2022 NYSAC Fall Seminar
Resolutions

Erie County
September 19 – 21, 2022

Michael Zurlo, President

Stephen J. Acquario, Executive Director
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2022 NYSAC Fall Seminar
Erie County

NYSAC Board of Directors

Michael Zurlo, President
Calling on the State of New York to Fully Fund County Law 18B Assigned Counsel Statutory Pay Levels

WHEREAS, the United States Constitution established, and the Supreme Court decision Gideon v. Wainwright clarified, that competent counsel is to be given to all accused of a crime, regardless of their ability to pay; and

WHEREAS, New York State took legislative action to establish a criminal indigent defense legal system that passed the responsibility of providing these criminal defense services, and many of the costs associated with them, to counties and local property taxpayers; and

WHEREAS, in 2007, the New York State Civil Liberties Union sued the State of New York in Hurrell-Harring v. State of New York, which showed indigent criminal defense services were underfunded by the State and failed to meet constitutionally required standards; and

WHEREAS, prior to Hurrell-Harring, the 57 New York counties spent $164 million annually on public defense while the State provided the 57 counties with only $39 million in indigent defense support; and

WHEREAS, the New York State Legislature recognized that the State needs to provide additional funding and, in 2017, passed historic legislation allocating $250 million per year, when fully implemented, of state funding to directly improve indigent defense services; and

WHEREAS, while counties are still funding the same amount, the State’s 2017 funding increase has made New York State a leader in indigent defense services; and

WHEREAS, due to different county demographics and needs, counties have flexibility in how to provide criminal defense by using a combination of public defenders, conflict defense offices, and private contracted attorneys known as 18B counsel (named after the applicable section of County Law); and

WHEREAS, all counties rely on the services of 18B attorneys to perform these services to handle the overflow of work and handle conflicts that come into the public defender’s office; and

WHEREAS, unfortunately, the 2017 state legislation did not address the pay rate for 18B attorneys; and
WHEREAS, Article 18B establishes compensation paid to attorneys for assigned
counsel work at $60/hour for misdemeanor matters and $75/hour for felony defense;
and
WHEREAS, these rates have remained unchanged since 2004 and, in that same time
period, the United States has seen inflation rise by 57 percent; and
WHEREAS, counties across the State have had difficulty in recent years attracting and
keeping quality 18B attorneys in their region, with stagnant pay reported as the major
contributing factor; and
WHEREAS, without properly funding 18B attorneys, which will keep and attract
quality attorneys, the good work by the State to improve indigent defense services could
be in jeopardy.

NOW, THEREFORE, BE IT RESOLVED, that the New York State Association of
Counties (NYSAC) calls on the State to increase the 18B attorney rate to equitable levels;
and
BE IT FURTHER RESOLVED, the State needs to fully fund this increase in keeping
with the reasoning set forth in the Hurrell-Harring case, and to build on the State
Legislature’s historic 2017 legislation; and
BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties
of New York State encouraging member counties to enact similar resolutions; and
BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to
the Governor of the State of New York, the New York State Legislature, and all others
deemed necessary and proper.
Resolution to Support the Clean Water, Clean Air, Green Jobs
Environmental Bond Act of 2022

WHEREAS, providing clean drinking water and protecting our rivers, bays, lakes, streams, and waterfronts from pollution is paramount to quality of life in New York State; and

WHEREAS, modernizing water infrastructure will safeguard clean water, reduce flooding, lessen lead exposure and other public health threats, and create jobs; and

WHEREAS, New Yorkers are vulnerable to extreme weather, including deadly heat from rising temperatures and flooding from severe storms that put people, properties, and public assets at risk; and

WHEREAS, upgrading transportation and stormwater infrastructure, restoring natural resources, growing urban forests, building green roofs, and upgrading cooling centers will reduce the impact of extreme weather, saving lives and money; and

WHEREAS, the COVID-19 pandemic demonstrated the importance of outdoor recreation and access to fresh, local food as people flocked to local parks and sought out healthy foods for their families; and

WHEREAS, upgrades to facilities at state and local parks and preserves and the creation of new outdoor recreational areas will benefit our state by protecting wildlife habitats, providing more people access to nature, and creating jobs in the outdoor recreation economy; and

WHEREAS, the Clean Water, Clean Air, and Green Jobs Bond Act (“Bond Act”) would authorize New York State to issue $4.2 billion in general obligation bonds to finance critical environmental restoration, clean water, and infrastructure projects across the state; and

WHEREAS, the Bond Act was passed by the New York State Legislature as part of the FY 2023 State Budget and will appear on the general election ballot on November 8, 2022 for voter approval; and

WHEREAS, the Bond Act would invest at least $1.1 billion in restoring habitats and reducing flood risk, at least $650 million in improving water quality and the resiliency of infrastructure, up to $650 million in protecting open space and recreational infrastructure, and up to $1.5 billion in mitigating climate change; and
WHEREAS, the Bond Act includes strong labor provisions and will support more than 84,000 family-sustaining jobs for New Yorkers and $8.7 billion in project spending; and

WHEREAS, the Bond Act would enable New York State to address pollution and public health threats in disadvantaged communities by directing at least 35% of the total funding to these neighborhoods, with a goal of reaching 40%; and

WHEREAS, counties are already leading efforts to combat climate change through initiatives that reduce greenhouse gas emissions, advance the state’s transition to renewable energy, and build more resiliency into our natural and built infrastructures; and

WHEREAS, the Bond Act will allow local governments to apply for grants to carry out projects that will serve the unique needs of their communities and support New York State in achieving the Climate Act’s goals of reducing economy-wide greenhouse gas emissions by 40% by 2030 and 85% by 2050.

NOW, THEREFORE, BE IT RESOLVED, that the New York State Association of Counties (NYSAC) supports the passage of the Clean Water, Clean Air, Green Jobs Environmental Bond Act of 2022 to enable historic investments in protecting the environment, mitigating climate change, and advancing environmental justice; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, NYSAC shall forward copies of this resolution to the Governor of the State of New York, the New York State Legislature, and all others deemed necessary and proper.
Resolution Urging the Governor and State Legislature to Gradually Eliminate the County Fiscal Responsibility for Preschool Special Education and Summer School Special Education Programs

WHEREAS, Chapter 23 of the Laws of 1989 established the Preschool Program for Children with Handicapping Conditions as 4410 of the Education Law; and

WHEREAS, the original law included a provision to limit the county fiscal responsibility to 25 percent by the 1993-94 school year; and

WHEREAS, a gubernatorial statewide task force on reforming preschool special education determined that counties should be removed completely from financing the state’s preschool special education program; and

WHEREAS, the State has enacted legislation to provide universal prekindergarten for all age eligible children in New York State to be financed 100 percent with state resources; and

WHEREAS, the State also requires counties to support 10 percent of summer school special education 4408 program costs for all children; and

WHEREAS, Governor Hochul has approved a 15 percent provider rate increase, amounting to more than $240 million in additional funding; and

WHEREAS, NYSAC estimates the financial cost borne by counties for this rate increase is approximately $50 million annually; and

WHEREAS, the adopted SFY 2023 Budget did not include any funding to offset this new rate increase, thus expanding an already underfunded county mandated cost; and

WHEREAS, the fact that other states do not require county government to pay for these special education expenses and the failure of New York State to fully fund its promised share of preschool special education program costs contributes directly to New York’s highest in the nation property tax burden.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties (NYSAC) calls on Governor Kathy Hochul and the New York State Legislature to implement a plan to gradually remove counties from the fiscal responsibility of paying for preschool and summer school special education programs; and

BE IT FURTHER RESOLVED, in the first phase, the State must cap the annual county share growth for state fiscal year 2023 at no more than two percent to mirror the
allowable growth in the property tax cap or the average of the last three years of an
individual county’s costs, whichever is less; and

BE IT FURTHER RESOLVED, the second phase should include capping county
fiscal liability at a zero percent increase for preschool special education and then
implementing a multi-year plan to incrementally reduce the county fiscal liability for
this program to no more than 25 percent as intended at the inception of the program to
help reduce pressure on property taxes; and

BE IT FURTHER RESOLVED, the third phase should gradually reduce the county
fiscal responsibility to zero for both preschool and summer school special education
costs; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties
of New York encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to
the Governor of the State of New York, the New York State Legislature and all others
deemed necessary and proper.
Resolution in Support of Addressing COVID’s Impact on the Low Morale and Exodus of Professionals from New York’s Public Workforce through the Issuance of Workforce Bonuses, Stipends, and Enhanced Retirement Benefits to Sustain the State’s Public Infrastructure

WHEREAS, the pandemic has presented historic challenges to the response capabilities of public first responders; and

WHEREAS, these professionals, who were already taxed by pre-pandemic workloads that extended beyond available resources, saw an explosion of critical tasks and responsibilities to combat and mitigate transmission of the COVID-19 virus; and

WHEREAS, not only were local public staff subject to this tremendous increase in workload, but they were also faced numerous other challenges, including daily exposure to risk of infection, worry for their own loved ones, and hostility from a public that was and remains conflicted on compliance with response activities; and

WHEREAS, a consortium of researchers from the NYS Association of County Health Officials (NYSACHO), the State University of New York (SUNY) Oneonta, Bassett Healthcare Network Research, and Utica University convened to conduct a statewide survey of public workers and compiled the findings in a report entitled “Pain and Perseverance;” and

WHEREAS, more than 200 staff responded to the survey, documenting the profound impact these factors have had on public workers; and

WHEREAS, the survey data indicate:
  • 90.4% of respondents have felt overwhelmed by workload;
  • 75.6% felt disconnected from family and friends because of workload;
  • 65% felt unappreciated at work and 75% felt inadequately compensated;
  • 35% received job-related threats because of work by members of the public;
  • 55% felt bullied or harassed because of this work by the members of the public;
  • 30% have received some sort of hate mail/email/messages from the public; and

WHEREAS, these findings amount to a crisis within the ranks of the public workforce, triggering a significant exodus from the field by many workers and leaders that has further caused staff and resource shortages; and

WHEREAS, local health departments have lost between 17% and 31% of their staff since March 2020 due to early retirements and other reasons related to the pandemic; and
WHEREAS, between 2019 and 2022, total vacancies in local health departments (LHDs) increased by 951 positions across 34 counties due to limited funding, inability to find qualified candidates, and hiring freezes; and

WHEREAS, counties are challenged to recruit, retain, and employ new public professionals entering the field because many are drawn to the private for-profit sector and health care systems for work; and

WHEREAS, experienced and trained workers will need to replace those who have retired or departed from LHDs due to stressors related to their jobs during the pandemic; and

WHEREAS, the broad scope of public threats to our communities, coupled with the deleterious impact of underinvestment on the capabilities and mental health status of our public workforce, demands continued vigilance and continual investment by the state.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties (NYSAC) calls on the Governor and State Legislature to work with Congress to pass the Public Health Loan Repayment Program, which includes $25 million to support loan repayment for public professionals who agree to serve three years in a local, state or tribal health department; and

BE IT FURTHER RESOLVED, that the Governor and Legislature include a one-time, state funded two-year retirement credit for all county health officials who worked during the state of emergency for the COVID-19 pandemic in the FY 2024 State Budget; and

BE IT FURTHER RESOLVED, that the Governor and Legislature protect and continue to increase Article 6 public infrastructure funding in the FY 2024 state budget; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to The Governor of the State of New York, the New York State Legislature, NYSDOH Commissioner Mary Bassett, and all others deemed necessary and proper.
Resolution Calling for Study and Reform of New York State Civil Service
System to Support Local Government Employee Recruitment

WHEREAS, in New York, 16.4 percent of the workforce are employed by state, local, or federal level governments, providing needed services to our residents; and

WHEREAS, prior to the COVID pandemic, the New York public sector was being asked to do more with less, as the total workforce was down 4.5 percent from 2010; and

WHEREAS, a recent study by the Bureau of Labor Statistics showed this downturn in public employment levels has only gotten worse, as the number of private-sector jobs surpassed its pre-pandemic level, while there are 664,000 fewer people employed in the public sector; and

WHEREAS, NYSAC members have all expressed concerns over recent trends of hiring and retaining quality employees, as this downturn in employment numbers is putting more stress on local governments’ abilities to provide needed services; and

WHEREAS, New York’s counties all are seeking to increase employment numbers and create a qualified and diverse workforce; and

WHEREAS, current restrictions caused by NYS Civil Service Laws create hurdles that are stalling local governments’ ability to expand their workforce; and

WHEREAS, while current NYS Civil Service Laws were put in place with good intentions, most were implemented prior to current societal and technological advancements and the time to study and improve this system is long overdue; and

WHEREAS, State Civil Service system changes are needed for county governments to compete with the private sector for potential employees, including the ability to more quickly respond to candidates seeking employment; and

WHEREAS, New York’s Public Officers Law (POL) § 3 requires certain employees reside in the political subdivision or municipality in which they hold such public office; and

WHEREAS, since the 1970s, the State has authorized over 70 exceptions to POL residency requirements, including for police officers, in recognition that for many job specifications it is important to increase the potential hiring pool to obtain highly skilled employees; and
WHEREAS, now counties are in a hiring crisis due to the shrinking the potential hiring pool and the increase in needed county skilled labor; and

WHEREAS, county governments need hiring flexibility and are best situated to know what job titles should have residency requirements and which should have flexibility to ensure efficient and quality county services; and

WHEREAS, specific changes to NYS Civil Service Laws allowing for greater local government flexibility and quicker response time to hire needed employees include but are not limited to:

- Continuous Recruitment—allowing local governments the option to hold examinations continuously for candidates to apply at any time to take recruitment examinations;
- Electronic Canvassing Process—allowing email and phone contacts in lieu of mailing letters;
- Standard Grading Metrics should be simplified, understandable and predictable in order to assist potential applicants to take multiple-choice exams, as well as complete experience-based exams; and
- Licensed Occupation Local Approval—allowing local governments to bypass exam or civil service requirements for positions that require already approved and obtained New York accredited licenses.

NOW, THEREFORE, BE IT RESOLVED, the State must immediately study and reform NYS Civil Service Law; and

BE IT FURTHER RESOLVED, that New York State of Association of Counties (NYSAC) calls for the State of New York to amend Public Officers Law § 3 and allow for full Home Rule Authority to determine county employee residency requirements; and

BE IT FURTHER RESOLVED, this study and reform must result in local governments’ having more flexibility in hiring practices and the ability to more quickly respond to potential employees; and

BE IT FURTHER RESOLVED, counties seek these changes to meet public service needs with a quality workforce that best reflects the residents they serve; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED that New York State Association of Counties shall forward copies of this resolution to Governor Kathy Hochul, the New York State Legislature and all others deemed necessary and proper.
Resolution Calling on New York State to Sufficiently Invest in 9-1-1 Funding to Ensure Proper Maintenance with Existing Systems and Prepare for Next Generation 9-1-1 Technologies

WHEREAS, the funding mechanism that New York State counties use to help operate, maintain and upgrade 9-1-1 system capability and performance is out of date and does not correspond well with recent technology and marketplace changes; and

WHEREAS, the FCC has released their latest report for 2020, and its shows that New York collected $241,643,008 and diverted over $100,765,134 (41.7 percent) to other non-9-1-1 related purposes and the general fund; and

WHEREAS, currently, it states in the Tax Law, Article 186-f, Section 5, forty-one and seven-tenths of the revenues collected and received are swept into the state general fund and not provided for public safety services; and

WHEREAS, this diversion shifts the bulk of Next Generation 9-1-1 (NG 9-1-1) readiness financing to counties and other local governments’ PSAPs in New York State; and

WHEREAS, the diversion of E9-1-1 funds results in a system that does not direct sufficient revenue to allow counties to properly maintain existing systems while also preparing to implement NG 9-1-1 technology required under federal law; and

WHEREAS, under current law, for the last four 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 New York State Division of Homeland Security and Emergency Services (DHSES); and

WHEREAS, due to the designation of E9-1-1 fees for non 9-1-1 related expenses, New York State PSAPs are not eligible for any of the $115 million in federal grant funding for E9-1-1 and NG 9-1-1 enhancements and IP-based advanced networks; and

WHEREAS, the goal of upgraded NG 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 of the situation they will be entering; and

WHEREAS, NG 9-1-1 upgraded systems will be able to better pinpoint an emergency call that may be in a remote area of the state or in a multi-storied building in one of our communities; and
WHEREAS, recognizing a more precise location of those needing emergency services
will improve outcomes and save lives, but this cannot be accomplished without
consistent and timely funding from the State.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of
Counties (NYSAC) calls on Governor Kathy Hochul and the DHSES, Office of
Interoperable Communications to release all funds authorized within the State Budget
to ensure eligibility for federal FCC E9-1-1 and NG9-1-1 resources, and to ensure monies
collected for the Public Safety Surcharge are allocated within that budget year and
remain in the Public Safety Surcharge fund and not moved into the general fund for
nonpublic safety related purposes; and

BE IT FURTHER RESOLVED, that NYSAC further calls on DHSES to implement the
draft 9-1-1 plan, and ensure the creation of a statewide NG 9-1-1 system connecting all of
the county and municipal 9-1-1 systems into one statewide system; and

BE IT FURTHER RESOLVED, the NYSAC further calls on the State to fund NG 9-1-1
implementation with state resources; and

BE IT FURTHER RESOLVED, releasing these funding obligations on a regular
schedule will provide certainty and build continuity as we upgrade and maintain
existing systems and prepare for and implement NG 9-1-1; and

BE IT FURTHER RESOLVED, copies of this resolution be sent to the counties of
New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to
the Governor of the State of New York, the New York State Legislature, DHSES
Commissioner Jackie Bray, and all others deemed necessary and proper.
Resolution Applauding the Governor and State Legislature for Ending the
Diversion of County Sales Tax to Pay for State Programs and Reducing the
Diversion of Local Sales Tax for New York City and to Encourage State
Elected Officials to Abide by the Sunset of the Remaining Temporary
Diversion for New York City

WHEREAS, four years ago the State enacted legislation to divert local sales tax to state
coffers so it can be used to supplant state funding support for their own programs or to
simply fill gaps in the state financial plan; and

WHEREAS, county officials believe local sales tax is too valuable and important for
county government and local taxpayers to be interfered with – it is sacrosanct; and

WHEREAS, the state diversion of county and New York City sales tax, along with
indirect actions that force local sales tax to be spent as directed by the state, will reach
$1.4 billion as of 2022; and

WHEREAS, sales tax is the number one revenue source for many counties across the
state and, therefore, the primary local revenue to support services in our communities,
especially for frontline workers responding to and facilitating recovery efforts from the
pandemic; and

WHEREAS, sales tax is also the number one local revenue source for counties that
helps keep property taxes lower, including the property taxes of hundreds of cities,
towns and villages across the state that receive a share of the county sales tax; and

WHEREAS, the state diversion of local sales tax endorses a reliance on highly
regressive local property and sales taxes to support state programs and fails to recognize
that the state tax base is far broader and the tax code is vastly more progressive so it can
call on high income individuals and multi-billion dollar corporations to generate
revenues; and

WHEREAS, for many of the reasons noted, the enacted state budget for SFY 2023
ended the diversion of county sales tax to pay for state programs and lowered the
diversion for New York City by $50 million annually with a three-year sunset on this
remaining diversion.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of
Counties (NYSAC) thanks and applauds the Governor and State Legislature for ending
the practice of diverting local sales tax to pay for state programs; and
BE IT FURTHER RESOLVED, NYSAC strongly endorses that the Governor and State Legislature abide by the sunset of the remaining sales tax diversion for New York City; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, the New York State Association of Counties shall forward copies of this resolution to Governor Kathy Hochul, the New York State Legislature and all others deemed necessary and proper.
Resolution Calling on the State of New York to Protect Home Rule Authority
by Clarifying Long-Standing Property Tax Collection Practices

WHEREAS, New York has a long-standing system by which the state requires local
governments to provide needed federal and state programs and services, many of which
are funded through sales and property taxes; and

WHEREAS, over the last few decades the state has expanded the number of services
required by counties, cities, towns, villages, and schools, and in turn New York has
become some of the highest property tax rates in the country; and

WHEREAS, within the local government structure, counties are required to perform
the most costly health, human service, and public safety services; and

WHEREAS, under New York State law, counties must ensure property tax collection
for towns and schools and are required to make those entities whole for any delinquent
property taxes to ensure that those levels of government can continue to operate without
disruption; and

WHEREAS, it has been long established in state law that cities are required to perform
their own tax collections on delinquent property unless or until they develop an
agreement with the county to perform this function on the city’s behalf; and

WHEREAS, unlike smaller forms of government, cities have the staff, capacity and
resources to collect taxes on delinquent properties; and

WHEREAS, in October 2021, a city passed a local law to discontinue their delinquent
tax foreclosure responsibilities, requiring the county to pick up this duty and force the
county to “credit the city with the amount of such unpaid delinquent taxes;” and

WHEREAS, this unilateral decision created an inequity in the balance of power and
responsibility at the local government level in this county; and

WHEREAS, on August 11, 2022, New York’s Appellate Division Third Judicial
Department upheld this local law, essentially overruling established practice law that
when counties across New York do provide foreclosure services to their cities, this is
only when both separate bodies of government come to an agreement; and

WHEREAS, while counties are required to perform and pay for this function for towns
and schools, counties do so because it is specified in state law, not local law, and
therefore this case is one that allows one form of local government to dictate duties and
costs to another form of local government without specific state legislative authority to
do so; and

WHEREAS, this 3 to 2 judge ruling’s dissent disagreed that a city, without State
statutory authority, can place duties and costs on a separate government body, stating
this ruling is both unconstitutional and violates home rule authority; and

WHEREAS, the dissent states this ruling violates home rule because allowing a city to
unilaterally take this action “impairs a (county’s) power to fully control its own affairs
such as budget and its workforce, by weakening that power.”

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of
Counties (NYSAC) calls on the State of New York to protect local government home rule
authority by immediately clarifying the long-standing method by which a county and
city must agree prior to taking on city tax collection functions and costs; and

BE IT FURTHER RESOLVED, in the alternative, the state must change the entire
property tax collection system, making one that is more equitable to all levels of
government and would lower property tax costs to our residents; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties
of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to
Governor Kathy Hochul, the New York State Legislature, and all others deemed
necessary and proper.
2022 NYSAC Fall Seminar
Erie County

Standing Committee on Agriculture & Rural Affairs Resolutions

Hon. A. Douglas Berwanger (Wyoming County) – Chair
Hon. Paul Ruszkiewicz (Orange County) – Vice Chair
Hon. Terry Wilbur (Oswego County) – Vice Chair
Resolution in Support of New York State Sharing Agricultural Mitigation Fees with Counties to Support County Agriculture and Farmland Protection Initiatives

WHEREAS, the New York State Energy, Research and Development Authority (NYSERDA) and the New York State Department of Agriculture and Markets (AGM) have entered into a Memorandum of Understanding (MOU) regarding the assessment and collection of an Agricultural Mitigation Fund Payment for certain proposed Solar projects over 30 acres located in an Agricultural District; and

WHEREAS, NYSERDA and AGM have agreed to work with solar project developers to obtain mutually acceptable project modifications to protect agriculture and associated resources from its adverse impacts; and

WHEREAS, NYSERDA’s 2020 RFP¹ and future RES Requests for Proposals will include language advising all proposers of the new Agriculture Mitigation Fund Payment requirements and will include the information necessary for proposers to calculate any mitigation costs in the preparation of their bids; and

WHEREAS, the agreements will require payment to an Agriculture Mitigation Fund, in an amount calculated at commercial operation date (COD), at which time the final actual agricultural conversion of mineral soil groups one through four (MSG 1-4)² can be accurately calculated, and the final offsetting value of an implemented co-agricultural measures, if any, considered; and

WHEREAS, solar bid facilities in Agricultural Districts awarded by NYSERDA may be responsible for making an agricultural mitigation payment to a designated fund administered by NYSERDA based on the extent to which the solar project footprint, defined as the Facility Area, overlaps with land classified as MSG 1-4; and

WHEREAS, NYSERDA has agreed to work with AGM to administer the funds received through mitigation payments, however the MOU provides no direction or guidance on how these funds should be spent to mitigate the impacts of the proposed solar projects on farmland and in Agricultural Districts; and

WHEREAS, New York State Association of Counties (NYSAC) supports the need for effective agricultural mitigation at the county level to balance the often-competing goals of expanding renewable solar project development capacity and the protection of

¹ https://agriculture.ny.gov/land-and-water/tax-credits-and-agricultural-assessments#agricultural-assessment-information

² MSG 1-4: Mineral Soil Groups 1 through 4
critically important agriculture and farmlands across New York State; and

WHEREAS, NYSAC supports the protection of important farmland and soils, agriculture district designations, and the implementation of Agriculture and Farmland Protection Plans by counties across New York State.

NOW, THEREFORE, BE IT RESOLVED, that NYSAC calls on NYSERDA to share up to 50 percent of the Agriculture Mitigation Fund Payments received with the counties in which solar projects are being proposed and where impacts to existing agricultural districts are occurring; and

BE IT FURTHER RESOLVED, Agriculture Mitigation Fund payments received by NYSERDA and made available to impacted counties shall be used by the respective county to implement farmland protection plans, measures and projects consistent with their approved Agriculture and Farmland Projection Plan (AFPB) with a preference for planning, zoning, and farmland protection efforts in the same municipality/area as where such solar projects are being developed; and

BE IT FURTHER RESOLVED, that any Agricultural Mitigation payments collected by NYSERDA for projects pursuant to either the Article 10 or the 94c review process also be shared with the county in which such project is being developed; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to the Governor of the State of New York, the New York State Legislature, the President/CEO of NYSERDA, the Commissioner of Agriculture and Markets, and all others deemed necessary and proper.
Resolution Calling on the New York State to Commence an Investigation into the Closure of Bank Branches in Rural Counties in New York State

WHEREAS, bank branches in rural counties provide consumers with a financial institution where they can make deposit or withdrawal transactions to their accounts, take out a loan, select a mortgage lender, dispute a fee on their accounts, and perform other in-person financial transactions; and

WHEREAS, the presence of bank branches in rural counties also provides an important source of financial advice, civic leadership, and a more personal touch by their financial service providers; and

WHEREAS, counties across the country and throughout New York State have been deeply affected by the steady trend of bank branch closures, which disproportionately affects rural counties; and

WHEREAS, while a growing number of consumers with bank accounts are adopting online and mobile banking for the primary function of checking their balances in their accounts, bank branches in rural counties continue to be a necessity for consumers, especially for deposit and withdrawal transactions, and for resolving problems with their accounts; and

WHEREAS, while improvements in technology and remote access have helped some consumers access online and mobile banking services, many rural counties are unable to provide their consumers access to broadband internet and cellular phone service that is sufficient, reliable, or affordable, creating a roadblock to banking activities; and

WHEREAS, although non-bank financial service providers are filling critical service gaps provided by bank branches, they are not meeting all the needs, or are doing so at a higher cost to the consumers; and

WHEREAS, small business owners, seniors, and those lacking consistent and reliable transportation are most negatively affected by bank branch closures; and

WHEREAS, the elimination of bank branches in rural counties is a loss to the affected communities' financial and civic leadership; and

WHEREAS, adjusting to the loss of a local bank branch can be frustrating and disruptive to the affected communities and their consumers; and
WHEREAS, the closure of local bank branches each year in rural communities is an ongoing issue, and there is no reason to believe that this trend will dissipate without appropriate intervention; and

WHEREAS, the counties are gravely concerned that the closure of additional local bank branches will place communities and their consumers in a state of hardship if New York State does not commence an investigation into this crisis.

NOW, THEREFORE, BE IT RESOLVED, that the New York State Association of Counties (NYSAC) calls upon the Governor and the New York State Legislature to investigate the closure of bank branches in rural counties in New York State; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to the Governor of the State of New York, the New York State Legislature, the Commissioner of the Department of Financial Services, and all others deemed necessary and proper.
WHEREAS, the Farm Laborers Wage Board has made a recommendation to reduce the current 60-hour overtime threshold for farm workers to 40 hours; and

WHEREAS, in January 2022, after numerous public hearings that included testimony from farmers, farm workers and industry stakeholders, the wage board recommended lowering the threshold, despite the fact that more than 70 percent of the testimony conveyed the harm that would be caused by such a change; and

WHEREAS, the wage board proposes four-hour decreases in the overtime threshold every other year; and

WHEREAS, farmers would pay overtime wages up front and then be reimbursed for overtime hours after the fact, and hours worked over 60 hours would be covered by tax credit; and

WHEREAS, the wage board has just one member with an agricultural background, making it ill-equipped to render sound, informed decisions concerning New York State's critically-important agriculture industry; and

WHEREAS, the wage board is ignoring data from a 2021 Cornell University study that shows lowering the threshold would economically hurt both farmers and farm workers; and

WHEREAS, New York State farmers continue to face a tremendous number of challenges outside of their control including changes in consumer demand leading to price change, obtaining labor, climate change regulation and mandates, land management policies, foreign and regional market competition, NYS regulations, livestock and crop disease; and

WHEREAS, communities rely on farmers to maintain production during shortages; and

WHEREAS, New York State farms donate the majority of produce used in food pantries and local feeding programs, which will suffer due to higher mandated costs of labor, making less donated produce available to Nourish NY programs; and

WHEREAS, counties are urging the State Legislature to provide the farmers and farm workers relief from the already onerous burden the Farm Workers Fair Labor Practices Act and other existing government mandates that place our farms at a competitive disadvantage with neighboring states and Canada.
NOW, THEREFORE BE IT RESOLVED, that NYSAC emphatically opposes any
decrease to the 60-hour farm worker overtime threshold proposed by the Farm Laborers
Wage Board; and

BE IT FURTHER RESOLVED, that NYSAC urges Governor Hochul to strongly
consider Senator Borrello's request of repealing section 674-a of the labor law, relating
to establishing the Farm Laborers Wage Board and eliminating the three-member Farm
Laborers Wage Board; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties
of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC will submit a copy of the adopted
resolution to the Governor of the State of New York, members of the State Legislature,
the New York State Labor Commissioner, the New York State Agriculture and Markets
Commissioner, the New York State Farm Bureau, and all others deemed necessary and
proper.
2022 NYSAC Fall Seminar
Erie County

Standing Committee on Climate Action
Resolutions

Heather Brown (Sullivan County) – Chair
Bonnie Lange Lawrence (Erie County) – Vice Chair
Peter McCartt (Westchester County) – Vice Chair
Resolution #1

Resolution in Support of Legislation to Establish the Resilient New York Revolving Loan Program and the Resilient New York Revolving Loan Fund

WHEREAS, climate change is resulting in sea level rise, coastal erosion, and more frequent and more intense storm events that put homes, businesses, and communities at risk and cause millions of dollars in damages; and

WHEREAS, mitigation projects are critical to reducing the risk to people and property from future disasters and create good jobs in the professional trades and the design professions; and

WHEREAS, resilience and mitigation spending saves taxpayers more than $6 for every $1 invested; and

WHEREAS, the majority of disaster relief programs focus on post-disaster response rather than pre-disaster mitigation, preparation, and resilience; and

WHEREAS, the Safeguarding Tomorrow through Ongoing Risk Mitigation (STORM) Act, which was signed into law in January 2021, authorized the Federal Emergency Management Agency (FEMA) to provide capitalization grants to states and tribal governments to establish revolving loan funds that provide hazard mitigation assistance for local governments; and

WHEREAS, the program is modeled after the Environmental Protection Agency (EPA)’s highly successful Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF), which partially fund water infrastructure projects; and

WHEREAS, the Infrastructure Investment and Jobs Act provided $500 million for the STORM Act, or $100 million per year; and

WHEREAS, unlike existing FEMA mitigation grants, the STORM Act’s revolving loan funds will allow states to directly offer low-interest loans to local governments for mitigation projects to help reduce loss of life and property without going through the federal grant application process; and

WHEREAS, in order for states to access the loan funds, they will need to create their own resilient revolving loan programs; and

WHEREAS, S.8853 (Breslin)/A.10325 (Fahy) would create the New York Resilient Revolving Loan Program to allow New York State to accept STORM Act funding and finance local infrastructure projects that protect against natural disasters; and
WHEREAS, the Resilient New York Revolving Loan Program would provide low or no-interest loans to municipalities and not-for-profit organizations for hazard mitigation and resilience projects, including but not limited to building resilient infrastructure and communities, flood mitigation assistance, flood risk reduction projects, and any adaptation or mitigation projects included in Section 54-1523 of the Environmental Conservation Law; and

WHEREAS, the revolving loan funds will allow New York to prioritize funding for mitigation projects that are most important to New Yorkers rather than having the federal government make those decisions; and

WHEREAS, loans may also be granted to individual property owners to provide the financing for natural hazard mitigation projects, such as retrofitting property to protect against floods, fires, and earthquakes; and

WHEREAS, under this program, property owners would be eligible for graduated loan forgiveness based on their income; and

WHEREAS, these investments would better position communities to adapt to climate change and recover more quickly from intense storms and natural disasters.

NOW, THEREFORE, BE IT RESOLVED, that the New York State Association of Counties (NYSAC) urges the Legislature to pass and the Governor to sign legislation S.8853 (Breslin)/A.10325 (Fahy) to establish the Resilient New York Revolving Loan Program and the Resilient New York Revolving Loan Fund; and

BE IT FURTHER RESOLVED, copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, NYSAC shall forward copies of this resolution to The Governor of the State of New York, the New York State Legislature, and all others deemed necessary and proper.
2022 NYSAC Fall Seminar
Erie County

Children with Special Needs Resolutions

Heidi Bond (Otsego County), Chair
Sara Boerenko (Montgomery County), Vice Chair
Elizabeth O’Neil (Albany County), Vice Chair
Rita Wood (Ulster County), Vice Chair
Resolution Urging the Governor and State Legislature to Increase the Pre-School Special Education Administration Rate for Counties

WHEREAS, Chapter 23 of the Laws of 1989 established the Preschool Program for Children with Handicapping Conditions as 4410 of the Education Law; and

WHEREAS, the original law included a provision to limit the county fiscal responsibility to 25 percent by the 1993-94 school year; and

WHEREAS, section 4410 of the Education Law entitles counties to receive administrative cost reimbursement of seventy-five ($75) dollars per eligible preschool student with a disability; and

WHEREAS, the administrative cost reimbursement rate of seventy-five ($75) dollars per eligible preschool student with a disability has not been increased in almost twenty years for counties and does not meet the needs of the existing expenses.

NOW, THEREFORE, BE IT RESOLVED, that the New York State Association of Counties (NYSAC) calls on Governor Kathy Hochul and the New York State Legislature to increase the administrative cost reimbursement rate for counties to match the same methodology used to determine the administrative reimbursement rate for school districts administering regular education children education services; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to The Governor of the State of New York, the New York State Legislature and all others deemed necessary and proper.
Resolution #2

Resolution Urging the Governor and State Legislature to Adjust the Early Intervention Rate Structure to Improve Access to these Services for Children Who Live in Poverty and Rural Areas

WHEREAS, the structure of the Early Intervention rate methodology promotes inequitable availability of Early Intervention services in New York City and New York State; and

WHEREAS, because Early Intervention rates are set for entire counties, and there are no requirements in the New York State Early Intervention Provider Agreement for providers to serve the entire county that they have identified in their catchment area, providers are free to choose which neighborhoods to provide Early Intervention services in; and

WHEREAS, since the rates are flat across each county, there is no incentive for providers to serve children in poverty, children who live in rural areas, or communities of color; and

WHEREAS, the current structure of the Early Intervention methodology promotes unequal availability of Early Intervention services in New York City and New York State.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties calls on the Governor and State Legislature to allocate State funding for a twenty percent rate increase for services provided to children in census tracts where the percentage of the population below poverty is 20 percent or higher; and in areas that require service providers to travel more than 30 minutes between sessions to provide services for children; and

BE IT FURTHER RESOLVED, any provider rate increase will be administered using State funding to ensure localities are not subject to additional EI program expenses; and

BE IT FURTHER RESOLVED, copies of this resolution be sent to the counties of New York encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, the New York State Association of Counties shall forward copies of this resolution to the Governor of the State of New York, the New York State Legislature and all others deemed necessary and proper.
Resolution Urging the State of New York to Require School Districts to Administer and Fund Pre-School Special Education and Early Intervention Services

WHEREAS, as there is no mention of education in the United State Constitution, education is considered a reserved power for the states; and

WHEREAS, Article XI, Education in the New York Constitution states in Section 1, “The legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this state may be educated.”; and

WHEREAS, in the school-funding and educational-rights case Campaign for Fiscal Equity (CFE) v. State of New York, the New York Court of Appeals, the state’s highest court, held that children are entitled to a sound basic education; and

WHEREAS, there is substantial understanding that the early years of a child’s life are critical to their social, emotional, behavioral, and academic development in preparation for entry into New York’s free common schools; and

WHEREAS, early childhood intervention is essential to mitigating development issues that put children at substantial educational risk before entry into New York’s free common schools; and

WHEREAS, early childhood intervention programs result in indisputable, documented social, emotional, behavioral, and academic benefits at the appropriate time for young children; and

WHEREAS, New York State’s Early Intervention program has been plagued by a shortage of qualified providers whose pay raises have been few and far between; and

WHEREAS, children who are qualified and required to be provided services within thirty (30) days of being identified end up on waiting lists sometimes for months; and

WHEREAS, a new approach is needed to provide these services to maximize the benefit to qualified children.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties calls on the Governor and State Legislature to authorize and fully fund local school districts making them responsible for pre-school special education services and early childhood intervention programs; and
BE IT FURTHER RESOLVED, should local school districts have difficulties housing or providing Early Intervention Services programs, they must engage a Board of Education Cooperative Service (BOCES) to provide cooperative programs, including private providers, to ensure the delivery of EIS programs to all young children in need; and

BE IT FURTHER RESOLVED, copies of this resolution be sent to the counties of New York encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, the New York State Association of Counties shall forward copies of this resolution to the Governor of the State of New York, the New York State Legislature and all others deemed necessary and proper.
Resolution #4

Resolution to Enact an Emergency System to Address the Scarcity of Providers of Therapeutic Services for Early Intervention Care

WHEREAS, prior to and throughout the COVID-19 pandemic, New York State has observed a growing insufficiency of speech, occupational, physical and applied behavioral therapists to render related services to care for our children with special needs both in-the-home and early intervention settings; and

WHEREAS, counties are responsible for ensuring that services developed in an Individualized Family Service Plan (IFSP) begin in a timely fashion, namely thirty (30) days from the date of the authorization; and

WHEREAS, counties are required to assign providers to a child's IFSP that have current provider agreements with the State Department of Health and are listed by county in the New York Early Intervention System (NYEIS) database; and

WHEREAS, providers listed in the NYEIS database are frequently unavailable to provide services to a child due to a variety of factors, including the area in which the child resides, providers only accepting referrals for one or two children enrolled in the Early Intervention Program (EIP) due to other commitments, full caseloads, or outdated listings for providers who no longer participate with the Early Intervention Program; and

WHEREAS, because of the decline of participating and available providers, counties are not able to provide the Early Intervention services required under the law, even to already enrolled eligible children, sometimes leading to placement on wait lists; and

WHEREAS, research demonstrates that the growth and brain development of infants and toddlers is at its highest in years 0-2, and the developmental progress of children identified with special needs could be hampered by any delays in services; and

WHEREAS, the Standing Committee on Children with Special Health Care Needs has historically called upon the State to incentivize the aforementioned career paths to increase qualified candidates, and while that is one solution to a multi-faceted issue, many children have been left with little or no provisions and there are no permanent systems currently to proactively address when counties and have hit critical levels; and

WHEREAS, it is with great awareness that needs can fluctuate with each child and setting; however, we should do our best to have a system to call upon in the event of a provider shortage.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties calls upon the Governor and New York State Legislature to do a needs analysis
report with each county to quantify and identify provider need over the last 3 years to
gain an understanding of the state of scarcity; and

BE IT FURTHER RESOLVED, a plan to establish a pool of retired or licensure
candidates to operate under a licensed professional in the execution of an IEP, IFSP or
504 plan be created; and

BE IT FURTHER RESOLVED, this effort, inspired by the spirit of Executive Order 4
“Declaring a Statewide Disaster Emergency Due to Healthcare Staffing Shortage in the
State of New York” specifically mention services related to nursing within Subdivision 5
of Section 6907 and Section 6908 of the Education Law related to the use of graduates
of State Education Department registered, licensure qualifying nurse practitioner
education programs to be employed to practice for 180 days immediately following
successful completion of a New York Registered license qualifying program, provided
that the graduate files with the State Education Department an application for
certification...” as well as the ability to “practice nursing under the supervision of a
registered professional nurse” be a guide to how an emergency pool of providers could
be generated; and

BE IT FURTHER RESOLVED, this plan should be seen as temporary, and usage
evaluated yearly; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties
of New York encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, the New York State Association of Counties shall
forward copies of this resolution to the Governor of the State of New York, the New York
State Legislature and all others deemed necessary.
Resolution Urging the Governor and State Legislature to Increase County Reimbursement for Early Intervention Transportation Services

WHEREAS, counties are responsible for ensuring that services developed in Individualized Family Service Plans (IFSP) are delivered to children in the Early Intervention Program (EIP), respectively, including transportation to these services, as needed; and

WHEREAS, counties either contract with third-party transportation vendors or reimburse parents at the standard IRS mileage rate to transport children in the EIP to and from necessary services; and

WHEREAS, counties are fiscally responsible for the costs of transportation to and from Early Intervention (EI) services for non-Medicaid eligible children beyond the New York State Department of Health (NYSDOH) reimbursement rate at 49 percent of cost; and

WHEREAS, under State Plan Amendment 18-0029, as of Fall 2022, EI reimbursement methodology will be switching to a fee-for-service model with a set EI Transportation Rate; and

WHEREAS, after this switch, the NYSDOH will only reimburse county EI transportation costs at 49 percent of the set rate, rather than at 49 percent of actual transportation costs paid out of County escrow; and

WHEREAS, this change is expected to increase costs to counties and local taxpayers for EI transportation services, while reducing the State’s costs for EI transportation; and

WHEREAS, many counties expect this change to increase their upfront transportation costs paid out of the County Escrow and reduce the State reimbursement share for EI transportation services; and

WHEREAS, transportation to and from EI services consume a large and growing percentage of local public health budgets, with average total, annual transportation costs per county of $92,932, for EI from the previous fiscal year; and

WHEREAS, across counties the average total, annual transportation costs per child were $4,013 in the EIP in Fiscal Year 2021, a 16 percent increase from the previous fiscal year; and
WHEREAS, many counties, particularly in rural areas of the state, only have one, third-party transportation vendor available to provide transportation services, allowing these transportation providers a monopoly to increase their rates.

NOW, THEREFORE BE IT RESOLVED, the New York State Association of Counties (NYSAC) calls on the Governor and the New York State Legislature to increase the State reimbursement rate for EI transportation services; and

BE IT FURTHER RESOLVED, that the NYSDOH continue to reimburse counties based on actual, incurred transportation costs, rather than at a pre-set rate that does not accurately reflect true costs of EI transportation services; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that New York State Association of Counties shall forward copies of this resolution to the Governor of the State of New York, the New York State Legislature and all others deemed necessary and proper.
2022 NYSAC Fall Seminar
Erie County

Standing Committee on Economic Development & Environment Resolutions

Hon. William Farber (Hamilton County) – Chair
Hon. Rebecca Ryan (Wyoming County) – Vice Chair
William Rabbia (Oneida County) – Vice Chair
Resolution Requesting Revisions to NYSDEC’s Proposed Part 360 Series Regulations

WHEREAS, the New York State Association of Counties (NYSAC) appreciates the New York State Department of Environmental Conservation (NYSDEC)’s efforts to streamline the Part 360 Series solid waste regulations through the rulemaking process that began on May 18, 2022; and

WHEREAS, many of the proposed revisions to the Part 360 regulations provide helpful clarifications and changes that counties support to further protect the environment; and

WHEREAS, several sections of the regulations could have a significant negative impact on New York State’s ability to manage our own waste in an efficient and environmentally sound manner; and

WHEREAS, the proposed revisions to Subpart 361-3.2, which would extend the operating criteria for composting facilities from 200 to 500 feet for facilities handling more than 1,000 cubic feet of source separated organics (SSO), could unnecessarily restrict co-locating similar facilities that would beneficially use composted materials; and

WHEREAS, the proposed language in subparts 362-3.3(c)(7), 362-3.5(k), 362-1.5(h), and 363-7.1(t), regarding the 2019 Food Donation and Food Scraps Recycling Law, create an impractical expectation for transfer facilities, combustors, and landfills to enforce the law at the point of generation; and

WHEREAS, it should be NYSDEC’s responsibility to enforce the Food Donation and Food Scraps Recycling Law upstream of transportation, transfer, and end-use facilities; and

WHEREAS, the proposed revisions to Subpart 363-5, which would arbitrarily prohibit new landfills and lateral and vertical expansions of existing landfills within 1,000 feet of a school or legal place of residence, would impact 20 of the 25 active landfills in New York State and, therefore, impact the available landfill capacity for waste generated within the state; and

WHEREAS, by restricting disposal capacity within the state, more exportation of waste to out-of-state destinations will be necessary, resulting in more vehicle miles travelled for disposal and increasing the associated vehicle emissions; and

WHEREAS, a detailed State Environmental Quality Review Act (SEQR) environmental impact assessment is already required for all proposed landfill expansions and includes
a scientific process by which the required setback is determined based upon site-specific metrics; and

WHEREAS, the proposed changes to Subpart 363-6.6, which would require double composite liner systems for certain landfills and require the use of an 80-mil geomembrane in composite liner systems for facilities outside of Long Island, are not supported by evidence that the current requirements are not protective of groundwater quality; and

WHEREAS, this arbitrary increase in liner thickness will increase the cost of liner purchases by 30 percent, which will result in approximately $250,000 in new annual or biannual costs for local governments and public authorities that own landfills.

NOW, THEREFORE, BE IT RESOLVED, that NYSAC respectfully requests NYSDEC provide technical justification for extending the operating criteria for composting facilities from 200 feet to 500 feet for facilities handling more than 1,000 cubic yards of SSO; and

BE IT FURTHER RESOLVED, NYSAC requests NYSDEC amend the sections of regulations pertaining to the 2019 Food Donation and Food Scraps Recycling Law to clarify that the regulations apply only to source separated food scraps; and

BE IT FURTHER RESOLVED, NYSAC requests that NYSDEC remove the prohibitions on new landfills and landfill expansions within 1,000 feet of a school or residence, as they are a blatant overreach of the Department’s regulatory authority; and

BE IT FURTHER RESOLVED, NYSAC requests NYSDEC provide justification for the proposed changes to liner system requirements and withdraw these changes should they be unable to provide evidence that the current requirements do not protect groundwater quality; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to the Governor of the State of New York, NYSDEC Commissioner Basil Seggos, and all others deemed necessary and proper.
Resolution in Support of an Expedited Rollout of the ConnectALL Initiative

WHEREAS, access to affordable and reliable high-speed broadband service is critical for New Yorkers to receive medical care, work remotely, continue their education, and connect with family and friends; and

WHEREAS, closing the digital divide and ensuring that high-speed broadband service is available to all New Yorkers is an important goal for the State of New York; and

WHEREAS, while the State has made significant progress towards universal deployment, there are still parts of the state that do not have high-speed broadband available; and

WHEREAS, broadband remains unaffordable for many New Yorkers who have service available to them; and

WHEREAS, the Governor and State Legislature enacted the Comprehensive Broadband Connectivity Act of 2021 to direct the Public Service Commission (PSC) to study, on an annual basis, the availability, reliability, and cost of high-speed broadband service to ensure that all New Yorkers have the necessary affordable access going forward; and

WHEREAS, PSC released an interactive map and report on June 16, 2022, detailing the scope of high-speed broadband infrastructure at an address-level in New York State; and

WHEREAS, by collecting address-level data, New York is now able to depict what locations are served, underserved, and unserved in a more granular way, which will aid in directing funding to where it is needed; and

WHEREAS, as part of her 2022 State of the State address, Governor Hochul announced the $1 billion ConnectALL Initiative, which is the largest ever investment in New York’s connectivity infrastructure; and

WHEREAS, the ConnectALL Initiative will support local efforts to expand affordable and reliable broadband service by establishing and administering grant programs for funding to plan, engineer, and construct accessible broadband infrastructure; and

WHEREAS, the swift rollout of these grant programs is of paramount importance to improving connectivity in the areas with the greatest need.
NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties (NYSAC) calls on Empire State Development (ESD) to expedite the rollout of ConnectALL and make grant applications available to local governments before the end of 2022; and

BE IT FURTHER RESOLVED, NYSAC encourages continued collaboration with counties, the federal government, and between state agencies—including ESD, the Department of Environmental Conservation (DEC), the Adirondack Park Association (APA), and the Department of Transportation (DOT)—to close the digital divide; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to the Governor of the State of New York, the New York State Legislature, Empire State Development Commissioner and CEO Hope Knight, and all others deemed necessary and proper.
2022 NYSAC Fall Seminar
Erie County

Standing Committee on Intergovernmental Affairs Resolutions

Robert Hagemann (Jefferson County) – Chair
Cheryl Ketchum (Wyoming County) – Vice Chair
Jack Wheeler (Steuben County) – Vice Chair
Resolution #1

Resolution Allowing for County Workers Compensation Pools to Join a Public Group Self-Funded Deductible Program That Can Help Lower Costs and Manage Existing Claims

WHEREAS, currently, many local jurisdictions completely self-insure their workers compensation liability as allowed under Workers’ Compensation Law; and

WHEREAS, several counties operate workers compensation pools that provide workers compensation insurance to all or many of the jurisdictions within the county; and

WHEREAS, many of these pools or self-insured plans are under reserved or funded on a “pay as you go” basis, making it fiscally impossible to climb out of that position and move into a fully insured program; and

WHEREAS, there are successful solutions that have been tried and tested in other states that apply fiscally prudent solutions to the challenges faced by county workers compensation pools and some self-funded plans.

NOW, THEREFORE, BE IT RESOLVED, that the New York State Association of Counties (NYSAC) hereby calls on the state to allow county workers compensation pools to join a public group self-funded deductible program that can help lower costs and manage existing claims; and

BE IT FURTHER RESOLVED, this policy would allow local governments to take advantage of economies of scale to purchase excess coverage and to select a deductible limit that is within their budget parameters; and

BE IT FURTHER RESOLVED, this policy also makes the participating jurisdiction more accountable for worker safety and to take an active role in implementing a proactive risk management program; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to the Governor of the State of New York, the New York State Legislature, and all others deemed necessary and proper.
Resolution Calling on the State to Set the Judgement Interest Rate Charged to State and Local Governments to be Tied to the Federal Interest Rate

WHEREAS, under current New York State law, defendants of a lawsuit are required to pay interest on the original judgement while the matter is under appeal and until an appellate division determination is made; and

WHEREAS, the judgement interest rate in New York was set at nine percent in the 1970’s to match the federal interest rate at the time, when the appeals process moved more quickly because there were fewer court cases in the system; and

WHEREAS, the appeals process today can take months and sometimes years to be resolved; and

WHEREAS, today’s federal interest rate, while growing, is still far below 9 percent; and

WHEREAS, in some instances, a local government’s interest penalties during the appeals process can exceed the original judgement award; and

WHEREAS, local governments are unjustly forced to settle cases to avoid paying these punitive interest penalties, or pay the penalties through the costly and time consuming appeals process.

NOW THEREFORE BE IT RESOLVED, the New York State Association of Counties (NYSAC) calls on the State Legislature to enact legislation that aligns the state’s judgement interest rate to the weekly average of the one-year federal interest rate; and

BE IT FURTHER RESOLVED, changing the state’s judgment interest rate to match the federal rate is a reasonable and fair system for all parties that allows for parties to make cases when justified by legal reasoning and not be forced into settlements based entirely on fiscal pressure; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to the Governor of the State of New York, the New York State Legislature, and all others deemed necessary and proper.
Resolution Calling on the State to Provide Funding to Counties and County Boards of Elections for the Additional 2022 Primary, and to Provide Flexibility for the Number and Location of Early Voting Locations

WHEREAS, county boards of elections are responsible for managing election operations and paying for all or most of the costs of these operations; and

WHEREAS, election reforms in recent years have helped to strengthen our democracy, by expanding access to voting through early voting, no excuse mail in ballots, and other reforms; and

WHEREAS, many counties have reported very low turnout at some early voting locations and have requested flexibility in both the number of required early voting sites and polling locations to account for this low turnout; and

WHEREAS, due to the increased frequency of elections coupled with early voting, counties are now required to hire poll workers as county employees and provide W-4’s, rather than 1099-MISC’s, which was the typical means for tax purposes; and

WHEREAS, because this year’s congressional and state senate redistricting maps were declared unconstitutional, county boards of elections had to expend funding, resources, and personnel to plan for and operate two separate primary elections.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties (NYSAC) hereby calls on the State to provide financial support to counties and county boards of elections for having to operate two separate primary elections this year; and

BE IT FURTHER RESOLVED, NYSAC also asks for the state to provide county boards of elections with more flexibility when siting and operating early voting polling sites to make the process more convenient and efficient without curbing access to voting; and

BE IT FURTHER RESOLVED, Congress should reform the IRS “Election Workers – Reporting and Withholding” requirements by amending Section 6041(a) which applies to payments of compensation that are not subject to withholding of FICA or income tax; and

BE IT FURTHER RESOLVED, this legislation should allow counties to issue 1099-MISC’s for election worker earnings up to $2,000, rather than the current statutory requirement of $600; and
BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to The Governor of the State of New York, the New York State Legislature, the New York Congressional Delegation and all others deemed necessary and proper.
2022 NYSAC Fall Seminar
Erie County

IT Task Force Resolutions

Paul Lutwak (Madison County) – Chair
Resolution Commending the State for Supporting Local Cybersecurity Efforts and Urging a Long-Term Commitment to Funding End Point Detection and Response Solutions

WHEREAS, the cybersecurity threats to our counties and local governments cannot be understated; and

WHEREAS, these are not theoretical threats; breaches are happening in New York; and

WHEREAS, almost everything local governments do today rely on some type of information technology system, including but not limited to, email, public health programs and services, social service case management, elections, highway and road maintenance, public safety, snow removal, mental health care, financial management, court and judicial operations, and many other functions; and

WHEREAS, hardware, software, and connections to local government networks are an integral part of just about every government operation and service; and

WHEREAS, hackers are trying to access county systems by, among other things, sending phishing emails to county employees, looking for vulnerabilities in websites and looking for ways to access servers and databases; and

WHEREAS, bad actors are trying to disrupt local government services, destroy systems, exploit data, and hold systems ransom for payment; and

WHEREAS, the State of New York has committed to supporting counties’ and local governments’ cybersecurity efforts by creating a joint security operation center (JSOC) and funding endpoint detection and response solutions (EDR) for counties and the state’s five largest cities.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties (NYSAC) commends the Governor, the Division of Homeland Security and Emergency Services (DHSES), the Office of Information Technology Services (ITS) and the Division of Budget (DOB) for providing funding in the SFY 2023 for state and local cybersecurity efforts; and

BE IT FURTHER RESOLVED, NYSAC supports the state’s creation of the JSOC and funding the EDR solution for counties and cities; and
BE IT FURTHER RESOLVED, NYSAC calls on the Governor and DOB to commit to the long-term funding of the end point detection and response solutions so that it does not become an unfunded mandate for counties; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to The Governor of the State of New York, the New York Legislature, the Division of Homeland Security and Emergency Services, and all others deemed necessary and proper.
2022 NYSAC Fall Seminar
Erie County

Standing Committee on Medicaid and Human Services Resolutions

Kira Pospesel (Greene County) - Chair
Mike Fitzgerald (Madison County) - Vice Chair
Robert Franklin (Monroe County) - Vice Chair
Resolution Calling on the New York Congressional Delegation to Support Federal Legislation that Exempts Qualified Residential Treatment Programs from the Federal Medicaid Institutions for Mental Disease (IMD) Exclusion and for New York State to Provide State-Only Medicaid Funding to Cover Any Loss of Federal Funds Until the Exemption is Achieved

WHEREAS, in 2018, Congress enacted the Family First Prevention Services Act (FFPSA), which includes numerous provisions to alter how the federal government will reimburse for certain foster care maintenance payments; and

WHEREAS, a major provision of the FFPSA amends Title IV-E of the Social Security Act to limit foster care maintenance payments (FCMPs) to 14 days for children placed in child care institutions (CCIs or congregate care settings); and

WHEREAS, the limitations on federal Title IV-E funding supports in the FFPSA are well intentioned as a pathway to prioritize family-based placement of youth with kinship and non-relative foster care, but it ignores the reality of the types of specialized services that many foster care youths require, and existing provider networks in many states can support; and

WHEREAS, local departments of social services work closely with OCFS and voluntary agencies to reduce the use of congregate care and to place children with relatives and foster parents; and

WHEREAS, children with complex needs rely on services offered in residential settings; and

WHEREAS, if these placements become ineligible for federal funding, some service providers will discontinue their programs, and others will exist solely on state and local funding; and

WHEREAS, under the New York State Foster Care Block Grant, the entire burden would be on counties unless the state makes a specific new fiscal commitment; and

WHEREAS, the State is currently pursuing a temporary 1115 Medicaid waiver as the solution to this problem; and

WHEREAS, the waiver the State is submitting is so restrictive many providers indicate the rules would not enable them to continue providing services; and

WHEREAS, this would lead to New York State not being able to maintain residential capacity for children, who have been victims of abuse and neglect and who need an array of specialized services and a safe place to live.
NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties (NYSAC) calls on the New York State congressional delegation to support a federal law change to exempt Qualified Residential Treatment Programs that provide services to foster care youth from the federal Medicaid IMD exclusion; and

BE IT FURTHER RESOLVED, the State of New York should provide state-only Medicaid funding support to cover any loss of federal funds until the federal law change is achieved; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York State, encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to Governor Kathy Hochul, the New York State Legislature, the New York congressional delegation and all others deemed necessary and proper.
Resolution Calling on the Governor and State Legislature to Increase State Funding Support for the Foster Care Block Grant to Pay for the Rate Increase Enacted in the SFY 2023 Budget and Also Increase State Funding for Safety Net Programs

WHEREAS, over the last 15 years, the State has devolved away from their historic and constitutional responsibility to provide social services and support for low-income families and individuals, as demonstrated through significant reductions in state financial support for these programs, thereby shifting state costs and responsibilities to counties and New York City; and

WHEREAS, these state funding shifts have increased county and New York City social services costs by hundreds of millions of dollars annually because the state requires that all services still be provided in full, sometimes including new and more comprehensive service levels, but with fewer state resources; and

WHEREAS, these cuts include lowering state fiscal matching funds for Safety Net Programs from 50 percent to 29 percent along with maximizing federal funding to offset some of this loss, but the federal funds no longer offset losses for most counties today; and

WHEREAS, the enacted State Fiscal Year 2023 budget eliminated the 45-day waiting period for cash assistance under the Safety Net Program, which will increase county ($22 million) and New York City ($40 million) costs by $62 million annually; and

WHEREAS, state funding support for the Foster Care Block Grant was cut by $62 million in State Fiscal Year 2018, a 14 percent reduction; and

WHEREAS, the enacted State Fiscal Year 2023 budget included provisions to settle longstanding state litigation related to inadequate foster care rates paid to foster parents in New York City; and

WHEREAS, counties were not a party to this settlement, nor consulted during state settlement negotiations; and

WHEREAS, state funding for the Foster Care Block Grant is capped, which means counties are required to pay the full cost of the scheduled rate increases that will be spread over two years and will likely range between 20 percent to 50 percent when fully implemented; and

WHEREAS, initial estimates of new costs upon full implementation are $200 million, ($117 million for New York City and $83 million for the 57 counties); and
WHEREAS, in a recent state negotiated settlement to end litigation related to the adequacy of state resources provided for indigent criminal defense services, the Hurrell-Harring agreement provided 100 percent state funding support for all new costs of the settlement, and this should be the model for all state settlements that increase costs.

NOW, THEREFORE, BE IT RESOLVED the New York State Association of Counties (NYSAC) urges the Governor and State Legislature to fully fund the foster care rate increases included in the SFY 2023 budget; and

BE IT FURTHER RESOLVED, NYSAC urges the Governor and Legislature to increase the state’s 29 percent Safety Net Program share back to 50 percent without further reducing any other public assistance reimbursement before considering future benefit expansions in this program; and

BE IT FURTHER RESOLVED, copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, NYSAC shall forward copies of this resolution to Governor Kathy Hochul, the New York State Legislature, and all others deemed necessary and proper.
Resolution #3

Resolution Urging the Governor and New York State Legislature to Become a True Partner by Focusing on Rent Allowance and Standard of Need Which Must Include the Restoration of 50/50 Cost Sharing for Safety Net Programs, and Clarify Its Homelessness Prevention Goals by Making Permanent Housing the Central Focus

WHEREAS, homelessness and housing affordability continue to be major concerns across the state; and

WHEREAS, the COVID-19 pandemic has made the situation worse through increased rental rates, decreased housing supply and an increased reliance on temporary housing assistance in shelters and motels; and

WHEREAS, the expansion of remote work and other factors has led to rising rents in suburban areas at a rate approaching urban centers with the gap in premiums paid between urban centers and suburban areas being cut by more than 53 percent; and

WHEREAS, this means rents are higher everywhere, with the northeast region seeing the second highest rent increases nationwide with New York City setting record highs for median rent in 2022; and

WHEREAS, Emergency Rental Assistance funding provided by Congress to prevent people from losing their homes and increasing homelessness was an essential strategy as the human hardships would have been far more devastating if we had not kept people housed; and

WHEREAS, the homeless population is facing new problems as the needs of families have become more complicated; and

WHEREAS, regardless of family size and demographics, many of those facing homelessness or seeking emergency shelter can have challenging medical needs, mental health and substance abuse issues, some are registered sex offenders, and still others are state prison parolees or on probation; with some facing several of these challenges at the same time; and

WHEREAS, the state is implementing new hotel regulations that could reduce the number of units available to homeless families and leaving county officials with very limited options that may be less effective and more expensive in managing local homeless populations; and

WHEREAS, the state requires counties to fund 71 percent of costs for Safety Net individuals and 100 percent of the costs of administering these programs; and
WHEREAS, local social service districts focus scarce resources on achieving permanent housing, preventing homelessness and providing temporary placement; and

WHEREAS, counties maintain that preventing homelessness in the first place is the best way to keep families safe and secure; and

WHEREAS, counties maintain that while it is important to provide help in a crisis, it is better policy to maintain stability and prevent emergencies by providing sufficient resources up front.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties (NYSAC) calls on the Governor and state legislature to prioritize permanency in housing and to update rental allowances and the standard of need which have not been properly updated in decades to fully address the dramatic growth in housing, energy and food costs; and

BE IT FURTHER RESOLVED, as part of the effort the state must restore the Safety Net state share to 50 percent; and

BE IT FURTHER RESOLVED, the State should pare back or end highly burdensome hotel and motel regulations that end up limiting the supply of rooms available to counties that have little choice but to rely on this method of temporary housing; and

BE IT FURTHER RESOLVED, the State should coordinate a timely transition to supportive housing for the highest need individuals with mental health and substance abuse issues in collaboration with OTDA, other state agencies, and local social services districts; especially those that have been repeatedly homeless and in need of supportive placements overseen by OMH, OASAS, OPWDD and DOCCS; and

BE IT FURTHER RESOLVED, the State should target funding to counties that allows them to work with community partners to develop service models that achieve permanency through innovative and flexible approaches that meet local needs; and

BE IT FURTHER RESOLVED, the State should work with counties in developing a public education campaign to ensure people better understand the plight of families and individuals struggling with homelessness and how everyone can benefit by helping them achieve stable housing in our communities; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York State encouraging member counties to enact a similar resolution; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to Governor Kathy Hochul, the Office for Temporary Disability Assistance and all others deemed necessary and proper.
2022 NYSAC Fall Seminar
Erie County

Standing Committee on Native American Affairs &
Gaming Resolutions

Ashley Milliman (Cattaraugus County) - Chair
Hon. John Becker (Madison County) - Vice Chair
Hon. Elizabeth Larkin (Cortland County) - Vice Chair
Resolution Calling on the State of New York to Promptly and Equitably Secure with the Seneca Nation a Continuing Compact Agreement that is Beneficial to all Parties and Local Governments

WHEREAS, in 2002, the State of New York and the Seneca Nation entered into a compact with a provision that gaming revenue would be shared with the State in return for certain gaming exclusivity rights in Western New York; and

WHEREAS, under law the State of New York shares with local governments, including 16 counties in Western New York, a portion of gaming revenue they receive from the Seneca Nation; and

WHEREAS, this significant amount of local government funding is a key element in helping counties maintain infrastructure and provide public safety for all residents as well as provide services needed to help support this growing gaming industry; and

WHEREAS, 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; and

WHEREAS, this revenue loss amounts to over $50 million annually to the local governments in Western New York; and

WHEREAS, during the entirety of the dispute the State did not fund most Western County local governments for the amounts they typically receive from Compact gaming revenue, which disrupted local service levels and highlighted how necessary it is for this revenue to remain consistent and predictable; and

WHEREAS, in 2022, the State of New York announced the resolution of this matter and that back payments from the past four plus years were sent to the State and local governments and stated negotiations on a new compact between the State and the Nation will begin; and

WHEREAS, the New York Association of Counties (NYSAC) appreciates the efforts of Governor Hochul to resolve this Compact dispute and understanding the importance of this gaming revenue for local service needs; and

WHEREAS, the current gaming compact between the Seneca Nation and New York state expires in December 2023; and

WHEREAS, recently the Seneca Nation President Matthew Pagels stated the Seneca Nation notified the state that they were prepared to begin new negotiations, initiating a 180-day grace period to start in earnest; and
WHEREAS, the Seneca Nation and the counties of New York have a strong relationship and the counties appreciate this partnership, and value the rich history and the significant positive benefit the Nation brings to all in Western New York.

NOW, THEREFORE, BE IT RESOLVED, NYSAC calls on the State of New York to come to an agreement with the Seneca Nation to extend the Compact beyond December 2023; and

BE IT FURTHER RESOLVED, any changes to the new Compact should benefit all parties and be equitable and fair to the Seneca Nation; and

BE IT FURTHER RESOLVED, the State must continue to provide gaming revenue in a similar fashion to local governments in 2023 and beyond to support critical local services for all residents in need; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York State, encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to Governor Kathy Hochul, the New York State Legislature, Seneca Nation of Indians, and all others deemed necessary and proper.
Resolution Calling on the State of New York to Make All Municipalities Whole in the Saint Regis Mohawk Tribal Gaming Region that Have Been Impacted by the State’s Lack of Payment

WHEREAS, On October 15, 1993, the St. Regis Mohawk Tribe and the State of New York signed a compact paving the way for casino gaming; the Akwesasne Mohawk Casino opened on April 12, 1999; and

WHEREAS, under agreement and codification in New York law, the St. Regis Mohawk Tribe pays 25 percent of all gaming revenue to the State of New York in return for, in part, exclusivity regional gaming rights; and

WHEREAS, under the agreement, the State of New York shares with local governments, including counties and numerous towns in Northern New York, a portion of revenue they receive from the St. Regis Mohawk Tribe; and

WHEREAS, the counties and local governments rely on that revenue to maintain infrastructure and provide public safety for all residents, as well as provide services needed to help support this growing gaming industry; and

WHEREAS, in March 2020, the State of New York, under a State of Emergency, closed many businesses, especially ones where crowds gathered, including casinos, resulting in revenue losses for the Akwesasne Mohawk Casino; and

WHEREAS, in August 2020, casinos including the Akwesasne Mohawk Casino were allowed and did reopen with a limited capacity and began making revenue once again that should have been shared with the State and local governments; and

WHEREAS, to date, there have been no payments by the State to the seven northern region counties since the last quarter of 2019; and

WHEREAS, this revenue loss amounts to millions of dollars annually to the seven northern region counties; and

WHEREAS, this funding is needed by the counties to fix roads, support social services, and provide for public health and safety; and

WHEREAS, the St. Regis Mohawk Tribe and the counties of New York have a long history of productive partnerships and respect; and

WHEREAS, New York State has not been receptive to easing the financial burden on these seven counties that was created by the State’s failure to resolve the issue; and

WHEREAS, the State of New York has created a system by which vital local services are dependent on continued revenue being received and distributed to local governments.
through casino gaming, yet the State has not made a contingency plan and/or ignored the
needs of local governments when this revenue is lowered or withheld; and

WHEREAS, in Western New York, Governor Hochul and the Seneca Nation resolved a
non-payment to the State issue earlier this year, understanding the importance of the
continued funding for these local services.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties
(NYSAC) calls on the State of New York to immediately make municipalities whole for the
funding being withheld by the State by either lack of collection from the St. Regis Mohawk
Tribe or collected and not passed through in a timely manner; and

BE IT FURTHER RESOLVED, in the alternative, if the state is unwilling to make the
local governments whole, and if the St. Regis Mohawk Tribe desires to assist local
governments directly, the State will not see this as a violation, nor will this act be subject to
the terms of the St. Regis Mohawk Tribe and New York State Compact; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of
New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to
Governor Kathy Hochul, the New York State Legislature, the St. Regis Mohawk Tribe, and
all others deemed necessary and proper.
Resolution Calling on the State of New York to Immediately Make All Municipalities Whole that have Been Impacted by the Loss of Property Tax Revenue from Claimed Sovereign Native American Land

WHEREAS, for over 20 years, the Cayuga Indian Nation has claimed tribal lands in Seneca County, and for over fourteen of those years, the Cayuga Nation has refused to pay any property tax on these assessed properties and retail sales taxes for gasoline and tobacco products; and

WHEREAS, despite years of litigation, including up to the Supreme Court of the United States, to address the issues of sovereign claims, no further legal recourse is available to Seneca County to recover these lost tax revenues; and

WHEREAS, in 2022, the anticipated single year lost tax revenue attributed to the Cayuga Indian Nation owned land will exceed $525,000, with total lost revenues exceeding $20,000,000 over the past twenty-nine years; and

WHEREAS, the taxpayers of Seneca County are being forced to make good on those taxes, reducing the revenue that would otherwise be available for tax relief, repair of roads and infrastructure, support to social services, schools, and otherwise to provide for public health and public safety; and

WHEREAS, supplemental state aid, or offset payments, were provided to Seneca County for 10 years to provide some partial relief to the taxpayers of the County, but that for the past four years, no such aid has been provided; and

WHEREAS, Seneca County has borne the full weight of not only lost property tax revenue, but also tax-free retail sales of tobacco and gasoline, and now untaxed sale of cannabis products will be added to that burden; and

WHEREAS, the taxpayers of the county are facing these growing shortfalls in both property and sales tax revenues without any legal remedy or recourse.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties (NYSAC) calls on the State of New York to address and resolve this fiscal crisis imposed on the taxpayers of Seneca County and all other municipalities impacted in order to avoid further catastrophic harm to public safety and county services including but not limited to seeking direct impact aid from the federal government; and

BE IT FURTHER RESOLVED, full supplemental aid to Seneca County, and any other counties or municipalities so impacted by sovereign tribal claims be made in this and every future state budget, to bring parity and fairness to the people of the
county; and

BE IT FURTHER RESOLVED, copies of this resolution be sent to all the counties of New York State, encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to Governor Kathy Hochul, the New York State Legislature, our federal legislators, and others deemed necessary and proper.
2022 NYSAC Fall Seminar
Erie County

Standing Committee on Public Health and Mental Health Resolutions

Linda Beers (Essex County) – Chair
Hon. Michael Amo (Orange County) – Vice Chair
Laura Kelemen (Niagara County) – Vice Chair
WHEREAS, lead poisoning prevention activities are delivered by local health
departments; and

WHEREAS, when the definition of elevated blood lead level (EBLL) was lowered from
10 to 5 ug/dL or greater, the State only allocated an additional $9.7 million for Article
Six state aid; and

WHEREAS, this investment falls short of the $40 million needed to implement this
work and protect children, thereby placing the majority of the cost burden ($30.3
million) on the local tax levy; and

WHEREAS, this estimated need is based on an average cost per case of nurse case
management of $713 and an average cost of $2,123 per case for environmental
management activities; and

WHEREAS, at the January 29, 2020, Lead Poisoning Prevention Advisory Council
meeting, the New York State Department of Health (NYSDOH) presented data on the
first quarter of implementation that showed an additional 1,725 children between the
ranges of 5-9 µg/dL required interventions; and

WHEREAS, while this highlights the importance of lowering the EBLL, it also
represents the equivalent to 2.5 years of work occurring in a single quarter when
compared to prior years; and

WHEREAS, counties recognize the extraordinary impact the COVID-19 pandemic has
had on children and families at risk for lead exposure due to stay-at-home orders,
remote learning, and barriers to attending pediatric appointments and access testing for
lead screening; and

WHEREAS, in 2021, the Centers for Disease Control and Prevention (CDC) further
lowered the recommendation to 3.5 µg/dL, which, if adopted by New York State, would
cost an additional $30 million to implement locally; and

WHEREAS, new and expanded duties placed on local health departments, as well as
existing duties that are underfunded, may result in increased civil liability for our county
governments; and

WHEREAS, county governments will allocate existing and new investments to support
the lower EBLL through this program to secure and maintain the necessary staffing and
other resources required to accomplish the goals set forth by the state mandate, while
also ensuring that New York State keeps its promise to property taxpayers through its enactment of a permanent property tax cap.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties (NYSAC) calls on the Governor and State Legislature to increase the appropriation for NYSDOH’s Lead Poisoning Prevention Program to fully cover the cost of the current expanded mandate and any future policy changes; and

BE IT FURTHER RESOLVED, NYSAC calls on the Governor and Legislature to distribute all funding necessary to local health departments through existing grant mechanisms to implement the expanded mandate; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED that NYSAC shall forward copies of this resolution to the Governor of the State of New York, the New York State Legislature, NYSDOH Commissioner Mary Bassett, and all others deemed necessary and proper.
Resolution in Support of Enactment of Legislation to Amend the Public Health Law in Relation to Municipal Limited Health Care Service Facilities

WHEREAS, under current law, the 58 local health departments (LHDs) in New York State that provide any direct health care services in clinic settings are regulated under Article 28 of the Public Health Law as diagnostic and treatment centers; and

WHEREAS, most LHDs provide only a limited set of direct care services necessary to support their mandated, core public health activities, as defined under Article 6 of the Public Health Law; and

WHEREAS, the existing Article 28 statute and regulations are intended, and were originally written, to govern hospitals and other “full-service” diagnostic and treatment centers; and

WHEREAS, at an earlier point in the state’s history, many LHDs served as safety net providers of direct primary care, but, today, very few LHDs continue to provide a level of direct primary care services similar to those provided in the traditional Article 28 regulated facilities; and

WHEREAS, in most communities, this need is now met by other safety net providers, such as federally qualified health care centers and expanded hospital-based clinics; and

WHEREAS, despite this change in service provision, LHD Article 28 facilities are still required to comply with all current regulations, regardless of the applicability to the more limited public health services they provide, such as vaccinations; and

WHEREAS, meeting these stringent — and often onerous and expensive — regulatory mandates impose significant administrative costs on municipalities, and thus, on local property taxpayers; and

WHEREAS, counties believe that the update to the Public Health Law proposed in A.5177 (Paulin) will enable the State Commissioner of Health to revise the regulations that are now unnecessarily complex for most LHDs, ensuring that the requirements reflect the level of services that they provide.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties (NYSAC) calls on the Governor and State Legislature to revise the current Article 28 regulatory framework for municipal limited health care service facilities; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York encouraging member counties to enact similar resolutions; and
BE IT FURTHER RESOLVED that NYSAC shall forward copies of this resolution to the Governor of the State of New York, the New York State Legislature, NYSDOH Commissioner Mary Bassett, and all others deemed necessary and proper.
Resolution #3

Resolution in Support of Issuing Relief to Local Health Departments by
Requiring the State Commissioner of Health to Waive the Cost Reporting
Requirement for Municipal Licensed Home Care Service Agencies
(LHCSAs)

WHEREAS, the 2018-19 budget enacted a number of changes related to Licensed
Home Care Services Agencies, including a requirement to submit an annual cost report
to address issues related to the 56 percent increase in the number of LHCSAs between
2012-2018, as well as unexpected increases in Managed Long Term Care Enrollment;
and

WHEREAS, the previous state budget actions intended to address concerns related to
this significant growth in the industry; and

WHEREAS, local health departments (LHDs) who are not certified home health
agencies are required by the New York State Department of Health (NYSDOH) to
maintain licensure as a LHCSA because public health nurses deliver some public health
services in the home setting; and

WHEREAS, most LHDs provide only a limited set of services that are needed to
support their mandated, core public health activities, as defined under Article 6 of the
Public Health Law; and

WHEREAS, LHDs typically have minimal activity and little to no fee revenue
associated with these services, which are typically visits related to maternal child health
or elevated blood lead levels in a child; and

WHEREAS, these public health services are part of core public health services
provided under Article Six of the Public Health Law exclusively by LHDs; and

WHEREAS, the current statutory cost reporting requirement is burdensome to the
already stretched public health workforce and does not provide valuable information to
the State regarding costs and patterns of services within the LHCSA industry overall;
and

WHEREAS, change to the cost reporting requirement will provide mandate relief for
counties and the City of New York and remove unnecessary costs to the taxpayers by
relieving the administrative burden and expense of submitting costs reports when
minimal to no revenue is associated with these public health services.
NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties (NYSAC) calls on the Governor and State Legislature to enact legislation as part of the FY 2024 State Budget regarding the submission of cost reports by municipal LHCSAs, with eligibility based on delivering core public health services; and

BE IT FURTHER RESOLVED, NYSAC recommends that the State Budget legislation add the following language to Public Health Law section 3612 subdivision 8:

(e) the commissioner shall waive the cost report requirements of subdivision 8 for municipalities operating a licensed home care services agency solely for the purpose of providing core public health services as defined in Section 602 of the public health law. Eligibility shall be determined by the department based on the municipality’s state aid application pursuant to section 606 subdivision (3) of the public health law; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED that New York State Association of Counties shall forward copies of this resolution to The Governor of the State of New York, the New York State Legislature, NYSDOH Commissioner Mary Bassett, and all others deemed necessary and proper.
Resolution Requesting Targeted State Investments in Programming and Policies to Develop and Fund Core Local Services to Decrease the Use of Emergency Departments (EDs) for the Treatment of Children and Youth with Complex Behavioral Health Needs

WHEREAS, the Local Governmental Units (LGUs)/Directors of Community Services (DCSs) have specific responsibilities and authority under the Local Services provisions of Article 41 of the NYS Mental Hygiene Law (MHL) for planning, development, implementation, and oversight of services to adults and children in their counties affected by mental illness, substance use disorder, and intellectual/developmental disabilities (I/DD); and

WHEREAS, localities continue to struggle with an overwhelmed community-based system of care that is unable to adequately support children and youth with co-occurring disorders; and

WHEREAS, the Directors of Community Services (DCSs) are seeing firsthand and have growing concerns regarding the upward trend in children and youth with complex behavioral health needs ending up in EDs due to unmet needs; and

WHEREAS, State inpatient bed closures and a lack of available crisis services have significantly impacted counties’ ability to provide this higher-level care and has resulted in various placements in last-resort settings, which are not appropriate and sometimes detrimental to the treatment goals; and

WHEREAS, some at-risk youth have been placed out of the State for residential services, reflecting the need to develop additional appropriate services within New York with a full spectrum of services available; and

WHEREAS, over the last several years, there has been a substantial rise in the numbers of children and youth languishing in EDs without the ability to be connected to appropriate care; and

WHEREAS, EDs are a suboptimal setting for children and youth, particularly if they are not at imminent risk of harm to themself or others, and often offer overstimulating environments, exposure to other psychiatrically and medically ill individuals, and an absence of appropriate assessment and treatment; and

WHEREAS, according to a 2021 report by the Healthcare Association of NYS (HANYS), a 15-year-old youth was placed in an ED for over three months after a yearlong search for residential placement, which resulted in over $195,000 in hospital costs and, after over 6 months in the ED, a 16-year-old patient decompensated so
severely and required oversight by two public safety officers and three to five beds to minimize disruption to other patients; and

WHEREAS, a child in Franklin County with a significant trauma history and diagnosed conduct disorder was placed in a standard ED and languished for 8 weeks after being denied admission at a sister hospital within the same health system that contained a 9.39 unit; and

WHEREAS, the State must make appropriate targeted investments to include local resource streams for localities to initiate treatment models with proven success, such as expansion of intensive treatment programs and prevention and early intervention programs (including mobile crisis response and family and caregiver support); and

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties (NYSAC) calls on the Governor, Division of Budget (DOB), Office for People with Developmental Disabilities (OPWDD), Office of Addiction Services and Supports (OASAS), Office of Mental Health (OMH), Department of Health (DOH), and Legislature to ensure these critical program and policy investments are met with the utmost urgency and addressed during the SFY 2024 budget cycle; and

BE IT FURTHER RESOLVED, New York State needs to address, develop, and fund core local services to address the use of EDs for the treatment of children and youth with complex behavioral health needs; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, NYSAC forward copies of this resolution to the Governor of the State of New York, the New York State Legislature, and all others deemed necessary and proper.
Standing Committee on Public Employee Relations Resolutions

Mark Scimone (Madison County) – Chair
Langdon Chapman (Orange County) – Vice Chair
Paul Eldridge (Putnam County) – Vice Chair
A Resolution Urging Investment by The State Within the Department of Civil Service to Support Public Employee Recruitment and Retention

WHEREAS, recruitment and retention of qualified public employees has become a challenge in local and in state government; and

WHEREAS, a recent study by the Bureau of Labor Statistics showed while the number of private-sector jobs surpassed its pre-pandemic level, there are 664,000 fewer people employed in the public sector; and

WHEREAS, government employers are competing for workers in a historically tight labor market, and the private sector is offering considerably higher salaries to meet this demand while the public sector is restricted due to tax increase concerns and budget restrictions; and

WHEREAS, the recruitment of licensed professionals is a particular challenge due to the lack of security in provisional appointments to positions of public employment; and

WHEREAS, staffing shortages in county government must be avoided, as county employees supplying direct vital services to our residents in need, services that include but are not limited to, public health, hospitals/nursing homes, mental health, public safety, public defense, and social services’ needs; and

WHEREAS, while many solid employees seek to serve and/or stay in public employment, too often factors such as the Civil Service testing system requirements are too slow for an applicant to wait on a position, and this will lead them to take a private sector position; and

WHEREAS, the State Department of Civil Service administers and scores the majority of tests needed to hire county employees and if they are not fully staffed and operating at maximum efficiency, this causes delays that directly impact local government hiring ability.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties calls upon the Governor, State Legislature and the Department of Civil Service to work closely with counties and other local government partners to modernize and streamline hiring and promotion practices within the civil service system and broaden local government recruitment flexibility; and

BE IT FURTHER RESOLVED, that the New York State Association of Counties recommends the State Legislature and Governor invest in increasing the staffing in the municipal services area of the Department of Civil Service so that tests can be written and graded in a faster manner in all positions; and
BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to the Governor, the New York State Legislature, the Department of Civil Service and all others deemed necessary and proper.
2022 NYSAC Fall Seminar
Erie County

Standing Committee on Public Safety Resolutions

Hon. Sheriff Ron Spike (Yates County) – Chair
Hon. Sheriff Juan Figueroa (Ulster County) – Vice Chair
Hon. Kathy Stegenga (Orange County) – Vice Chair
Hon. Matthew Veitch (Saratoga County) – Vice Chair
Resolution Encouraging the State Legislature and Governor to Authorize Municipalities, including Counties, to Establish a Special District to Finance and Operate General Ambulance Services

WHEREAS, many counties throughout the state are experiencing significant staffing shortages in emergency medical services, jeopardizing the community emergency response to those in need of assistance; and

WHEREAS, a 2013 analysis by the New York State Department of Health (NYSDOH) found that, while the average scene-to-destination time throughout New York State was 13.16 minutes, some parts of the Adirondacks have significantly longer wait times. The average scene-to-destination time is 17.77 minutes in Clinton County, 18.32 minutes in Franklin County, 21.59 minutes in Warren County, 25.55 minutes in Essex County, and 53.46 minutes in Hamilton County; and

WHEREAS, this delayed response poses a significant threat to the lives of those who live and recreate in these counties; and

WHEREAS, states have long used special districts to enhance services for ever-evolving communities; and

WHEREAS, Emergency Services Districts (ESDs), in particular, can reduce response times and increase the survival rate of patients who require prehospital care in areas that have been historically underserved; and

WHEREAS, according to the National Census Bureau, 150 ESDs were created to provide local fire protection and ambulance services between 2012 to 2017 in the United States.

NOW, THEREFORE, BE IT RESOLVED, that the New York State Association of Counties (NYSAC) encourages the Governor and State Legislature to enact legislation S.5331 (Stec)/A.857 (Jones) that would authorize municipalities, including counties, to establish a countywide special district to finance and operate general ambulance services; and

BE IT FURTHER RESOLVED, this legislation would also require the Division of Homeland Security and Emergency Services (DHSES) Commissioner to identify challenges concerning volunteer emergency services or personnel; and

BE IT FURTHER RESOLVED, by authorizing counties to establish special districts, this legislation would increase the quality of emergency protection services in New York State with economies of scale, particularly in rural portions of the State; and
BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to the Governor of the State of New York, the New York State Legislature, and all others deemed necessary and proper.
Resolution Encouraging the State Legislature and Governor to Enact Legislation to Expedite the Disbursement of Raise the Age Funds to Counties and Community-Based Organizations That Work with At-Risk Youth

WHEREAS, when New York’s Raise the Age law took effect on October 1, 2018, counties were promised that the supervision and treatment services for juveniles’ program (STSJP) would be fully funded; and

WHEREAS, as of March 2022, less than half of the $800 million allocated to this program has been distributed to counties; and

WHEREAS, STSJP plays a key role in transforming New York State’s juvenile justice system; and

WHEREAS, since its inception in 2011, STSJP incentivizes local programs to divert youth from detention to residential care; and

WHEREAS, counties are able to create STSJP programs that:

- Provide or facilitate support to the target populations for mental health disorders, substance abuse problems, or learning disabilities that contribute to such youth being at risk for detention, residential placement, or return to detention or residential placement;
- Provide temporary respite care;
- Provide family therapy or support or explore alternate housing options for youth who are at risk for detention or placement due to the absence of an available home;
- Provide post-release support within the youth’s community;
- Reduce arrest rates or recidivism; or
- Meet the definition of a Family Support Services Program as outlined in the PINS Reform Legislation of 2019 (Part K of Chapter 56 of the Laws of 2019) and FCA § 458-m.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties (NYSAC) encourages the Governor and State Legislature to enact legislation S.8787 (Cleare)/A.9856 (Solages), which will expedite the disbursement of these funds to counties and require at least 50 percent of the allocation be provided by the county to community-based organizations that work with at-risk youth, or alleged to be at risk, or adjudicated as juvenile delinquents, or youth alleged to be or convicted as youthful offenders or adolescent offenders.
BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to the Governor of the State of New York, the New York State Legislature, and all others deemed necessary and proper.
Resolution Encouraging the State Legislature and Governor to Enact Legislation to Provide Local Discretion on Pre-Sentence Investigations in Plea Deals Resulting in Less than 1 Year Imprisonment

WHEREAS, currently, New York State Criminal Procedure Law (CPL) section 390.30 requires county probation departments to conduct investigations and complete pre-sentence investigation (PSI) reports for the court; and

WHEREAS, currently, the City of New York has the authority to decide whether a PSI is necessary in these situations; and

WHEREAS, counties also believe that this legislation will reduce the workforce shortage and some of the current burden placed on Probation Departments, District Attorney’s Offices, Public Defender Offices, Sheriff’s Offices, and the Courts by not relaying on unnecessary PSI’s prior to sentencing; and

WHEREAS, this legislation will also ensure a common statement practice for the use of PSIs across New York State when there is a plea agreement in place for local incarceration of up to 365 days and will aide in expediting sentencing those defendants who are incarcerated in county jails.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties (NYSAC) encourages the Governor and State Legislature to enact legislation A.4998 (Paulin) that would correct a deficiency within the existing statute under the very specific circumstances when a PSI report is not required regarding a sentence of imprisonment of one year or less so long as the sentence was negotiated and agreed to by the defendant, the district attorney, and the court at the time of a defendant’s plea of guilty; and

BE IT FURTHER RESOLVED, the bill grants local probation department discretion regarding the requirement of a pre-sentence investigation and written report would be eliminated when a term of imprisonment for 365 days or less has been agreed upon by the parties with consent of the judge as a result of a conviction or revocation of a probation sentence; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to the Governor of the State of New York, the New York State Legislature, and all others deemed necessary and proper.
Resolution Urging the State to Provide Counties with Funding to Administer the State’s New Gun Laws

WHEREAS, this year, the State Legislature drastically amended the eligibility criteria of citizens seeking a concealed-carry permit, as well as the application process and training for the same; and

WHEREAS, the responsibility of processing these applications and doing the required, now expanded, background investigations that are predicate to the award of a license falls largely on sheriffs’ offices and county clerks’ offices; and

WHEREAS, there is an anticipated increase in volume of applications for such licenses in the wake of the Supreme Court’s decision requiring that New York State’s licensing regime be based solely on objective criteria; and

WHEREAS, this anticipated increase will only be compounded by the new licensing requirements for semi-automatic rifles.

NOW, THEREFORE, BE IT RESOLVED, that the New York State Association of Counties (NYSAC) calls on the State of New York to provide funding to support these new responsibilities that fall entirely upon county government entities; and

BE IT FURTHER RESOLVED, funding would be used to hire more staff and related technology for sheriffs’ offices pistol permit processing divisions and clerks’ offices that handle the cataloguing and amendment of permits; and

BE IT FURTHER RESOLVED, copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to the Governor of the State of New York, the New York State Legislature, and all others deemed necessary and proper.
Resolution Urging the State to Provide Counties with Funding to Administer Requirements of New Extreme Risk Order of Protection Law

WHEREAS, on June 6, 2022, Governor Hochul signed Chapter 208 of the Laws of 2022, which requires district attorneys and their assistants and all police officers to file for an Extreme Risk Order of Protection when presented with credible facts that would indicate that there is probable cause to believe that an individual is likely to engage in conduct that will result in serious harm to themself or others; and

WHEREAS, the circumstances that trigger this obligation are all too common and are encountered on a nearly daily basis by police officers going about their routine course of business; and

WHEREAS, applying for such an order and seeing the subsequent proceeding through to its successful conclusion is a time-consuming endeavor that many times requires legal expertise; and

WHEREAS, sheriffs, district attorneys, county attorneys, and county clerks do not have staff and resources necessary to comply with this mandate as the State Legislature intended; and

WHEREAS, in addition to staffing constraints, during the execution of these risk orders of protection, there is often a need for significant safe keeping storage with a physical structure for these weapons.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties (NYSAC) calls on the State of New York to provide funding to support these new responsibilities that fall entirely on county governments because storage of these weapons has the potential to exceed the current timeframe for maintenance and preservation; and

BE IT FURTHER RESOLVED, if it is truly the desire of the State to have these orders be used to prevent future gun violence, then it must provide mandatory petitioners with the support to do so; and

BE IT FURTHER RESOLVED, copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to the Governor of the State of New York, the New York State Legislature, and all others deemed necessary and proper.
Resolution Urging the State to Provide Counties with Funding to Administer Medication Assisted Treatment in Correctional Facilities

WHEREAS, in October 2022, the State of New York will require that all prisons and jails in New York State provide medication assisted treatment (MAT) to incarcerated individuals afflicted with a substance use disorder; and

WHEREAS, the State of New York has appropriated funding to cover the costs of MAT in state prisons but not in county jails; and

WHEREAS, the scope of services required by the law far exceeds the furnishings of addiction medication but also requires comprehensive peer support, counseling, re-entry planning and discharge planning; and

WHEREAS, it is estimated that between thirty and forty percent of all new jail admissions would qualify for treatment; and

WHEREAS, there is currently $8.25 million appropriated in the Aid to Localities section of the State Fiscal Year 2023 budget to support the 58 county jails outside of New York City in providing these services.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties (NYSAC) calls on the State of New York to provide an additional $20 million in state funding to support these new responsibilities that fall entirely on county government entities; and

BE IT FURTHER RESOLVED, state aid for this program shall be disbursed in an expedited manner to allow counties to deploy grant funding in a timely manner; and

BE IT FURTHER RESOLVED, copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to the Governor of the State of New York, the New York State Legislature, and all others deemed necessary and proper.
Resolution Encouraging the State Legislature and Governor to Enact Legislation to Require Reporting of Sex Offenders in Short Term Rentals

WHEREAS, Megan’s Law is named after seven-year-old Megan Kanka, a New Jersey girl raped and killed by a known registered sex offender who had moved across the street from the family without their knowledge; and

WHEREAS, in the wake of the tragedy, the Kankas sought to have local communities warned about sex offenders in the area; and

WHEREAS, all states now have a form of Megan’s Law; and

WHEREAS, New York State's version of Megan's Law, named The Sex Offender Registration Act (SORA), was signed by Governor Pataki in July 1995; and

WHEREAS, in May 1996, Congress amended the Violent Crime Control and Law Enforcement Act of 1994 to require the release of relevant information to protect the public from sexually violent offenders; and

WHEREAS, on May 17, 1996, President Clinton signed this federal version of Megan’s Law, which mandated uniform sex offender registration in all 50 states, providing for community notification by allowing states to disclose information about registered sex offenders; and

WHEREAS, in 2006, the State of New York strengthened NY’s Megan’s Law to require Level 1 offenders (low risk) to register for 20 years, unless they have a designation (e.g. sexual predator, sexually violent offender, or predicate sex offender), in which case they must register for life, and Level 2 offenders (moderate risk) and Level 3 offenders (high risk) must register for life; and

WHEREAS, over the past five years, the popularity of short-term rentals (STRs), like AirBNB, VRBO, and other STR platforms has dramatically increased across the nation and state; and

WHEREAS, many states, including Texas and Florida, are considering legislation to authorize municipalities to enact local laws to ban sex offenders or restrict sex offender activity with respect to STRs; and

WHEREAS, state law governing sexual predators from using STRs has not moved fast enough with the change in how people decide to vacation; and

WHEREAS, parents have the right to know who their neighbors are and should feel comfortable letting their children play safely outdoors on their own property.
NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties (NYSAC) encourages the Governor and State Legislature to enact legislation that would:

- Require any registered sex offender staying at a short-term rental in a residential neighborhood to inform the STR host, owner, and/or managing company 48 hours before arriving on the premises.
  - The STR host, owner and/or managing company should be required to inform local police, as well as any neighbor within 1,000 feet of that STR.
  - Failure to do so would result in immediate imprisonment for the registered offender and a $10,000 fine, respectively for the STR host, owner, and/or managing company.
- Prohibit sex offenders from acting as hosts, property managers, or owners of strs.
- Prohibit sex offenders from being an on-site employee of the STR.
- Require this information to be included as part of the state’s sex offender registry or local registry.

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to the Governor of the State of New York, the New York State Legislature, and all others deemed necessary and proper.
Standing Committee on Taxation and Finance Resolutions

Ruth A. Doyle (St. Lawrence) - Chair
Hon. Terri L. Ross (Allegany County) - Vice Chair
Hon. Patrick Schmitt (Wayne County) - Vice Chair
Resolution Supporting Proposals to Modernize Tax Laws to Include the Vacation Rental Industry and to Ensure These Changes are Appropriately Tailored for the Needs of Localities

WHEREAS, the Internet and numerous platforms that help facilitate retail transactions electronically have provided a boost for many sectors of the economy and made it easier for consumers to purchase goods and services; and

WHEREAS, electronic commerce has been growing annually at double digit rates for more than a decade, with even faster growth experienced during the COVID-19 pandemic; and

WHEREAS, this form of commerce has opened up opportunities for an entirely new group of retailers and entrepreneurs; and

WHEREAS, with this growth many states have realized their tax systems need to be updated to accommodate the new modalities of retail activity; and

WHEREAS, a sizable number of new vendors and owners that use these platforms, or sell directly over the Internet, do not always understand their responsibility to collect state and local sales tax on taxable transactions; and

WHEREAS, the growth in online platforms that facilitate vacation rentals is in need of modernization and simplification to ease the burden on small vendors, ensure taxes owed are collected and remitted to the state and local governments, and to make sure there is a level playing field among marketplace participants and operators that provide short-term lodging (such as online vacation rentals, hotels, bed and breakfasts, etc.); and

WHEREAS, the Governor’s SFY 2023 Budget proposed to update sales tax laws to define marketplace providers that facilitate vacation rentals (such as Airbnb, VRBO, etc.) as persons required to collect tax on such sales, but the Legislature did not support that proposal; and

WHEREAS, 35 counties have entered voluntary local occupancy tax collection agreements with Airbnb, and now counties are trying to work with VRBO to do the same, these agreements only call for the collection of local occupancy taxes and additional legislation, as proposed by the Governor, is necessary to expand these collection responsibilities to state and local sales tax; and
WHEREAS, the state budget estimates that modernizing this section of sales tax law could bring in tens of millions of dollars annually in local sales tax currently owed but uncollected at this time; and

WHEREAS, counties, New York City and a variety of other municipalities have local occupancy taxes, but also have unique non-tax related needs and concerns regarding short term vacation rentals.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties (NYSAC) supports proposals to ensure short term rental platforms collect state and local sales tax on unit rentals utilizing their platforms; and

BE IT FURTHER RESOLVED, NYSAC supports modifications to this proposal to extend the tax collection requirements for these vendors to include local occupancy taxes at local option; and

BE IT FURTHER RESOLVED, because certain jurisdictions have unique needs and local laws regarding short term rentals that may not be fully addressed in this legislation that a local opt out be included; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, the New York State Association of Counties shall forward copies of this resolution to Governor Kathy Hochul, the New York State Legislature and all others deemed necessary and proper.
Resolution to Support Modifications to the State Pension Amortization Programs to Allow Entities to Leave the Program Once They Have Fully Paid Back the Amounts Borrowed, Including Interest, As Determined by the State Comptroller

WHEREAS, during the 2008 financial crisis and subsequent “Great Recession” the state implemented numerous pension reforms to ease the financial burden on governmental employers and taxpayers; and

WHEREAS, one of these reforms included pension contribution stabilization programs to smooth volatility in pension payments; and

WHEREAS, dozens of local governments opted into one or both of these pension contribution stabilization programs over the last decade; and

WHEREAS, under these laws once a local government employer entered into one of these pension contribution stabilization programs there is no ability to ever exit; and

WHEREAS, other provisions are proving to be fiscally onerous, such as requiring contributions to pension reserves that must continue until they equal the full amount of the employer’s payroll before they are allowed to end; and

WHEREAS, some provisions remain unclear as to how these reserves can even be used; and

WHEREAS, it is our understanding that school districts have different requirements that allow them to exit the pension contribution stabilization system; and

WHEREAS, several counties that entered the pension contribution stabilization program paid back their obligations many years ago, including all interest necessary to hold harmless the common retirement fund’s targeted investment returns.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties (NYSAC), calls upon the Governor and State Legislature to amend the pension contribution stabilization programs to allow local governments to exit the program once they have paid back all loans and interest to the satisfaction of the State Comptroller; and

BE IT FURTHER RESOLVED, additional amendments should include changes that lower the size of the required pension reserve funds for entities that elect to stay within the pension contribution stabilization programs; and
BE IT FURTHER RESOLVED, NYSAC also encourages the State Comptroller, State Legislature and Governor to work with local governments to clarify how deposits to pension reserve funds required under the pension contribution stabilization programs can be utilized if a local government chooses to remain in the modified program; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, the New York State Association of Counties shall forward copies of this resolution to Governor Kathy Hochul, the New York State Legislature, State Comptroller DiNapoli and all others deemed necessary and proper.
2022 NYSAC Fall Seminar
Erie County

Standing Committee on Transportation and Public Works Resolutions

Hon. Dwight Fanton (Allegany County) – Chair
Sandra Fusco (Putnam County) – Vice Chair
Deborah Donohue (Washington County) – Vice Chair
Resolution #1

Resolution Urging All Counties to Adopt Policies that Include More Local Transportation Projects for Consideration of Complete Streets Design

WHEREAS, the Complete Streets Act (Chapter 398, Laws of 2011) requires state, county, and other municipalities to consider the convenience and mobility of all users when developing transportation projects that receive state and federal funding; and

WHEREAS, a Complete Street is a roadway planned and designed to enhance safe and convenient access and mobility of all roadway users of all ages and abilities (children, the elderly, and persons with disabilities) including for pedestrians, bicyclists, public transportation riders, and motorists; and

WHEREAS, Complete Street roadway design features include sidewalks, lane striping, bicycle lanes, paved shoulders suitable for use by bicyclists, signage, crosswalks, pedestrian control signals, bus pull-outs, curb cuts, raised crosswalks, ramps and traffic calming measures; and

WHEREAS, the law applies to projects that are undertaken by New York State Department of Transportation (NYSDOT), or local projects that receive both federal and state funding and are subject to NYSDOT oversight; and

WHEREAS, designated Complete Streets contribute to a cleaner, greener transportation system and more citizens will achieve the health benefits associated with active forms of transportation while traffic congestion and auto related air pollution will be reduced; and

WHEREAS, projects that are 100 percent locally funded are not subject to the law, but local municipalities can choose to adopt Complete Streets practices, and many counties have adopted resolutions that establish Complete Street policies that go beyond the state Complete Streets Act.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties (NYSAC) supports the adoption of Complete Street policies by all counties in New York that seek to promote the consideration of design and adoption of Complete Street features as part of roadway construction or reconstruction projects that go beyond the current state mandated review where feasible and affordable, recognizing the limited practicality of such features characterized by the rural designations of many highways in the state; and

BE IT FURTHER RESOLVED, that such county policies present an opportunity to expand on existing program requirements and for collaboration with bicyclists, pedestrians, people with disabilities and others to identify best practices and designs for local transportation facilities; and
BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to the Governor of the State of New York, the New York Legislature and all others deemed necessary and proper.
Resolution Opposing Legislation that Jeopardizes the Efficacy of the Water Quality Permitting Process by Unnecessarily Doubling the Volume of Permits that Must be Handled by the State

WHEREAS, the New York State Legislature passed a bill that seeks to reclassify class C waterways as “protected streams” and subject them to provisions of the New York State Department of Environmental Conservation Protection of Waters regulations; and

WHEREAS, the proposed change would now include “C” streams in the same class as C (T) trout and other streams; and

WHEREAS, C streams in most instances are inconsequential, having little if any impact on the environment; and

WHEREAS, if signed into law, this bill will negatively impact local highway departments and departments of public works (DPW) as well as many farm operations; and

WHEREAS, in many counties and towns, up to 80 percent of locally owned bridges and culverts could be located around C streams, requiring projects to now secure state approval and design a 150 percent span of the full bank—causing, for example, a $90,000 culvert replacement project to become a $1 million-plus bridge project; and

WHEREAS, it is estimated that the volume of MOUs and permit applications as a result of this new law would double, overwhelming an already time consuming and burdensome process and could make many of these vital public works projects cost prohibitive; and

WHEREAS, the magnitude of the number of increased applications for permits can be expected to render the water protection program unworkable or, at best, prevent timely processing of applications for critical projects that may have wider impacts such as those on AA and AA (T), A and A (T), B and B (T), and C (T) streams; and

WHEREAS, local highway maintenance resources are already stretched to the limit, and the unnecessary burden and delay in permitting could be untenable for many local governments and could result in inordinate road closures, possible flooding and disruptions of travel within communities that would have to find ways around a failed culvert or bridge crossing for an extended amount of time before state permission may be granted and the additional funds become available, which could be never depending on competing priorities; and

WHEREAS, an identical bill was vetoed in 2020 by the Governor, who wrote that while well intentioned, the bill would have a tremendous fiscal impact on state and local
governments by adding more than 40,000 miles of Class C streams over and above the
36,000 miles of streams now subject to state review would lead to lengthy permitting
delays for all projects; and

WHEREAS, these C stream projects already receive significant oversight by the state’s
County Soil and Water Conservation Districts (Districts) to address nutrient runoff from
agricultural activities, implement flood recovery programs and provide technical
expertise to municipalities to address infrastructure needs, and the existing
conservation efforts accomplished by the Districts will continue to ensure that adequate
environmental controls are placed on these streams.

NOW, THEREFORE, BE IT RESOLVED, the New York State Association of
Counties (NYSAC) opposes this bill and requests that Governor Hochul veto the
measure as unnecessary and burdensome to county efforts to maintain transportation
infrastructure and, if signed, would double the volume of permits to be reviewed, issued,
and enforced by the state, jeopardizing the thorough and necessary review of all other,
more significant water quality projects; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties
of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, that NYSAC shall forward copies of this resolution to
the Governor of the State of New York, the New York Legislature and all others deemed
necessary and proper.
Resolution to Promote Changes to the State’s Civil Service Law to Address
Constraints on New York State Airports’ Ability to Recruit, Hire, and
Promote Qualified Aviation Professionals

WHEREAS, New York Civil Service Law does not apply to six of the top ten commercial
service airports in the state because of regulatory exemptions or the outsourcing of
airport services; and

WHEREAS, municipal airport managers throughout the state are facing daunting
challenges with hiring and retaining qualified aviation professionals and promoting
from within the organization due to constraints imposed by the state’s Civil Service rules
regarding hiring officers and employees; and

WHEREAS, the civil service system can also limit an airport’s ability to pursue
diversity, equity, and inclusion initiatives due in part to arbitrary testing and provisional
appointment requirements; and

WHEREAS, the airport/aviation industry is highly competitive and specialized, with
critical positions such as Aircraft Rescue and Fire Fighting (ARFF) Chief,
Airport/Aviation Finance Director, Commercial Development Officer, Chief Operating
Officer, etc., that must be filled by persons knowledgeable and experienced in aviation
policy, practices, safety and federal and state regulatory regimes; and

WHEREAS, a “surplus” of qualified airport professionals is not typically present in
every locality, especially in Upstate New York, so airport professional positions normally
require a candidate to be willing to risk relocating from another part of the state, or a
region outside of the state on a “provisional” basis; and

WHEREAS, potential airport job candidates hailing from different regions of the
country will not consider or accept employment at a New York airport on a provisional
basis as the Civil Service rules currently require, frustrating the airport’s ability to
effectively recruit and successfully hire qualified aviation professionals for a variety of
on-airport positions; and

WHEREAS, in New York, neither the Niagara Frontier Transportation Authority nor
the Port Authority of NY & NJ are subject to the provisional limitations imposed by the
Civil Service Law, while most airports in other states do not have to contend with similar
recruitment and hiring obstacles; and

WHEREAS, Albany International, White Plains, Stewart International and Republic
airports have outsourced the operations and management of the airport, effectively
relieving them of the hiring challenges posed by Civil Service Law.
NOW, THEREFORE, BE IT RESOLVED, the New York State Association of Counties (NYSAC) supports changes to the Civil Service Law to establish specific criteria to define airport positions as exempted classes, allowing for permanent appointments; and

BE IT FURTHER RESOLVED, NYSAC urges the Department of Civil Service to establish a reasonable time frame to review and approve new exempt class positions for airports, not to exceed 30-days from the receipt of such requests; and

BE IT FURTHER RESOLVED, NYSAC encourages the introduction and enactment of legislation to authorize municipal airports in New York to recruit and hire persons with the necessary expertise as permanent positions; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the counties of New York State encouraging member counties to enact similar resolutions; and

BE IT FURTHER RESOLVED, the New York State Association of Counties shall forward copies of this resolution to the Governor of the State of New York, the New York State Legislature and all others deemed necessary.