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MEMORANDUM

TO: NYSPPFA

FROM: Hinman Straub Advisors, LLC

RE: Overview of the FY 2023 Executive State Budget

DATE: January 19, 2022

Governor Kathy Hochul delivered her FY 2023 Executive Budget address on Tuesday, January 18 in a presentation offered virtually from the State Capitol in Albany. Her proposed budget of \$216.3 billion stands in stark contrast to a year ago, when New York had faced some of the largest projected budget deficits in state history.

Governor Hochul projects budget surpluses and adding to rainy day reserves over the next several years. The Governor credited funding from the federal American Rescue Plan and a strong stock market and rising tax receipts for the state's now-robust finances.

We are continuing to review the Executive Budget in its entirety. Please let us know if you would like additional information or the bill language on a specific budget item.

Key proposals included within this document from the FY 2023 Executive Budget include:

- Emergency Medical Services ("EMS") Proposals
- Banking & Housing
- Taxes & Revenue
- Environment & Energy
- Transportation, Infrastructure & Economic Development
- Labor, Workforce & Public Protection

I. Emergency Medical Services ("EMS") Proposals

The Executive Budget proposes a series of amendments to Article 30 of the Public Health Law to reform the delivery of EMS services. Specifically, the Executive Budget seeks to:

- Streamline Advising and Reporting of the State Emergency Medical Services Council (“SEMSCO”) and Regional Emergency Medical Service Council (“REMSCO”): The Executive Budget would require SEMSCO to advise the Commissioner of Health on: EMS related issues, specialty care, designated facility care, and disaster medical care, and assist with statewide coordination of such issues. The proposal would also require each REMSCO to advise SEMSCO on those same issues, and to assist with regional coordination.
- Create an EMS Quality and Sustainability Assurance Program: The Executive Budget authorizes the establishment of a Program to be followed by EMS agencies. Standards and requirements of the Program may include, among others, clinical standards and competencies, quality metrics, safety standards, EMS vehicle operator standards, and minimum requirements for quality and sustainability assurance. Through the Program, EMS agencies would be required to perform regular and periodic review of quality and sustainability program metrics. The proposal further provides that EMS agencies that do not meet Program standards and requirements may be subject to enforcement actions.
- Establish a Statewide Comprehensive EMS Plan: The DOH, in consultation with SEMSCO, would be required to develop a Plan intended to establish a comprehensive EMS statewide system that incorporates facilities, transportation, workforce, and communications, and improves availability of high quality EMS service.
- Develop an EMS Systems Training Program: The DOH would be required to develop a training program, and, in consultation with SEMSCO, develop educational standards and curricula.
- Amend the Definition of EMS: The Executive Budget proposes to amend the definition of EMS to include new modalities in EMS service delivery, including immunizations and paramedicine.

II. Banking & Housing

Linked Deposit Program Expansion (TED, Part BB)

The Governor’s proposal amends the state finance law to include Community Development Financial Institutions (CDFIs) as eligible borrowers under the Excelsior Linked Deposit program and allow CDFIs to make loans to small businesses.

Make Local Sales Tax Rate Authorizations Permanent (REV, Pat U)

The Governor’s proposal makes permanent the authority for counties to impose an additional rate of sales and use taxes up to 1% and would authorize cities to impose their current additional rates of sales and use taxes, while eliminating the need for approval via the state legislature. Counties and cities would still have to adopt local resolutions every 2 years to impose the additional rate and it would still require state approval for any increases above their current authorized additional rate.

Expand the Financial Institution Data Management Program (REV, Part X)

The Governor’s proposal expands the definition of “financial institution” for the Financial Institution Data Management program to include virtual currency businesses licensed by DFS. This expansion allows Tax and Finance’s vendor for the Financial Institution Data Management Program (FIDM) to conduct outreach to the virtual currency businesses licensed and therefore

include said virtual currency businesses into the FIDM program. This will allow Tax and Finance to determine if any virtual currency businesses have tax liabilities within the state.

Small Business Seed Funding Grant Program (TED, Part CC)

The Governor's proposal provides funding to micro and small businesses incorporated and licensed or registered in New York State; have between \$5,000 and \$1 million in gross receipts or expenses of at least \$10,000 and started operations on or after March 1, 2019. Grants will be provided through Empire State Development.

Provide a Homeowner Tax Rebate Credit (REV, Part BB)

The Governor's proposal creates a Homeowner Tax Rebate Credit issued to income-eligible homeowners that own and reside in Basic or Enhanced STAR property.

For Basic STAR exemptions or credits:

- Income not over \$75,000, the credit is 163% of 2021 STAR savings outside of NYC and 125% within NYC
- Income between \$75,000 and \$150,000, the credit is 115% of 2021 STAR savings outside of NYC and 115% within NYC
- Income between \$150,000 and \$200,000, the credit is 66% of 2021 STAR savings outside of NYC and 105% within NYC
- Income between \$200,000 and \$250,000, the credit is 18% of 2021 STAR savings outside of NYC and 100% within NYC

For Enhanced STAR exemptions or credits, the credit is 66% of 2021 STAR savings outside of NYC and 110% within NYC

Five-Year, \$25 billion Comprehensive Housing Plan

The Governor's proposal advances a new \$25 billion, five-year Housing Plan to create and preserve 100,000 affordable homes, including 10,000 homes with support services for vulnerable populations, and electrify an additional 50,000 homes as part of the State's plan to electrify one million homes and make another one million electrification ready.

Funding includes \$5.7 billion in capital resources, \$8.8 billion in State and Federal tax credits and other federal allocations, \$11 billion to support the operation of shelters and supportive housing units and to provide rental subsidies. The plan expands on existing State programs and creates new ones, including the following:

- Supportive Housing. \$1.5 billion for the construction of 7,000 supportive housing units and rehabilitation of 3,000 supportive housing units throughout the State, toward the creation of 20,000 units over 15 years;
- Multi-Family New Construction. \$1 billion for new construction or adaptive reuse of rental housing affordable to households that earn up to 60 percent of area median income (AMI);

- Senior Housing. \$300 million for developing or rehabilitating affordable housing targeted to low-income seniors, aged 60 and above;
- Middle-Income Housing. \$90 million for new construction, adaptive reuse, or reconstruction of rental housing affordable to households that earn between 60 and 130 percent of AMI;
- Community Investment Fund. \$80 million for mixed-use affordable housing developments that may include retail, commercial or community development components;
- Public Housing Preservation. \$150 million for substantial or moderate rehabilitation and/or the demolition and replacement through new construction of public housing authority developments outside of New York City;
- Multi-Family Preservation. \$450 million for substantial or moderate rehabilitation of affordable multi-family rental housing currently under a regulatory agreement;
- Mitchell-Lama Preservation. \$120 million to preserve and improve Mitchell-Lama properties throughout the State;
- Small Building Rehab. \$60 million for rehabilitation and/or the demolition and replacement through new construction of buildings of 5 to 40 units;
- Accessory Dwelling Units. \$85 million for the creation or rehabilitation of Accessory Dwelling Units (ADUs), including backyard cottages, attics, garages, and basements;
- Manufactured Homes. \$20 million for mobile and manufactured home programs;
- Homeownership Programs. \$400 million for promoting home ownership among families of low and moderate income and stimulating the development, stabilization, and preservation of New York communities. This includes a \$50 million pilot for affordable homeownership opportunities that prioritize resident control;
- Electrification. \$250 million to weatherize and electrify New York's housing stock, including through all-electric, high-performance equipment for heating and air-conditioning, alternative energy sources, and other energy-efficient best practices.

\$2 Billion to Protect Renters

The Governor's proposal continues support for the federally funded Emergency Rental Assistance Program (ERAP). In 2021, ERAP paid or obligated more than \$2 billion for rental arrears, temporary rental assistance, and utility arrears, and the State continues to request additional federal funds to support this program. Additionally, OTDA is administering State funded programs totaling \$250 million for renters who do not meet the income criteria of ERAP and landlords whose tenants have left their rental property or who are unwilling to apply for ERAP.

Homeowner Assistance Fund (HAF)

The Governor's proposal continues support for the \$540 million federally funded program that provides direct financial support to homeowners at risk of default, foreclosure, or displacement as a result of a financial hardship caused by the COVID-19 pandemic.

Fair Housing Testing

The Governor's proposal provides \$2 million for fair housing testing and education throughout the State, including in counties not previously served by local fair housing organizations. Under

such programs, people pose as prospective renters, borrowers, or patrons to identify unlawful housing discrimination.

Homeowner Protection Program (HOPP)

The Governor's proposal provides \$20 million for HOPP, which offers homeownership counseling, assistance with applying for a mortgage modification, and direct representation in court proceedings and settlement conferences.

Legal Representation for Eviction

The Governor's proposal provides \$35 million for the Eviction Prevention Legal Assistance Program, which will offer free legal assistance to renters who currently cannot afford counsel in eviction proceedings outside of New York City, where services are already available. Renters facing eviction with incomes at or below 200 percent of the Federal poverty line will be supported by local legal service providers.

Authorize Mortgage Insurance Fund Utilization (ELFA, Part Z)

The Governor's proposal provides utilization of \$39.8 million projected to be available in the Mortgage Insurance Fund (MIF) excess balance and/or reserves for:

- Neighborhood and Rural Preservation Programs (\$18.2 million), which support community-based housing corporations across the state that provide various housing related services for low- and moderate-income populations; and
- The Rural Rental Assistance Program (\$21.6 million), which supports rental subsidies for low-income and elderly and family tenants residing in federally-funded multifamily projects in rural areas of the State.

Permit the Creation of Accessory Dwelling Units - ADUs (ELFA, Part AA)

The Governor's proposal requires local governments to:

- authorize the creation of at least 1 ADU per residential lot and
- provide reasonable standards for structural requirements for ADUs

Improve Access to Housing for People with Prior Conviction Records (ELFA, Part BB)

The Governor's proposal makes it unlawful for housing providers to automatically reject applicants to housing on the basis of an individual's prior criminal convictions.

Amend New York City's Floor-Area Ratio Limit on Residential Density (ELFA, Part CC)

The Governor's proposal amends the current limit on the maximum density of residential floor area ratio (FAR) in New York City at 12.0 and provides the City the autonomy to allow for denser residential development where appropriate, and allowing for the creation of more dwelling units.

Facilitate the Conversion of Hotel and Commercial Space into Residential Housing (ELFA, Part DD)

The Governor's proposal authorizes Class B hotels in or near a residentially-zoned district in New York City to convert their units into permanent residences without the need to change their certificates of occupancy, and authorize certain commercial office buildings in New York City to be converted into Class A multiple dwellings. According to the Governor, the converted units would need to be under a regulatory agreement with the Department of Housing and

Community Renewal (DHCR) or another agency, and the residential units in hotels would be subject to Rent Stabilization.

Encourage Transit-Oriented Development of Housing (ELFA, Part EE)

The Governor's proposal prohibits cities, towns, and villages from taking action that prohibits housing with density of at least 25 units per acre on any land where residential construction and occupation is already permitted, or effectively prohibiting such housing through excessive restrictions on height, setbacks, floor-area ratio, and other requirements. According to the Governor, these provisions would apply to any city, town, or village with residential zoning within a half mile of a bus transportation center or Metro North, Long Island Railroad, Port Authority, or New Jersey Transit station within 60 miles of New York City.

Reform the Use of Credit Checks in Tenant Screenings for Housing (ELFA, Part FF)

The Governor's proposal prohibits housing providers from automatically rejecting applicants based on negative credit history or poor credit in certain situations. According to the Governor, it would require housing providers to assess if an applicant is able to show that they have paid their rent on time, that they receive rental subsidies, that the applicant's negative credit history or poor credit score is solely the result of outstanding student loans or medical debt, or that it is a direct result of domestic, dating violence, sexual assault or stalking.

III. Taxes & Revenue

Accelerate the Middle-Class Tax Cut (REV, Part A)

The Governor's proposal accelerates the middle-class tax cuts to take effect in tax year 2023. Households making \$43,000-\$161,000 and individuals making \$20,000-\$80,000 will have their tax rate lowered from 6.09% to 5.97%. For households making \$160,000-\$323,000 and individuals making \$80,000-\$215,000, the tax rate will be lowered from 6.41% to 6.33%.

Enhances Tax Credits for Farmers (REV, Part B)

The Governor's proposal increases the farm workforce retention credit from \$600 to \$1,200 per eligible employee and extends the credit through 2025.

Provide Small Business Tax Relief (REV, Part C)

The Governor's proposal increases the small business subtraction modification for taxpayers from 5% to 15% of the net business or net farm income. The bill also expands the definition of a small business to include LLCs, partnerships or New York S corporations that is not a farm and employs one or more people with a gross business income of less than \$1.5 million.

Create a Tax Exemption for Student Loan Forgiveness Awards (REV, Part D)

The Governor's proposal excludes certain HESC student loan forgiveness awards from New York State income tax.

Create a Tax Credit for Small Business COVID-19 Related Expenses (REV, Part E)

The Governor's proposal provides a refundable credit to small businesses with \$2.5 million or less of gross receipts that incurred capital costs between January 2021 and December 2022 to comply with public health or other emergency orders related to the COVID-19 pandemic.

Businesses are eligible for a credit of 50% of their qualifying costs, up to \$25,000. The program is capped at \$250 million.

Extend the New York City Musical and Theatrical Production Tax Credit (REV, Part F)

The Governor's proposal extends the \$3 million per production cap to productions who have their first performance prior to January 2023; extend the initial application deadline to June 30, 2023; and increase the cap on the program to \$200 million.

Extend and Enhance the Hire-A-Vet Tax Credit for Three Years (REV, Part H)

The Governor's proposal extends the Hire-A-Vet tax credit through tax years beginning before January 2026 for veterans who begin employment before January 2025. The bill also includes Space Force veterans, eliminates the requirement that they be discharged after September 11, 2001 and increases the credit to 15% of the wages paid to the hired veteran. In addition, the cap is increased to \$15,000 for full time veterans and \$7,500 for part time veterans.

Provide Tax Credits for the Phase Out of a Certain Grade of Fuel Oil (REV, Part I)

The Governor's proposal creates a new Grade No. 6 Heating Oil Conversion Tax Credit equal to 50% of the conversion costs paid during January 1, 2022 and before July 1, 2023, not to exceed \$500,000 per municipality.

Increase the State Low-Income Housing Tax Credit Aggregate Cap Growth (REV, Part J)

The Governor's proposal increases the aggregate dollar amount for the low income housing tax credit by \$7 million for 2022-2025.

Extend the Clean Heating Fuel Tax Credit for Three Years (REV, Part K)

The Governor's proposal extends the \$.01 per percent of bio-heating fuel (not to exceed 20 cents per gallon) for purchasing bio-heating fuel for residential purposes until January 2026.

Extend the Tax Credit for Companies who Provide Transportation to Individuals with Disabilities an Additional Six Years (REV, Part L)

The Governor's proposal extends \$10,000 per vehicle credit available to businesses that incur costs for upgrading or purchasing taxicab or livery vehicles that are assessable to individuals with disabilities through 2028.

Extend the Film Tax Credit for Three Years (REV, Part M)

The Governor's proposal extends the Empire State film production and post-production credits through January 2030. In addition, the bill requires after 2023, recipients of the tax credit contribute ½ of 1% to the Empire State Entertainment Diversity Job Training Development Fund. The current rate is ¼ of 1%.

Extend the New York Youth Jobs Program Tax Credit for an Additional Five Years (REV, Part N)

The Governor's proposal extends the credit for employers that employ at-risk youth through December 31, 2027.

Extend the Empire State Apprenticeship Tax Credit for an Additional Five Years (REV, Part O)

The Governor's proposal extends the tax credit for hiring new qualified apprentices through 2027.

Extend the Alternative Fuels and Electric Vehicle Recharging Property Credit for Five Years (REV, Part P)

The Governor's proposal extends this credit through December 31, 2027.

Extend the Workers with Disabilities Tax Credit for Six Years (REV, Part Q)

The Governor's proposal extends the tax credit for employers that hire workers with disabilities through January 1, 2029.

Require S-Corporation Conformity with Federal Return (REV, Part R)

The Governor's proposal amends the tax law to provide that all federal subchapter S corporations are treated as subchapter S corporations in New York State tax law.

Eliminate the Investment Tax Credit for Production of Master Tapes (REV, Part S)

The Governor's proposal excludes eligible property used in the production or duplication of a master or any visual or audio recording including films, television shows or commercials used under the investment tax credit.

Exempt Certain Water Vessels from the Petroleum Business Tax (REV, Part T)

The Governor's proposal exempts motor fuel, diesel motor fuel or residual petroleum products used by tugboats and towboats.

Modernize Tax Law to Include the Vacation Rental Industry (REV, Part V)

The Governor's proposal clarifies that sales tax is imposed on vacation rentals in New York State; includes bungalows and cabins within the collected tax; and includes vacation rentals in the imposition of the \$1,50 NYC hotel unit fee. Further, the bill requires the vacation rental marketplace providers (Airbnb, VRBO) to collect the sales tax, instead of the owners or renters.

Streamline the Withholding Table and Quarterly Interest Rate Publication Process (REV, Part W)

The Governor's proposal streamlines notice of tax withholding requirements that must be posted for employers to deduct and withhold employee wages each calendar year. This bill requires that the state publish quarterly interest rates on the Tax Department's website and provide subsequent publication of notice of rates in the State Register in order to conform with the timeframe provided by the availability of federal rates.

Enact STAR Administrative Reforms (REV, Part Z)

The Governor's proposal amends the STAR Exemption and Credit programs in a number of ways:

- Allows the state to send the refund check directly to the homeowner instead of requiring localities to correct tax bills
- Allows taxpayers to switch from the STAR exemption to the credit up until the 45th day before the filing deadline

- Clarifies “income tax year”
- Allows the state to share lists of STAR recipients with other states to address potential fraud
- Allows the state to share lists of decedents with assessors to update records accordingly
- Establishes a mechanism for executors or heirs to notify officials upon a property owner’s death

Authorize Casino Licenses (REV, Part CC)

The Governor’s proposal authorizes the Gaming Commission to issue an RFA to ultimately award up to three licenses in New York State, including downstate New York (Zone One).

Extend Authorized Use of Capital Funds by Certain Off-Track Betting Corporations for One Year (REV, Part DD)

The Governor’s proposal extends the allowance of Capital OTB to use 23% of its capital acquisition fund (up to \$440,000) towards payroll and other expenditures through 2023.

Extend Pari-Mutuel Tax Rates and Simulcast Provisions for One Year (REV, Part EE)

The Governor’s proposal extends a number of provisions under the Racing, Pari-Mutuel Wagering and Breeding Law for one year.

IV. Environment & Energy

Clean Water, Clean Air, and Green Jobs Environmental Bond Act (TED, Part NN, OO)

The Governor’s proposal includes a \$4 billion “Clean Water, Clean Air, and Green Jobs Environmental Bond Act.” The bond act would support capital improvements and enhancements in the following areas: flood risk reduction/restorations; open space, working lands conservation, and recreation; climate change mitigation; and water quality improvement and resilient infrastructure. The bond act would go before voters as a ballot measure during the November 2022 general election.

Clean Water Infrastructure (CAP, p.273)

The Governor’s proposal includes \$500 million to support additional investments in clean water projects throughout the State. This is the fourth installment of a commitment to provide an additional \$2.5 billion in support over five years for drinking water infrastructure, wastewater infrastructure, and water quality protection, bringing the State’s current clean water investment total to \$4.5 billion.

Environmental Protection Fund (CAP, p. 118)

The Governor’s proposal includes \$400 million for the Environmental Protection Fund (EPF), a \$100 million increase and the highest level in the program’s history. The EPF provides funding for environmental programs such as land acquisition, farmland protection, invasive species prevention and eradication, enhanced recreational access, water quality improvement, and environmental justice.

Brownfield Cleanup Program (TED, Part LL)

There are changes to the Brownfield Cleanup Program proposed in the budget. The application sunset date is extended by five years due to continued program demand. The program would also expand to provide new categories of eligibility for tangible property credits, to incentivize cleanups in disadvantaged communities. The budget also establishes a program fee that would be deposited into the Hazardous Waste Remediation Fund to support the program.

Extended Producer Responsibility (TED, Part RR)

The Governor's proposal includes provisions to create an extended producer responsibility program for packaging and paper products. Producers would be required to develop and implement a program for the collection and recycling of packaging and paper products.

Reduce Toxics in Packaging (TED, Part SS)

The Governor's proposal contains a proposal to amend an existing hazardous packaging statute in the Environmental Conservation Law to restrict lead, cadmium, hexavalent chromium, per- and polyfluoroalkyl substances (PFAS), and phthalates in packaging.

MTA Utility Relocation (TED, Part K)

The Governor's proposal adds a new subdivision to §1266 of the Public Authorities Law to require utility companies and the city of New York to relocate or reinforce pipes, mains, conduit, and other infrastructure for any project in connection with the improvement, construction, reconstruction or rehabilitation of a transportation facility or a transit facility. The required work has to be performed within specific timeframes as decided by the MTA in consultation with the utility. MTA designs are required to be reviewed and approval by the utility cannot be unreasonably withheld. The proposal also provides that utilities cannot require betterments or any work beyond what is required to meet current standards.

The prior Executive Budget included a similar, though more robust, proposal. Last year's Executive Budget included language requiring utilities to bear the costs incurred by the MTA for any design or construction work they performed. The legislature rejected the prior year's proposal.

Gas Service (TED, Part CCC)

The Governor's proposal authorizes the Public Service Commission (PSC) to disallow gas corporations from covering the costs of the first 100 feet of infrastructure between a natural gas main and a building requesting gas service. The proposal provides a carve-out for circumstances where electrification would be impractical.

The proposal would also provide the PSC with the ability to allow gas and electric corporations to own geothermal energy facilities and the ability to charge customers for geothermal service provides.

Allow Hospitals to Benefit from Services Provided by the New York Power Authority (TED, Part DDD)

The Governor's proposal authorizes the New York Power Authority (NYPA) to finance and design, develop, construct, implement, provide and administer energy related projects, programs and services for general hospitals in the state. Currently, unless a general hospital is a government entity or a NYPA power customer, it is not eligible to access NYPA energy services.

Authorizes NYSERDA to Finance certain programs from an Assessment on Gas and Electric Corporations (TED, Part AAA)

The Governor's proposal authorizes NYSERDA to continue to receive funds from a special assessment on gas and electric corporations for expenditures related to the energy research, development and demonstration program, local grants, the energy policy and planning program, and the Fuel NY program. This legislation also provides for the continued support of the Department of Environmental Conservation's (DEC's) climate change office and the University of Rochester's Laboratory for Laser Energetics.

Authorizes the use of Utility and Cable Television Assessments for Public Health Campaigns (TED, Part BBB)

The Governor's proposal authorizes the use of utility and cable television assessments for use in various public health campaigns or utility oversight functions. Last year's Enacted Budget provided similar authorizations.

Authorizes NYPA Captive Insurance (TED, Part ZZ)

The Governor's proposal authorizes NYPA to create a captive insurance company to manage risks that are not insurable on the commercial market or are cost prohibitive to do so.

Achieve 100% Electrification of School Buses by 2035 (ELFA, Part B)

The Governor's proposal requires the purchase and use of zero emission buses. The proposal also allows for charging stations and hydrogen pumps to be aidable capital expenses under Transportation Aid. The proposal would also allow for the leasing of zero emissions buses for periods of up to ten years. Diesel buses are currently only allowed five year lease agreements.

Tax Credits for the Phase Out of a Certain Grade Fuel Oil (REV, Part I)

Beginning July 1, 2023, the use of grade 6 fuel oil will be prohibited in all buildings in the state. The Executive Budget proposes to provide a refundable tax credit for some of the cost for converting from grade 6 fuel equipment to biodiesel or geothermal heating units.

Solar and Wind Valuation Program Amendments (REV, Part AA)

The Governor's proposal clarifies how a property owner of a renewable energy system, with a nameplate capacity of 1 megawatt or more, can contest an assessment of the property by the local taxing jurisdiction. The State requires very specific valuation models be applied to these type of energy systems, and local assessors have no capacity to make judgements. This proposal provides that local assessors can only be asked to review the information they provide to the valuation. The property owner must specifically identify errors in the input by the local assessors. Grievances can be filed with the Board of Assessment Review. All other actions must be taken up in an Article 78 proceeding against the Tax Department.

Extend and Amend Telecommunications Assessment Ceiling Program (REV, Part Y)

The Governor's proposal extends the telecommunications assessment ceiling program for through 2027. The assessment ceiling was first implemented in 2013 and provides that telecommunication utility mass real property tax liability is subject to a ceiling set by the State. Localities can tax in an amount not to exceed the ceiling set by the State. Local governments are not burdened by the need to assess the complicated property and reduce local risk in tax

certiorari proceedings. The proposal makes some amendments to the current program, including by allowing local taxing jurisdictions to consolidate a challenge - where it complies with the state ceiling - with the overall challenge to the state's ceiling, unburdening local governments.

ConnectALL Initiative (TED, Part JJ)

The Governor's proposal creates the ConnectALL initiative which invests in New York's digital infrastructure, transforming it so all New Yorkers have affordable, reliable broadband statewide. TED Part JJ is part of the overall initiative and it would exempt projects deploying fiber-optic cable in the State right-of-way under the ConnectALL Initiative from the Department of Transportation use and occupancy fees.

NYPA Broadband Technology and Infrastructure (TED, Part FFF)

The Governor's proposal allows NYPA to lease or dispose of broadband technologies or infrastructure to other instrumentalities of the state in an effort to help with broadband buildout.

Suspend Subsidy to Revolving Loan Fund from Cell Surcharge Revenue (PPGG, Part G)

The Governor's proposal extends for two years the existing suspension of the annual transfer of \$1.5 million from the Public Safety Communications Account to the Emergency Services Revolving Loan Fund. The revolving fund has sufficient funds currently and no transfer is currently needed.

V. Transportation, Infrastructure & Economic Development

Department of Transportation

The Governor's proposal provides \$6.7 billion for the first year of a record \$32.8 billion, five-year DOT Capital Plan that will facilitate the improvement of highways, bridges, rail, aviation infrastructure, non-MTA transit, and DOT facilities. Compared to the last five-year DOT Capital Plan, this is an increase of \$9.4 billion, or 40 percent.

The Executive Budget continues and expands the State's record commitments to funding local highway and bridge projects. Funding for the Consolidated Highway Improvement Program (CHIPS) and the Marchiselli program is maintained at last year's level of \$577.8 million. The budget provides \$100M for the new Pave Our Potholes program, \$150 in highway aid through the PAVE NY program and \$200 million to fund the local projects from the BRIDGE NY programs. These programs are further improving conditions on State and local roads and bridges.

MTA & Other Transit

The MTA remains committed to its Capital Program. The MTA's \$52 billion 2020-2024 Capital Program represents the largest investment in MTA infrastructure in state history, about 70 percent larger than the previous program. The program will revitalize the subway system and prioritize improving signal technology, increasing accessibility, improving quality of life issues, ensuring investment in the Long Island Rail Road (LIRR) and Metro North Railroad, and upgrading bus service. The MTA will receive \$6.6 billion in State operating aid in FY 2023, including resources collected by the State and sent directly to the MTA without appropriation. On-budget MTA assistance will increase over 24 percent, from \$3.1 billion to over \$3.8 billion.

Upstate transit systems are slated to receive \$261 million, representing at least a 13 percent increase per system and downstate systems will receive \$471 million, representing a 36 percent increase per system.

Highway Safety SLOW Act (TED, Part A)

The Governor's proposal imposes tougher penalties for offenses committed against highway and transportation workers and for drivers who cause injury to pedestrians or bicyclists.

Increase to the CHIPS Bidding Threshold (TED, Part B)

The Governor's proposal increases the current threshold for utilizing in-house forces from \$350,000 to \$750,000 in completing street or highway projects.

Increase to the Maximum Grant Award under the Airport Improvement and Revitalization Program (TED, Part C)

The Governor's proposal increases the maximum grant award under the Airport Improvement and Revitalization Program from \$2.5 million to \$5 million.

Authorizes Entry to Lands Adjacent to State Highways for Safety Purposes (TED, Part D)

The Governor's proposal allows DOT to authorize entry onto lands adjacent to a state highway on a temporary basis to perform emergency repairs as a result of storm damage or retaining wall or drainage structure failure.

Electronic Bid Submissions for Thruway Authority Contracts (TED, Part F)

The Governor's proposal clarifies that sealed proposals submitted by a bidder include electronically secure proposal submissions and allows for the electronically submitted bids to be electronically posted for public view.

Increase the Threshold for Thruway Authority Procurement Contracts (TED, Part G)

The Governor's proposal changes the value of a "procurement contract" from \$15,000 to \$50,000.

Increase MTA Design-Build Threshold (TED, Part H)

The Governor's proposal increases the threshold for mandatory use of design-build contracting for MTA projects from \$25 million to \$200 million for new construction or \$400 million for rehabilitation or replacement of existing assets.

MTA Procurement Reform (TED, Part I)

The Governor's proposal:

- Allows MTA and NYC Transit Authority (NYCTA) to increase the threshold for discretionary procurements to Minority and Women Owned Business Enterprises (MWBEs) and Service-Disabled Veteran-Owned Businesses (SDVOBs) and small businesses from \$1 million to \$1.5 million
- Allows MTA and NYCTA to shorten the time between advertisements for bids and the bid due date from 15 days to 10 days (except public works contracts)
- Permits MTA and NYCTA to use existing government agency contracts
- Allows MTA and NYCTA to review its Qualified Products List once per year

MTA Tax Increment Financing Extender (TED, Part J)

The Governor's proposal extends through April 1, 2032 the authority of municipalities within the Metropolitan Commuter Transportation District to work with the MTA to establish mass transportation capital project districts in connection with alternative funding arrangements for capital projects.

MTA Worker Assault and Harassment (TED, Part L)

The Governor's proposal makes it a felony to attack and physically injure transit workers and creates a new crime of aggravated harassment of a transit worker.

Traffic Enforcement for MTA Bus Operations (TED, Part M)

The Governor's proposal expands the authorization for automated enforcement cameras for violations of NYC traffic rules related to bus operations.

Toll Violation Enforcement (TED, Part N)

The Governor's proposal makes the intentional use of a toll facility without payment a theft-of-services crime; increases the fine for operating a vehicle with an obscured license plate; restricts vehicle registration transactions for vehicles with suspended registrations for failure to pay tolls; suspends registration of vehicles with three or more toll violations over a five-year period.

Extends New York State Internet Point and Insurance Reduction Program (TED, Part O)

The Governor's proposal extends the IPIRP program through April 1, 2024.

Extend the Authorization of Revenues to and Costs from the Dedicated Highway and Bridge Trust Fund (TED, Part P)

The Governor's proposal extends various motor vehicle transaction fees.

I Love NY Waterways Vessel Access Account (TED, Part WW)

The Governor's proposal repeals the surcharge associated with the vessel registration fee.

Extend the Infrastructure Investment Act (TED, Part AA)

The Governor's proposal extends the authorization of certain state entities to utilize design-build contracts for capital projects through December 31, 2027.

Authorizes DASNY to Provide Services to Not-For Profit Corporations (TED, Part EE)

The Governor's proposal would expand DASNY's ability to service not-for-profit corporations for capital infrastructure projects costing less than \$5 million.

Expand Prequalification Program to include DASNY (TED, Part FF)

The Governor's proposal authorizes DASNY to establish a prequalification program to create efficiencies in the selection of construction resources.

Authorize DASNY for the New York State Downtown Revitalization Initiative Program (TED, Part GG)

The Governor's proposal authorizes DASNY to finance and construct facilities within New York's Downtown Revitalization Initiative.

Authorize State Authorities to Utilize DASNY (TED, Part HH)

The Governor's proposal authorizes DASNY to provide its design and construction services to state public authorities that are public benefit corporations created by state law and that have at least one board member appointed by the Governor.

Emergency Contracts Extender (PPGG, Part J)

The Governor's proposal extends the authority for the Office of General Services (OGS) to perform emergency construction without competitive bidding. This authorization expires in June 2022, and this bill would extend the authorization for five years to June 30, 2027.

Regional Economic Development Councils – 12th Round (Capital Projects, p. 866 and Briefing Book p. 71)

The Governor's proposal includes capital and tax-credit funding that will be combined with existing agency programs for a twelfth round of REDC awards. The core funding includes \$225 million in grants and tax credits to fund high value regional priority projects. The Executive Budget also includes significant resources for a package of workforce development initiatives (up to \$350 million) and downtown and community revitalization initiatives (up to \$450 million) that will be coordinated with REDC-driven economic development strategies where appropriate.

Downtown Revitalization (Capital Projects, p. 527 and Briefing Book, p. 71)

The Governor's proposal includes \$100 million for another round of the Downtown Revitalization Initiative to be disbursed in 10 different \$10 million dollar awards. Participating communities are nominated by the State's 10 REDCs based on the downtown's potential for transformation. Each winning community is awarded funding to develop a downtown strategic investment plan and implement key catalytic projects that advance the community's vision for revitalization.

New York Forward (Capital Projects, p. 527 and Briefing Book, p. 71)

The Governor's proposal includes \$100 million for a new program called New York Forward. The New York Forward program is similar to the Downtown Revitalization Initiative (DRI), but, for smaller communities like hamlets and villages, and will operate in the same fashion as the DRI.

Restore New York Communities Program (Capital Projects, p. 866-867 and Briefing Book, p. 72)

The Governor's proposal reconstitutes the Restore New York Communities Program which was originally established in FY 2006-2007 Budget and supported municipal efforts to demolish, deconstruct, rehabilitate, or reconstruct vacant, abandoned, condemned, or surplus properties. Funding for the program ceased in 2017. The Executive Budget proposal includes \$250 million for a revitalized Restore New York program.

Regional Economic Community Assistance Program (Capital Projects, p. 867 and Briefing Book, p. 72)

The Governor's proposal includes \$800 million to foster commercial and workforce development, tourism promotion, and community and urban revitalization, particularly in historically disadvantaged communities.

New York Works Economic Development Fund (Capital Projects, p. 866 and Briefing Book p. 27)

The Governor’s proposal allocates \$200 million in New York Works capital funding to the Office of Parks, Recreation and Historic Preservation in order to continue the State’s investment in critical infrastructure projects.

Olympic Regional Development Authority (ORDA) Capital Improvements (Capital Projects, p. 499 and Briefing Book, p. 73)

The Governor’s proposal includes \$105 million in new capital funding for ORDA, including \$92.5 million for a strategic upgrade and modernization plan to support improvements to the Olympic facilities and ski resorts with a focus on preparations for the 2023 World University Games, \$10 million for critical maintenance and energy efficiency upgrades, and \$2.5 million appropriated from the Office of Parks, Recreation and Historic Preservation budget as part of the New York Works initiative.

VI. Labor, Workforce & Public Protection

State Workforce:

There are an estimated 184,195 annual-salaried, full-time equivalent (FTE) positions within the 59 Executive agencies, the State University of New York (SUNY), the City University of New York (CUNY), and the Offices of the Attorney General and the State Comptroller. The assumed level of the workforce under the direct control of the Executive is approximately 118,673 (64.5%).

Expanding the State Workforce

State Workforce Category	Year End Actual 3/31/2019	Year End Actual 3/31/2020	Year End Actual 3/31/2021	Year End Estimate 3/31/2022	Year End Estimate 3/31/2023	Change
Subject to Direct Executive Control	117,967	118,193	111,230	117,648	118,645	997
University Systems	60,396	61,023	58,853	60,043	60,932	889
Independently Elected Agencies	4,436	4,499	4,476	4,539	4,590	51
Grand Total	182,799	183,715	175,559	182,238	184,167	1,937

The State has collective negotiating agreements in place with most of the State unions through FY 2023, including the recently settled agreement with the Public Employees Federation (PEF), and continues to negotiate in good faith with the unsettled unions for successor agreements.

All Governmental Funds spending is projected to increase by \$322 million (3.1 percent):

- NYSHIP - The increase is reflective of medical inflation, including the potential for increased utilization following the height of the pandemic.
- Pensions - The decrease is reflective of the State Comptroller's material actuarial adjustments within the New York State and Local Retirement System which have resulted in a significant reduction in the FY 2023 employer contribution rates. This is primarily the result of the Comptroller resetting the valuation of assets following the Common Retirement Fund's record-level of investment earnings in FY 2021.
- Social Security Payroll Tax - The reduction reflects the Judiciary's accelerated repayment of the deferral of the employer-share of the payroll tax authorized by the CARES Act.
- All Other - Workers' Compensation, other fringe benefits and fixed costs reflect wage and property tax increases, and current spending trends.

Additional Budget Items:

Healthcare and Mental Hygiene Worker Retentions Bonuses

The Governor's proposal includes a retention program, which will provide up to \$3,000 bonuses to full-time workers who remain in their positions for one year, and pro-rated bonuses for those working fewer hours.

Expansion of the Statutory Shift Pay Differential

The Executive Budget advances legislation to improve staffing of hard-to fill shifts within the State's institutional settings, including healthcare settings, by authorizing the provision of the shift pay differential for any work shift which it is deemed necessary to incentivize employees to work.

Make Civil Service Exams More Accessible

New Department of Civil Service (DCS) testing centers will be established at the designated SUNY college campuses throughout the state to make it easier for students to enter into New York State service upon graduation.

Promote Diverse Hiring

To help state agencies hire the best and brightest as quickly as possible, the Budget proposes legislation to change Civil Service Law to accelerate the hiring of qualified diverse candidates to public service careers and streamline hiring practices.

Improve Civil Service Exam Quality

DCS will expand efforts to ensure that civil service exams are maintaining the highest standards of integrity and equity.

A New Fellowship Program

The Executive Budget will expand the tech talent pipeline by increasing exposure to technical roles in government service through a new fellowship program intended to provide graduates, including those historically under-represented in technology, the opportunity to enter public service two years right out of school.

Digital Swat Team

A new Digital Swat Team program will offer mid-career technologists the opportunity to spend an 18-month stint in government, working to accelerate the State's ability to deliver quality digital services for New Yorkers.

Office of the Chief Disability Officer (CDO)

This new CDO will address the multiple factors preventing more people with disabilities from finding meaningful employment.

Commit New York State Government to Becoming a Model Employer

The Executive Budget will charge DCS with working with other State agencies to improve the Civil Service 55-b-/c programs, which authorize the State to designate up to 1,200 positions in the non-competitive class to be filled by qualified people with disabilities and up to 500 positions to be filled by qualified wartime veterans with disabilities.

Commission on Prosecutorial Misconduct Conduct (CPC)

This new commission will investigate complaints and make recommendations that a prosecutor should be removed and transmit its findings of fact and recommendations to the Appellate Division. The Commission consists of 11 members appointed by the Governor, Legislature and the Chief Judge of the Court of Appeals. The FY 2023 Executive Budget provides \$1.75 million to support the CPC, including \$1.35 million for staff \$400,000 for other costs to create the office.

Waive the Income Cap for Retired Teachers and School Workers

The Governor's proposal will incentivize retired teachers and other school workers to rejoin the workforce by temporarily waiving the \$35,000 income limit for retirees. This cap serves as a disincentive to return to work, and thousands of educational professionals have left the workforce during the pandemic.

Provide Gender "X" Options at All Public-Facing State Agencies (TED, Part R)

The Governor's proposal requires all state agencies that collect data on gender to update applicable documents to provide a gender "X" option for individuals filling out data identifying their gender or sex.

A State Agency May Share Records to Facilitate Automating Student Loan Debt Forgiveness for New York State Employees (TED, Part S)

The Governor's proposal adds a new section of law to state that a state agency may share records to officers or employees of the US Department of Education to process credit for qualifying employment and loan forgiveness under the Public Service Loan Forgiveness Program.

Labor & Workforce:

Private Sector Employment for Incarcerated Persons (PPGG, Part BB)

The Governor's proposal seeks to amend the state constitution to allow public-private partnerships that enable hybrid work release programs within correctional facilities. According to the Governor, by allowing these public-private partnerships, this bill would create private-sector engagements that provide critical job skills to incarcerated individuals, resulting in more successful re-entry and expanded job opportunities.

Allow Public Accounting Firms to Have Minority Ownership by Individuals Who Are Not Certified Public Accountants (ELFA, Part K)

The Governor's proposal permits public accounting firms to incorporate in New York State with minority ownership by individuals who are not Certified Public Accountants, provided the words "Certified Public Accountant" or the abbreviation "CPA" is excluded from the firm's name.

Ban Non-Compete and No-Poach Agreements (ELFA, Part V)

The Governor's proposal bans certain non-compete and no-poach agreements. The bill adds a new section, "Restrictions on Employment," to the Labor Law, which would prohibit non-compete agreements for any employee or prospective employee earning less than the median wage in New York State. According to the Governor, it will also prohibit employers from "seeking, requiring, demanding, or accepting a non-compete agreement from any employee earning above the median wage unless the agreement can meet certain requirements limiting its application and ensuring protections for the employee."

Increase Criminal Penalties for Wage Theft (ELFA, Part W)

The Governor's proposal amends the Labor Law to increase criminal penalties for employers who knowingly engage in wage theft. The severity of the criminal penalty would correspond to the specified amounts of wage theft per employee.

Reducing Barriers to Occupational Licensing in the Appearance Enhancement Industry (TED, Part W)

The Governor's proposal allows the Department of State to establish a new salon assistant license; creates a traineeship license; and repeals the license requirements for natural hair braiders.

Extension of the Entertainment Subsidy (TED, Part T)

The Governor's proposal extends the assistance demonstration project for displaced workers for another year.

Public Protection:

Make Permanent Criminal Justice Discovery Compensation (PPGG, Part A)

The Governor's proposal will permanently allow the Criminal Justice Discovery Compensation Fund to continue supporting expenses related to digital evidence transmission technology. It would also make permanent additional reporting requirements related to pre-criminal proceeding settlement receipts and disbursements.

Gender-Affirming Treatment of Incarcerated Individuals (PPGG, Part B)

The Governor's proposal will allow incarcerated individuals who have a gender identity that differs from their assigned sex at birth, have a diagnosis of gender dysphoria, who identify as transgender, gender nonconforming, or nonbinary, or who are intersex to be placed in appropriate state and local correctional facilities in a manner aligned with their gender identities.

Expand Educational Release and Furlough Eligibility (PPGG, Part C)

The Governor’s proposal expands the criteria of the limited time credit allowance to include incarcerated persons who participate in one year of college programming while in general confinement followed by six months of college programming. The bill also expands the eligibility of the furlough program by including incarcerated individuals serving sentences for crimes eligible under the limited time credit allowance if they have participated in at least one year of college programming while in general confinement and are presently successfully participating in college programming through educational leave.

Eliminate DOCCS Parole Supervision Fees (PPGG, Part D)

The Governor’s proposal repeals the requirement for parolees to pay the \$30.00 per month supervision fee.

Facilitate Access to ID Cards and Other Vital Records to Enhance (PPGG, Part E)

The Governor’s proposal authorizes the Department of Corrections and Community Supervision (DOCCS) to obtain a certified birth certificate or transcript of birth on behalf of an incarcerated individual for the purpose of providing State identification upon release. According to the Governor, incarcerated individuals often struggle to provide the documents needed to obtain a Department of Motor Vehicle (DMV) Non-Driver ID card.

Establishes Employment for Parole Board Members is full-time (PPGG, Part F)

The Governor’s proposal establishes that Parole Board members are now full-time positions, which would prohibit outside employment to further increase the board’s capacity.

Establish the Gender-Based Violence Training Institute (PPGG, Part H)

The Governor’s proposal creates a Gender-Based Violence Training Institute (GBVTI) within the Office for the Prevention of Domestic Violence (OPDV). According to the Governor, OPDV will develop the GBVTI in consultation with relevant, culturally-responsive community-based organizations and statewide advocacy organizations. OPDV will create a mandatory 40-hour training certification for domestic violence advocates, offer train-the-trainer certification, and offer ongoing continuing education opportunities to ensure that New York’s domestic violence services system is trauma-informed, survivor-centered, and culturally responsive.

Expand Benefits for Victims of Hate Crimes and Other Acts of Violence by Increasing the Cap for the Replacement of Essential Personal Property (PPGG, Part I)

The Governor’s proposal removes the word “welfare” in the definition of “essential personal property” and increase the cap on losses of EPP from \$500 to \$2,500.

Prohibit Discrimination Against Domestic Violence Victims in All Jurisdictional Areas (ELFA, Part X)

The Governor’s proposal expands protections for victims of domestic violence, by adding “status as a victim of domestic violence” as a protected class in the remaining jurisdictional areas including public accommodations, private and publicly assisted housing, education, and credit.

What happens next? Under New York’s budget-making process, the Governor develops and proposes to the Legislature a comprehensive and balanced budget proposal – the FY 2023

Executive Budget proposal issued January 18. The Governor also has up to 30 days to amend her budget proposal.

Over the next several weeks, the Assembly and Senate will conduct joint hearings on the proposal – by agency and issue area - and negotiations with the Governor usually commence thereafter. These hearings will begin on Tuesday, January 25.

The 2007 Budget Reform Act mandated the use of conference committees as part of the legislative budget process. These committees work to facilitate agreement on a budget plan between the two houses. The Assembly and Senate ultimately develop joint recommendations, amend the Governor's proposed bills to reflect their priorities, and pass the amended bills. If the Governor does not agree with the Legislature's changes to her proposal, she may exercise her veto authority.

The FY 2023 budget year begins April 1, 2022.