the infrastructure in a water district, but it does pay for an engineer, who is necessary to get the process started so the project can be financed through bonds. In other cases, that \$20,000 might fund town services for the elderly. Every dollar counts, and towns make the most of that dollar.

Relative to the entire budget, our funding asks are minimal in dollar amount but make a huge difference. They are as follows:

- Restore \$60 million to CHIPS and increase the base funding
- Increase AIM for the first time since 2009
- Create a dedicated water and sewer infrastructure fund

AIM

Aid and Incentives to Municipalities Program (AIM)

As stated above, the impact AIM money has on municipalities is significant, but it also shows a partnership between local governments and towns, something that can't be quantified but shouldn't be ignored. While local governments value the AIM program and directly benefit from it, we believe the formula used to determine how much money each municipality gets could be improved. Reforming the AIM formula is something we would love to work on with the Governor's office, members of the Legislature, and NYCOM to include in next year's budget.

Our immediate request for this year is simply to increase AIM funding. Our ask of an additional \$200 million doesn't come close to how much AIM should have been funded over the years to keep pace with inflation. But it sends a strong message to local governments that the state wants to work with towns, cities and villages to provide the best services for our residents and visitors.

Highway Funding

We are in the third year of the five-year capital plan created to guide the New York State Department of Transportation and local road system. However, the best laid plans of mice and men often go awry, and unforeseen circumstances arise, which is why the capital plan serves as a guide, not something set in stone. We appreciate that the CHIPS program is funded again, and we understand that setting the funding level of \$538.1 million is consistent with what the capital plan says; however, record-high inflation rates for highway materials significantly increased costs and the simple fact is that a dollar doesn't go nearly as far as it used to. The Legislature recognized this fact last year and increased CHIPS by \$60 million for a total of \$598 million. We implore you not only to restore the \$60 million cut, but to increase the CHIPS base even more.

Local governments own and maintain 85 percent of all roads in the state, with towns maintaining 62.9 percent of all centerline miles, the most out of any form of local government (see <https://www.osc.ny.gov/files/local-government/publications/pdf/locally-owned-roads-by-the-numbers.pdf>). Almost every year, AOT cites the following statistics, but they are worth mentioning again – every dollar worth of maintenance on roads and bridges delayed leads to an additional \$4 to \$5 in future repairs, naturally resulting in higher real property taxes. On top of this, New York drivers lose, on average, \$2,768 a year because of poor, unsafe roads and bridges and traffic jams (see *Pavement Maintenance* by David P. Orr, PE Senior Engineer, Cornell Local Roads Program, March 2006; *New York Transportation by the Numbers – Meeting the State's Need for Safe, Smooth and Efficient Mobility* by TRIP, November 2018). It is clear to see that increasing funding for local roads today saves money tomorrow.

Finally, although we are thankful for programs like PAVE-NY and BridgeNY, and the funding proposed in the Executive Budget, they were never intended to replace increases to the CHIPS base. Steady, reliable funding sources like CHIPS allow towns to engage in long-term capital planning, a practice in which the OSC strongly encourages local governments to engage.

2024-2025 (SFY 2025) Executive Budget Highway Funding				
Funding Program	Executive Budget SFY 2025	5 Year DOT Capital Plan	2023 State Budget	2024 State Budget
CHIPS (Consolidated Highway Improvement Program)	\$538.1 Million	\$538.1 Million	\$538.1 Million	\$598,097 Million
Marchiselli	\$39.7 Million	\$39.7 Million	\$39.7 Million	\$39.7 Million
PAVE-NY	\$150 Million	\$150 Million	\$150 Million	\$150 Million
POP (Pave our Potholes)	\$100 Million	\$100 Million		\$100 Million
EWR (Extreme Winter Recovery)	\$100 Million	\$100 Million	\$100 Million	\$100 Million
Bridge-NY	\$200 Million	\$200 Million	\$200 Million	\$200 Million
State Touring Routes	\$100 Million	\$100 Million	\$100 Million	\$140 Million

Environmental Funding

Things like the recent amendment to the state’s constitution declaring clean air and water as a fundamental right for New Yorkers, and the creation of the CLCPA goals demonstrate the state’s increasing focus on and priority given to environmental issues. However, protecting the environment is about more than things like renewable energy, and one of the best ways to support sustainability is to fund water and sewer projects for local governments. Specifically, AOT would like to see the state create a CHIPS-like program providing reliable funding so that municipalities can plan for improvements. Currently, environmental funding available to local governments is predominantly grant-based, and in most instances, the money isn’t even earmarked solely for local governments – we share this limited pot of funds with private entities.

Like road infrastructure, water and sewer infrastructure is in dire need of improvement. Increased labor and material costs, pressure to keep real property taxes low, and fewer or reduced sources of funding have resulted in necessary improvements being delayed

and an impending public health crisis. New York has some of the oldest water infrastructure in the country. With respect to wastewater alone, approximately 25 percent of New York's 600 or more wastewater treatment facilities are operating beyond their 30-year useful life expectancy, and one-third of the 22,000 miles of New York's sewer systems have exceeded their life expectancy of 60 years (see *2015 Infrastructure Report Card: New York*, American Society of Civil Engineers, 2015, <https://www.infrastructurereportcard.org/state-item/new-york/>). In 2008, the Department of Environmental Conservation estimated that it would cost \$36.2 billion over 20 years to repair municipal wastewater infrastructure (see *Wastewater Infrastructure Needs of New York State*, March 2008, https://www.dec.ny.gov/docs/water_pdf/infrastructurerpt.pdf).

The picture does not get any better when looking at clean drinking water infrastructure. In 2008, the Department of Health estimated that \$38.7 billion over 20 years would need to be invested in drinking water infrastructure (see *Drinking Water Infrastructure Needs*, NYS Department of Health, November 2008 https://www.health.ny.gov/environmental/water/drinking/docs/infrastructure_needs.pdf), As the Office of the State Comptroller noted, that means \$80 billion would have to have been invested in drinking water and wastewater investments in New York over the next 20 years from 2008, and this number has undoubtedly increased since then (see *Drinking Water Systems in New York: The Challenges of Aging Infrastructure*, February 2017).

While we are grateful to see the Executive Budget include things like \$400 million in funding for the Environmental Protection Fund, we also note that the additional \$500 million appropriation to support clean water infrastructure is for two years. This cuts funding for clean water infrastructure in half, which is unacceptable given the overall condition of infrastructure around the state. Not only must this funding to be increased to at least last year's level, again, as this funding is grant-based, and having dedicated water and sewer funding for municipalities is the best way to address this crisis.

Cannabis Enforcement (PPGG Part G)

We strongly support the Governor's proposal that allows municipalities to adopt local laws to address the unlicensed sale of cannabis. We ask for one point of clarification – the proposed legislation allows counties to adopt local laws and also says there shall be no overlapping local laws on enforcement. We would like language explicitly stating that if a county adopts a local law, it does not supersede a town's own local law.

EMS (HMH Part V)

We also support the Governor's proposal to improve Emergency Medical Services by allowing counties, jointly with other municipalities or independently, to create districts in order to provide those services. As with our cannabis ask, we would like to see language added to the legislation that maintains towns' ability to create ambulance

districts and that a county district would not supersede or overlap with an existing town district. However, if a town wanted to merge an ambulance district with the county district, they would have that option. Additionally, with EMS being classified as an essential service through this legislation we also believe there should be funding available to support the program.

In Rem Foreclosures (Rev Part N)

AOT has no objection to the proposal in the Executive Budget on in rem foreclosures. Towns in Westchester County are unique in that they have the right to commence in rem foreclosure proceedings, unlike elsewhere in the state where counties have that authority. In 2023, the United States Supreme Court found that keeping excess proceeds from in rem foreclosure sales could constitute a taking in violation of the Takings Clause of the Constitution (see *Tyler v. Hennepin County, Minnesota, et al* (143 US 1369 [2023])). This proposal seeks to align New York’s statutory framework with the constitutional implications addressed in *Tyler* by requiring any surplus proceeds from tax foreclosure sales to be distributed to former owners and any lienors of the subject properties. Importantly, the costs associated with enforcing the delinquent tax sales are not included in the definition of surplus proceeds, ensuring that local governments will continue to be made whole for outstanding charges. If enacted, tax districts (including towns in Westchester County) have six months to pay any surplus associated with delinquent tax sales that occurred between May 25, 2023 and the effective date. Any other aggrieved property owners whose properties were foreclosed upon before May 25, 2023 were required to commence an Article 78 proceeding within four months of the sale to in order to pursue any surplus funds. Practically speaking, this means that taxing districts will not be liable for surplus proceeds in any in rem foreclosure sale prior to May 25, 2023 unless the property owner filed suit in the four months following the sale.

Telecommunications Assessment (Rev Part M)

We support the proposal in the Executive Budget that amends the definition of real property to provide that only property “primarily or exclusively” used in the transmission of radio, television or cable television signals is excluded from the definition of real property. This will prohibit telecommunications providers from avoiding taxation by asserting that ALL property is used in transmission.

Revenue from the Vacation Rental Industry (Rev Part K)

The Executive Budget includes a proposal that generates an increase in local tax revenue; specifically, it imposes a sales tax on vacation rentals and requires vacation rental marketplace providers to collect sales tax on the vacation rentals they facilitate. The Association of Towns strongly supports this proposal, so long as there is a mechanism in place to ensure that the local sales tax revenue generated from these proposals is fairly distributed to all local governments, rather than leaving the disbursement of the funds to the discretion of the county. While some counties share

the local sales tax revenues, others do not, depriving towns of this essential benefit despite the numerous services towns provide. AOT proposes that a portion of sales tax revenue received by counties should be dedicated to fixing county roads that run through towns.

Interest Rates on Judgments (PPGG Part R)

We strongly support the Executive Budget proposal to use the one-year U.S. Treasury Bill Rate to calculate the annual interest rate paid on judgments or accrued claims. The current framework provides that judgments and claims interest accrue at 9 percent. Not only does that rate far exceed what one would earn investing, it drives up litigation costs for municipal defendants and penalizes them for delays that may be beyond their control. While we can see that this legislation was necessary when interest rates were in excess of 9 percent, this protection is no longer necessary in today's economic climate. Tying interest rates to the one-year U.S. Treasury Bill Rate is on par with federal courts and appropriately reflects interest rates for today's markets. Accordingly, adopting this proposal is a matter of equity that would reduce costs for local governments.

Miscellaneous

AOT also supports the proposals in the Executive budget that extend the authority of municipal boards to meet via videoconference under extraordinary circumstances (TED KK), and ends required sick leave and other benefits municipalities must provide to employees subject to a mandatory or precautionary order of quarantine or isolation from COVID-10, effective July 31, 2024 (ELFA Part M).

Additional Legislative Asks

Finally, there are two pieces of legislation we would like to see added to the one-house budgets or as stand alone legislation. The first is to increase the fees towns are allowed to keep with respect to certain justice court adjudications. The state-established a reimbursement fund that was designed to assist local governments with the operational expenses associated with processing state violations; however, the fee has not been increased since 1997 and the rate is set at fifteen dollars. AOT would like to see the reimbursement raised to at least twenty-five dollars. The second ask is to give all towns the authority to reduce speed limits on town roads as currently that authority is reserved only for towns with a population of 50,000 or more.

Conclusion

Thank you for the opportunity to share our thoughts on this Executive Budget. The Association of Towns truly believes that by working together, we can achieve great things in New York. We look forward to working with the Legislature and the Governor in tackling important issues and finding workable solutions.