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The 2024-25 Executive Budget

Testimony of the New York State Conference of Mayors

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Before the
Joint Fiscal Committees' Hearing on the Executive Budget

Senate Finance Committee
Hon. Liz Krueger, Chair

Assembly Ways and Means Committee
Hon. Helene E. Weinstein, Chair

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Legislative Office Building
Albany, New York

Thank you for allowing NYCOM to express the views of our 575 member cities and villages regarding the 2024-25 Executive Budget. The State Budget, and the State Legislature's contributions to its final form, play an integral role in determining the capacity and ultimate effectiveness of local leaders in providing the services and quality of life that will ensure our residents stay in New York.

First, it is important to take a look back at the municipal funding decisions made by you and the Governor when enacting the current year's State Budget. You increased investments in critically important highway aid programs, including a $60 million increase in CHIPS funding and a $40 million increase in the Touring Routes aid, while maintaining funding levels for the PAVE-NY, BRIDGE-NY, Extreme Winter Recovery and Pave Our Potholes (POP) programs. To assist municipalities with the elimination and redevelopment of blighted structures, you continued funding for the Restore New York program (but at a reduced level of $50 million compared to $250 million in the prior year) and maintained New York Forward and Downtown Revitalization Initiative funding at $100 million for each. These essential investments are all NYCOM legislative priorities, and we appreciate the support shown by the Governor, Senate and Assembly in making that happen.

While the Governor's new Executive Budget is largely status quo in terms of its outlays for your municipal partners, there are also harmful omissions and cuts that I will identify in my testimony that NYCOM urges you to rectify. While this is a tougher budget year than the last, there is room in a $233 billion spending plan to support priorities, and we hope you agree that local governments are a priority.

AIM Funding

The Governor has stated that her budget proposal is guided by the twin goals of affordability and public safety. NYCOM contends, and I suspect you would agree, that New York's local governments, at the frontlines of controlling property tax affordability and ensuring public safety – such as police, fire, code enforcement, roads and drinking water – are integral to achieving those goals. AIM funding from the State was established as financial recognition of this essential role played by municipalities, yet it remains flat once again in the Executive Budget and has not increased in fifteen years. This neglect from the state government has led to rising municipal tax burdens and harmful disinvestment in essential municipal services and staff. Just as annual increases in school aid help school districts control school taxes and provide educational services, municipal governments need and deserve annual increases in state aid to ensure the quality of life of the communities in which our children and grandchildren develop into adults.

In addition, every community has public safety needs and for many local budgets, it is the largest cost driver. If the State truly wants to ensure affordability and public safety for all New Yorkers, now is the time for the State to provide an increase in general purpose aid for all cities, villages and towns. There are dozens of state grant programs for a whole host of reasons – and they are great for some communities, but the majority of our members can't even afford to apply. If you take $200-$300 million from those programs and spread it equitably among local governments – that's a game changer. Furthermore, while the infrastructure funding provided by the State is critically important to local capital programs, it does not help local leaders minimize their reliance on the property tax to support municipal public safety-related programs and services.

Funding for Local Roads and Bridges

The CHIPS Program assists local governments with the cost of construction, reconstruction and improvement of local highways, bridges and highway-railroad crossings. Unfortunately, current levels of CHIPS aid only scratch the surface of addressing local needs. In addition to traditional road and bridge work, local governments are incurring additional costs as a result of the federal ADA requirements to provide curb ramps whenever streets, roads or highways are altered to ensure access to sidewalks or other pedestrian walkways. These required modifications disproportionately impact the more densely populated municipalities – such as cities and villages – that have sidewalks and crosswalks throughout their communities, especially in their downtowns. In fact, some local governments have indicated that the added expense associated with this requirement consumes almost all of their CHIPS allocation.

Therefore, despite the recent increases in state transportation funding for local governments, annual local highway infrastructure needs continue to far outpace the amount of resources currently available. To make matters worse, the Governor has proposed a combined reduction of $100 million to CHIPS and the Touring Routes program. We urge you to restore these cuts and also provide more local transportation funding, especially in light of the increasing costs of materials and labor that localities are currently facing. The CHIPS formula should also be amended to include a density factor to account for the additional expenses necessary to provide for safer streets and to help communities prioritize walkability and multi-modality.

In addition to statewide highway funding, there are currently 37 cities that have arterial maintenance agreements with the State. Under these agreements, the cities maintain certain designated state-owned arterial highways and the State compensates those cities for this service. The reimbursement rate of $.85 per square yard paid to cities for maintenance of state arterial highways has not been increased since 1987. A proposed inflationary adjustment to $2.40 per square yard would provide a much-needed increase for the 37 cities participating in this state-local shared services program and would represent an additional state expenditure of approximately $19.4 million. As cities, along with other local governments, are being forced to do more with less – both in terms of resources and personnel – some may need to walk away from these arterial maintenance agreements without increased reimbursement levels. If the State had to maintain these highways, the fiscal exposure would far exceed the reimbursements that would be paid under this proposal. While many of these cities are receiving assistance through the newly established Touring Routes program, those resources cannot be used to offset the costs associated with maintaining these state arterials.

Formulaic Aid for Municipal Water and Sewer Systems

Arguably the most successful – and popular – state aid program for municipalities is the CHIPS highway aid program. The reasons for its success are simple: (1) CHIPS is tied to an understandable and logical formula (local road and lane miles in a municipality), (2) local officials have been able to rely on the CHIPS appropriation being in each successive state budget, and (3) CHIPS allows for a carryover of a year’s allotment so that municipalities can aggregate their funding for use in conjunction with their road reconstruction plan. Yet a growing frustration at the local level is that the value of CHIPS aid is being diminished by the fact that local governments often do not, on their own, have the fiscal wherewithal to coordinate their road work with the water and sewer work beneath the road that is best done concurrently.

Since 2017-18, the State has provided $4.5 billion in grant money through a variety of programs that are part of the Clean Water Infrastructure Act, some of which help certain cities, villages and other municipal governments address water emergencies, fund infrastructure projects, and facilitate source water protection. NYCOM supports these programs and the Governor's inclusion of another $500 million for this purpose in her Executive Budget (although we object to the proposed allocation being spread out over two fiscal years).

Unfortunately, under this current method, local officials have found that this funding is oftentimes not readily available for upgrades or preventive maintenance. Rather, applicants need to demonstrate an emergency and not simply the need to prevent an emergency. Furthermore, the additional testing and remediation costs associated with the EPA's Lead and Copper Rule will result in an increasing need for water system resources for communities across the State. Without a dedicated funding stream, the fiscal burden associated with these costs will result in our residents footing the bill through increased water and sewer charges.

This is why NYCOM has long supported establishing an annual funding stream that could be used by all cities and villages to supplement both their water and sewer infrastructure preventive maintenance costs, as well as the undertaking of capital projects necessary for the safe and effective operation of their systems. This program should be formula-driven, similar to the CHIPS program, where every municipality would receive an allocation based on the amount of water and sewer pipelines owned and maintained by the municipality. This would provide local governments with a consistent and reliable source of funding for necessary upgrades, preventive maintenance and small-scale capital projects. Communities would be able to quickly repair and replace aging infrastructure, helping to prevent more significant and costly emergencies and repairs. It would also facilitate scheduled capital improvements that would allow for coordination with local road reconstruction projects, saving municipalities both time and money.

Housing

First and foremost, our members thank you for your leadership on the issue of housing growth during the enactment of the 2023-24 state budget, including your responsiveness to the concerns of municipal officials to keep local zoning local. Land use decisions have always been, and must always remain a LOCAL decision. There is nothing more local and democratic than each community in New York making its own decisions – informed by local conditions, including demand, supply, infrastructure capacity, pre-existing growth and residents' opinions – about the planning and zoning policies impacting the future of their community.

We also commend the Governor for taking a new incentive-based approach to housing development as opposed to a one-size-fits-all mandate. NYCOM members are working every day to expand housing opportunities in their communities, and we support the state funding and tax incentives necessary to remove the barriers to housing growth. We believe there is much that can be done to assist local governments in being partners in the pursuit of the housing goals we at the local and state levels all share. While local governments alone can't solve the housing challenges facing New York, there are city and village leaders in all regions of New York who are already doing their part – and want to do much more. We need to build on the Pro-Housing Communities initiative by providing the tools, removing the barriers, and finding the resources to make the State's much-needed housing development a reality.

Illicit Cannabis Sales Enforcement

Since the legalization of adult-use cannabis in 2021, cities and villages have experienced a massive proliferation of illicit cannabis sales that have proved extremely difficult to combat. Neither the State's Office of Cannabis Management nor county district attorneys have been able to stem the tide of the brazen unlicensed sale of cannabis that is currently rampant throughout the State. The Governor's proposed amendments to the NYS Cannabis Law seek to bolster the authority of the Cannabis Control Board, the Office of Cannabis Management, and local governments to combat illegal cannabis sales. Expressly, these amendments would authorize local governments to institute and maintain civil proceedings to obtain orders enjoining the illicit sale of cannabis. In addition, they would expressly authorize local governments to adopt local laws pertaining to unlicensed cannabis sales, giving them the ability to create their own regulatory scheme providing for civil penalties, closure orders, and seizure of illegal cannabis.

NYCOM welcomes the broadening of the authority of cities and villages to enforce illegal cannabis sales. However, these proposals need to be considered in conjunction with the tools that already exist to combat illicit cannabis sales. When the State Legislature enacted the MRTA in 2021, it created a new Article 222 of the Penal Law, which defined the criminal possession and sale of cannabis. Notwithstanding the numerous reports of individuals engaging in cannabis sales that violate various sections of Article 222 of the Penal Law, there is no record of any prosecution for the illegal sale of cannabis. It is not clear why the illicit sales that have been occurring during the past three years are not being prosecuted. The State should study the lack of enforcement of Article 222 to determine whether the law needs to be amended to be enforceable or whether other non-legal issues need to be addressed to allow district attorneys to use Article 222 to deter the illicit sale of cannabis.

Finally, as the Governor is proposing to amend the cannabis potency tax, the State should also amend Tax Law § 493 to remove the requirement that tax revenue resulting from cannabis sales occurring within village boundaries be shared with the town in which the village is located. Towns are not required to share cannabis sales tax with the villages within their boundaries or with neighboring towns. Cities are not required to share cannabis sales tax with the surrounding towns and villages. It is irrational and inequitable that villages are required to share cannabis sales tax with the town, particularly when it is the villages alone that are shouldering the cost and burden of hosting the cannabis dispensaries.

Mental Health, Homelessness and Addiction Issues

The interrelated issues of mental health, homelessness and addiction are impacting lives in every community in New York and the Executive Budget goes a long way in trying to address the State's mental health crisis. Proposals to increase the number of inpatient beds and improve mental health resources demonstrate that the Governor understands the critical need to address this issue. But while the State delegates "social services" to county governments as a Monday through Friday, 9 to 5 function, the immediate and quality-of-life challenges created by these crises are often outside of that time frame and largely left to cities and villages -- and their police departments who aren't trained to deal with the issues -- to address. Our members are hiring social workers and embedding them within their police departments and "street teams" in order to respond to this 24/7 challenge. However, state funding for these services largely goes to county governments. This is no longer a county-only responsibility so funding to cities and other frontline municipalities is essential.

Regarding the addiction epidemic, the state response of locating addiction treatment centers is often being done without notifying or receiving input from the host communities – resulting in terrible quality of life and economic impacts. Drug treatment centers, when placed improperly and with no local input, attract illegal elements (e.g., drug dealers, prostitutes) who exploit people with addictions and disrupt daily life and commerce in the surrounding blocks and neighborhoods. The addiction, mental health, and homelessness crises that are plaguing our citizens and our communities must be addressed with a coordinated and comprehensive state-local program that includes a seat at the policy-making table for host municipalities.

Emergency Medical Services

The Executive Budget would formally declare emergency medical response and emergency medical dispatch as an “essential service,” which is a key component of NYCOM’s 2024 Legislative Program. In addition, every county individually, or in collaboration with other local partners, would be required to develop a plan to ensure that emergency medical response exists within the county. The proposal would also give counties the authority to, individually or with other local governments, create ambulance districts and the Department of Health would be required to establish minimum standards for the delivery of emergency medical response.

NYCOM applauds Governor Hochul for taking steps to address the EMS crisis that currently exists in the State. By declaring emergency medical response and dispatch (EMS) an essential service it places EMS on the same level as police and fire protection. Currently, these services are provided by a patchwork of public, private, and not-for-profit entities, and oftentimes there is often a lack of coordination between providers. In some parts of the State, long response times are at dangerous levels putting the public at risk. By elevating EMS to the status of an essential service we believe that it will give this profession the attention it needs and deserves. In addition, NYCOM supports state and local coordination of EMS response in order to ensure all

New Yorkers have access to emergency medical services when needed. However, a coordinated plan alone will not be enough to address the current crisis. Financial resources are critical to help recruit and retain the personnel needed to serve on the front lines. Therefore, we ask that the Governor and the State Legislature create a dedicated funding stream to consistently support EMS statewide. NYCOM also supports many of the initiatives that are part of the recently announced “Rescue EMS” package that will further strengthen and stabilize local emergency medical services.

***In Rem* Tax Enforcement**

The U.S. Supreme Court’s decision in *Tyler v. Hennepin County* on May 25, 2023, is forcing the State of New York to amend its delinquent real property tax enforcement process. Since the summer of 2023, NYCOM has been working with other stakeholders, including the New York State Association of Counties, the New York State Association of Towns, and the New York Land Bank Association to craft an amendment to the Real Property Tax Law that will comply with the *Tyler* holding while at the same time allow communities to avoid rampant real estate speculation that has proven extremely destructive to New York’s cities and villages since the 1950s. To that end, Governor Hochul’s proposed amendment to the delinquent real property tax enforcement process is an excellent start to addressing this issue. It would establish a process whereby surplus monies resulting from delinquent property tax enforcement will be remitted to individuals and entities with an interest in the property. NYCOM believes that with a few essential changes, this proposal will establish a *Tyler*-compliant process that protects the interests of the State’s cities and villages.

Notwithstanding the strengths of the Governor’s *in rem* tax enforcement proposal, it is worth noting that NYCOM has serious concerns regarding other amendments to the State’s delinquent tax enforcement that have been proposed in standalone legislation. Specifically, proposals to exempt certain classes of individuals from delinquent property tax enforcement and to lower the interest rate on delinquent real property taxes would incentivize the non-payment of real property taxes, contributing to property neglect and blight and seriously impairing municipal finances. If enacted, such proposals would shift the burden of funding municipal services and infrastructure onto the taxpaying members of the community. NYCOM encourages the

Legislature to work with the Governor to expand the Homeowner Protection Program to cover individuals who are delinquent on their real property taxes.

Additional Initiatives to Assist Local Governments

Packaging Producer Responsibility – One proposal that was noticeably absent from the Executive Budget was packaging producer responsibility. At the same time that the global market for recycled paper products has shifted, customers have become more reliant on internet shopping and home deliveries, which has created more packaging waste than ever before. Due to increased recycling costs, local governments must either increase collection fees or dramatically reduce the types of materials they collect. Redirecting a variety of material out of the waste stream will help reduce municipal expenditures and prevent more unnecessary material from being landfilled. NYCOM urges the State Legislature to include in the enacted budget a packaging producer responsibility program (such as A.5322-A, by Assemblywoman Glick and S. 4246-A, by Senator Harckham) that reduces consumer packaging, improves recycling outcomes, addresses toxins in packaging, and supports municipal waste management and recycling systems.

Municipal Depository Options – Another proposal that would provide relief to local governments is the expansion of municipal depository options. Currently, only commercial banks and trust companies are allowed to accept municipal deposits. Authorizing local governments to also use credit unions for their banking allows them to take advantage of the best available interest rates without increasing their investment risk. Additionally, not only can credit unions often offer a better rate of return, they are 100% locally-owned, not-for-profit institutions, which means the money they take in remains within the local community. Furthermore, municipalities in rural and economically diverse areas will likely be better served by credit unions and other financial institutions, since commercial banks are not always in a location convenient to the municipality that is depositing funds. This issue has only been exacerbated by the many bank mergers – and more recently, the banking failures – that have taken place, not only adding to the inconvenience but also leaving municipalities with fewer and fewer local depository options. Finally, it is worth noting that the original law governing municipal depositories was enacted in 1909, long before credit unions even existed –

and in 2021 credit unions were given the ability to receive state funds to provide lower-interest small business loans.

Municipal officials need as much flexibility as possible to assist them in their efforts to balance their tight budgets while keeping property taxes down. Expanding depository options for municipalities will not only help in this regard but will foster local economies as well.

Conclusion

Cities and villages are doing all that they can to control spending while maintaining essential services, but the fiscal path they are on – with insufficient state support – is unsustainable. As the growth in sales tax begins to subside, the ARPA money has gone away, and the cost of labor and materials continues to rise, New York's local governments need the funding, the tools and a genuine commitment from the State to help break down the barriers to efficiency and community revitalization. We urge you to be partners in reversing these trends and making our cities, villages and our State strong again. NYCOM stands ready to assist you in that critically important effort.