

The County Perspective

2022 Federal Priorities

New York State Association of Counties



NYSAC
— NEW YORK STATE —
ASSOCIATION OF COUNTIES

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For more information NYSAC policy positions, visit www.nysac.org or call 518-465-1473.

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TRANSPORTATION AND INFRASTRUCTURE INVESTMENT

Rural Cellular Coverage.

The federal government must prioritize and incentivize rural cellular deployment to increase equity across the nation.

- Many areas of New York are either underserved or not served at all by cellular phone carriers, preventing access to education, economic advancement, and emergency services.
- Americans are increasingly dependent on cellular phones. According to a study released in 2017 by the Center for Disease Control, 50.8% of US households rely solely on cellular phones—up from 24.5% in 2009. The percentage of young adults and renters who rely solely on cell phone service higher for 25-29-year-olds at 72.7%. Still, many rural areas throughout the United States remain either unserved or underserved by cellular carriers.
- Cell phones and the requisite cell coverage are often the first link of our emergency response chain. Americans who live in or travel to these areas cannot reach emergency services when they need them.
- The Federal Communications Commission (FCC) designates the Universal Service Administrative Company (USAC) to administer the Universal Service Fund. The USAC established the High Cost Program to provide funding to telecommunications carriers to deliver service to rural areas where the market alone cannot support the cost to provide telecommunications services.

Reform the regulatory process to speed the construction of transportation projects that utilize federal funding. The current federal regulatory process for environmental review and other requirements can add years to the completion time, and significant costs for essential local and regional transportation projects. Reforms can be made to streamline the process and garner faster approvals, while still addressing important environmental, public health and safety concerns. New York counties support proposals that will shorten this approval and review time including a single point of contact for federal project review and approval, and one environmental review for a green light on construction.

PUBLIC HEALTH INVESTMENTS

Support COVID-19 County Response Efforts

Local health departments (LHDs) are on the front lines of preparing communities to respond to a range of disasters, including the recent global outbreak of a respiratory illness caused by the COVID-19 novel coronavirus. Across the country, LHDs are responsible for assessing people for the risk of contracting the disease; finding and testing persons of interest who have recently traveled to China or who are exhibiting symptoms; monitoring anyone who has been in close contact with people under investigation; and arranging for isolation and quarantine when necessary. LHDs also work with health care providers to ensure they know what to look for, and how to report, suspected cases. They also work with community partners to disseminate credible information, calm fears, and dispel myths.

Emergencies strain the entire public health system, and health departments are already diverting staff from other projects to respond to COVID-19. These strategies are not sustainable and run the risk of compromising other critical work, such as efforts to prevent the spread of HIV and fight the opioid crisis. LHDs need sustained, predictable, and increased federal funding to support their work.

Preserve the Affordable Care Act and the State/Federal Medicaid Partnership

Federal entitlement reform is always under consideration in Washington, and in the 115th Congress the Affordable Care Act and Medicaid were targeted for cuts. Major health legislation introduced in 2017 would have cut federal funding for Medicaid by one-fourth, or \$800 billion over a decade. While these efforts were ultimately unsuccessful, they normalized methods for changing the Medicaid program through models such as a per capita funding cap or a fixed dollar block grant.

Under a per capita cap, states would receive a fixed amount of federal funding per beneficiary category. Under a block grant, states would receive a fixed amount of federal funding each year, regardless of changes in program enrollment and mandates. If these cuts had been implemented it would have been devastating to the finances of New York's counties and New York City, as the burden of caring for the low income and disabled populations would fall directly on them.

In New York, counties and New York City are required to contribute \$7.6 billion annually to pay for the costs of Medicaid. This annual contribution (not including disproportionate share matching payments to health facilities) is more than all counties combined nationally spend for direct Medicaid program costs. In addition, New York City and several counties maintain public hospitals that provide care for the indigent and needy. More than a dozen counties and New York City maintain and operate 22 nursing homes that are often a provider of last resort for the needy in their communities.

Recommendations

Oppose Block Grants and Per Capita Caps or Other Federal Funding Cuts to Medicaid.

New York counties support protecting the federal-state partnership structure for financing and delivering Medicaid services while maximizing flexibility to support local systems of care. Counties are opposed to measures that would further shift Medicaid costs from the federal government to states and counties, including proposals to institute block grants or per capita caps.

- **Support Stabilizing the Affordable Care Act and Maintaining Enhanced Federal Medicaid Matching.** New York and its counties have benefited fiscally from the provisions of the Affordable Care Act related to the enhanced federal Medicaid match that is currently generating more than \$400 million annually in additional federal funding for counties to support Medicaid expansion costs under the Affordable Care Act. Overall, New York has seen a significant reduction in the number of uninsured due to the provisions of the Affordable Care

Act. The uninsured rate in 2020 was just under five percent statewide, less than half of what it was before the Affordable Care Act (ACA) was enacted, and premiums in the individual market have remained significantly lower, after adjusting for inflation and before the application of federal tax credits, than they were before the ACA. Counties oppose federal actions that undermine the stability of the health insurance marketplaces established under the Affordable Care Act.

Strengthening the Tenth Amendment Through Entrusting States (STATES) Act

Nearly three dozen states have legalized medical marijuana or the recreational use of marijuana for adults. New York State has approved both. Legalization is anticipated to have implications for public health, public safety, criminal justice, the economy, and even the environment. Because marijuana is illegal under federal law, the banking industry is restricted from working with the burgeoning industry. The industry is cash-intensive and this makes “cannabusinesses” a target for internal and external theft and hinders its development as a regulated and accepted business—if a state so chooses to legalize the industry within its borders.

- Because of the disconnect between federal and state laws, New York counties support the enactment of legislation that allows the banking sector to become more involved like the Strengthening the Tenth Amendment Through Entrusting States (STATES) Act and the Secure and Fair Enforcement (SAFE) Banking Act. These bills will help ensure the legalization of marijuana in New York, and other states, is done under a process that facilitates a regulated and safe environment that balances public health and safety concerns while supporting economic development opportunities.

The Secure and Fair Enforcement (SAFE) Banking Act would solve a key logistical and public safety problem in states that have legalized medicinal or recreational cannabis and prevent federal banking regulators from: (1) prohibiting, penalizing or discouraging a bank from providing financial services to a legitimate state-sanctioned and regulated cannabis business, or an associated business (such as a lawyer or landlord providing services to a legal cannabis business); (2) terminating or limiting a bank’s federal deposit insurance solely because the bank is providing services to a state-sanctioned cannabis business or associated business; (3) recommending or incentivizing a bank to halt or downgrade providing any kind of banking services to these businesses; or (4) taking any action on a loan to an owner or operator of a cannabis-related business.

The bill also creates a safe harbor from criminal prosecution and liability and asset forfeiture for banks and their officers and employees who provide financial services to legitimate, state-sanctioned cannabis businesses, while maintaining banks’ right to choose not to offer those services.

The bill would require banks to comply with current Financial Crimes Enforcement Network (FinCEN) guidance, while at the same time allowing FinCEN guidance to be streamlined over time as states and the federal government adapt to legalized medicinal and recreational cannabis policies.

Establish MCLs for PFOA/PFOS and Classify These Chemicals as Hazardous Substances

Counties across the state have been urging the U.S. Environmental Protection Agency (EPA) to set a country-wide maximum containment levels (MCL) for perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) and classify these chemicals as hazardous substances.

Establishing a MCL for these chemicals and classifying them as hazardous substances is vital to protecting the health, safety, and welfare of all Americans. Exposure to PFOA and PFOS has been linked to kidney cancer, testicular cancer, pre-eclampsia, thyroid disease, developmental defects in fetuses, liver tissue damage, and immune system impairments, among other potentially life-threatening conditions. While the EPA's health advisory is an initial step in combatting this crisis, it is not adequate enough to effectively remediate these chemicals.

New York State has already classified PFOA and PFOS as hazardous substances and set MCLs of 10 parts per trillion (ppt) for both chemicals in recognition of their negative environmental and public health impacts. We are encouraged to see EPA set a goal of setting MCLs for PFOA and PFOS by fall 2022 and recommend that the MCLs be at least as low as New York State's (as opposed to the EPA's higher health advisory level of 70 ppt).

It is also important that EPA classify PFOA and PFOS as hazardous substances to allow states and local governments to drawdown funds necessary for remediation. Communities and water suppliers should qualify for federal funding for remediation if PFAS levels exceed their state's MCLs. Counties also support making the substantial cost of monitoring for PFAS and other emerging contaminants an eligible expense for federal funding. Finally, we urge lawmakers to authorize entities that are traditionally left out of grant funding opportunities, such as mobile parks and offices, to receive funds to ensure PFAS contamination can be addressed wherever it is found.

Support H.R. 2351/S.1175 “911 SAVES Act” (117th Congress)

H.R. 2351, the 911 Saves Act directs the U.S. Office of Management and Budget to reclassify public safety telecommunicators from “Office and Administrative Support Occupations” to the category of “Protective Service Occupations.”

The federal government’s Standard Occupational Classification System (SOCS) sorts workers into occupational categories for statistical purposes, according to the nature of the work performed and, in some cases, on the skills, education or training needed to perform the work.

The 9-1-1 telecommunicators across the country are currently incorrectly categorized in the SOCS as an “Office and Administrative Support Occupation,” a category that includes secretaries, office clerks, and taxicab dispatchers. This classification fails to recognize the role these individuals play in public safety and homeland security, and their specialized training and skills and the uniquely stressful work environment.

By classifying these county positions into the “Protective Service occupations,” alongside police, firefighters, security guards, lifeguards, and others whose job it is to protect our communities, would better reflect the work they perform, and align the SOCS with related classification systems.

Healthcare for Jail Inmates H.R. 955/S.285 “Medicaid Re-entry Act” (117th Congress)

Current federal law prohibits the use of federal funds and services, such as Medicaid and the Children’s Health Insurance Program (CHIP), for health care provided to inmates of a public institution—a category that includes county jails. The policy, known as the Medicaid inmate exclusion, was originally enacted under the Social Security Act of 1965 and intended to prevent state governments from shifting inmate care costs to federal programs. However, this practice has had an unintended consequence of cutting off federal health benefits to local jail detainees who are awaiting trial.

Counties nationwide invest \$176 billion annually in community health systems and justice and public safety services, including the entire cost of medical care for all detained individuals. Counties own and operate 91 percent of local jails that see approximately 10.6 million individuals pass through each year with an average length of stay of 25 days. Although two-thirds of those detained in jails are pre-trial and presumed innocent, current federal law prohibits Medicaid and other federal safety-net programs from paying for their medical care, leaving counties responsible for the full cost of their health care, rather than the traditional federal, state, and local partnership for safety-net services. As a result of this federal policy and high occurrences of mental and behavioral health issues and substance use disorders among inmates, county jails are now some of the largest behavioral health care providers in our communities.

Congress has considered legislation that would amend the Social Security Act to allow pre-trial jail detainees to keep their federal health benefits while awaiting trial – and restore the federal, state and local partnership in funding and delivering health services to justice-involved individuals. In the 117th Congress U.S. House of Representatives, Reps. Paul Tonko (D-N.Y.) introduced bipartisan legislation, the Medicaid Reentry Act ([H.R. 955](#)), that would restore Medicaid benefits to inmates for the 30-day period prior to their release from jail. In the Senate, Senator Tammy Baldwin (D-WI) has introduced the same-as version ([S.285](#)).

Recommendations

New York counties support the enactment of legislation that would modify the Medicaid inmate exclusion which will improve health outcomes for jail inmates as they are released from incarceration and will also provide stability for these individuals and reduce recidivism.

TAX FAIRNESS POLICY

Addressing Unfair SALT Federal Tax Reform Limits

Recent federal tax reforms enacted by congress included a significantly unbalanced tax change that overturned 150 years of federal-state fiscal precedent under which the federal government agreed and understood that it was counterproductive and unfair to impose a “defacto” double tax on state residents. To avoid unfair “double taxation” the federal government provided a federal tax deduction for state and local taxes paid to specifically avoid the application of federal taxes on top of state and local taxes already paid—effectively taxing income that is never available to the taxpayer. A large share of these state and local taxes are raised to satisfy federal laws and policy objectives that provide for the public good including health care, a free and appropriate education, and public safety and security.

The longstanding precedent to avoid double taxation has also been built into the distribution of federal funds to the states. Federal funding formulas are often linked to the general income and wealth of individual taxpayers, with lower income states receiving a higher match of federal funds to support the implementation of federal programs at the state level. The model was built such that wealthier states would receive a lower federal match for many programs because it was anticipated these states could afford to contribute more of their own local resources compared to lower income states. This requires wealthier states to impose higher state and local taxes to support the cost of federal program implementation in their states. Providing the federal deductibility of state and local taxes was the foundation of the state-federal fiscal partnership that supported the federal model of distributing resources from states with higher wealth to those needing more help. Capping the deductibility of state and local taxes reneged on the fiscal partnership and now allows for double taxation.

The state and local tax (SALT) deduction cap falls disproportionately on a small number of states, effectively requiring these states to finance a large share of the entire cost of the federal corporate and individual tax cuts according to joint committee on taxation estimates. The cost also falls on many double income middle class households by creating a federal tax penalty for married people.

At a minimum, congress should eliminate the marriage penalty created under the current SALT deductibility cap that imposes the same \$10,000 cap on an individual as it does on a married couple. For a married couple, the SALT cap should be no less than \$20,000. Nearly all parts of the federal tax code work to avoid penalizing marriage by doubling individual tax deductibility limits, estate tax thresholds and gift limits to ensure balance. Alternatively, provisions that eliminate the SALT deductibility cap entirely, or for incomes under a certain income threshold, should be considered.

New Yorkers pay some of the highest property taxes in the nation, along with a progressive income tax rate. As a result, many homeowners (particularly in downstate areas where home prices are generally very high) pay much more than \$10,000 in combined income and property taxes. It is important to note that the federal tax changes related to SALT impact downstate areas much differently than most of upstate. However, the negative fiscal impacts generated downstate, because of their size, hurts the whole state. They also undermine the ability of local governments to raise revenue to support state and federally mandated spending.

For decades, New York State has been a donor state to the federal government. This means we send far more in federal income taxes to Washington than we get back in federal grants and aid. In the most recent year this imbalance was nearly \$40 billion. The SALT limitations unfairly shift even more revenues from New York State, and a handful of others, and redistributes that money to the rest of the nation. The imbalance experienced by donor states like New York, reduces our overall GDP growth,

while enhancing the GDP of “donee” states that receive a larger share of federal payments (which allows them to have lower state and local taxes).

New York counties supported the House passage of the “Restoring Tax Fairness Act” to undo the cap on SALT deductibility and we hope to work with our federal partners to secure a long-term solution that protects the taxing authority and responsibilities of states and local governments.