



121 STATE STREET
ALBANY, NEW YORK 12207-1693
TEL: 518-436-0751
FAX: 518-436-4751

MEMORANDUM

TO: NYSPPFA

FROM: Hinman Straub Advisors, LLC

RE: Overview of the FY 2023 Enacted State Budget

DATE: April 11, 2022

Governor Kathy Hochul announced a budget agreement on April 7, and the Senate and Assembly completed voting on the ten separate budget bills in the early morning on Saturday, April 9, completing the FY 2023 New York State Enacted Budget. The impacts of the COVID-19 pandemic and the state's response to it are represented throughout the new budget plan, which at \$220 billion is the largest in state history.

Some major initiatives within the state budget include: the authorization of the sale of alcoholic beverages for take-out or delivery; funding for the construction of a new stadium for the Buffalo Bills; the authorization to award three new casino licenses; the temporary suspension of sales taxes on motor fuels; a \$7 billion, four-year program to expand child care; cost of living adjustments for human service providers; and, bonus payments to front line health care workers.

The 2023 New York State Budget includes \$750,000 in funds "for services and expenses associated with the New York State Professional Fire Fighters Association (NYSPPFA)." This was the culmination of a multi-year effort in engaging the legislature to secure state assistance for NYSPPFA.

The budget also authorizes authorities that have control of a fire department or fire company, which provides emergency medical services to establish fees and charges for services. This provision is very similar to standalone legislation that has been introduced in New York for several years (S.7186-A Brooks/A.534-B Jones).

Finally, the state budget included two minimal changes to the state's pension system:

1. Reduces the vesting timeframe from 10 years of service credit to 5 years of service credit for Tier 5 and Tier 6 members.
2. Excludes overtime pay from the annual base wages used to determine the variable member contribution rate (3% to 6%) for Tier 6 members during the period of April 1, 2022 to April 1, 2024. For this timeframe, base wages will include regular pay, shift

differential pay, location pay, and any increased hiring rate pay, but shall not include any overtime payments.

Additional budget items delineated below include:

- Revenue & Taxes
- Environment & Energy
- Economic Development
- Banking & Housing
- Labor, Workforce & Public Protection
- Transportation & Infrastructure

I. Revenue & Taxes

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

The Enacted Budget 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%.

The Enacted Budget also updates the state's tax table benefit recapture provisions for tax years 2021 and 2022 to correspond with the new rates.

Enhances Tax Credits for Farmers (REV, Part B)

The Enacted Budget increases the farm workforce retention credit from \$600 to \$1,200 per eligible employee and extends the credit through 2026 and increases the investment tax credit and personal income tax credit to 20% of investment for farmers. This part also creates the farm employer overtime credit.

Provide Small Business Tax Relief (REV, Part C)

The Enacted Budget 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 Enacted Budget 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 Enacted Budget 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 Enacted Budget 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.

Establish a Permanent Rate for the Article 9-A MTA Surcharge (REV, Part G)

This Executive proposal was intentionally omitted from the final budget.

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

The Enacted Budget 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, \$20,000 for disabled veterans and \$10,000 for part time veterans.

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

The Enacted Budget 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 Enacted Budget 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 Enacted Budget 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 Enacted Budget 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. In addition, the credit is increased to \$15,000 per electric vehicle.

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

The Enacted Budget extends the Empire State film production and post-production credits through January 2029. 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 Enacted Budget 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 Enacted Budget extends the tax credit for hiring new qualified apprentices through 2028.

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

The Enacted Budget extends this credit through December 31, 2025.

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

The Enacted Budget 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)

This Executive proposal was intentionally omitted from the final budget. See Part MM below.

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

This Executive proposal was intentionally omitted from the final budget.

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

The Enacted Budget exempts motor fuel, diesel motor fuel or residual petroleum products used by tugboats and towboats.

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

This Executive proposal was intentionally omitted from the final budget.

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

This Executive proposal was intentionally omitted from the final budget.

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

The Enacted Budget 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.

Extend and Amend the Telecommunications Assessment Ceiling Program for Four Years (REV, Part Y)

The Enacted Budget extends the telecommunications-ceiling program to create a standardized, state-level process for determining the taxable assessed value of telecommunications mass property through 2027.

Enact STAR Administrative Reforms (REV, Part Z)

The Enacted Budget 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
- 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

Solar and Wind Valuation Program Technical Corrections (REV, Part AA)

The Enacted Budget addresses the current void where property owners with 1 megawatt of solar or wind energy systems wish to challenge state-modeled valuations imposed by local assessors. Currently the only action for relief is via an Article 78 proceeding against the Tax Department. This bill amends the structure by: requiring the assessor to provide the property owner a copy of the inputs used in the model, upon request; the property owner may specifically identify the errors to those inputs; the assessor may choose to make changes based on the request of the property owner.

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

The Enacted Budget 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

Authorize Casino Licenses (REV, Part CC)

This Executive proposal was intentionally omitted from the final budget and replaced with a similar proposal (ELFA, Part RR).

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

The Enacted Budget 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 Enacted Budget extends a number of provisions under the Racing, Pari-Mutuel Wagering and Breeding Law for one year (2023).

Establish a Geothermal Energy Systems Credit (REV, Part FF)

The Enacted Budget includes a 25% credit (not to exceed \$5,000) for expenditures related to residential geothermal energy systems. Geothermal energy system will be defined by the state and must be “a ground coupled solar thermal system that utilizes the solar thermal energy stored

in the ground or in bodies of water to produce heat, and which is commonly known as or referred to as a ground sources heat pump system.”

Extend Sales Tax Exemption for Certain Food and Drink Vending Machines (REV, Part GG)

The Enacted Budget extends the exemption through May 1, 2023.

Creation or Expansion of Childcare Centers in New York City (REV, Part HH)

The Enacted Budget includes a real property tax abatement for the construction, conversion, alteration or improvement of buildings related to the creation or expansion of childcare centers in New York City. The amount of the abatement is capped at \$35 per square foot or \$100,000.

Establish a Tax Credit for Child Care in New York City (REV, Part II)

The Enacted budget creates a credit against business income taxes for the creation or expansion childcare programs in New York City.

Amend the Earned Income Tax Credit in New York City (REV, Part JJ)

The Enacted Budget amends the earned income tax credit rate for New York City ranging from 10% to 30% based on income.

Create the Additional Restaurant Return-to-Work Credit (REV, Part KK)

The Enacted Budget creates an additional restaurant return to work credit equal to \$5,000 for each full time employee increase above ten, but not to exceed 20 employees.

Clarify Certain Tax Credit Programs Related to Remote Work Related to COVID-19 (REV, Part LL)

The Enacted Budget clarifies that businesses receiving tax benefits related to requiring remote workers due to COVID-19 are required to certify that the business continued to operate within New York State and that they have not moved their operations out of the state.

Pass-Through Entity Tax (REV, Part MM)

The Enacted Budget amends the tax law related to electing resident and standard S corporations (Subpart A) and establishes a city pass-through entity tax (Subpart B).

Supplemental Empire State Child Credit, Earned Income Tax Credit Payment (REV, Part NN)

The Enacted Budget includes supplemental credits ranging from 50% to 100% of the existing credits based on gross income levels under \$50,000.

Creation of the Empire State Digital Gaming Media Production Credit (REV, Part OO)

The Enacted Budget creates a credit between January 1, 2023 and January 1, 2028 for digital gaming media production entities engaged in qualified digital gaming media production. The amount of money awarded in a given year will be \$5 million. Qualified digital gaming media production includes websites with video animation, audio, graphics; video and interactive games, animation and other graphics software.

Permit Deductions for Commercial Cannabis Activity (REV, Part PP)

The Enacted Budget includes provisions related to 280E of the Internal Revenue Code related to the production and distribution of adult-use cannabis products for calculating net and gross income.

Amend the Racing, Pari-Mutuel Wagering and Breeding law, in Relation to the New York Jockey Injury Compensation Fund, Inc. (Part QQ)

The Enacted Budget extends the use of payments through the Jockey Injury Compensation Fund through 2025.

Suspending the Excise Tax, Prepaid Sales Tax and State Sales Taxes on Motor Fuel and Diesel Motor Fuel (REV, Part RR)

The Enacted Budget eliminates the aforementioned taxes from June 1, 2022 through December 31, 2022. It also requires entities engaged in the sale of motor fuel to reduce the amount charged to consumers in an amount equal to the reduction in taxes resulting from this suspension. The Enacted Budget also allows for localities to elect a cents-per-gallon rate of tax on such fuels based on \$4.

II. Environment & Energy

Brownfield Cleanup Program (TED, Part LL)

The Enacted Budget extends and modifies the Brownfield Cleanup Program to modify the definition of an affordable housing project, authorizes NYSDEC to waive a \$50,000 nonrefundable program fee, and provides new categories of eligibility to incentivize cleanups in disadvantaged communities.

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

The Enacted Budget authorizes a \$4.2 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 new budget specifies the types of projects that bond funding can support, and requires prevailing wage and project labor agreements. The bond act will go before voters as a ballot measure during the November 2022 general election.

Clean Water Infrastructure (CAP, p.164)

The Enacted Budget 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.

Climate Adaption and Mitigation Projects (TED, Part KKK)

The Enacted Budget authorizes Environmental Protection Fund support for land acquisition projects, including flood mitigation and coastal riparian resiliency. Use of these funds for acquiring lands by eminent domain is not permitted.

Environmental Protection Fund (CAP, p. 143)

The Enacted Budget 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.

Freshwater Wetlands Regulation (TED, Part QQ)

The Enacted Budget revises the Freshwater Wetlands Act to enhance identification of freshwater wetlands statewide, and focus conservation efforts on wetlands of significance.

Utility Arrears Program (Aid to Localities pgs. 1053-1055)

The Enacted Budget includes a \$250 million appropriation for the Utility Arrears Relief Program for the reduction of gas and electric utilities arrears for residential customers accumulated during the period of time of March 7th, 2020, through March 1st, 2022. The Department of Public Service (DPS) is required to establish a program, in consultation with the EAP working group, to prioritize the allocation of funds to customers eligible for an energy affordability program. Energy affordability programs include the Commission's Energy Affordability Policy Program, Home Energy Assistance Program, Regular Arrears Supplement Program, and the Emergency Rental Assistance Program. Funds will first be disbursed to the utilities and the municipalities on behalf of residential energy affordability program customers proportionally based on their share of statewide eligible utility arrears. Any remaining amounts will be disbursed to the utilities and the municipalities on behalf of remaining residential customers proportionally based on their share of statewide eligible utility arrears.

Additional ERAP Funds (Aid to Localities pg. 624)

The Enacted Budget includes an additional \$800 million appropriation to supplement the Emergency Rental Assistance Program (ERAP), which provides direct payments to landlords for renters in arrears and tax credits or direct payments to utilities for arrears accrued during the pandemic.

Public Utility Law Project (Aid to Localities pgs. 1146-1147)

The Enacted Budget includes two appropriations for the services and expenses of the Public Utility Law Project (PULP) in the amounts of \$600,000 and \$750,000 respectively.

Department of State's Utility Intervention Unit (State Operations pg. 653)

The Enacted Budget accepts the Executive's proposal to provide an appropriation of \$1,990,000 for the Department of State's Utility Intervention Unit for participation in general ratemaking proceedings or certification proceedings.

Established the Legislative Commission on the Future of LIPA (PPGG, Part JJ)

The Enacted Budget includes a new proposal that would establish the Legislative Commission on the Future of LIPA, the purpose of which is to determine what actions (legislation) are necessary to convert LIPA to a public power model managed and operated by LIPA and to end LIPA's third party management model.

OTDA Home Energy/Utility Assistance (ELFA, Part KK)

The Enacted Budget includes a new proposal that will require the Office of Temporary and Disability Assistance (OTDA) to develop program materials which will be made available to utilities and community agencies for the purpose of informing the public about the availability of existing and new utility assistance programs.

III. Economic Development

Regional Economic Development Councils – 12th Round (Capital Projects, p. 1020)

The Enacted Budget includes an appropriation of \$150 million which will be combined with tax-credit funding and existing agency programs for a twelfth round of REDC awards.

Downtown Revitalization (Capital Projects, p. 628)

The Enacted Budget 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. 628)

The Enacted Budget 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. 1030)

The Enacted Budget 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 Enacted Budget includes a \$250 million appropriation for a revitalized Restore New York program. Article VII changes to the Urban Development Corporation Act will open the program to rural areas in New York in addition the urban areas that were previously covered in the original program.

Regional Economic Community Assistance Program (Capital Projects, p. 1031)

The Enacted Budget 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. 1029)

The Enacted Budget allocates \$320 million in New York Works capital funding in order to continue the State's investment in critical infrastructure projects.

Long Island Investment Fund (Capital Projects, p. 1031)

The Enacted Budget includes an appropriation of \$350 million for projects located within Nassau and Suffolk counties. Funds shall be available for services and expenses, loans, grants, and costs of program administrations related to purposes that may include, but not be limited to, support of manufacturing, agriculture, business parks, community anchor facilities, advanced technology, biotechnology and biomedical facilities, and main street revitalization.

Olympic Regional Development Authority (ORDA) Capital Improvements (Capital Projects, p. 594)

The Enacted Budget includes \$102.5 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.

Database of Deals (TED, Part NNN)

The Enacted Budget includes a new proposal to require Empire State Development (ESDC) to publish a significant amount of data related to economic development benefits of the State, including but not limited to grants, loans, tax credits, reduced tax rates, etc., in a searchable database, which would also contain information about the results of past economic development projects. Other authorities and agencies of the State that provide ESDC with data related to any economic development related incentives offered by such entity.

Buffalo Bills Stadium (ELFA, Part YY)

The Enacted Budget includes a new proposal to authorize the transfer of the Bills Stadium from Erie County to the newly formed Erie County Stadium Corporation, which is a subsidiary of Empire State Development. Additionally, this part establishes that any appropriation and expenditure of funds after January 1, 2022 shall be subject to a contractual agreement between the Erie County Stadium Corporation and the Bills for a minimum of thirty years that would prohibit them from relocating. This agreement would further provide additional clawback provisions if this contract is breached in any way.

Buffalo Bills Stadium (Capital Projects, p. 1032-1033)

The Enacted Budget includes two separate appropriations for the Buffalo Bills stadium deal in the amounts of \$182 million and \$418 million respectively.

Restore New York Program (TED, Part HHH)

The Enacted Budget modifies the Executive's proposal to increase grant amounts awarded to municipalities for the demolition and rehabilitation of vacant, abandoned, surplus or condemned residential properties in urban and rural areas under the Restore New York Program. Includes a provision for increasing the amount of affordable housing units available to low and moderate income households.

Extend the General Loan Powers of the New York State Urban Development Corporation (TED, Part Y)

The Enacted Budget modifies the Executive's proposal to extend the loan powers of the Urban Development Corporation for three years by instead extending the loan powers for one year. This authorization has been renewed annually since 1997.

Extend the Authorization of the New York State Urban Development Corporation to Administer the Empire State Economic Development Fund (TED, Part Z)

The Enacted Budget modifies the Executive's proposal to extend the authorization of UDC to administer the Empire State Economic Development Fund for three additional years by instead

extending the authorization for one year. This authorization has been renewed annually since 2012.

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

The Enacted Budget modifies the Executive's proposal to create a new program to provide seed funding for newly formed micro and small businesses in New York State by making various changes, including the covered time period and making the grant awards from this program available to businesses that did not qualify for the COVID-19 Pandemic Small Business Recovery Grant Program.

IV. Banking & Housing

Linked Deposit Program Expansion (TED, Part BB)

The Enacted Budget 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.

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

The Enacted Budget 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.

Authorize Mortgage Insurance Fund Utilization (ELFA, Part Z)

The Enacted Budget 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.

Private Activity Bond Allocation Act of 2022 (ELFA, Part VV)

The Enacted Budget includes a proposal to enact the Private Activity Bond Allocation Act of 2022, which establishes the allocation of federal tax-exempt private activity bonds between the State and local governments. There are three components: local agency set aside, state agency set aside and a statewide bond reserve. Each component is allocated one third of the statewide bond ceiling. This act would sunset July 1, 2025.

Restore New York Communities Initiative (TED, Part JJJ)

The Enacted Budget increases grant amounts awarded to municipalities for the demolition and rehabilitation of vacant, abandoned, surplus or condemned residential properties in urban and rural areas under the Restore New York Program. This also includes a provision for increasing the amount of affordable housing units available to low and moderate income households.

Department of Financial Services (DFS) Assessments on Virtual Currency Activity (TED, Part III)

The Enacted Budget requires persons who engage in “virtual currency business activity” (persons/organizations that hold a BitLicense) to pay quarterly assessments to DFS to defray the operating expenses of DFS. These operating expenses include DFS making examinations/investigations into licensees or performing special services. Companies that are regulated by DFS under the banking and insurance laws have been paying this assessment since 2012. This proposal would capture persons who hold a BitLicense and engage in virtual business activity.

V. Labor, Workforce & Public Protection

Authorizes the Expansion of the Statutory Shift Pay Differential (PPGG, PART U)

The Enacted Budget expands the shift pay differential by allowing the Director of Classification and Compensation to authorize shift pay for any works shift, including weekend day shifts; eliminating the requirement that an employee be regularly assigned to a specific shift in order to qualify for pay shift differential; and authorizes the shift pay differential rate to include an hourly rate or annual rate.

Enacts reforms related to public service performed during the COVID-19 pandemic (ELFA, PART SS)

The Enacted Budget excludes overtime pay from the annual wages used to determine the variable member contribution rate for Tier 6 members during the period of April 1, 2022 to April 1, 2024.

Enacts reforms related to Tier 5 and Tier 6 (ELFA, PART TT)

The Enacted Budget provides vesting at five years instead of ten years for Tier 5 and Tier 6 members.

Criminal Justice Reforms (ELFA, PART UU)

Subpart A - Strengthening Gun Trafficking Laws

The Enacted Budget decreases the number of firearms that a person must illegally sell within a one-year period to be guilty of Criminal Sale of a Firearm in the First Degree, a class B violent felony, and Criminal Sale of a Firearm in the Second Degree, a class C violent felony.

Subpart B - Bail Eligible Offenses

The Enacted Budget adds the following crimes to the list of bail eligible offenses:

- Criminal Possession of a Weapon in the Third Degree, which prohibits a person from knowingly possessing a machine gun, firearm, rifle or shotgun which has been defaced for the purpose of concealment or prevention of the detection of a crime or misrepresenting the identity of such machine gun, firearm, rifle or shotgun
- Criminal Sale of a Firearm to a Minor

Bail for Repeat Offenses

The Enacted Budget expands the ability for courts to set bail on offenders who commit another offense while a criminal case is pending. The legislation makes the following changes to this provision:

- Judges would now be able to set bail where an offender commits a felony, class A misdemeanor or the offense of Criminal Possession of a Firearm, while released on his or her own recognizance, released under conditions, or has yet to be arraigned after the issuance of a desk appearance ticket.
- The legislation defines “harm to an identifiable person or property” to include, but not be limited to theft of or damage to property.

Offenses Eligible for Arrest

The Enacted Budget authorizes officers to arrest a person charged with the following offenses, rather than being required to issue a desk appearance ticket:

- Criminal Possession of a Weapon on School Grounds, when the offender is eighteen years of age or over;
- An offense charged as a hate crime when the offender is eighteen years of age or over;
- The offense is bail eligible which allows bail to be set on offenders who commit certain types of offenses while released or after having been issued an appearance ticket on a separate offense. The changes to this provision of law within this legislation are discussed under “Bail for Repeat Offenders.”

Subpart C - Factors for Courts to Consider when Making Custody Determination

The Enacted Budget adds additional factors that courts may consider when making a custody determination:

- Any violation by the principal of an order of protection issued by any court;
- The principal’s history and use or possession of a firearm;
- Whether the charge is alleged to have caused serious harm to an individual or group of individuals.

Under current law, violations of orders of protection and a history and use or possession of firearms can only be considered for offenders charged with family offenses.

Subpart D - Certificates of Compliance

The Enacted Budget requires a prosecutor filing a supplemental certificate of compliance with discovery obligations to detail the basis for the delayed disclosure. It also indicates that the filing of a supplemental certificate of compliance does not impact the validity of the original certificate where such certificate was filed in good faith and after exercising due diligence or if the additional discovery being disclosed did not exist at the time of the filing of the original certificate. Further, it requires the party receiving disclosure to notify or alert the disclosing party when they become aware of a potential defect or deficiency related to a certificate of compliance or supplemental certificate of compliance.

Remedies and Sanctions for Non-Compliance

The Enacted Budget specifies that a sanction or remedy imposed by a court for a discovery violation must be appropriate and proportionate to the prejudice suffered by the party entitled to disclosure.

Appeals for Dismissal as a Result of Discovery Violation

The Enacted Budget authorizes the prosecution to appeal a decision of a trial court dismissing an accusatory instrument or some of its counts as a sanction for a discovery violation.

The legislation also includes language that authorizes a defendant charged with a qualifying offense to apply for a change in custody status where the prosecution has brought an appeal challenging the dismissal of one or more counts of the accusatory instrument for a discovery violation.

Discovery for Traffic Infractions and Petty Municipal Code Offenses

The Enacted Budget excepts traffic infractions and petty municipal code offenses that do not carry statutorily authorized incarceration sentences from the automatic disclosure requirements.

Subpart E - Raise the Age Changes

The Enacted Budget provides Family Courts with continued jurisdiction even after the youth is eighteen years of age.

Subpart F - Mental Health in the Criminal Court System

The Enacted Budget includes the following:

- Allows a court to order a voluntary psychiatric assessment as a condition of release where the individual has a history of mental illness or psychiatric hospitalization
- Allows a court to order involuntary assessment pending release where an individual conducts themselves before the court in a manner which, if not mentally ill, would rise to the level of disorderly conduct which is likely to cause immediate serious harm to themselves or others
- Defines clinical records produced in these assessments as being confidential and not part of the public record
- Allows for courts to refer individuals to judicial diversion programs or other appropriate treatment courts where necessary

Subpart G- Data Collection and Reporting Requirements

The Enacted Budget expands the data collection and reporting obligations of the Office of Court Administration and the Division of Criminal Justice Services (DCJS) to include data related to the age of each defendant and, in each case, whether the prosecutor requested that the court fix bail, the amounts and forms of bail requested by the prosecutor, and the forms of bail set by the court.

Subpart H – Kendra’s Law

The Enacted Budget:

- Extends Kendra’s Law for five years, through June 30, 2027
- Adds criteria allowing a court order for an AOT where the individual’s previous AOT has expired within the last six months and that individuals has experienced a substantial increase of symptoms of mental health
- Allows examining physicians to testify via video-conference for court hearings regarding AOT, but only where there have been diligent efforts to testify in person, the subject of

the petition consents to the video-conferencing, and the court ordering the video-conferencing does so upon a finding of good cause

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

The Enacted Budget requires state agencies to collect demographic information about gender or sex to make available to a person at the point of data collection an option to mark their gender or sex as “x.” This proposal also requires the Governor, by January 1, 2025, to publicly post and submit to the Legislature a report listing all of the agencies who are not in compliance and requires the report to be updated annually until all agencies are in compliance.

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

The Enacted Budget 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.

Extension of the Entertainment Subsidy (TED, Part T)

The Enacted Budget extends the assistance demonstration project for displaced workers for another year.

Eliminate DOCCS Parole Supervision Fees (PPGG, Part D)

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

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 Enacted Budget increases the monetary cap on awards for victims from the Office of Victim Services (OVS) for reimbursement for items of essential personal property that were lost, damaged or destroyed as a direct result of a crime. This proposal also includes a requirement that OVS adopt and promulgate rules for the definition of reasonable reimbursement of individual items of essential personal property considered essential and necessary for the victim’s welfare.

Unemployment Insurance Methodology (ELFA, PART JJ)

The Enacted Budget delays the effective date of chapter 277 of the Laws of 2021 (S.1042-A) from April 1, 2022 to April 1, 2023, to change the unemployment insurance payment methodology

from a construct based on the number of days someone works to one that is based on weekly earnings. The intent of the legislation was to allow unemployed workers to work part time and maintain a share of their UI benefits that was proportional to the time that they were out of work during any given week. The legislation was amended pursuant to Chapter 305 of the laws of 2021 to delay implementation until such a time as the Department of Labor could update their system to accommodate the new methodology.

VI. Transportation & Infrastructure

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

The Enacted Budget 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 MTA Design-Build Threshold (TED, Part H)

The Enacted Budget 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 Enacted Budget:

- 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 Enacted Budget extends through April 1, 2023 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.

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

The Enacted Budget 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 Enacted Budget extends various motor vehicle transaction fees.

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

The Enacted Budget repeals the surcharge associated with the vessel registration fee.

Commercial Drivers License Class A Young Adult Training Program (TED, Part GGG)

The Enacted Budget amends Chapter 618 of the Laws of 2021 that established a commercial driver's license (CDL) class A young adult training program for qualified 18, 19, or 20-year-olds by providing the Commissioner of the Department of Motor Vehicles the authority to operate and control said program instead of the Commissioner of the Department of Transportation.

Extend the Infrastructure Investment Act (TED, Part AA)

The Enacted Budget extends the authorization of certain state entities to utilize design-build contracts for capital projects through December 31, 2027. This proposal also adds a project labor agreement (PLA) for all projects with a construction cost of more than \$25 million and requires a PLA feasibility study for any project less than \$25 million. In addition, NYC DCAS is authorized to utilize design build in New York City.

Emergency Contracts Extender (PPGG, Part J)

The Enacted Budget 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, 2025.

MTA Capital Program Transparency (TED, Part LLL)

The Enacted Budget requires the Metropolitan Transportation Authority (MTA) to publish and make easily accessible to the public data related to the capital programs of the Authority, including but not limited to data related to individual projects, including why the project is being done, what the original projected cost was, where the project is located, and the current status of the project.

ConnectALL Initiative (TED, Part JJ)

The Enacted Budget exempts all New NY Broadband Program successor offices' projects from the fiber optic fee.

ConnectALL Initiative (Capital Projects, p. 1030)

The Enacted Budget includes an appropriation of \$300 million for the ConnectALL Initiative for services and expenses, grants, costs of program administration and other contractual obligations, including but not limited to investment in infrastructure to provide high-speed internet access to municipalities, rural broadband deployment, right-of-way access, last-mile and middle-mile support, cellular siting, digital equity, connectivity innovation, local connectivity planning, costs of the office of connectivity and other costs including the payment of liabilities incurred prior to April 1, 2022. Funds appropriated shall also be available to meet match requirements under the Infrastructure Investment and Jobs Act, American Rescue Plan Act, or any other required match to access federal funds.

Broadband Technologies and Infrastructure (TED, PART FFF)

The Enacted Budget authorizes the Power Authority of the State of New York to dispose of excess capacity in its broadband technologies and infrastructure to other instrumentalities of the State to support the State's broadband initiative by requiring that any lease agreements with such entities shall be at a rate no greater than the cost of maintenance.

Working to Implement Reliable and Equitable Deployment of Broadband Act (TED, PART MMM)

The Enacted Budget:

- Creates within the Department of Economic Development a Division of Broadband to among other duties coordinate activities of state agencies, conduct research and analyses, advise and make recommendations to the Commissioner, and establish programs (including grant programs) related to expanding access to high-speed, reliable, and affordable broadband;
- Establishes a Broadband Access and Advisory Committee consisting of 16 members (four appointed members by the Governor, one by each majority leader, and the remainder of the committee to be comprised of the commissioners of various state agencies or their designees);
- Establishes the ConnectALL Deployment Program, ConnectALL Municipal Assistance Program, ConnectALL Innovation Grant Program, and the ConnectALL Digital Equity Grant Program; and
- Subjects State-supported broadband projects to prevailing wage requirements.