

Executive 2022-23 State Budget

Joint Legislative Budget Testimony



NYSAC
— NEW YORK STATE —
ASSOCIATION OF COUNTIES

February 9, 2022

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Introduction

Thank you for the opportunity to speak to the State Legislature’s Joint Budget Committee on Local Government.

On January 18, 2022, Governor Kathy Hochul unveiled her SFY 2023 Executive Budget proposal. The budget calls for a record \$216 billion in total spending including nearly \$5.5 billion on behalf of counties outside of New York City through major local aid programs, including \$2.5 billion attributable to the State takeover of local Medicaid growth.

Despite record spending levels, the budget is projected to remain balanced through 2027 while increasing state “Rainy-Day” reserves to 15% of State Operating Funds by 2025.

Overall Goals

The main goal for counties during this 2023 state budget cycle is to protect local taxpayers, preserve local services and programs, and promote the flexibility that local leaders need to continue to provide a quality of life that New Yorkers need, deserve, and want to stay in our communities and in our great state.

First let me say that counties are encouraged by proposals that address long-sought county priorities like providing permanency in local sales tax rates, ending the diversion of local taxes to pay for the State’s AIM program, making significant investments in public health, and supporting veterans and infrastructure while also committing to use the state’s strong fiscal position to build reserves for the future.

There are, however, areas of concern, including the continued diversion of local sales taxes to support a distressed health facilities fund and increased Pre-K provider rates, which are needed but should not be funded by county taxpayers. Counties look forward to working with all of you in the coming months to create a budget that supports local governments and the residents we serve.

Our top priority is keeping local taxes local to ensure maximum transparency and accountability to the taxpayer.

We know the Executive Budget Recommendation is the beginning of the process and based on fiscal plan updates over the last year we expect that the coming revenue consensus forecast will provide new revenues and avails that can be utilized to address some of the financing concerns we raise today. At the end of this document is a two-page scorecard that we have included for a quick overview of the proposals that counties would like to see in the final budget, and those proposals we would like to see amended or deleted in the enacted spending plan.

End the Diversion of Local Taxes to Support a Distressed Hospital Fund

One of our top priorities today is to ask you to eliminate the county sales tax diversion to pay for the Distressed Hospital Fund, Part ZZ of Chapter 56 of the Laws of 2020.

As you know, the enacted SFY 2021 Budget amended 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. The stated goal at the time was to create a temporary fund to help health facilities weather the pandemic.

Through the depths of the pandemic, the state diverted \$500 million in local sales tax and none of these funds were provided to health facilities, rather the state transferred \$250 million to the general fund on the last day of the 2021 state fiscal year.

Counties are requesting that this initiative either be repealed in its entirety, or if that is not achievable, the withholding of local sales tax should end upon the expiration of the federal COVID-19 public health emergency.

Supporting distressed health facilities has always been a federal and state responsibility. Counties just do not have the same revenue generating capacity, nor the appropriate tax base. The state tax base is far broader and substantially more progressive. Counties have a much narrower tax base and must rely on more regressive taxes such as property and sales. Sales tax is also the primary local revenue source that alleviates pressure on property taxes, so when it is diverted to fund a state program it takes away from potential property tax relief.

In fact, on January 31st, Governor Hochul met with President Biden at the White House, in which the President told Governor's that the federal government would be sending additional aid to hospitals in February, 2022.ⁱ

Finally, statewide, the \$50 million diverted from counties is equal to about half of their currently allowed annual property tax cap growth.

The table below shows the county-by-county financial impact of this proposal and AIM-Related sales tax diversions in calendar year 2022.

Annual Diversion of County Sales Tax for State Spending Purposes - Distressed Health Facilities				
County	Distressed Health Facilities Diversion		County	Distressed Health Facilities Diversion
Albany	\$1,595,420		Onondaga	\$2,155,871
Allegany	\$141,070		Ontario	\$511,308
Broome	\$825,333		Orange	\$1,665,833
Cattaraugus	\$243,322		Orleans	\$114,201

Cayuga	\$226,249	Oswego	\$293,994
Chautauqua	\$425,958	Otsego	\$225,131
Chemung	\$361,921	Putnam	\$391,068
Chenango	\$147,338	Rensselaer	\$570,599
Clinton	\$348,259	Rockland	\$1,335,681
Columbia	\$266,781	St. Lawrence	\$391,159
Cortland	\$183,975	Saratoga	\$761,518
Delaware	\$142,693	Schenectady	\$618,952
Dutchess	\$1,204,734	Schoharie	\$99,862
Erie	\$4,870,284	Schuyler	\$69,313
Essex	\$186,892	Seneca	\$154,853
Franklin	\$156,774	Steuben	\$348,489
Fulton	\$138,517	Suffolk	\$8,707,387
Genesee	\$247,218	Sullivan	\$286,564
Greene	\$214,992	Tioga	\$142,287
Hamilton	\$25,206	Tompkins	\$309,472
Herkimer	\$205,805	Ulster	\$753,220
Jefferson	\$482,925	Warren	\$325,956
Lewis	\$79,049	Washington	\$133,487
Livingston	\$215,678	Wayne	\$305,091
Madison	\$189,145	Westchester	\$4,045,283
Monroe	\$3,060,391	Wyoming	\$117,199
Montgomery	\$206,616	Yates	\$86,227
Nassau	\$7,031,434	57 Counties	\$50,000,000
Niagara	\$773,837	New York City	\$200,000,000
Oneida	\$882,183	TOTAL	\$250,000,000

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 and 2021.

New York health facilities and providers have already received about \$13.8 billion in pandemic aid to help cover higher costs and lost revenues, and \$30 billion in COVID federal aid for health facilities has yet to be released, bringing the total to \$175 billion. According to press statements from Senators Schumer and Gillibrand, federal payments replaced 87 percent of the lost revenues for health facilities in New York through the first half of 2020, during the height of the pandemic and state-imposed

restrictions on health care providers. Federal COVID relief funding to New York health care facilities and providers has more than doubled since the above announcement was made by our senators in 2020.

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.

The State controls the parameters of the Medicaid program including benefits, eligibility and reimbursements to health providers. This is the primary reason why addressing the needs of distressed health facilities is a state responsibility. We are encouraged by the State's unprecedented strong fiscal situation and that the Governor's SFY 2023 budget proposes to reverse several Medicaid reimbursements cuts that will help stabilize health care providers. This is in addition to a proposed \$10 billion state investment in New York's health care delivery system over the next several years.

These investments eliminate the need for further contributions from counties to support the Medicaid program. Even without the diversion of local taxes to support distressed health care providers, counties and New York City are still required to commit more than \$7 billion annually to pay for direct Medicaid program services and will also provide \$1 billion in voluntary payments for intergovernmental transfer programs to support public hospitals and nursing homes

When the state shifts costs to local governments, or takes local revenues to pay for state programs, they are simply transferring a new expense from the more progressive state tax base to the more regressive county tax base, while reducing transparency and accountability to the 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.

State Fiscal Year 2023 Executive Budget Proposal

While the Executive Budget includes a continuation of the largest county sales tax diversion – the distressed hospital fund, the budget does include several provisions which are widely supported by counties.

Changes in Taxation & Finance Important to Counties

Continuing the State Takeover of Local Medicaid Costs.ⁱⁱ

In FY 2023, the State will assume nearly \$5.2 billion in costs that would have otherwise been incurred by localities.

Aid and Incentives to Municipalities (AIM)ⁱⁱⁱ

Counties strongly support the Executive Budget proposal that ends the practice of diverting county sales tax to pay for the AIM program. This is a significant positive development for counties.

Beginning September 2022, the FY 2023 Executive Budget would change the AIM funding source to the General Fund for certain towns and villages that currently receive AIM-Related Payments funded by local sales tax.

Currently, 846 towns and 479 villages receive a total of \$59.1 million in AIM-Related payments funded through local sales tax collections. The Executive Budget ends this practice and resumes State General Fund support for these towns and villages through the traditional AIM program, allowing county governments to retain a greater amount of local sales tax revenue annually.

Modernize Tax Law to Include the Vacation Rental Industry^{iv}

In order to create a level playing field between the growing vacation rental sector and traditional hospitality industry participants such as hotels, motels, and B&Bs, the Executive Budget subjects all vacation rentals to state and local sales taxes, as well as the daily NYC Convention Center hotel fee of \$1.50 per unit. Under these new provisions, any vacation rental marketplace provider that facilitates the occupancy of a vacation rental will be responsible for collecting and remitting the state and local sales taxes, in addition to the NYC hotel unit fee.

This bill would take effect immediately and apply to collections of rent by the operator or vacation rental marketplace provider on or after September 1, 2022.

Currently 35 counties have agreements with select vacation rental companies to assist in the collection of local occupancy taxes. We support efforts to streamline the entire tax collection process for this industry sector and create a level playing field with a solution that can cover and support all our member counties, and industry stakeholders.

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.

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. We strongly encourage the state to utilize state tax credits or rebates as a way to provide relief to certain industries and constituencies.

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, SFY 21, and SFY 22 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.

Children and Family Services

Childcare 2-County Pilot Project

Tompkins County and Erie County have approached NYSAC with the concept of doing a pilot project within their communities to address the childcare crisis.

Erie County's Childcare System: Erie County is experiencing a crisis in the childcare workforce, as is many counties across the state. In Erie County, the number of jobs in childcare grew for five years, from 2013-2018, before starting to fall in 2019. The industry's current workforce numbers from 3,100 to 3,300, when including self-employed. That workforce is the lowest in over a decade and recorded an 11% loss between 2019 and 2020 as childcare workers leave the industry for jobs with increasing wages in retail and fast food. Average annual wages for full-time workers is just over \$23,000, with median hourly wage of \$10.38. Additionally, more than half of all childcare workers lack employer health care compared to one-quarter of the county-wide workforce. Childcare workers in Erie County are disproportionately women (88%) and people of color (35%), therefore their low wages and poor benefits exacerbate existing patterns of economic and racial inequality. Given the foundational role that childcare work plays in support of the entire workforce system, allowing these dynamics to play out uninterrupted has multiplying, and devastating, effects throughout society and the economy. For example, the exodus of childcare workers because of the abysmally low wages means fewer childcare spots for working parents. Fewer spots means women and parents are dropping out of the workforce. And now, employers all across NYS are reporting labor shortages which threaten our State's delicate economic recovery.

Request: We respectfully request \$20 million to supplement Erie County's Childcare Block Grant allocation and raise market rates. This money will allow Erie county to better align the actual cost of childcare with the OCFS market rate, increase wages for childcare workers, and get parents back to work without decreasing the number of children served.

Tompkins County's Childcare System: Tompkins County is officially a "childcare desert," defined as a community with more than three children for every childcare slot. Their deficit was severe before COVID and numerous providers couldn't last through the challenges of the pandemic. We have an estimated 4,296 children under 6 years of age – but only 1,396 licensed/registered childcare slots. That is, fewer than one third of our children are served, leaving 2,900 children without spaces. There are currently several projects in the pipeline that could increase slots in Tompkins County by 20%. Some projects have already won awards from the Southern Tier Regional Economic Development Council (STREDC), while others are in earlier planning stages. Since these providers applied in 2018 and 2019, construction costs have skyrocketed, providers' reserves have shrunk, and fundraising efforts have had to focus on survival. A STREDC award provides only 20% of the total and comes as reimbursement after a project is done. Providers must therefore borrow heavily to do the work and wait months for the check to arrive. The potential of these projects will be unrealized without more help.

Request: We respectfully request \$20 million to complete projects that are already “in the pipeline” and support in-home care, to create new childcare opportunities for families in Tompkins County.

Child Welfare

Counties support the restoration of the 65 percent state open ended match for child welfare services.

During the Great Recession the state reduced their matching rate for numerous social services programs and eliminated state fiscal support for administering these programs. These actions increased county and New York City costs by hundreds of millions of dollars annually and it has shifted a large share of the state’s constitutional duty to care for the needy to county government and the local tax base. Restoring the state’s fiscal commitment to 65 percent, up from the current 62 percent, will help improve outcomes for children and families in need.

Safety Net Assistance

The budget proposes to eliminate the 45-day waiting period for prospective Safety Net Assistance recipients before they can begin to receive program benefits. The state estimates this will increase total program costs by \$61 million with counties funding \$39.5 million and the state funding \$22.1 million.

Counties understand the State’s desire to increase aid to individuals receiving safety net assistance, however, this expanded investment should not be paid by counties under the current cost sharing model. The budget proposal needs to be considered in the context of the restoration of the prior state/local cost sharing rate of 50/50. Not the 29/71 state/local shift imposed on counties more than a decade ago.

Again, this is an area where the state shifted fiscal responsibility from a 50/50 state/local cost share to a 29/71 state/local cost share. While there were savings from maximizing the use of federal TANF funds to support this realignment at the time, the fiscal responsibilities for counties in the Safety Net program have grown larger, especially in addressing the needs of families facing housing emergencies. State rates to support emergency housing are insufficient in every part of the state to support the needs of families to transition to more permanent housing. The low rates are compounded by proposed state regulations related to hotel and motel units that will limit local options for emergency shelter in many counties because providers find the regulations too onerous.

Community College Funding

Counties support this welcome increase in community college state aid.

The Executive Budget maintains a funding floor for community colleges at 100 percent of prior year funding, up from the 98 percent floor enacted in FY 2022. Without a funding floor, community colleges would face a \$81 million (13 percent) loss in formula aid due to enrollment declines.

We would also like to continue the conversation for how we can make county chargebacks more equitable across the state, provide county funding for only the 2-year Associates degree at the Fashion Institute of Technology, and supporting proposals that help community colleges provide the education and skills training needed by industries across the state.

Early Childhood Development and Children with Special Needs

Early Intervention Provider Rate Increase

Counties support the Legislature and Governor's actions last session to create a \$40 million covered lives assessment fee on commercial insurance to offset county and state contributions to the early intervention program.

However, this action isn't enough. 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.

We urge the legislature to consider the following language in their one-house budget recommendations and the SFY 23 Enacted Budget.

Additional Recommendation:

Amend § 4405 of the Education Law:

Maintenance for a student with a disability placed in a residential school under the provisions of this article shall be a charge on the school district where the child resides at the time of the commencement of the school year when the aid is 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.

Cap County Costs for the Pre-School Special Education Program

Pre-School Special Education Provider Rate Increase^v

Approximately 80,000 preschool-age children with disabilities receive services, 14,000 school-age students with disabilities are educated in private settings and special act school districts during the school year, and 50,000 school-age students with disabilities receive summer services. Funding for these providers is determined through an annual rate-setting process. The Division of the Budget will administratively authorize a cost-of-living adjustment (COLA) of 11 percent for the SY 2023 tuition rates, increasing providers' annual funding by more than \$240 million. Counties fund 40.5 percent of preschool special education costs, including provider rate and caseload changes.

This provider rate increase, while necessary, will levy a \$50 million expanded mandate on county governments. Counties are asking for the state to cap pre-school costs at the average cost per county over the last three years.

Economic Development

ConnectALL Initiative^{vi}

Governor Hochul's ConnectALL initiative will be the largest-ever investment in New York's digital infrastructure, transforming it so all New Yorkers have affordable, reliable broadband statewide. Catalyzing over \$1 billion in new public and private investments, ConnectALL will provide affordable broadband access to New Yorkers in rural and urban areas statewide and continue New York State's leadership on connectivity.

The Executive Budget also amends state law to eliminate fees on the use and occupancy of the State right-of-way for fiber-optic cable placed in fulfillment of a grant award under the ConnectALL

initiative. This statutory change would ensure that ConnectALL projects are exempt from the use and occupancy fees for fiber optic cables.

NYSAC applauds the Governor's proposal to waive the New York State Department of Transportation's Right of Way (ROW) fees for future ConnectALL broadband construction projects, and we are asking the Governor to provide a 30 day amendment that would lift the burden of these fees for all broadband projects, especially those sponsored and financially supported through public funding, including county, state, or Federal grants such as the USDA ReConnect Grant, National Telecommunications and Information Administration, Appalachian Regional Commission or the Northern Borders Regional Commission. If this 30-day amendment does not materialize, then we would ask lawmakers to negotiate this proposal into the final enacted state budget.

ROW fees add considerable one time and annual costs to many broadband projects, which in turn reduces the overall project return on investment, and, bottom line, will connect fewer New Yorkers with each project.

Restore Funding for Local Tourism Promotion

The Executive Budget proposes \$2.5 million for local tourism matching grants, a \$1 million decrease from SFY 2022. Combined with previous state budget cuts, this represents a 50% decrease in funding for local tourism matching grants compared to just three years ago. The Tourism Matching Funds Program is the primary source of tourism promotion funding for many counties and requires local tourism promotion agencies to provide a 1:1 match for state funding used to market their destination in order to increase the number of visitors and the level of spending across New York State. We respectfully request the restoration of local tourism matching grants to SFY 2020 levels.

Judiciary and Court Related Matters

Indigent Defense

Continue the Hurrell-Harring Settlement (HHS) Implementation.^{vii}

The Executive Budget provides \$50 million in funding for the continued expansion of the HHS reforms to every county to improve the quality of indigent criminal defense statewide. This is the final year of expected increases stemming from the HH settlement, however the now \$250 million per year from the state is expected to continue in future years at that level.

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 sixth 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 \$4.1 million per year. Counties encourage the Legislature to include this measure in both one-house budget bills.

Environment

Extended Producer Responsibility for Packaging and Paper

The Executive Budget includes Article VII legislation that would create an Extended Producer Responsibility (EPR) program for packaging and paper. Counties support establishing an EPR program for packaging and paper to shift the cost of recycling these materials from governments and taxpayers to producers; however, the Executive Budget proposal should be amended to clearly define the roles and responsibilities of local governments. We respectfully request the addition of a section that explicitly gives localities the option to maintain their current operations and elect for reimbursement (opt-in), elect not to participate (opt-out), or discontinue services and leave the Producer Responsibility Organization (PRO) to ensure services are provided.

Additionally, we request an amendment to the preemption section. The Executive Budget language related to preemption is too broad and could be interpreted to impact local control over commercial recycling, preempt local authority to ban products, and preempt major parts of local authority and regulations in New York City's Local Law 19 of 1989 (LL19), which helped to launch City's recycling program and establish it as one of the strongest in the nation. The state preemption section should be amended to read as follows to keep the scope of state preemptions squarely with the costs and funding mechanisms of a PRO and not the recycling program more broadly:

Jurisdiction in all matters pertaining to costs and funding mechanisms of producer responsibility organizations relating to the recovery of covered materials by this title, vested exclusively in the state; provided, however, that (i) nothing in this section shall preclude any city, town, village or other local planning units, which already has in place on the effective date of this title any local law, ordinance or regulation governing a municipally-operated recycling program or collection program operated on behalf of such municipality, from determining what materials shall be included for recycling in such municipal recycling collection program, or shall preclude any such local law, ordinance or regulation which provides environmental protection equal to or greater than the provisions of this title or rules promulgated hereunder, and (ii) that nothing in this section shall preclude a person from coordinating, for recycling or reuse, the collection of covered materials and products.

Gaming

Commercial Gaming Payment Reduction Offset

Counties support the budget proposal that increases this funding level from \$7 million to \$10 million to accommodate the potential approval by the state of reductions at other casinos. We encourage the legislature to monitor this activity during budget negotiations to see if \$10 million is sufficient to hold counties harmless for all state payment reductions that are approved.

Increase in Native American Compact Gaming Revenues^{viii}

With the announcement that the Seneca Nation will resume payments to the state, counties, and host communities the appropriation authority has increased for SFY 2023 to accommodate arrears.

Counties are appreciative for the State making a concerted effort to reach an agreement with the Seneca Nation.

The chart below provides a breakdown of appropriation changes for all casinos operating in New York.

Gaming Compact Appropriations SFY 2023			
Tribe	SFY 2022	SFY2023	\$ Change
Seneca Niagara (25%)	\$61M	\$72M	\$11M
Seneca Niagara (10%)	\$35M	\$45M	\$10M
Seneca Allegany (25%)	\$27M	\$34M	\$7M
Seneca Allegany (10%)	\$16M	\$21M	\$5M
Seneca Buffalo (25%)	\$38M	\$52M	\$14M
Seneca Buffalo (10%)	\$19M	\$25M	\$6M
Akwesasne (25%)	\$15M	\$23M	\$8M
Akwesasne (10%)	\$6M	\$10M	\$4M
Oneida (25%)	\$32M	\$35M	\$3M
Oneida (10%)	\$10M	\$11M	\$1M
TOTAL	\$259M	\$328M	\$69M

Commercial Gaming Appropriations SFY 2023			
Location	SFY 2022	SFY2023	\$ Change
Resorts World	\$20M	\$20M	\$0
Rivers	\$20M	\$20M	\$0
del Lago & Tioga	\$22M	\$22M	\$0
TOTAL	\$62M	\$62M	\$0

General Government

Provide Additional Cybersecurity Funding^{ix}

The Executive Budget will include an additional \$44 million to further strengthen State and Local cyber defense and response efforts. Investments in hardware and software security tools and cyber personnel will enhance protection of State and Local systems and reduce risk and vulnerabilities.

While it is unclear where this additional funding will come from and how it will be distributed, counties appreciate the State's recognition that this problem requires an immediate, all hands-on deck approach to protect critical information systems and resident information.

Counties, cities, towns, and villages all have various needs when it comes to cybersecurity preparedness, protection, and response and we believe a well-coordinated program be developed to raise the baseline level of awareness and preparedness at the county and local government levels across the state.

Personnel / Labor / Civil Service

Counties support the following civil service / labor reforms included in the SFY 23 Executive Budget:

Modernizing Civil Service Exams^x

The Executive Budget provides \$5.8 million in additional funding to the DCS (Department of Civil Service) to continue modernizing the State's exam process, including the creation of a new Test Validation and Evaluation Unit within DCS that will continually create and evaluate exam content to maintain the highest levels of integrity, establishing new SUNY campus test centers, and funding for technical assistance for online/virtual exams. Additionally, the Executive Budget advances several pieces of legislation that will make the exam process more accessible.

Permitting the Use of Continuous Recruitment Testing^{xi}

The Executive Budget amends civil service law to allow the state Department of Civil Service or municipal commission to permit the use of a continuous recruitment testing process for open-competitive examinations. Accordingly, if adopted these tests can be open and offered continuously throughout the year and not only periodically.

This proposal would allow the state or municipal commission to eliminate the requirement to announce and hold open-competitive examinations at the same time promotional exams are held. This will allow non-competitive and labor class employees to compete in promotion exams without the need for a potentially unnecessary open-competitive examination.

Allows the Transfer of Non-Competitive Employees Appointed Through the State's 55-B and 55-C Programs into the Competitive Class^{xiii}

This bill allows the transfer of non-competitive employees appointed through the state's 55-B (individuals with disabilities) and 55-C (veterans) programs into the competitive class if they meet the requisite criteria.

This authority allows Veterans to qualify and transfer from non-competitive employment positions to competitive positions if they meet the minimum qualifications of this position.

Public Health & Mental Health

Increase County Public Health Funding^{xiv}

Counties applaud Governor Hochul's commitment to increasing aid to county public health departments.

Local health departments (LHDs) have been at the forefront of public health issues, including COVID, and serve as the first line of defense against all new and widespread public health crises. The Budget would amend Public Health law to increase base grant funding to full service LHDs to \$750,000, or \$1.30 per capita. It would also increase base grant funding to partial-service LHDs to \$577,500. Full-service LHDs currently receive a base grant of \$650,000, or \$0.65 per person if the population is over 1 million, and partial- service LHDs receive a base grant of \$500,000. This will allow LHDs to better respond to new and emerging public health threats.

The budget proposal would also amend Public Health law to allow LHDs to claim up to 50 percent of personnel services costs. LHDs cannot currently claim fringe benefits for State Aid reimbursement. This would give LHDs the opportunity to increase their staffing levels to meet public health demands.

We also respectfully request that the State Budget restore New York City to 36% reimbursement beyond the base grant under Article 6 state aid, consistent with the rest of the state. The 2019-20 State Budget included a substantial cut in State Aid Reimbursement to New York City's Department of Health and Mental Hygiene, reducing the percent of reimbursement for expenses above the base grant from 36% to 20%. The justification provided was that New York City has access to other sources of funding, such as federal grants; however, this does not align with the current Article 6 claiming process, which requires earned and grant revenue to be subtracted from eligible costs and or expenditures. This means other sources of funding are already factored into the net eligible expenditures submitted for reimbursement. To support the City in continuing to provide essential public health services, we respectfully request that New York City's reimbursement beyond the base grant be restored to 36%.

Lead Poisoning Prevention

Two years ago, 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 the number of children requiring case coordination and environmental management follow-up.

To better protect children, we respectfully request that the State Budget allocate \$46 million for lead poisoning prevention, which reflects the true cost of local implementation.

Reimburse Counties for Medical Examiner, Pathology, and Toxicology Services at 50%

Prior to 2011, county coroners and medical examiners were recognized as a core public health service, with medical examiner (ME) services reimbursed up to 36% with state aid from Article 6 funding to local health departments. In 2011, the State Budget recommended shifting the reimbursement for medical examiners from NYSDOH to DCJS. From that time, Article 6 reimbursement was no longer available, as the State deemed this activity to be a public safety and not a public health function. Since that loss of state support for ME services, the public health need for these services has grown, especially amid the opioid and COVID-19 epidemics.

We respectfully request that the State Budget restore funding to counties to help offset the increasing costs of state-mandated autopsy services in recognition of the critical public health data provided by death investigations. Funding will support coroners and medical examiners in performing autopsy, pathology, and toxicology services, including the identification of real-time trends like prescription medication and drug abuse, so county and state agencies can be alerted of these dangers.

Support the Federal Creation of a 988 Crisis Hotline.^{xv}

The budget proposal includes the 988 Suicide Prevention and Behavioral Health Crisis Act, which would establish an infrastructure for the three-digit phone to connect individuals experiencing a behavioral health crisis with suicide prevention and behavioral health crisis counselors, mobile crisis teams, and crisis stabilization services. The Commissioners of the Office of Mental Health (OMH) and Office of Addiction Services and Supports (OASAS) would be authorized to designate and provide standards for crisis hotline centers which would be responsible to provide or arrange for crisis

intervention services, including follow up services as needed, to individuals accessing the hotline. The 988 dialing code will be available nationally for call, text or chat beginning in July 2022.

The budget includes \$35 million in FY2023, increasing to \$60 million in FY2024, to support the implementation of the 988 Crisis Hotline in New York State.

Counties are supportive of this investment.

Expand Crisis Services^{xvi}

The Executive Budget provides \$4.5 million to continue rate enhancements for Intensive Behavioral Services (IBS) and improve connections to county-based mobile crisis services. These investments will allow more individuals to remain in independent settings or with their family and can also reduce unnecessary emergency room visits.

Counties are supportive of this investment.

Strengthen Suicide Prevention^{xvii}

The Executive Budget will enhance mental health and suicide prevention programs available for youth and families experiencing a mental health crisis. This includes an investment of \$10 million to fund then expansion of the Home- Based Crisis Intervention (HBCI) program and the establishment of a Mental Wellness Community Workforce.

Counties are supportive of this investment.

Reform the Treatment of Individuals Deemed Incompetent to Stand Trial

Individuals have the right to mental competency prior to standing trial, but the current system places undue and often unrealistic burdens on localities that serve neither patients nor taxpayers.

We urge the legislature to reform CPL Part 730 by enacting A.8402 (Gunther) S.7461 (Brouk).

This bill amends the criminal procedure law (CPL) to limit the use of restoration services for defendants who are deemed incompetent to stand trial and are suffering from mental illnesses or developmental disabilities that can be better served by traditional treatment methods aimed at recovery. Currently, section 730 of CPL provides that defendants charged with felonies who are mentally ill or developmentally disabled and are determined by a court to be unable to understand the charges against them or participate in their own defense (often called “730s”) are to be sent to state-operated forensic hospitals for the sole purpose of restoring them to competency so they can stand trial.

Many judges incorrectly believe that by ordering a 730 commitment they are helping a mentally ill or developmentally disabled person get treatment. While competency restoration can include connecting defendants with necessary medications, it primarily provides trial-focused services such as courtroom training to familiarize the defendant with courtroom procedures. This bill would create a definition of restoration services that makes it clear that restoration is not treatment with the goal of recovery; rather, it is simply a way to train mentally ill or developmentally disabled people to participate in their trial, plead guilty, or have the charges reduced or dismissed.

This legislation also requires professional examiners to provide the court with an opinion as to whether restoration is reasonably possible. If the defendant has a very low IQ or is suffering from

terminal senility, it is not reasonable to expect that they can be restored to competency, and they should instead be sent to civil hospitals for appropriate treatment. While the majority of defendants for which restoration is appropriate can be restored within 90-150 days, there have been several cases where defendants have been kept in restoration for periods of up to 10 years. At a cost of \$1,000 per day, these excessive and unproductive confinements are a waste of limited county resources that could be better spent on community mental health services and diversion programs.

By requiring courts to review commitments on a more regular basis, this bill would bring New York State law into alignment with the U.S. Supreme Court's ruling in *Jackson v. Indiana*, which declared that states cannot indefinitely confine criminal defendants solely on the basis of incompetence to stand trial.

Finally, this legislation would ensure that defendants who are converted to a civil hospitalization in order to get treatment still get credit for "time served" against any sentence they may ultimately receive, removing the incentive defense counsel currently has to keep clients in state forensic facilities for as long as possible.

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 2662 (Ritchie) 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 release all funds authorized so far and ensure 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.

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. *These grant allocations haven’t been increased in more than 5 years.*

Temporary Jail Placements When Detention Beds Aren’t Available^{xviii}

Counties appreciate this flexibility, particularly when SSD/SD detention beds are not available.

The Executive Budget establishes a hearing process that would allow the State to use temporary jail placements as an alternative to detention when sufficient bed space is not available provided the State obtains judicial consent. Implementing this change would alleviate strains on local government entities, detention facilities, and operating agencies while promoting the safety and security of youth and staff.

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.

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. However, Governor Hochul's SFY 23 Executive Budget includes modification to the CWSSI program which is supported by counties.

Specifically, the Executive Budget^{xix} would also make projects previously proposed but not implemented eligible for state matching funds and require shared services panels to submit applications for matching funds by December 31 of the second year following plan adoption.

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

Local Highways and Bridges.^{xx}

The Executive Budget continues and expands the State's record commitments to funding local highway and bridge projects.

Funding for the Consolidated Highway Improvement Program (CHIPS) and the Marchiselli program is maintained at last year's level of \$577.8 million.

The budget proposal provides \$100 million for the new Pave Our Potholes program, \$150 in highway aid through the PAVE NY program, \$100 million for extreme winter recovery, \$200 million to fund the local projects from the BRIDGE NY programs, and \$100 million for touring routes.

Transit

The budget also provides significant increases in transit aid throughout the state, including the expansion of services in the Capital Region to a new county. NYSAC supports these additional investments

NYSAC strongly supports the inclusion of these appropriations in the SFY 23 Enacted Budget.

Increase CHIPS Bidding Threshold^{xxi}

The Executive Budget advances a proposal to raise the current CHIPS bidding threshold from \$350,000 to \$750,000, which would provide greater flexibility in completing street and highway projects.

NYSAC strongly supports the inclusion of this provision in the SFY 23 Enacted Budget.

Capital Appropriations for Airports^{xxii}

The Executive Budget includes the following appropriations for aviation.

- \$150 million for Upstate Airport Development (to fully fund the program at \$250 million)
- \$12.5 million for the Aviation Capital Grant Program
- \$14 million Airport Improvement Program
- Raises the maximum aviation capital grant award to \$5 million

NYSAC strongly supports the inclusion of these appropriations in the SFY 23 Enacted Budget.

Provide Design Build Authority to Local Governments

The State has used design-build authority for 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 fewer construction delays.

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.

This past year, NYSAC launched, in partnership with our government partners at the Division of Veteran Services and Governor Hochul's Office, Operation Green Light. In response to our collective,

renewed focus on serving our Veterans, Governor Hochul included many initiatives and increased aid in her SFY 23 Executive Budget that are strongly supported by the counties of New York.

Specifically, the SFY 23 Executive Budget includes:

An Extension of the Hire-A-Vet Credit for Three Years^{xxiii}

Currently, eligible veterans are limited to service members who became veterans after September 11, 2001, which limits the credit's reach. In addition, eligible veterans must work at least 35 hours per week for the employer to receive the tax credit amount. The Budget:

- Extends the credit for an additional three years,
- Expands eligibility to all veterans,
- Removes the distinction between disabled and non-disabled, and
- Allows the credit for part-time employment to increase the number of veterans impacted.

Reinforced Support for Veterans^{xxiv}

Current State law requires New York to provide every county and city Veterans' Service Agency with \$10,000 per year, and an additional \$5,000 for each increment of 100,000 people living in the county or city.

The Executive Budget increases the minimum annual State funding to Veterans' Service Agencies from \$10,000 to \$25,000.

The Executive Budget also includes \$1 million to expand the number of Veterans' Benefit Advisors at DVS.

NYSAC strongly supports the inclusion of these appropriations in the SFY 23 Enacted Budget. However, should the state reform the state Division of Veteran Services, counties ask that as part of that new investment, this funding formula for county Veterans' Service Agencies be increased to \$15 million based on county population. This increased investment will support the state's efforts to increase communication with Veterans, further connecting them to their federally entitled benefits, and programs to retain and recruit Veterans to remain in New York State.

Expansion of the Joseph P. Dwyer Program Statewide^{xxv}

The Executive Budget includes \$7.7 million to expand the Joseph P. Dwyer Peer-to-Peer Veterans' Support Program statewide, providing vital peer support and counseling services to veterans who are transitioning from military service to civilian life.

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 strongly supports the inclusion of these appropriations in the SFY 23 Enacted Budget.*

Budget Document References

- ⁱ https://buffalonews.com/news/local/hochul-visits-white-house-garner...ore-pandemic-aid/article_be243936-82ec-11ec-bcfe-37596974feae.html
- ⁱⁱ Page 95, SFY 23 Briefing Book
- ⁱⁱⁱ Page 119, SFY 23 Briefing Book & Part X, PPGG
- ^{iv} REV, Part V
- ^v Page 77, SFY 23 Briefing Book
- ^{vi} Page 71, SFY 23 Briefing Book & Part JJ, TED
- ^{vii} Page 137, SFY 23 Briefing Book
- ^{viii} Page 542-543, Aid to Localities
- ^{ix} Page 123, SFY 23 Briefing Book
- ^x Page 61, SFY 23 Briefing Book
- ^{xi} Part R, PPGG
- ^{xii} Part S, PPGG
- ^{xiii} Part T, PPGG
- ^{xiv} HMH, Part E
- ^{xv} Page 129, SFY 23 Briefing Book & Part EE, HMH
- ^{xvi} Page 129, SFY 23 Briefing Book
- ^{xvii} Page 129, SFY 23 Briefing Book
- ^{xviii} Part Q, ELFA
- ^{xix} PPGG, Part W
- ^{xx} Page 652 – 654, Capital Projects
- ^{xxi} Part B, TED
- ^{xxii} Capital Projects, pages 639, 646, 647
- ^{xxiii} REV, Part H
- ^{xxiv} Page 113, SFY 23 Briefing Book & Part R, ELFA
- ^{xxv} Page 129, SFY 23 Briefing Book

Appendix A: SFY 23 Executive Budget Proposal ~ County Impact Scorecard



SFY 2023 EXECUTIVE BUDGET PROPOSAL

County Impact Scorecard

On January 18, 2022, Governor Kathy Hochul unveiled her SFY 2023 Executive Budget proposal. The budget calls for a record \$216 billion in total spending including nearly \$5.5 billion on behalf of counties outside of New York City through major local aid programs, including \$2.5 billion attributable to the State takeover of local Medicaid growth.

Despite record spending levels, the budget is projected to remain balanced through 2027 while increasing state "Rainy-Day" reserves to 15% of State Operating Funds by 2025.

Counties are encouraged by proposals that address long-sought county priorities like providing permanency in local sales tax rates, ending the diversion of local taxes to pay for the State's AIM program, making significant investments in public health, and supporting veterans and infrastructure while also committing to use the state's strong fiscal position to build reserves for the future.

There are, however, areas of concern, including the continued diversion of local sales taxes to support a distressed health facilities fund and increased Pre-K provider rates, which are needed but should not be funded by county taxpayers. Counties look forward to working with the Governor and state lawmakers in the coming months to create a budget that supports local governments and the residents we serve.

Top County Priorities

Ends the diversion of county sales tax to pay for the State's AIM Program	👍
Continues to divert county sales tax to pay for the Distressed Hospital Fund	👎
Makes local sales tax rates permanent & allows counties to increase to 4%	👍
Continues to cap Medicaid growth for counties	👍

Economic Development

Provides funding for the ConnectALL Initiative to expand broadband to rural and urban areas statewide	👍
Amends state law to eliminate fees on the use and occupancy of the State right-of-way for fiber-optic cable placed in fulfillment of a grant award under the ConnectALL initiative	👍

Environment

Includes a \$1 billion increase to the Environmental Bond Act	👍
Includes \$400 million for the Environmental Protection Fund	👍
Invests an additional \$500 million in clean water infrastructure	👍
Enacts extended producer responsibility for packaging and paper products	👍
Reduces exposure to dangerous chemicals by banning PFAS in packaging by 2024	👍

To learn more about the SFY 2023 Executive Budget Proposal, visit nysac.org/nysbudget.

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NYS Association of Counties

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SFY 2023 EXECUTIVE BUDGET PROPOSAL County Impact Scorecard

General Government Operations

Includes \$44 million in new funds to strengthen state and local cyber defense and response efforts	
Adds flexibility to the shared services program by making projects previously proposed but not implemented eligible for state matching funds	

Gaming

Increases gaming revenue loss offsets resulting from the state changing tax rates for commercial gaming facilities by \$3 million	
Increases Native American Compact Gaming Revenues from Seneca Nation Settlement	

Human Services

Increases Runaway Homeless Youth Funding by an additional \$2 million	
Makes changes to public assistance resulting in a \$39.5 million cost shift to counties	

Higher Education

Raises funding floor for Community Colleges to 100% of last year's funding levels	
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Judiciary

Provides a market-rate of interest on court judgements	
Continues to fully fund Raise the Age and Hurrell-Harring settlement implementation	

Labor / Civil Service

Modernizes Civil Service exams to increase participation	
Allows veterans to qualify and transfer from non-competitive employment positions to competitive positions	

Public/Mental Health & Special Education

Funds the creation of a 9-8-8 Mental Health Crisis Hotline	
Increases pre-K special education provider rates at significant costs to counties	
Fails to fully fund the implementation of the 2019 elevated blood lead level mandate (\$30.3M)	
Increases Article 6 base grants for LHDs and allows partial reimbursement for fringe benefits	
Fails to restore NYC to 36% reimbursement for public health spending beyond the base grant	

Public Safety

Provides \$10 million for county probation departments to provide pre-trial services to promote public safety	
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Transportation & Infrastructure

Expands local highway and bridge funding by including a new Pave Our Potholes Program	
Increases CHIPS Bidding Threshold from \$350,000 to \$750,000	
Adds \$100 million for Touring Routes	

Veterans

Increases state aid to county Veterans' Service Agencies from \$10,000 to \$25,000	
Includes \$7.7 million to expand the Joseph P. Dwyer program statewide	
Extends and enhances the Hire-A-Vet Credit for three years	



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