# Executive 2021-22 State Budget

# Joint Legislative Budget Testimony

NYSAC
NEW YORK STATE
ASSOCIATION OF COUNTIES

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**Thank you for the opportunity to speak to the joint budget committees today.**

**Given time constraints, I will provide amended verbal remarks and the Committee can find more detail in the written testimony on these and other issues of importance for New York counties and New York City.**

**Overall Goals**

The main goal for counties during this state budget cycle is to protect local taxpayers by restoring the 5% cuts as presented in the SFY 22 Executive Budget and delay the county sales tax diversion to pay for the Distressed Hospital Fund, Part ZZ of Chapter 56 of the Laws of 2020.

## Protect Local Taxpayers, Pause the Distressed Hospital Fund

The SFY 21 Enacted Budget amends New York State Tax Law Section 1261 to direct the Office of the State Comptroller to withhold sales tax collections in the aggregate amount of $50 million from counties outside of New York City and $200 million from New York City and place them into a New York Agency Trust Fund, Distressed Provider Assistance Account, annually, for two years.

**Counties are requesting that this initiative be placed on pause for at least one year and should seriously be considered for elimination. Significant federal funding has been provided to health facilities in New York with tens of billions more to be distributed. In addition, the state withheld $250 million in local sales tax for this initiative with no definition of what a distressed facility is, nor a list of the facilities, nor any timing of when payments would flow.**

The table below shows the county-by-county financial impact of this proposal and AIM-Related sales tax diversions in calendar year 2021. Nearly $500 million in local sales tax is being diverted by the state to fill its own budget holes, or to pay for state programs where the state has eliminated or reduce their own fiscal support.

## State Diversion of Local Sales Tax, Calendar Year 2021 Cash Flow, (-$496.7 million)

*Fiscally Distressed Health Facilities/Other State General Purposes (FDHF-GF) & AIM Related Payments*

| County | January 15, 2021 FDHF-GF Sales Tax Diversion | May 2021 FDHF-GF Sales Tax Diversion | August 2021 FDHF-GF Sales Tax Diversion | November 2021 FDHF-GF Sales Tax Diversion | Subtotal CY 2021 FDHF-GF Sales Tax Diversion | May 2021 AIM-Related Payment Sales Tax Diversion | December 2021 AIM-Related Payment Sales Tax Diversion | Subtotal CY 2021 AIM-Related Payment Sales Tax Diversion | Total CY 2021 Sales Tax Diversion |
|---|---|---|---|---|---|---|---|---|---|
| Albany | $1,677,287 | $398,855 | $398,855 | $398,855 | **$2,902,741** | $172,553 | $834,131 | **$1,006,684** | **$3,909,425** |
| Allegany | $129,411 | $35,267 | $35,267 | $35,267 | **$237,661** | $197,898 | $309,564 | **$507,462** | **$745,123** |
| Broome | $831,003 | $206,333 | $206,333 | $206,333 | **$1,462,816** | $511,690 | $869,109 | **$1,380,799** | **$2,843,615** |
| Cattaraugus | $234,189 | $60,830 | $60,830 | $60,830 | **$419,072** | $72,766 | $272,273 | **$345,039** | **$764,111** |
| Cayuga | $223,431 | $56,562 | $56,562 | $56,562 | **$394,096** | $53,714 | $303,377 | **$357,091** | **$751,187** |
| Chautauqua | $415,114 | $106,490 | $106,490 | $106,490 | **$731,034** | $231,765 | $468,236 | **$700,001** | **$1,431,035** |
| Chemung | $369,395 | $90,480 | $90,480 | $90,480 | **$645,360** | $93,303 | $163,071 | **$256,374** | **$901,734** |
| Chenango | $143,813 | $36,835 | $36,835 | $36,835 | **$255,381** | $66,614 | $257,855 | **$324,469** | **$579,850** |
| Clinton | $346,640 | $87,065 | $87,065 | $87,065 | **$608,382** | $34,702 | $394,179 | **$428,881** | **$1,037,263** |
| Columbia | $266,185 | $66,695 | $66,695 | $66,695 | **$465,554** | $43,201 | $288,034 | **$331,235** | **$796,789** |
| Cortland | $182,541 | $45,994 | $45,994 | $45,994 | **$327,082** | $28,450 | $151,805 | **$180,255** | **$507,337** |
| Delaware | $130,096 | $35,673 | $35,673 | $35,673 | **$236,602** | $133,136 | $236,290 | **$369,426** | **$606,028** |
| Dutchess | $1,231,699 | $301,183 | $301,183 | $301,183 | **$2,138,082** | $111,825 | $1,181,879 | **$1,293,704** | **$3,431,786** |
| Erie | $4,848,971 | $1,217,571 | $1,217,571 | $1,217,571 | **$8,515,438** | $736,144 | $3,709,039 | **$4,445,183** | **$12,960,621** |
| Essex | $189,378 | $46,723 | $46,723 | $46,723 | **$319,808** | $0 | $322,039 | **$322,039** | **$641,847** |
| Franklin | $147,780 | $39,193 | $39,193 | $39,193 | **$265,062** | $208,961 | $245,854 | **$454,815** | **$719,877** |
| Fulton | $130,970 | $34,629 | $34,629 | $34,629 | **$235,077** | $31,728 | $148,292 | **$180,020** | **$415,097** |
| Genesee | $251,636 | $61,804 | $61,804 | $61,804 | **$437,268** | $69,124 | $234,489 | **$303,613** | **$740,881** |
| Greene | $202,050 | $53,748 | $53,748 | $53,748 | **$364,511** | $86,273 | $160,751 | **$247,024** | **$611,535** |
| Hamilton | $24,461 | $6,301 | $6,301 | $6,301 | **$40,698** | $1,815 | $41,637 | **$43,452** | **$84,150** |
| Herkimer | $200,750 | $51,451 | $51,451 | $51,451 | **$354,211** | $451,345 | $198,847 | **$650,192** | **$1,004,403** |
| Jefferson | $467,827 | $120,731 | $120,731 | $120,731 | **$819,698** | $176,027 | $314,650 | **$490,677** | **$1,310,375** |
| Lewis | $75,878 | $19,762 | $19,762 | $19,762 | **$136,076** | $61,707 | $123,696 | **$185,403** | **$321,479** |
| Livingston | $208,149 | $53,919 | $53,919 | $53,919 | **$369,545** | $202,359 | $244,028 | **$446,387** | **$815,932** |
| Madison | $179,258 | $47,286 | $47,286 | $47,286 | **$319,032** | $130,376 | $225,495 | **$355,871** | **$674,903** |
| Monroe | $3,061,862 | $765,098 | $765,098 | $765,098 | **$5,394,343** | $425,299 | $2,913,307 | **$3,338,606** | **$8,732,949** |
| Montgomery | $190,062 | $51,654 | $51,654 | $51,654 | **$346,652** | $104,948 | $112,154 | **$217,102** | **$563,754** |
| Nassau | $7,309,393 | $1,757,858 | $1,757,858 | $1,757,858 | **$12,616,268** | $3,870,385 | $7,571,501 | **$11,441,886** | **$24,058,154** |
| Niagara | $762,434 | $193,459 | $193,459 | $193,459 | **$1,341,177** | $72,399 | $534,023 | **$606,422** | **$1,947,599** |
| Oneida | $877,169 | $220,546 | $220,546 | $220,546 | **$1,539,548** | $189,378 | $769,430 | **$958,808** | **$2,498,356** |
| Onondaga | $2,164,975 | $538,968 | $538,968 | $538,968 | **$3,770,556** | $488,578 | $2,044,951 | **$2,533,529** | **$6,304,085** |
| Ontario | $520,144 | $127,827 | $127,827 | $127,827 | **$902,307** | $95,686 | $261,322 | **$357,008** | **$1,259,315** |
| Orange | $1,741,583 | $416,458 | $416,458 | $416,458 | **$2,982,120** | $281,639 | $859,326 | **$1,140,965** | **$4,123,085** |
| Orleans | $102,814 | $28,550 | $28,550 | $28,550 | **$190,274** | $108,371 | $181,905 | **$290,276** | **$480,550** |
| Oswego | $282,941 | $73,498 | $73,498 | $73,498 | **$501,312** | $55,893 | $444,324 | **$500,217** | **$1,001,529** |
| Otsego | $236,275 | $56,283 | $56,283 | $56,283 | **$406,269** | $58,468 | $272,852 | **$331,320** | **$737,589** |
| Putnam | $395,202 | $97,767 | $97,767 | $97,767 | **$685,279** | $31,440 | $350,980 | **$382,420** | **$1,067,699** |
| Rensselaer | $554,323 | $142,650 | $142,650 | $142,650 | **$983,358** | $54,548 | $538,799 | **$593,347** | **$1,576,705** |
| Rockland | $1,363,282 | $333,920 | $333,920 | $333,920 | **$2,377,195** | $827,240 | $1,333,385 | **$2,160,625** | **$4,537,820** |
| St. Lawrence | $356,994 | $97,790 | $97,790 | $97,790 | **$650,859** | $455,715 | $600,337 | **$1,056,052** | **$1,706,911** |
| Saratoga | $756,144 | $190,379 | $190,379 | $190,379 | **$1,323,864** | $131,251 | $649,385 | **$780,636** | **$2,104,500** |
| Schenectady | $629,900 | $154,738 | $154,738 | $154,738 | **$1,088,290** | $74,546 | $488,152 | **$562,698** | **$1,650,988** |
| Schoharie | $94,621 | $24,966 | $24,966 | $24,966 | **$169,024** | $25,322 | $151,371 | **$176,693** | **$345,717** |
| Schuyler | $69,470 | $17,328 | $17,328 | $17,328 | **$118,438** | $39,839 | $93,039 | **$132,878** | **$251,316** |
| Seneca | $162,703 | $38,713 | $38,713 | $38,713 | **$275,590** | $61,771 | $245,800 | **$307,571** | **$583,161** |
| Steuben | $351,825 | $87,122 | $87,122 | $87,122 | **$612,603** | $228,218 | $392,769 | **$620,987** | **$1,233,590** |
| Suffolk | $8,903,119 | $2,176,847 | $2,176,847 | $2,176,847 | **$15,322,203** | $527,298 | $7,008,742 | **$7,536,040** | **$22,858,243** |
| Sullivan | $281,783 | $71,641 | $71,641 | $71,641 | **$486,308** | $42,419 | $418,858 | **$461,277** | **$947,585** |
| Tioga | $150,862 | $35,572 | $35,572 | $35,572 | **$256,202** | $55,664 | $270,314 | **$325,978** | **$582,180** |
| Tompkins | $331,537 | $77,368 | $77,368 | $77,368 | **$564,439** | $75,716 | $311,562 | **$387,278** | **$951,717** |
| Ulster | $744,543 | $188,305 | $188,305 | $188,305 | **$1,308,800** | $135,851 | $639,160 | **$775,011** | **$2,083,811** |
| Warren | $331,967 | $81,489 | $81,489 | $81,489 | **$553,008** | $10,386 | $213,907 | **$224,293** | **$777,301** |
| Washington | $126,990 | $33,372 | $33,372 | $33,372 | **$226,304** | $97,714 | $195,676 | **$293,390** | **$519,694** |
| Wayne | $279,806 | $76,273 | $76,273 | $76,273 | **$510,235** | $155,136 | $509,428 | **$664,564** | **$1,174,799** |
| Westchester | $3,566,606 | $1,011,321 | $1,011,321 | $1,011,321 | **$6,655,568** | $1,666,079 | $2,244,930 | **$3,911,009** | **$10,566,577** |
| Wyoming | $110,398 | $29,300 | $29,300 | $29,300 | **$197,947** | $125,910 | $181,582 | **$307,492** | **$505,439** |
| Yates | $80,361 | $21,557 | $21,557 | $21,557 | **$143,373** | $55,499 | $111,742 | **$167,241** | **$310,614** |
| 57 Counties | **$50,000,000** | **$12,500,000** | **$12,500,000** | **$12,500,000** | **$87,500,000** | **$14,536,082** | **$44,613,633** | **$59,149,715** | **$146,649,715** |
| New York City | **$200,000,000** | **$50,000,000** | **$50,000,000** | **$50,000,000** | **$350,000,000** | **$0** | **$0** | **$0** | **$350,000,000** |
| **Grand Total** | **$250,000,000** | **$62,500,000** | **$62,500,000** | **$62,500,000** | **$437,500,000** | **$14,536,082** | **$44,613,633** | **$59,149,715** | **$496,649,715** |

[1] Rest of CY 2021 payments represents the total remaining amount to be diverted and will be split between 3 equal diversions on April 15th, July 15th, October 15th.

The sales tax diversion for the Fiscally Distressed Health Facilities Pool are estimates. The total dollar value for counties is $50 million annually, based on each county's proportionate share of sales tax collected in the prior year.

While counties recognize the financial hardship currently being experienced by our hospital providers, we are also encouraged that these revenue losses have been largely offset by federal funds as part of the COVID-19 stimulus packages that were enacted in 2020.

Despite Congress's inability to provide aid to states and counties to replace lost revenues and higher costs from the pandemic, they have been vigilant in providing this aid to health facilities and providers to the tune of $178 billion so far nationwide. New York health facilities and providers have already received about $11.5 billion in pandemic aid to help cover higher costs and lost revenues, and they will be receiving billions more. The most recent payments will make up for at least 87 percent of lost revenue at all hospitals and providers through the second quarter according to Senators Schumer and Gillibrand. In addition, Congress is poised to enact tens of billions more in direct aid to health facilities in President Biden’s COVID response and recovery package.

Counties, on the other hand, have not received federal funds. They are struggling with mounting, unbudgeted COVID-related costs, at the same time they are losing revenue due to the reduced economic activity that has come with fighting the virus. This unprecedent forced shutdown of our national economy has resulted in the 57 counties outside of New York City losing more than $720 million from lower sales and hotel occupancy taxes, and lost gaming revenues.

As if those two factors weren't enough to challenge a county budget, the state is leveling a 5 percent cut to counties as it scrambles to close its own $15 billion budget gap. These cuts translate to a loss of $160 million in state reimbursement for programs counties already delivered and paid for.

Combined, counties are staring down nearly $1 billion in revenue losses. To put this in perspective, the entire county property tax levy for all 57 counties is about $5.5 billion. **The lost revenue represents 18 percent of the current county levy.**

With health care facilities receiving significant federal help already and nearly $70 billion more in federal funding still to be distributed, counties are asking state lawmakers to abandon this diversion of scarce sales tax dollars so they can remain in our communities to support local taxpayer services.

Looking past the current crisis, this trend of the state shifting costs to local taxpayers and confiscating local revenues is disturbing and unsustainable, and it must be reversed if we expect our residents and businesses to stay and thrive in New York. We operate in a global budget environment in New York State. Each decision the state makes to refine a program, make it more efficient, or cut state agency costs allows it to use those savings elsewhere or to cut state income taxes.

**But when the state shifts costs to local governments, or takes local revenues to pay for state programs, they are simply transferring a new burden from the state taxpayer to the local taxpayer. It may look better on the state ledger, but New Yorkers are still paying, and they are getting fewer local services every time it happens.**

## Closing the Fiscal Gap for the 2022 State Fiscal Year

Similar to the adopted SFY 2021 budget, closing the fiscal gap relies on a large infusion of federal aid. Since the amount of federal aid is unknown the Executive Budget proposes two contingencies:

1. $6 billion in unrestricted federal aid is provided over two years, or
2. $15 billion in unrestricted federal aid is provided over two years.

The first contingency ($6 billion in unrestricted federal aid) would require multiple actions by the state to close the projected $10.2 billion gap for SFY 2022, including:

- **Spending Cuts ($3.6 billion)**
    - Includes ***five percent across the board cuts in aid to localities*** with some targeted eliminations including local VLT aid. The difference from the current year model of the Executive having the authority to not release state funds to help balance the budget, is that the proposed budget actually reduces Aid to Localities appropriations by five percent if it is state funds. NYSAC estimates the five percent cut would equal about $160 million for counties, but that cut could be reduced or increased based on the delivery of unrestricted federal aid. **We request that this cut be reduced as much as possible if additional federal aid arrives above the $6 billion over two years mark requested by the Governor.**
    - A $1.5 billion adjustment to school aid (with already approved federal aid, it is expected that all school districts will see an increase, but the state will be able to save state dollars).
    - Medicaid cuts of $600 million.

- State agency spending reductions of $110 million.
- Debt Service/Capital Projects changes for savings of $135 million.

## SFY '22 Executive Budget Proposal

While the Executive Budget includes two major components of local sales tax diversion – the distressed hospital fund and AIM-related payments, the budget does include several provisions which are widely supported by county government.

## Changes in Taxation & Finance Important to Counties

### *Grant Permanent Sales Tax Authority*

**Counties strongly support the Executive Budget proposal that grants permanent local sales tax authority for all counties and cities at their existing rates or up to four percent.**

This bill would give all 57 counties outside of New York City, and the 5 cities that currently have additional rates, permanent authority to impose a 1 percent additional rate of sales tax (for a total of 4 percent) or their currently authorized additional rate, whichever is higher. This would eliminate the need for these counties and cities to seek State legislative authorization on a periodic basis to renew those rates and, thus, retain those revenue streams. It would also provide parity to the three counties (Saratoga, Warren and Washington) that currently do not have authority to impose additional rates.

All local governments will still be required to seek and receive temporary approval by a majority vote of the local government's governing body in order to impose additional sales tax above the current statutory three percent threshold.

Localities would remain subject to the existing requirements and time frames to give notice of their local enactments to the Tax Department. In addition, the bill would require that all local rates terminate on the same date. This would restore the traditional odd-year renewal cycle, make the renewal periods uniform for all affected cities and counties, and reduce confusion and the potential for costly errors.

### *Expanded Investment Options for Counties*

**Counties strongly support the Governor's proposal to grant all local governments increased authority to hold certain investments, subject to various restrictions and approvals.** New York City, however, is temporarily authorized to invest in additional types of products. Legislation submitted within the Executive Budget would expand the types of investment options available for counties to provide similar options as those currently available to New York City, helping counties to better manage their resources.

Under current law, all local governments are authorized to hold certain investments, subject to various restrictions and approvals, including:

- Special time deposit accounts
- Certificate of deposits
- Obligations of the USA or obligations guaranteed by agencies of the USA
- Obligations of New York State

Currently, however, New York City is temporarily authorized to invest in additional types of products, including:

- General obligation bonds and notes of any state other than New York, provided that such bonds receive the highest rating of at least one independent rating agency
- Obligations of any corporation organized under the laws of any state, provided that such obligations received the highest rating of two independent rating services and that no more than $250 million is invested in any one corporation
- Bankers' acceptances maturing within 270 days which are eligible for purchase in the open market by federal reserve banks
- Obligations of, or instruments issued by, any agency or instrument of the USA, including federal home loans banks, the Tennessee Valley Authority, the Federal National Mortgage Association, Federal Home Loan Mortgage Association, and the United States Postal Service, provided that no more than $250 million is invested in any one agency
- No load money market mutual funds, provided that such funds are limited to investments in obligations of agencies or instrumentalities of the USA, where payment is guaranteed by the USA

This bill would extend the authorization currently provided to New York City to counties as well, with the same expiration date as the authorization for New York City, July 1, 2023.

## Help Counties Preserve Scarce Resources

Public policies that help counties lower costs and ensure adequate local revenue are critically important. While recent state budgets have tried to limit the shifting of state costs on counties, cost shifts still happen. Other state laws enacted over the years have eroded the county property and sales tax base, largely through the enactment of hundreds of tax exemptions targeted to specific groups of individuals, industries, products, and services, all while failing to update the state tax code to keep pace with changes in the economy. The preponderance of state-promoted tax exemptions do not reduce the need to deliver services to the groups receiving tax breaks, but simply shift the burden of paying for these critical public services to a narrower tax base.

## Aging Services

### *Expanded EISEP Services*

The Executive Budget includes $15 million for EISEP services through local Offices for the Aging. This funding was included in the SFY 20 and SFY 21 Enacted Budgets. Furthermore, the typical 25% local maintenance of effort match is exempt from this funding. The funds must be used to address the unmet needs of the elderly as reported to NYSOFA.

Counties support this continued investment.

## Community College Funding

The SFY 2022 budget cuts aid to community colleges by $11 million, or 1.6 percent, from $669 million to $658 million. This follows cuts of $35 million in SFY 2021. The new funding cuts are based on student census declines, according to the State.

**Counties support a restoration of the 98 percent funding floor that was included as part of the 2019-20 budget as well as an increase in Community College Base Aid.**

## Early Childhood Development and Children with Special Needs

*Early Intervention Provider Rate Increase*

Counties support the Governor's reforms to the early intervention program that seek to boost third-party insurance billings to ensure costs that should be paid by private insurance and Medicaid are, in fact paid. Since the implementation of the statewide fiscal agent, it has been the responsibility of the providers to exhaust third-party insurance billing before seeking reimbursement from counties and the state. These third-party collections continue to lag expected levels.

Our early intervention system is reaching a crisis point. Counties across New York are experiencing shortages in available providers, leaving our youngest population vulnerable to achieving the same social and educational growth as their peers. The executive budget provides a series of reforms, including the following.

***Recommendation:***

§ 4405. Education Law:

a. Maintenance for a student with a disability placed in a residential school under the provisions of this article shall be a charge upon ~~the social services district~~ **the school district** wherein such child resides at the time of the commencement of the school year for which aid is to be paid.
Financial responsibility for the maintenance of a student with a disability placed in a state school under the provisions of articles eighty-seven and eighty-eight of this chapter shall be in accordance with the provisions of such articles.

***Recommendation:***

Counties support the enactment of a covered lives assessment on third party commercial insurance for the purpose of assuring that commercial health insurance plans contribute a proportionate share of the payment for Early Intervention (EI) services provided to infants and toddlers with special needs and their families. In 2018 providers submitted claims to commercial Insurers totaling $76,498,012.57, but insurers paid just $12,034,496.61, or just approximately 16% of total claims. In contrast, Medicaid reimburses between 70-80% of claims submitted annually. EI is an important program with a steep growth curve: the cost of services and numbers of children enrolled have grown exponentially since the program began in 1993. EI consumes a large and growing percentage of local public health budgets, with the cost of EI often dominating that of any other single public health program, despite serving a small percentage of the population. Without the intended contribution of commercial insurers, the viability of the EI program, as well as other public health services, is threatened and places an undue and unnecessary burden on local and state governments.

In addition to the direct fiscal costs of third-party insurance claim denials, the current system poses an administrative burden on both providers and the insurers themselves. Third-party billing challenges have contributed to provider capacity problems, making existing providers no longer willing to serve the EI population, and serving as a disincentive to new providers. A covered lives assessment will provide relief to both providers and insurers in submitting, reviewing claims and adjudicating denied claims.

NYSAC believes that a covered lives assessment will provide a cost savings to the state and is requisite to responsible stewardship of public dollars. If accomplished, it will support and improve the provision of appropriate, high quality services to this most fragile population. NYSACHO recommends that a covered lives assessment should ideally match the Medicaid rate of reimbursement, and minimally provide the equivalent of 50% of eligible claims based on number of enrolled children with third party coverage (40M).

## Provide Design Build Authority to Local Governments

The State has used design-build authority to build major infrastructure projects in recent years with great success. Projects have come in at lower costs and on time. This authority has also been granted to New York City on select projects. **NYSAC supports providing full design build authority to New York City and other localities that are facing major infrastructure projects, subject to agreed-upon population and project costs thresholds.** Local taxpayers can benefit from lower costs and short construction delays.

## Extend Authorization for Local Government Piggyback Contracts

Local governments use the authority to utilize other government agencies' contracts as a means to create efficiencies and reduce the costs of purchasing goods and services. Legislation submitted with the Budget would extend local governments' authority to "piggyback" on competitively bid contracts from the Federal government and/or any state or local government for apparatus, materials, equipment, or supplies, and any services related to their installation, maintenance, and repair for an additional two years, to July 31, 2023.

## Judiciary and Court Related Matters

### *Parental Representation Caseload Relief*

New York is a national leader in understanding the need for Family Court, and through the Family Court Act seeks to provide a system by which all interested parties and, most importantly, children, are protected. Family Court operates with a focus on providing solutions to families in need of support and helping individual family members with the safest and best path forward.

Currently, many state-mandated functions of Family Court are financed by local governments, including providing and paying for parental legal representation. Counties do their best to provide this service, however due to packed court calendars and caseloads and with limited fiscal resources, counties are struggling to ensure high level representation. **The State needs to help counties provide fair and just execution of the Family Court Act through adequate funding and properly providing counsel to address the complex issues between family, parents, and children.**

The next step is to provide the financing of parental representation in the Family Court system, currently mandated by the State and financed by counties and New York City. Counties, the State, and the Courts must work together to create efficiencies in the current system. By providing counties with a pilot funding program will be the start to address this need. **Accordingly, the counties of New York are calling for a $5 million State aid pilot program that will target and support parental family court representation. This system will be vital to show the path forward on how together the State and the counties can work together to support families in need.**

*Indigent Defense*

The Governor's budget proposal includes $304.81 million for counties for indigent defense purposes. This is an increase of $50 million in aid compared to 2020. Counties support this increase.

### *Market Based Judgment Interest Rate*

Under New York State law, the interest rate for plaintiffs seeking to appeal a judgment is set at nine percent. This is vastly higher than current federal interest rates. T**he Governor's proposed budget would require that the rate of interest be calculated at a prevailing market rate identical to that used by the Federal Court System.** Accordingly, the interest rate on all court judgments and accrued claims paid by public and private entities is based on the weekly average one-year constant maturity treasury yield. This bill would reduce the amount of interest paid by the State and by local governments on court judgments.

**Counties support this initiative and would encourage the Legislature to include this measure in the final budget.**

### *District Attorney Salary Increase*

For the fifth year in a row that the increase to district attorney salaries that, under state law, is tied to the state judge salaries, is not included in the executive budget proposal. This State inaction costs counties over $3.1 million per year. Counties encourage the Legislature to include this measure in both one-house budget bills.

## Gaming

### *Native American Gaming*

New York State is in the gaming and casino business. Over the past few decades, the State has authorized gaming on Indian reservations through compacts and legalized private casinos through legislation. These businesses are now directly or indirectly part of every county in New York. Under State law the gaming entities, including Native American-operated casinos, pay the State a percentage of gaming earnings and the State passes a portion of that revenue on to counties and the host communities. This funding is vital to meet the increased infrastructure, public safety, and social service needs that can accompany the expansion of legalized gambling. This system can and does work as long as a balance remains—the gaming facilities are marketable while the local governments are properly funded to meet resident services caused by the gaming entities.

Unfortunately, this balance no longer exists in New York's 16 western counties, which used to receive over $50 million annually from the State's portion of Seneca Nation gaming revenue. Early in 2017, a dispute between the Seneca Nation and the State arose over the language within the compact, leading the Nation to stop revenue sharing payments. The State, in turn, has stopped allocating any of the $50 million to the counties. However, the needed county government services have remained, and with a State-imposed tax cap, this lack of funding is putting an unnecessary strain on county governments and their residents. The Seneca Nation and the State of New York have elected to attempt to resolve this issue through arbitration and the courts, a process that has taken years.

**NYSAC calls on the State of New York and the Seneca Nation to expeditiously resolve their differences and reach an agreement to avoid further harm to public safety and county service. NYSAC also calls on the State to make counties whole for past and current losses caused by this negotiation process so that local services and the residents that rely on those services are not impacted.**

### *Elimination of Video Lottery Terminal (VLT Aid)*
The Executive Budget eliminates VLT Aid outside of Yonkers. In FY '21, the State provided approximately $28.9 million of annual aid to the municipalities that host VLT facilities across the State. Of this amount, $19.6 million is distributed to the City of Yonkers. The proposed budget eliminates the other $9.3 million, which is split among 15 municipalities including 6 counties. **Counties urge lawmakers to reject this proposal.**

### *Sports Gaming*
The Executive Budget authorizes mobile sports wagering throughout the State. Currently, sports wagering is limited to in-person betting at the four upstate casinos. This change would bring back revenue generated by New Yorkers wagering in other states where mobile sports betting is already allowed, increasing revenues in New York State directed to education.

The budget estimates the state-sponsored legalization of mobile sports betting would generate $49 million in new revenue in 2022 and $357 million in SFY 2023, topping out at $500 million annually upon full market maturity.

**Counties recommend that the state distribute a portion of revenue the State obtains from sports gaming to the counties in the Native American gaming zones (regions 3, 4 and 6). This State revenue cannot be taken from the portion dedicated to the counties in commercial zones as this revenue is already needed to offset the cost of the increased local government services.**

## Human Services

### *Counties support the following new funding streams:*
- Nutrition Outreach Funding: The Executive Budget adds an additional $20 million in funding for community-based organizations for nutrition outreach in areas where a significant percentage or number of those potentially eligible for food assistance programs are not participating in such programs.

*Code Blue Investment*. In 2016, the Governor issued an Executive Order to direct local social services districts, working in consultation with State and local law enforcement and community-based organizations, to protect individuals experiencing homelessness from inclement winter weather when temperatures, including wind chill, decline to 32 degrees or below.

To support continued implementation of Code Blue efforts across the State, the FY 2021 Enacted Budget memorializes the Governor's directive with a stand-alone appropriation. Counties support this assistance and request the legislature restore this funding cut.

### *Extend Foster Care Home Certifications*
By giving longer terms to home certifications, local departments of social services will have better ability to access Federal claims associated with foster care.

Counties support this initiative.

### *Extend the Population Eligible for Chafee Funding to Include Young Adults Ages 21-23*

This would allow local social service districts better flexibility to achieve improved outcomes.

Counties support this initiative.

### *Provide More Efficient Training Options*

Where possible and appropriate, training will be offered through remote learning technology, or locally. This will save local governments from incurring unnecessary travel expenses.

Counties support this initiative.

### *Streamline Process for Transfer of Unclaimed Child Support Collections*[x]

The Social Services and Abandoned Property laws would be amended to modernize existing Child Support processes to establish an efficient, streamlined administrative process by which local social services districts transfer undisbursed child support collections to OSC's Office of Unclaimed Funds. In addition to benefitting parents, this would provide administrative relief for social services districts by simplifying the process.

Counties support this initiative.

## Public Health & Mental Health

### *Core Article 6 Public Health Aid*

Increase resources to Article 6 base grants to ensure public health services are eligible for full reimbursement of local expenditures:

- From $650,000 to $750,000 in full service LHDs and $500,000 to $550,000 in partial service LHDs and in per capita reimbursement amount from 0.65¢ to $1.30.
- Allowance of reimbursement of fringe and indirect costs, either fully, or phased in, in recognition that these costs are part of retaining a quality public health workforce.
- Restoration of Article 6 funding cuts to New York City. Eligible expenses are reimbursed 100% by the state up to the amount of the base grant. Once a county exceeds its base grant reimbursement funding, LHDs receive 36% reimbursement from the state, and pay the remaining 64%, plus 100% of the costs associated with services that are ineligible for reimbursement, such as employee benefits. During the 2019-2020 Budget Process, a 16% cut in reimbursement to New York City Department of Health and Mental Hygiene was enacted. This translates to a loss of $59 million less revenue to support essential public health programs to New York City residents. **This year's SFY 22 Executive Budget proposes an additional cut, further reducing state reimbursement to New York City to only 10%. The legislature must reject this cost shift and restore New York City's reimbursement at SFY 21 levels.**

### *Comprehensive Regulatory Telehealth Reform*

The Executive Budget would codify and make permanent certain COVID-19 reforms to expand access to telehealth services. This includes allowing individuals to receive telehealth services wherever they are located, subject to federal approval, and requiring health plans to offer a network adequate to meet the telehealth needs of insured individuals. It would also create an interstate licensure program with contiguous states and states in the Northeast region to support telehealth access for specialties with historical provider access issues.

### *Drinking Water Enhancement Grant Funding*

- Restore drinking water enhancement grant funding to $6 million;
- Increase drinking water enhancement grant funding to equal one percent of clean water infrastructure act appropriations, totaling $30 million;
- Consider policy recommendations that strengthen and facilitate partnerships across state agencies and between those state and local government entities that share primary responsibility for assuring access to safe drinking water;
- Recognize the negative impact that the last several years of funding constraints have had on both the local and state public health workforce and work together to identify ways to maintain and enhance the capacity of our public health infrastructure.

### *Lead Poisoning Prevention*

Last year, New York State enhanced lead prevention activities by lowering the actionable blood lead level to 5 micrograms per deciliter (μg/dL). However, the current state investment of $9.7 million falls far short of the costs of implementing of the new lower elevated blood lead level.

Data indicates that $46 million dollars is needed to address the true cost of protecting children from exposure to lead hazards. This total factors in the average case costs and total anticipated increases in number of children requiring case coordination and environmental management follow-up.

- To better protect children, allocate $46M which reflects the true cost of local implementation.
- Any funding should be re-appropriated from Article 6 to the Lead Poisoning Prevention grant mechanism within the State budget.

### *Adult-Use Cannabis Legalization*

The Budget regulates and controls the production, distribution, transportation, and sale of cannabis, cannabis related products, and medical cannabis for the purposes of fostering and promoting temperance in their consumption, to properly protect the public health, safety, and welfare, and to promote social equality.

All counties, as well as cities with a population of 100,000 or more residents, would have the power to opt out of authorizing the cultivation, processing, distribution, and sale of adult-use cannabis with the passage of a local law, ordinance or resolution by a majority vote of their governing body on or before December 31, 2021. No law, ordinance, or resolution may be adopted after January 1, 2022 completely prohibiting the establishment of one or more of these activities.

Counties, cities, towns, and villages that allow cannabis licenses will be able to dictate the time, place, and manner of operations through local zoning powers. However, local governments cannot require adult-use cannabis applicants, licensees, or permittees to enter into a host community agreement or pay any consideration to the locality other than reasonable zoning and permitting fees.

Adult-use cannabis, medical cannabis, and hemp farming and farm operations on land located within an agricultural district would be required to be deemed an approved activity under the relevant county, city, town, or village land use or zoning ordinances, rules, and regulations, inclusive of all necessary ancillary farm operations.

**Counties support the Executive Budget proposal to allow county sales tax to be applied to legal transactions.**

# Public Safety

## *Parole Violators*

New York State counties incur substantial costs to construct and maintain jail facilities for inmate populations in accordance with standards set by the New York State Commission of Correction. The incarceration of parole violators in county jails is a costly requirement for counties. In the 2009-10 budget, the State eliminated reimbursements to counties for the cost of housing parole violators in county jails. Counties are mandated to pay for medical, hospital and dental expenses of parole violators incarcerated in county jails. The sheriff's department also incurs expenses for transport costs of parole violators and court appearances.

We ask the Legislature to transfer parole violators held in counties jails within 10 days to a state facility and pay reimbursement to counties for any costs they incur for housing state parole violators after 10 days in a local jail. Senate Bill 1368 (Ritchie) / Assembly Bill 3661 (Gunther) addresses this issue.

## *Achieving Next Generation (NG) 9-1-1 Security*

With recent advances in technology, it has become increasingly expensive, but necessary, for 9-1-1 call centers to accommodate the expanding needs of callers, and to use the latest information systems for rapid emergency response. For counties that still face challenges with basic radio communication interoperability, these upgrades will take longer and be more complex.

Counties operate and maintain 9-1-1 functions. New York is one of a handful of states that diverts 9-1-1 cellular surcharges for non-emergency communication purposes. As a result, the system does not direct sufficient revenue to allow counties to properly maintain existing systems, while also preparing to implement the next generation of 9-1-1 technology required under federal law.

The cost of providing this level of service is borne by local taxpayers in the county where the PSAP is located. The price tag in New York State for Next Generation (NG) 9-1-1 is expected to be $2.2 billion over the next 10 years. Until counties have access to a dedicated revenue stream to help pay for system upgrades and new communications equipment, becoming NG 9-1-1 capable will be out of reach for many areas.

The "Public Safety Surcharge." Under Section 186-f of the NYS Tax Law, $.50 of this $1.20 goes to the State's General Fund and is not dedicated to public safety. The remaining $.70 goes to a variety of public safety programs, including state agencies, to supplant General Fund appropriations. Since 2003, surcharge revenues have nearly tripled, from $66 million to over $200 million in 2018. If we are ever to achieve full NextGen 9-1-1 emergency response security the State must stop diverting these surcharges away from 9-1-1 enhancements and purposes.

Under current law, for the last two budget years, $10 million was authorized and targeted directly to PSAPs and up to $65 million was set aside for the provision of grants and reimbursements to counties administered by the State Interoperable Communications Grants (SICG) program, administered by the Division of Homeland Security.

NYSAC is asking that the state to release all funds authorized so far and to ensure that future authorizations are released in full in the budget year they are appropriated. We are also asking that language be included to clarify that this funding should be provided to counties annually. Getting these funding obligations on a regular schedule will provide certainty and build continuity as we upgrade and maintain existing systems and prepare for NG 9-1-1 development and roll out at the county level.

The goal of upgrading 9-1-1 systems is to make sure that all devices capable of connecting to the system can do so using voice, text, video images and other data formats to better inform the emergency responders to the situation they will be entering. In addition, upgraded systems will be able to better pinpoint an emergency caller that may be in a remote area of the state or skyscraper in New York City. Knowing a more precise location of those needing emergency services will improve outcomes and save lives. This cannot be accomplished without consistent and timely funding from the state.

### *Authorize Shared Jails for Contiguous Counties*

Legislation submitted with the Budget would relieve contiguous counties of the requirement to maintain and operate their own jail if they have an approved sharing agreement for the housing of the inmate population.

Section 217 of the County Law requires each county to maintain a jail. This bill would allow contiguous counties to pursue shared services and realize significant savings and avoided costs made possible by declining jail populations.

Counties support this proposal.

### *Provide Staffing Flexibility*

Counties would be given flexibility through regulatory action in establishing minimum staffing levels for county jails. This would allow counties to continue to improve upon facility operations.

Counties look forward to working with the executive to actualize this regulatory action.

### *Boarding of Felony Offenders Pursuant to Section 601-c of the Correction Law*

The Executive Budget includes an additional $5 million in aid to localities for expenses of housing and boarding felony offenders.

Counties support this proposal.

### *Continuation of Funding for PSAP and SICG Public Safety Grants*

The Executive Budget continues funding for the SICG grant program at $65 million and the PSAP grant program at $10 million.

## Raising the Age (RTA) of Criminal Responsibility

NYSAC has been working closely with the Governor's office, the Legislature and the other agencies involved with Raise the Age since this historic bill was signed into law. We are supportive of the executive budget proposal that includes $250 million to continue implementation of this statute along with re-appropriation of prior year unspent funds.

In order to make the implementation of this law successful and to ensure diversion over detention, the state must invest in a myriad of prevention services, including:

- Fully cover all new costs associated with changing the age of criminal responsibility for counties, as well as New York City;
- De-link the adherence to the state property tax cap as an eligibility requirement for full state reimbursement of costs incurred to implement the new state mandate;
- Raise the minimum age that a youth can be charged as a juvenile delinquent from seven to twelve years old;
- Increase the maximum time for diversion services from four to six months for juvenile delinquents;
- Mandate that the state's evidence-based criteria account for existing local best practices;
- Allow probation the ability to make an application for a temporary order of protection as a part of the adjustment process;
- Establish a dedicated funding stream through DCJS/OPCA for 100% of all local probation costs including but not limited to probation personnel and evidence-based programming associated with the Raise the Age law;
- Eliminate the requirement of a sentence of a conditional discharge or probation for Leandra's Law cases when a defendant has been sentenced to a jail term or a term of imprisonment;
- Ensure that local probation departments receive 100% of all costs including but not limited to probation personnel associated with bail reform.

## Upstate Cellular Coverage Taskforce

New York State has made historic investments in infrastructure and broadband availability. In 2015, the Governor launched the $500 million New NY Broadband Program to achieve statewide high-speed Internet access. After full implementation of the program, the state maintains that more than 99 percent of New Yorkers will have access to wired broadband. This is not accurate. There are several regions of the state that are still lacking broadband.

The lack of upstate cellular network coverage undermines economic growth, impacts communications and safety, and inhibits adoption of smart municipal infrastructure. In the Adirondack Park Region and other rural upstate areas with large coverage gaps, the issue of cellular deployment has been a major local concern.

As part of last year's executive budget, the Governor launched an Upstate Cellular Coverage Task Force to identify solutions and develop policies addressing the lack of coverage in areas of need. This Task Force consists of industry experts, community leaders, government officials, environmental representatives, and other key stakeholders.

**The State must ensure that this task force develop real solutions and develop a funding mechanism to allow for the proper expansion of cellular service coverage. Counties support a PILOT program for select routes in the Adirondack and Catskill parks in the amount of $10 million to begin making investments in rural cellular.**

## Countywide Shared Services Initiative

The Executive Budget re-appropriates over $200 million for the County-Wide Shared Services Initiative (CWSSI) and proposes to enhance flexibility within the program by expanding opportunities for local government shared services plans, actions, and State matching funds. It also permanently extends the requirement that counties convene these panels to meet and formulate savings action plans after 2021. It is supposed to sunset on December 31, 2021.

Currently, a project included in a previous Plan may not be included in a future Plan and is not eligible for State matching funds. This bill would encourage realization of shared services initiatives by allowing projects included in previous Plans that have not yet been implemented to be eligible for State matching funds.

Additionally, under current law, net savings for each project are only eligible for State matching funds for net savings achieved between January 1st and December 31st of the ensuing year. This bill would allow local governments to decide whether to implement projects beginning either January 1st or July 1st of the ensuing year in order to be eligible for State matching funds. This bill would, however, maintain the requirement that all projects in a Plan be implemented during the same 12-month period.

NYSAC supports a stronger incentive to expand the participation of other local government jurisdictions in the process - especially school districts and fire districts. The State should also be required to participate on any service sharing panel, since it has resources and assets that could be drawn upon to help reduce the costs, and therefore property tax burden, in each of our counties.

Since the counties are required to spend resources, time, and funding to coordinate these shared services panels, including hiring additional staff members or contracting with research agencies or consulting firms, we recommend the State allow counties reimbursement for expenses, reports, or seed money. This funding could come from the $225 million allocated by the State for matching funds for property tax savings.

## Transportation

*Increase the Consolidated Local Street and Highway Improvement Program (CHIPS) Competitive-Bid Threshold.* **We support increasing the current CHIPS bidding threshold from $350,000 to $500,000. Last year, SFY 21 Enacted Budget increased this threshold from $250,000 to $350,000.** The increase in the threshold is intended to mitigate the inflationary impacts of materials, labor, equipment and other construction-related costs. This proposal would provide municipalities more flexibility and control in the way they complete local street, highway, and bridge projects.

### *Local Roads and Bridge Funding*

Counties support an increase in base CHIPs funding, or at a minimum, an appropriation for the harsh winter conditions experienced across the state already this year. **Counties also support restoring the $65 million in extreme winter weather aide for roads and bridges.**

## Veterans

Counties support our military veterans in a variety of ways, including through county veteran affairs offices throughout the state that provide direct services to those who have sacrificed so much for our state and our country.

The Governor's budget continues funding for New York State's Justice for Heroes grants. These provide $50,000 to each of five law schools offering innovative proposals to address veterans' unmet legal needs. The funding allows law schools to provide free legal assistance to veterans and their family members in practice areas, including foreclosure prevention and other consumer protection matters, family law assistance, discharge upgrade cases, and complex appeals regarding VA benefits.

NYSAC requests that lawmakers consider adding or expanding other veterans' programs, including:

- *Job Placement and Recruitment Options for Veterans,*
- *Sharing the DD-214 Forms with County Veteran Service Agencies,*
- *Create the New York State Division of Veterans' Services,*
- *Expand Veteran Court availability throughout the State,*
- *Expand the definition of a "Veteran" to include Reserve/ National Guard members,*
- *Provide veterans with hotel/motel tax exemptions,*
- *Expand the discount for hunting and fishing licenses,*
- *Expand the Discount on State Park Entrance Fees,*
- *Create a Veteran's to Green Energy jobs program, and*
- *Consider other programs to support our veterans.*