

# **Executive 2019-20 State Budget**

## **Joint Legislative Budget Testimony**



**NYSAC**<sup>®</sup>  
NEW YORK STATE  
ASSOCIATION OF COUNTIES

February 11, 2019

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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**

Key goals for counties in the current state budget include preserving the county resource base, preventing state costs shifts, and freezing growth in unfunded and underfunded state mandates.

**COUNTIES ARE ILL**

The Governor has called the recent news of a \$2.3 billion budget shortfall “as serious as a heart attack”. If the state is facing a severe revenue shortfall as the Governor indicated last week, then the local governments are “ill too” and we must work together during these difficult funding times.

If you look at the chart on page 2 of your testimony, you will notice that 9 state mandated programs consume more than 90% of the county property tax levy. The remainder of state mandated programs and county funded programs must come from the small remainder of the property tax cap in addition to locally generated sales tax which is an extremely volatile funding stream.

This is why state spending matters. This is why property tax relief is so critical.

<b>The Impact of Major State Mandates on Counties</b>							
<b>State Mandated Costs Continue to Grow</b>							
	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
<b>Medicaid</b>	\$2,135,000,000	\$2,203,014,912	\$2,238,900,901	\$2,255,650,783	\$2,255,650,783	\$2,255,650,783	\$2,255,650,783
<b>Safety Net/TANF<sup>5</sup></b>	\$306,000,000	\$317,000,000	\$315,251,088	\$332,195,371	\$324,688,946	\$300,379,924	\$285,274,372
<b>Child Welfare</b>	\$270,000,000	\$275,000,000	\$280,500,000	\$286,110,000	\$291,832,200	\$297,668,844	\$303,622,221
<b>Special Education Pre-K<sup>2</sup></b>	\$207,240,882	\$223,155,000	\$241,007,400	\$245,827,548	\$246,573,529	\$258,646,500	\$258,646,500
<b>Early Intervention<sup>1</sup></b>	\$64,600,000	\$69,600,000	\$74,959,200	\$75,708,792	\$75,708,792	\$76,465,880	\$77,230,539
<b>Indigent Defense<sup>3</sup></b>	\$140,054,572	\$141,857,339	\$150,812,631	\$156,524,780	\$163,711,970	\$165,594,544	\$170,893,569
<b>Probation</b>	\$123,200,000	\$130,800,000	\$138,909,600	\$147,521,995	\$156,668,359	\$166,381,797	\$173,369,833
<b>Youth Detention</b>	\$31,000,000	\$33,100,000	\$35,383,900	\$37,825,389	\$38,581,897	\$39,353,535	\$40,140,606
<b>Pensions</b>	\$687,481,228	\$942,382,326	\$1,056,401,297	\$1,186,635,833	\$1,162,903,116	\$915,764,986	\$924,712,406
<b>Cost of 9 State Mandates</b>	<b>\$3,964,576,682</b>	<b>\$4,335,909,577</b>	<b>\$4,532,126,017</b>	<b>\$4,724,000,491</b>	<b>\$4,716,319,592</b>	<b>\$4,475,906,793</b>	<b>\$4,489,540,828</b>
<b>NYC<sup>4</sup></b>	<b>\$4,528,799,053</b>	<b>\$4,637,807,445</b>	<b>\$4,702,246,905</b>	<b>\$4,742,856,905</b>	<b>\$4,832,672,795</b>	<b>\$4,876,589,165</b>	<b>\$4,970,368,437</b>
<b>Cost of These Mandates in Comparison to County Tax Levy</b>	<b>88%</b>	<b>93%</b>	<b>96%</b>	<b>100%</b>	<b>98%</b>	<b>92%</b>	<b>90%</b>
<small>*NYS DOH - 2% year over year growth as enacted in 2012-13 budget, 2013-14 growth equals 1%, 2014-15 and thereafter 0% growth under state growth cap</small>							\$5,066,808,481
<small><sup>1</sup> The Early Intervention program switched to a prefunded statewide fiscal agent model in late 2013. NYSAC uses an annual growth rate of 1% thereafter.</small>							924712406
<small><sup>2</sup> Preschool Special Education growth rates slowed dramatically in 2014-2015 and are expected to plateau in future years due to reforms - assumes 58-42 split between NY</small>							18.25%
<small><sup>3</sup> NYS Comptroller CAFR &amp; OILS data (NYSAC estimate for 2017 for OILS data)</small>							
<small><sup>4</sup> County Property Tax Levy (net of county special districts)</small>							
<small><sup>5</sup>OTDA Monthly Statistics Table 24 - The County and State share of TANF was fully federalized in 2013. At that time the state switched the state match for Safety Net from 50% state to 29% state.</small>							

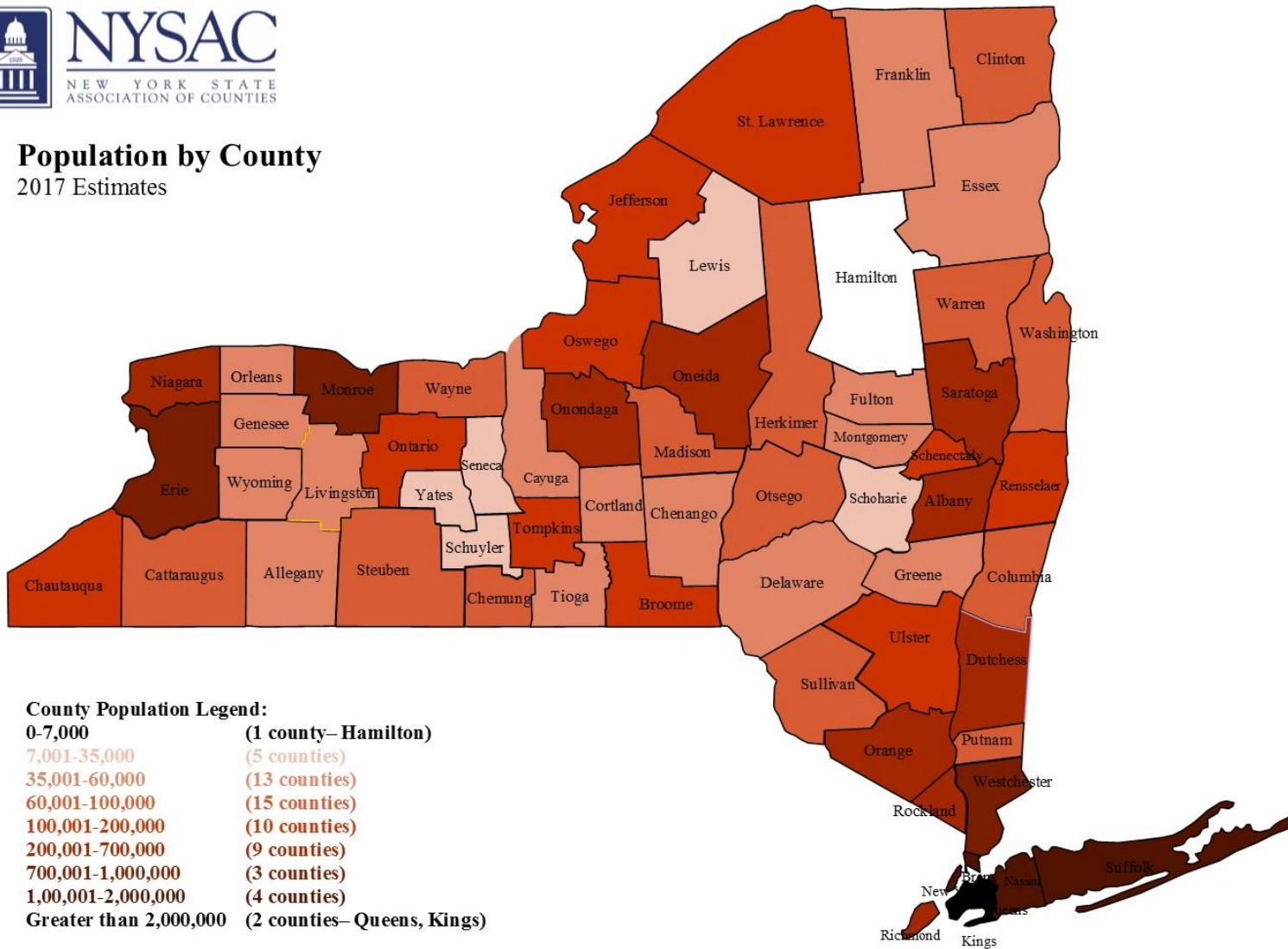
**Purpose of County Government**

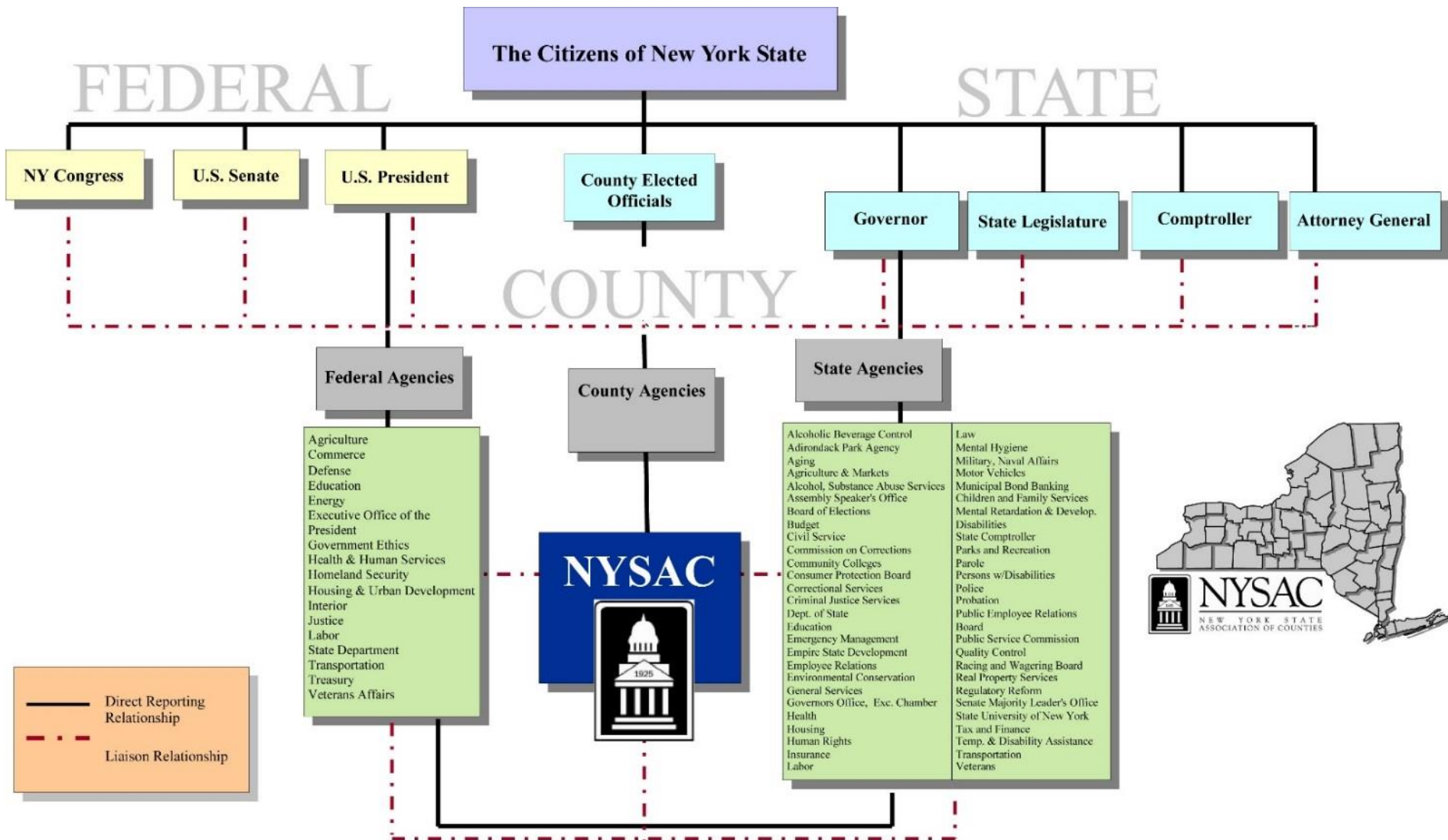
County government is the administrative and implementation arm of New York State. We administer and deliver all of the state and federal programs. For every state agency, there is a county agency. The charts on pages 4 and 5 show a snapshot of all of the various function’s county governments are responsible for implementing. This burden, which is unique to county governments in New York State, is the primary function of county government and the implementation of services at the local level to the residents of our state.

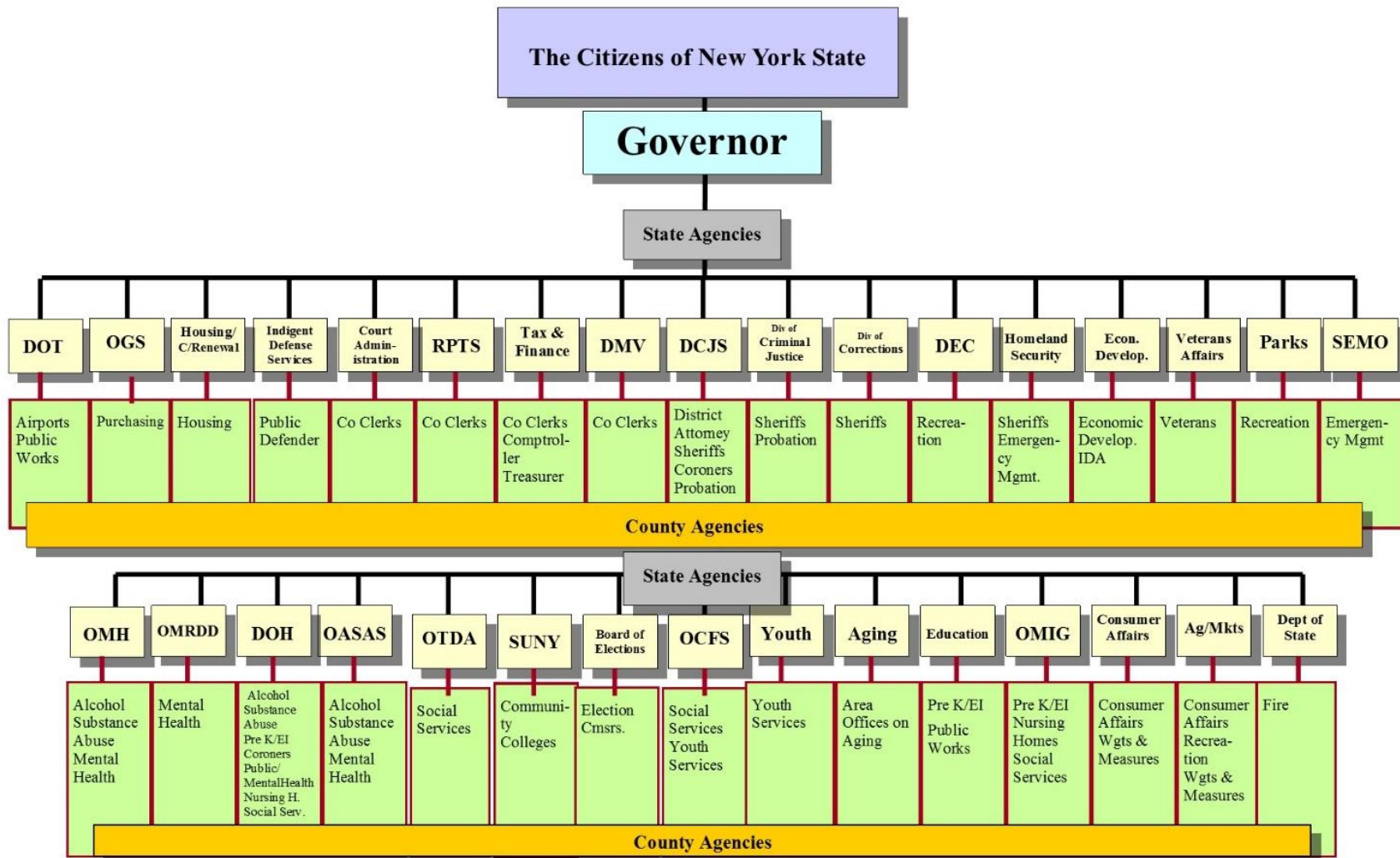


## Population by County

2017 Estimates







## **Help Counties Preserve Scarce Resources**

Public policies that help counties lower costs and ensure adequate local revenue is critically important. While recent state budgets have tried to limit the shifting of state costs onto counties, cost shifts still happen too often. In addition, other state laws enacted over the years have seriously eroded the county property and sales tax base. This has occurred through the enactment of hundreds of exemptions targeted to specific groups of individuals, industries, products and services, along with failing to update the state tax code to keep pace with changes in the economy. The preponderance of state-promoted tax exemptions does not reduce the need to deliver services to the groups receiving tax breaks, but simply shifts the burden of paying for these critical public services to a narrower tax base.

## **Internet Fairness & Conformity – Marketplace Proposal**

Counties support the Governor's proposal that would require Internet marketplace providers to be responsible for collecting sales tax due on all transactions conducted over their platforms. The Governor's proposed marketplace language would ease the implementation of the recent U.S. Supreme Court decision in *Wayfair* for smaller vendors, while leveling the competitive playing field for New York's main street retailers against their out-of-state rivals.

Last summer, the U.S. Supreme Court overturned an earlier precedent from the 1992 *Quill* case, admitting in their most recent ruling that they made a mistake when they stopped states from collecting sales tax from remote sellers that sell into their respective states. The Court also provided guidance to states regarding the creation of "safe harbors" for extremely small vendors.

Many of these marketplace providers already collect sales tax for their own merchandise, and expanding it to all products sold on their platform is a natural transition. More importantly, this approach will dramatically reduce the burden on smaller vendors because they will not be responsible for collecting and remitting sales tax on their own.

As of today, 36 states have passed laws and/or regulations requiring remote sellers to collect sales taxes due. Nearly every state followed the guidance provided by the Supreme Court to reduce burdens on smaller internet vendors.

These are not new taxes, as they are already owed under current state law, but our laws need to be updated to accommodate the changing marketplace and to implement the Supreme Court Decision in *Wayfair*.

Sales tax remains the primary revenue source for counties, cities, towns and villages across the state that can help reduce pressure on property taxes.

## **Elimination of the Energy Services Company Sales Tax Exemption**

Counties support the Executive Budget proposal to eliminate the sales tax exemption for gas and electric service purchased from an energy service company (ESCO). The exemption was enacted in the early 2000's to provide an incentive for customers to purchase gas and electricity from third party energy service companies. Other utilities are not provided the same exemption, and this creates an unfair marketplace. The Governor's proposal concludes that this incentive is no longer necessary, as the ESCO industry has matured over the last two decades.



New York City eliminated this exemption in 2009. Based on searches of the NYS Department of Public Services website, the ESCO industry continues to thrive in New York City even without the local sales tax exemption – searches by zip code in each of the New York City boroughs resulted in well over 100 ESCO plan offers from dozens of companies in each zip code.

According to DOB estimates, repealing the exemption is expected to increase local sales tax collections for counties, cities, towns and villages by up to \$48 million on a full annual basis.

### **Making the Property Tax Cap Permanent**

Counties support making the property tax cap permanent but only if certain protections are provided for local taxpayers. Counties require amendments to the final budget to provide safeguards, including:

- *Make local sales tax authority permanent at existing levels to help ensure stability of this key revenue source for counties, cities, towns and villages.* A consistent and reliable sales tax is the foremost revenue option to keep downward pressure on property taxes. New York City was provided permanent authority to maintain their 4.5 percent local sales tax rate in 2009. Counties were encouraged by the Governor's and prior legislature's support of this permanent authority in the past and hope it can be achieved as part of your amended budget.
- *Reduce the cost of existing mandates and avoid the implementation of new ones.* Making the property tax cap permanent helps no one if future governors and legislatures can simply add new cost burdens on counties and other municipalities. No new unfunded mandates legislation should be included as part of the final 2019-20 State Budget.
- *Exempt capital spending from the property tax cap calculation for counties, cities, towns and villages.* School districts are provided an exemption from their property tax cap calculation for capital construction costs, but this exemption is not provided to counties, cities, towns and villages. Local governments are delaying infrastructure projects to stay under the tax cap, this will have economic and public service consequences in the future.

The state exempts capital and other selected costs from its own two percent spending cap in order to make necessary investments in the state's future. Counties, cities, towns and villages need to have capital costs removed from their respective property tax cap calculations, so local communities can appropriately plan and meet the needs of future generations.

### **Restore Targeting Funding Cuts to New York City**

NYSAC is requesting the Governor restore proposed funding cuts targeted to New York City. We oppose the proposal to make New York City taxpayers pay more for placements to Family Assistance. This proposal is expected to cost New York City taxpayers over \$72 million in 2020 according to estimates from the Division of Budget. NYSAC also opposes state reimbursement cuts to New York City public health programs and asks that they be reversed in the enacted state budget. These funding cuts are estimated to reduce state funding to New York City by nearly \$27 million in 2020, according to state budget estimates. Funding cuts to one social service district will eventually spread to all districts based on history in New York State.

### **AIM Cuts to Municipalities**

The proposed 2019-20 Executive Budget eliminates the Aim and Incentives for Municipalities (AIM) funding for the majority of towns and villages throughout New York State. This funding cut represents a \$60 million revenue loss for these communities.

Counties reject the Governor's proposal as this will place an undue hardship on our local government partners as most communities have already adopted their 2019 budgets.

### **Automatic Budget Rescission Authority**

Counties oppose the Governor's proposal to continue his authority to rescind state appropriations if federal Medicaid funding falls by more than \$850 million, or if other federal funding is cut by a similar amount. How the Governor would define and trigger this process is highly subjective and not transparent. While the current authority does provide that the Legislature may provide an alternative plan, counties believe a more open and deliberative process should be utilized when significant mid-year funding cuts are enacted. It should be a completely open legislative process.

The Governor is also proposing a second automatic budget cutting authorization in an instance where the state's revenue projections fall \$500 million or more below what was budgeted. In this case, there is no provision for the State Legislature to be involved at all in deciding how these funding cuts would be imposed. Also, considering that the state has lowered their own revenue projections eight times in the last three years by a cumulative \$6.5 billion, the likelihood of this unilateral Executive Budget authority being triggered is high (especially with the \$2.3 billion revenue shortfall announcement last week).

For counties, in both of these unilateral rescission proposals, the result is nothing more than a tax increase on local taxpayers. Counties receive very little grant funding from the state, the vast majority of state funds counties receive is reimbursement for costs counties incur to pay for a state program. When unexpected federal funding shortfalls, or state revenue estimates prove wrong, we should not rely on local taxpayers to pay the bill.

### **Aging**

#### *Create an Optional Private Pay Model in the State Office of the Aging*

The Executive Budget authorizes a private pay program for programs administered by the State Office for the Aging (NYSOFA). NYSOFA will be authorized to expand access to programs to those above the 400% of the federal poverty limit who chose to purchase these services using private funding. Counties would have the option to opt-in to this program. This legislation would authorize seniors earning greater than 400% of the federal poverty limit to participate in activities and programs sponsored by state and county. Counties support this proposal.

The Executive Budget also proposes an additional \$15 million for EISEP services through local Offices for the Aging. 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 increase in EISEP service funding.

### **Agriculture**

#### *Expand Access to New York-Grown Agricultural Products*

The Executive Budget continues funding for many agricultural initiatives, including \$1.1 million in new spending for the Taste NY program and an increase of \$8 million in Aid to Localities appropriations from the FY 2019 Executive Budget to fund programs that provide specialized technical assistance, industry promotion, and research investments to reduce the exposure of farms to economic and climate inconsistency statewide. However, the \$29.5 million Aid to Localities appropriation is less than the \$34.4 million included in the final FY 2019 Budget. Counties urge the State Legislature to restore Aid to Localities appropriation to prior year funding levels at \$34.4 million.



## **Community College Funding**

Counties have raised concerns in recent years regarding the State's funding commitment to community colleges. At one time, the state funding commitment was 40 percent, but today it hovers below 25 percent, leaving students and counties to pay more. The state financing mechanism linked to the number of FTEs on each campus creates a roller coaster state funding impact for students and counties. In addition, over the last decade state support has fallen far short of the rate of inflation.

To help alleviate this problem and stabilize the community college system, the SUNY Chancellor is proposing a new methodology that would create a state maintenance of effort for the funding of community college campuses. The new formula would prevent cuts in base aid and create a state funding floor for each campus. In addition, the Chancellor is calling for an increase in state funding for full time equivalent (FTE) students by \$125, from \$2,847 to \$2,972 per student. Even at this proposed rate, the state FTE support would still lag behind the inflation adjusted rate since 2008 (which would be \$3,184). New York's counties support the Chancellor's proposal, as well as the community college presidents and faculty.

### *Fashion Institute of Technology (FIT)*

Under state law, the state is required to reimburse counties for FIT chargebacks, but the state has failed to appropriate the necessary funds for over a decade. NYSAC supports appropriating the necessary funds to cover the costs of chargebacks related to 4- and 6-year degree programs at the FIT. At just under \$16,000, chargebacks for FIT are more than four times greater than the average chargeback for all other community colleges and becoming an increasing burden for many counties.

## **Environment**

### *Establish a Statewide Paint Stewardship Program*

Nearly four million gallons of leftover paint are generated annually in New York State. Local governments would need to spend \$31 million to properly manage this waste stream. Without a paint stewardship program, municipalities spend about 50 percent of their Household Hazardous Waste budgets to manage a small fraction of leftover paint.

We were disappointed to see that the Executive Budget did not propose the creation of a statewide paint stewardship program. If this responsibility was transferred to paint manufacturers through the implementation of a statewide paint stewardship program, local governments would save approximately \$25 million annually. Such a program would provide relief to property taxpayers, create local jobs, and encourage environmentally sound recycling and disposal of unused paint.

NYSAC supports the framework laid out in S.881 (O'Mara)/A.1038 (Stirpe) and recommends that this language be added to the final budget. This legislation has also drawn the support of a range of environmental advocacy organizations, paint industry representatives, and municipal agencies.

### *Bottle Bill Expansion*

Counties oppose the limited proposed Bottle Bill expansion, as it is projected to result in a \$10 million loss of curbside bin value statewide. This comes at a time when declining paper values have already cost local recycling programs more than \$40 million. Instead of adding non-alcoholic beverage containers to the Bottle Bill, we urge the State to add a deposit to all glass beverage containers, including wine and liquor bottles, glass hard cider bottles, and non-alcoholic glass beverage containers in order to increase glass recycling, reduce municipal recycling costs, and reduce glass contamination in the curbside recycling stream.

### *Climate Leadership Act*

The Executive Budget proposes to create a Climate Action Council to develop recommendations for regulations, policies, and legislation to reach carbon neutrality across all sectors statewide. The recommendations should achieve 40% reductions in greenhouse gas emissions (from 1990s levels) by 2030 and 80% by 2050. The Council is to be comprised of: (i) various state agency chairs, (ii) one environmental justice group representative; and (iii) one representative from organized labor.

NYSAC requests that a county representative be added to the Council so local government has a seat at the table during these important discussions. Counties can be an important partner in reducing our state's greenhouse gas (GHG) emissions. We also urge the Governor to include language to update local GHG inventories, which are now ten years old. These inventories allocate each region's emissions down to the county level and have been a valuable tool for local governments in measuring the success of their climate change initiatives. Updating these inventories on a regular basis (e.g. once every 10 years) is a crucial way to support local action on climate change and measure success.

### **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 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 behind expected levels.

Our early intervention system is reaching a crisis point. Counties across NYS 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 increases the Early Intervention program reimbursement rates by five percent for services furnished to eligible infants and toddlers in the Early Intervention Program and their families by licensed physical therapists (PT), occupational therapists (OT), and speech-language pathologists (SLP) to mitigate provider shortages. However, counties believe the State should fully fund this reimbursement increase. We need to make a strong investment in our youngest state residents to ensure they are able to thrive.

Other recommendations:

- The State needs to implement reforms to ensure third party insurance collections are maximized in the Early Intervention Program, including:
  - Require that provider claims are filed within 60 days;
  - Require all providers to enroll in 835 electronic remits and a timely filing arrangement;
  - Ensure providers exhaust all appeals within the required timeline of the insurer before moving on to the next payer of record; and
  - Closely monitor any health insurance benefit changes in state-supported public health programs, such as Medicaid and CHP, to ensure new costs are not shifted to counties.

### **Election Reforms**

Counties support many of the election reforms and believe they can help improve voter engagement and turnout; however, it is necessary for the State to provide some direct resources to help cover the implementation costs of the voting reforms. Counties request the legislature provide funding for the capital expense of e-poll books. Counties do not have the capacity to pay for this initial capital expense. We have heard from counties that these costs will range from \$250,000 to \$1.1M, depending on the exact number of e-poll books that will be necessary to implement these voting reforms. In some cases, the cost for purchasing e-poll books may exceed the counties allowable tax cap growth.

We also believe it would be prudent to form a statewide taskforce of key election experts, including county officials, to study the local government cost implications of the many voting reforms and to have this taskforce make recommendations to the Legislature on future funding needs.

### **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 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.

### **Judiciary and Court Related Matters**

#### *Indigent Defense*

The Governor's budget proposal includes \$205.5 million for counties for indigent defense purposes. This is an increase of \$50 million in aid compared to 2018. Counties support this increase.

The budget proposes new language requiring that all local reimbursement requests must be submitted within 12 months of the incurred costs. Counties would like clarification on this time limit as many current grants take longer than that to process. We understand the desire to improve efficiency, but we want to make sure the increased service levels are provided and not hindered by timelines that might be unrealistic in the enacted budget on how the 12-month reimbursement language included in the Executive Budget recommendation would work for existing claims and how this would work in the future to ensure county costs are fully reimbursed.

#### *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. The 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 fourth year in a row, the increase to DA salaries that, under state law, is tied to the state judge salaries, is not included in the Executive Budget proposal. This mandatory salary level will increase again in 2019 due to anticipated Judicial salary COLA raises. 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.

#### *Bail Reform*

Counties support many of the goals in proposed bail reforms, but we do have concerns about implementation costs. We anticipate significant costs related to supervision and monitoring. There will be higher staffing costs, as well as costs related to electronic monitoring equipment, training and technology support. While we cannot directly identify the total new costs under the proposal, we believe they could exceed the property tax cap for some counties, depending on what the final bill includes.

We will also need to address the process the State Commission on Corrections utilizes when it requires counties to build new jails or modify staffing levels, especially if the jail census declines significantly as a result of these reforms in conjunction with marijuana legalization, Raise the Age implementation and indigent defense reforms. As with the election reform proposals we strongly encourage you to consider new language that creates a statewide task force of experts, including county officials to study the cost implications of these reforms for counties and to make recommendations on future funding needs.

The Governor has presented a series of proposals to address bail reform, speedy trial and discovery timing. These proposals should be rejected. NYSAC respectfully requests the Legislature to enact the recommendations by the New York Court of Appeals, NYS Justice Task Force. These recommendations will achieve the objects that you are looking to achieve in a practical manner without bankrupting local governments.

In addition, these proposals related to asset forfeiture will further deplete local resources.

## **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 onto 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 has toppled in 16 western counties of New York. These 16 counties 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 to the State. 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, a process which can take months or even 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.

## **Sports Gaming**

The current regulatory proposal by the New York Gaming Commission will allow for sports wagering exclusively onsite to the four commercial casinos and within the Native American casinos. These regulations will not permit online sports betting nor offer sports betting to a licensed off-site non-casino entity such as an OTB or racino.

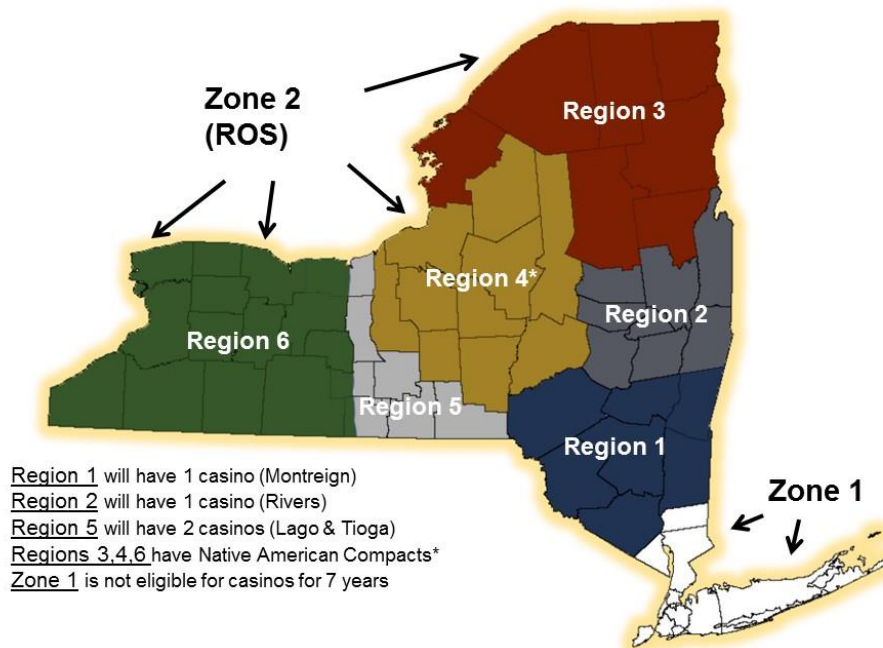
Under this proposal and without future state legislative action more than half of all New York counties will not be provided any revenue share to offset the public service needs that come with legalized

sports gaming. This is because under current law while commercial casinos are required to share revenue on any type of gaming, Native American casinos only need to share revenue from VLT spending.

Sports gaming will require an increase of county services including, but not limited to, departments impacted by increased gamble addition rates (Health, Social Services), increased by public safety needs (Sheriff, Road Patrol, District Attorney, Public Defender) and increased infrastructure needs (Highway).

The solution is New York State needs to 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 indicated in the chart below). This State revenue cannot be taken from the portion dedicated to the counties in commercial zones as this revenue is already needed to offset their local government increased services.

### Six Upstate Regions for Resort Gaming Destinations



## Human Services

### Reform Persons in Need of Supervision (PINS) Provisions

The Executive Budget proposal would reform the Persons in Need of Supervision (PINS) provisions to reduce the placement of PINS in detention and residential settings. This legislation eliminates the ability of family courts to detain youth who are alleged to be a PINS and limit their ability to order residential foster care placement at the disposition of a PINS proceeding to only instances where the respondent youth meets the definition of a “sexually-exploited child” under New York’s Safe Harbor Law. Last year, as part of the Enacted 2018-19 State Budget, funding for placement of PINS in residential settings and detention was set to expire on January 1, 2020. This legislation eliminates the January 1, 2020 sunset on state funding.

This legislation would take effect immediately, which means that counties will no longer be able to receive state funding match on PINS placements upon enactment of the state budget. County social service commissioners have carefully examined each of the funding options identified by the state, and none of them are independently, or collectively, minimally sufficient to cover the needs of PINS. The PINS proposal in the budget is nothing more than a funding cut to prevention services for

children – another in a long line of state funding cuts to social service programs impacting vulnerable populations.

#### *Youth Employment*

The TANF Youth Employment program was increased by \$4 million to \$44 million. Counties support the increased in TANF Youth Employment program.

#### *Pass-Through of Federal Supplemental Security Income Cost of Living Adjustment*

The Executive Budget would authorize Federal Supplemental Security Income (SSI) benefits to be increased in 2020 by the percentage of any SSI Cost of Living Adjustment (COLA). This legislation would authorize that the actual 2019 Personal Needs Allowance (PNA) to be automatically increased in 2020 by the percentage of any Federal SSI COLA that becomes effective within the first half of calendar year 2020. Counties support this initiative.

#### *Authorizes Time-Limited Job Try-Outs as an Eligible Work Activity for Public Assistance Recipients*

The Executive Budget would authorize social service districts to place Public Assistance (PA) recipients in time-limited job try-outs. This legislation authorizes districts to assign PA recipients to 90-day job try-outs as work experience assignments with private for-profit, non-profit and public-sector entities in satisfaction of PA work requirements. Counties support this initiative.

#### *Provide State Funding for Changes to Domestic Violence Eligibility*

The budget proposes to remove the state requirement for domestic violence victims to apply for public assistance when they seek shelter and that providers charge victims with sufficient resources a fee for services, in consideration of federal rules. The State should be responsible for these shelter costs to ensure they do not become a new unfunded mandate on counties.

### **Medicaid**

#### *State Medicaid Growth Cap the Lower the Growth in County Property Taxes*

The Medicaid growth caps have been a huge benefit for property taxpayers. Without the three percent annual growth cap implemented in 2005, and the zero percent growth cap implemented in 2015 county property taxes would be much higher today. Without these caps, by 2020, counties and NYC would have to raise an additional \$3.7 billion of local funds to support this program. Counties have been able to keep property taxes low because of these mandate relief actions and they have allowed counties to keep the average annual growth rate in county property taxes below the rate of inflation since 2006. If we are serious about addressing the property tax problem in New York, we must lower property taxes, not just slow the growth. A gradual takeover of local Medicaid costs could lower property taxes by hundreds of millions of dollars.

We are pleased that members of the Legislature continue to show a strong interest in a full state takeover of local Medicaid costs. We look forward to working with our state partners in making this a reality. Local taxpayers should no longer be asked to pay more than \$7.5 billion each year for the State-defined and controlled-Medicaid program. New York State requires local taxpayers to pay more for Medicaid program costs than all of the other states combined ask their local taxpayers to fund. New York's penchant for imposing unfunded mandates on local governments is a leading reason why property taxes are so high in this state.

### **Procurement**

Counties have concerns regarding the proposed expansion of MWBE requirements for any project greater than \$50,000 that includes any state funding. Counties strive to reach these goals and will continue to do so; however, many smaller counties struggle to find with finding enough vendors for



current projects and we recommend an increased dialogue with the Governor to try to meet the goals of the state.

## **Public Health & Mental Health**

### *Prison and Jail-Based Substance Use Disorder Services*

The Executive Budget continues \$3.75 million in funding to support medication-assisted treatment (MAT) in local jails and leverages federal funds to expand MAT to three additional DOCCS facilities. These programs will support inmates in recovery and link them to community-based services prior to their release, increasing their chances of success and reducing recidivism. Counties support permanent funding for these jail-based substance use disorder services.

In partnership with the Conference of Local Mental Hygiene Directors (CLMHD), NYSAC is recommending a tiered funding approach, to be staged in over the next two state fiscal years as a way to secure the full appropriation of \$12.8 million for the continuance of jail-based SUD treatment and transition services in every county jail in the state as follows:

#### SFY 2020 - Appropriation Request:

- Total appropriation request of \$7.2 million
- Executive Budget Proposal \$3.75 million + new \$3.45 million

#### SFY 2021 – Appropriation Request:

- \$12.8 million as ongoing funding to support comprehensive SUD treatment and transition services in every jail.

### *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 services LHDs and \$500,000 to \$550,000 in partial service LHDs and in per capita reimbursement amount from 0.65¢ to \$1.30.

### *Tobacco 21 Policy*

Adopt Tobacco 21 policy statewide and all components of the tobacco control package, which will protect millions of New Yorkers from exposure to dangerous tobacco products.

NYSAC supports the Governor's tobacco control efforts. In partnership with the New York State Association of Health Officials (NYSACHO), we support the following additional proposals:

- Raise the age for purchase of tobacco and vaping products from 18 to 21.
- Prohibit the sale of tobacco products in pharmacies.
- Prohibit the use of price-reduction instruments for tobacco or vaping products.
- Expand the definition of vaping products.
- Limit advertising/visibility of tobacco and vaping products at the point of sale.
- Require registration of retail establishments selling vaping products with the Department of Taxation and Finance.
- Allow for the imposition of points for violations related to the sale of tobacco products, vapor products and e-cigarettes to persons under the age of 21, allows the Department of Taxation and Finance to revoke a dealer's registration for one year after four violations.
- Impose a 20% tax on vapor products. All funds would go to the existing tobacco control and insurance initiatives pool.

### *Lead Poisoning Prevention*

The Governor proposes reducing the actionable blood lead level to 5 µg/dL, with additional discretionary language that would allow the Commissioner of Health to lower it further through regulation. NYSAC supports this part of the Governor's proposal, which brings New York in line with current CDC recommendations regarding lead poisoning prevention.

We appreciate the Governor's intent of providing an additional \$9.4 million dollars in funding to support the expanded workload. Simply accounting, however, for those resource needs in the appropriation for Article 6 state aid, provides a clear example of where the bill for the Governor's agenda will be largely borne by the local property taxpayer. Given that many of the costs associated with adding additional staff are ineligible for Article 6 reimbursement, we believe that local governments will be unable to fund the necessary capacity increases needed. We recommend that the additional investment in protecting more children from the health impacts of lead poisoning prevention instead be placed in the separate categorical funding specifically allocated to this program.

The Governor also proposes the creation of a new lead safe housing requirement on all residential rental dwellings. The proposal requires that these dwellings be certified as lead safe, through either federal standards, or state promulgated standards, with the cost of any remediation borne by the owner. It would establish a presumption that all pre-1978 housing contains lead paint, unless otherwise certified as lead-free. It would allow the State Health Department or LHDs to enter into agreements with municipal code enforcement to conduct inspections and enforcement, and would stipulate fines of \$2000 per violation. This initiative is exactly the type of progressive public health policy that is laudable in its intent, but is put forward without a clear and candid assessment of the true costs of implementation.

Local governments cannot implement this initiative without a consequential expansion of new state resources. We are further concerned about the unintended impact this could have on those families who rely on residential rental dwellings for their housing needs. While lead safe housing is the best and highest primary prevention goal, we believe that building owners will pass the compliance costs onto consumers in the form of higher and unaffordable rent increases. It also may lead those owners, who cannot afford or are unwilling to invest in the necessary remediation, to be reluctant to accept tenants with young children. We need to assure that policies intended to assure safe housing do not instead reduce the availability of affordable, safe housing.

### *Adult-Use Cannabis Legalization*

In 2018, the NYS Department of Health (DOH) issued a report recommending the State legalize non-medical use of marijuana. Ten states—Alaska, California, Colorado, Maine, Massachusetts, Michigan, Nevada, Oregon, Vermont, and Washington—and Washington DC have already legalized cannabis.

The State report acknowledges the difficulties that legalization is anticipated to present for local law enforcement. This legislation will also have other social and practical impacts that will place new responsibilities and service requirements on many county departments, including public health, public safety, mental health, substance abuse, consumer protection, economic development, and others.

There are several proposals to the Governor's adult-use cannabis legalization reform package. Some of which include:

- Like alcohol, only individuals age 21+ will be allowed to purchase and consume marijuana.
- Cannabis retail businesses will not be permitted to sell alcoholic beverages or allow gambling.
- A new state agency will be created to deal with medical marijuana, hemp, and cannabidiol (CBD).

- Counties will be able to opt-out of authorizing the cultivation, processing, distribution, and sale of adult-use cannabis. A city with a population over 100,000 can elect to opt-out if the county does not.
- All cannabis-infused products will have separate packaging for each serving, and it must be child-resistant.
- The legislation will address the damaging consequences of marijuana criminalization. This will include investing in the communities hit hardest by the War on Drugs.
- The State acknowledges the safety risks posed by marijuana being a cash-only industry. They are relying on federal law changes that allow states to commercialize medical and recreational marijuana at their discretion without running afoul of federal drug trafficking laws.
- A four-step test for marijuana impairment exists, but other tests – including a cheek swab – are under consideration.
- The Governor proposes to impose three taxes on recreational marijuana. The first tax is imposed on the cultivation of cannabis at the rate of \$1 per dry weight gram of cannabis flower and \$0.25 per dry weight gram of cannabis trim. The second tax is imposed on the sale by a wholesaler to a retail dispensary at the rate of 20 percent of the invoice price. The third tax is imposed on the same sale by a wholesaler to a retail dispensary at the rate of two percent of the invoice price, but it is collected in trust for and on account of the county in which the retail dispensary is located.

Additional “guiding principles” from counties include:

- Overall, recreational marijuana should be controlled in a similar manner as alcohol.
- Marijuana consumption should have its own “open container” law.
- Consuming marijuana in any establishment with a liquor license should be illegal.
- Selling marijuana-laced food products should not be permitted.
- The use of marijuana in any public assembly venue should be illegal.
- The cost of training police officers will be significant to our counties.

Counties recommend that in order to ensure adequate public safety, and public health needs are met, the State must change the retail tax from this new model of 2% to be held in a trust for and on the account of the county to the traditional sales tax arrangement of 4%. Marijuana retail sales revenue should be treated the same as alcohol.

## **Public Safety**

### *Red Light Cameras*

NYSAC supports the Governor’s proposal to extend local authorization for red light cameras for New York City, the counties of Nassau and Suffolk, as well as the remaining municipalities.

### *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 an unfunded State mandate on counties. In the 2009-10 State 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 that the state transfer parole violators held in counties jails within ten 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 NextGen 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 9-1-1 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 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 is authorized and targeted directly to PSAPs and up to \$65 million is 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. As well as, include language that clarified 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 NextGen 9-1-1 development and roll out at the county level.

The goal of upgraded 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.

### **Raise the Age (RTA)**

NYSAC has been working closely with the Governor’s office, State Legislature and the other agencies involved with Raising the Age since this historic law was signed into law. And we are supportive of the Executive Budget proposal that includes \$200 million to continue implementation of this statute along with a re-appropriation of \$54.2 million in prior year unspent funds.

In order to make the implementation of this law successful and to ensure that diversion first, rather than detention first, can succeed the state must invest in a myriad of prevention services, including:

- The State should 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, New York State has noted 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.

Notwithstanding this progress, another issue, one of public safety has emerged. 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 the Governor's 2019-20 Executive Budget, the Governor proposes to launch an Upstate Cellular Coverage Task Force to identify solutions and develop policies addressing the lack of cellular coverage in areas of need. This Task Force would consist of industry experts, community leaders, government officials, environmental representatives, and other key stakeholders. It would review existing policies, potential constraints, and available resources and funding sources, including federal support, to develop implementable recommendations for enhancing cellular coverage in unserved areas, including the Adirondacks and Catskills.

The State must ensure that this task force develop real solutions to solve the lack of cellular service coverage in Upstate New York. The state must also develop a mechanism to help fund the public safety infrastructure to allow for an expansion of cellular service coverage.

#### **Countywide Shared Services Initiative**

In 2017, the State Legislature created a two-year county-wide shared services initiative (CWSSI), which required county executives, chairs, or administrators to convene a panel of locally-elected

municipal leaders to create a shared services plan that might foster collaboration and find savings for local property taxpayers. These panels were required to submit these plans to the State Division of Budget in either October 2017 or October 2018, for implementation in 2018 or 2019 respectively.

Thirty-four (34) counties submitted plans in 2017 for an estimated \$208 million in projected first-year savings. Twenty-three (23) county-wide shared services plans were submitted in 2018, with an estimated first year savings of \$49 million.

The 2018 State Budget extended the County-wide Shared Services Initiative until December 31, 2021. New shared services actions not included in a previously approved or submitted plan may be eligible for State matching funds, subject to available appropriation.

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 they have 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.

The state must also allow for projects submitted in prior year plans be eligible for project implementation reimbursement.

#### *Health Insurance Consortia/Shared Services*

Health insurance costs are growing well above 2 percent a year, the rate at which property tax levy increases are capped. At the same time, other revenues have been flat in many areas of the state, and Assistance and Incentives for Municipalities (AIM) has not kept pace with inflation and the Governor is now proposing to cut this aid for more than 1,250 jurisdictions.

Now the state is requiring localities to develop plans and strategies to work together to reduce costs at the local level. Despite this context, municipalities have limited options under state law to find ways to reduce health insurance costs, which continue to grow each year unabated.

Currently, localities have two primary options for health insurance. First, they can buy health insurance with premiums set according to the size of the plan. Local government employers with fewer than 100 employees must, by law, be community rated. Employers with more than 100 can be experienced rated, based on recent claims. Or the local government can have a self-funded health insurance plan, which is either self-administered or through a third-party administrator (TPA). These self-funded plans often purchase stop loss insurance to protect themselves against catastrophic illnesses and accident claims. These self-funded plans are not subject to DFS oversight or federal ERISA regulations.

More than 20 counties, and dozens of municipalities, want to form health insurance consortia to help reduce costs for property taxpayers. Unfortunately, New York State health insurance law continues to be a major barrier to establishing these consortia. Counties encourage reforms to Article 44 and 47 to help facilitate the creation of these major cost containment proposals. Counties support the reforms found in S.1408 (Breslin) / A.310 (Steck) in the current 2019-20 legislative



session. This legislation authorizes all municipalities, with the consent of the county and the governing body of such municipality, to join a county self-funded or self-insured health plan; requires certification. We encourage the State Legislature and Governor to include this proposal as part of a final negotiated state budget, or pass this bill as a stand-alone measure as quickly as possible, so it can be signed into law.

## **Transportation**

### *Congestion Pricing*

Counties are concerned that the Governor's congestion pricing proposal usurps local home rule authority for New York City completely. Any time the state eliminates local input on an issue deeply important to that locality it sets a bad precedent for home rule and local control.

### *Local Roads and Bridge Funding*

Counties support an increase in base CHIPs funding, or at a minimum an appropriation for harsh winter conditions experienced across the state already this year.

## **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 that have sacrificed so much. NYSAC commends the Governor for recognizing the need to expand services to our veterans in this bill. 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 we do even more and asks the Executive Office to consider the following proposals during the upcoming budget amendment process.

- *Expand Veteran Court availability throughout the State.* Currently, New York has 29 veterans' treatment courts, but not all of New York's veterans live in a jurisdiction that has such a court. In support of our veterans, NYSAC believes we need to expand these courts to all counties. veterans' courts are diversion courts that understand many returning from combat have a difficult time readjusting to civilian life. It is for these individuals that perhaps counseling and other assistance is a better option than criminal punishment. We strongly encourage the Legislature to increase funding to expand these courts.
- *Improve Job Placement and Recruitment Options for Veterans* – Veterans gain valuable work skills and work ethic while serving. We need to expand services for veterans to help them find the right job fit once they leave the military. Additionally, we need to promote to employers why a veteran is a valuable workforce asset while providing State incentives to do so. These goals can be met by providing more state funding to current programs done by county veteran offices and work force training centers, as well as continue and increase amounts placed in the State's Hire a Veteran Credit program.