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MEMORANDUM

TO: NYSPPFA

FROM: Hinman Straub Advisors, LLC

RE: Overview of the FY 2024 Enacted Budget

DATE: May 3, 2023

Governor Kathy Hochul announced a “conceptual” agreement on a new State Budget on April 27, and Senate and Assembly leaders continued to finalize agreements on various elements of the budget package over the next several days. Negotiations on a budget agreement – due on April 1 – had stalled due to disagreements on several policy issues also included in the Governor’s Executive Budget proposal of February 1.

On May 1, the Senate and Assembly began consideration and passage of the several bills comprising the entire budget, with the remaining bills taken up on May 2. The SFY 2024 State Budget totals \$229 billion, \$2 billion more than the Governor’s original proposal and the largest in state history.

Key items for NYSPPFA:

- An 2nd annual appropriation “for services and expenses associated with the New York State Professional Fire Fighters Association.
- The removal of a provision to pay volunteer fire fighters a “nominal fee” for responding to fires or other emergency calls.
- The inclusion of a strengthened heart presumption law.
- The allowance of members of the NYC Fire Department Pension Fund to obtain service credit for previous EMT service.

Additional items from the FY 2024 Enacted Budget include:

- Revenue
- Environment & Energy
- Transportation & Infrastructure
- Labor, Workforce & Public Protection

- Economic Development

I. Revenue

Provide Authority to Abate Interest for Taxpayers Impacted by Declared Disasters (REV, Part A)

The Enacted Budget authorizes the Department of Taxation and Finance to abate interest charges on the underpayment of tax for those affected by Federal or State declared disasters, regardless of a tax deadline extension.

Clarification of the Treatment of Limited Partners for the Metropolitan Commuter Transportation Mobility Tax (REV, Part B)

The Enacted Budget clarifies the treatment of certain limited partners for the purpose of the definition of “net earnings from self-employment” in the Metropolitan Commuter Transportation Mobility Tax (“MCTMT”). The term “limited partner” is undefined within the IRC or the Tax Law. Individuals who are, in fact, self-employed and actively participating in the management of the partnership, can simply label themselves as “limited partners” on paper to avoid paying the MCTMT. This clarifying amendment would provide that only true limited partners are not subject to the MCTMT.

Modify the Investment Tax Credit for Farmers (REV, Part C)

The Enacted Budget makes the investment tax credit (ITC) fully refundable for eligible farmers for five years, through December 31, 2028, and assist farmers with investments in their agri-enterprises. Additional changes would allow our eligible farmers to receive a much-needed benefit that would enable them to continue to update, modernize, and invest in their farming operations.

Extend and Enhance the Film Tax Credit (REV, Part D)

The Enacted Budget increases the yearly allocation from \$420 million to \$700 million a year; include a capped credit for salaries for writers and directors alongside salaries of union workers (who already included); and restore the credit for qualified expenses from 25% to 30%.

Abatement of Penalties for Underpayment of Estimated Tax by a Corporation (REV, Part E)

The Enacted Budget creates parity between the corporate and personal income tax underpayment penalties by providing the Department of Taxation and Finance (DTF) with the authority to waive or reduce the penalty for underpayment of estimated tax by a corporation for taxpayers impacted by casualty, disaster, or other unusual circumstances.

Extend the Application Deadline for COVID-19 Capital Costs Tax Credit Program (REV, Part F)

The Enacted Budget extends the application deadline for the COVID-19 Capital Costs Tax Credit Program from March 31, 2023 to September 30, 2023 to allow small businesses more time to apply for this tax credit. The COVID-19 Capital Costs Tax Credit Program offers tax credits to small businesses that incurred costs to comply with public health or other emergency orders or regulations related to the COVID-19 pandemic, or to generally increase safety through infectious disease mitigation.

Create a Tax Credit for Child Care Creation and Expansion (REV, Part G)

The Enacted Budget creates a Child Care Creation and Expansion Tax Credit Program (capped at \$25 million annually) which would be available to businesses that create new childcare seats or expand existing childcare to add new childcare seats, directly or through a third party, for the children of their employees.

Create a NYC Biotech Tax Credit (REV, Part H)

The Enacted Budget allows New York City to offer a biotechnology tax credit (a similar program expired in 2019) against the city's general corporation tax, unincorporated business tax, and banking corporation tax for companies that:

- is a qualified emerging technology company engaging in biotechnologies
- has no more than 100 full-time employees (of which at least 75% are employed in the city)
- has a ratio of research and development funds to net sales of at least 6%
- has gross revenues not exceeding \$20 million (including affiliates)
- has annual sales not exceeding \$10 million

Extend Certain Provisions of Tax Law (REV, Part I)

The Enacted Budget extends several provisions of the tax law:

- Extend the current 7.25% business income tax rate for three years, through tax year 2026, for taxpayers with a business income base over \$5 million and extend the current 0.1875% capital base tax rate for three years, through tax year 2026.
- The historic properties rehabilitation credit is currently available for taxable years beginning before January 1, 2025. This would make the credit available for an additional five years, through taxable years beginning before January 1, 2030.
- Extend the Empire State commercial production tax credit for five years, through tax years beginning before January 1, 2029. Statewide, up to \$7 million in credits is available annually through the program.
- Extend the grade no. 6 heating oil conversion tax credit for six months to January 1, 2024.
- Extend the current \$3 million per production cap to theater productions that have their first performance prior to January 1, 2024, and increase the aggregate program to \$300 million. This also ensures that producers make contributions to the New York State Council on the Arts Cultural Program Fund until December 31, 2027. Additionally, this would also extend the application deadline to June 30, 2025, and remove the potential \$1.5 million per production cap.

Make Technical Changes to Tax Law (REV, Part J)

The Enacted Budget makes technical changes to the tax law:

- Removes an expired regulation of the Federal Architecture and Transportation Barriers Compliance Board and correct references to the Federal Motor Vehicle Safety Standards related to tax credits for companies that provide transportation to individuals with disabilities.
- Amends the brownfield redevelopment tax credit to, among other things, allow the site preparation credit component to be claimed for up to seven years from the issuance of the certificate of completion (“CoC”) when the taxpayer was issued a CoC between 7/1/15 and 6/24/21.
- Makes technical corrections to fix an error in the computation of pass-through entity taxable income for the pass-through entity tax (PTET) and the NYC PTET. This correction would require entities include any PTET taxes, or substantially similar taxes paid to other jurisdictions that were paid and deducted in the taxable year for federal income tax purposes, in the computation of their pass-through entity taxable income and city pass-through entity taxable income. This provision also would correct the omission of city resident trusts and estates from participating in NYC PTET where city resident trusts and/or estates are shareholders of S-corporations or partnerships.

Simplify and Modernize the Senior Citizens Real Property Tax Exemption (REV, Part K)

The Enacted Budget simplifies income eligibility for the Senior Citizens Exemption by adapting it to the income threshold used for the STAR exemption.

Extend the Oil and Gas Fee (REV, Part L)

The Enacted Budget extends the expiration date for the schedule of fees to recover the cost of setting unit of production values for the oil and gas industry through March 31, 2027.

Return Foreclosure Excess to Property Owners (REV, Part M)

The Enacted Budget Intentionally Omits this Part.

Clarification of the Wind and Solar Valuation Model (REV, Part N)

The Enacted Budget amends current law related to the appraisal model for solar and wind energy systems to clarify that the adoption of the solar and wind energy system appraisal model is not subject to the State Administrative Procedure Act (SAPA). Tax and Finance is currently in pending litigation brought by several municipalities that the appraisal model did not follow SAPA. This would clarify that Tax and Finance is required to comply with necessary notice and public comment requirements, but not SAPA. This would also allow the use of the 2022 appraisal model in 2023 without the need to once again engage in a notice and public comment period.

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

The Enacted Budget Intentionally Omits this Part.

Eliminate the Congestion Surcharge Registration Requirements (REV, Part P)

The Enacted Budget removes the congestion surcharge registration requirement and determined there is no longer a business need for such requirement.

Amend Motor Fuel Reporting Designation (REV, Part Q)

The Enacted Budget requires distributors of motor fuel and diesel motor fuel to collect, report, and remit taxes to Tax and Finance on every gallon of fuel sold including the additional gallons realized due to temperature fluctuations. According to the Governor's Executive Budget, motor fuel and diesel motor fuel volume expands in warmer temperatures and contracts in colder temperatures. This change in volume can vary anywhere from 2% to 10%. There has been an industry trend where distributors report a higher number of gallons sold than were imported. When this happens, the distributor collects additional tax on the fuel at the time of sale but does not remit that additional tax.

Extend and Limit the Vending Machine Sales Tax Exemption to Business Enterprise Program Vendors for One Year (REV, Part R)

The Enacted Budget extends the existing sales tax exemption for certain food and drink purchased from vending machines through May 31, 2024.

Increase the State Excise Tax on Cigarettes (REV, Part S)

The Enacted Budget increases the excise tax rate on package of 20 cigarettes sold in New York State from \$4.35 to \$5.35. This would also increase the existing use tax rate on cigarettes by the same amount.

Revoke Cigarette and Tobacco Taxes Certificate of Registration for Inspection Refusal (REV, Part T)

The Enacted Budget provides that a retail dealer who refuses an inspection would be subject to a one-year suspension of its certificate of registration to sell cigarettes and tobacco products. For a second such refusal within five years, or a third violation within seven years, the retail dealer's certificate of registration would be revoked for ten years. This would also establish penalties for inspection refusal for those who do not possess a valid registration because it never obtained one or because its registration was suspended or revoked at the time of refusal. This would set a penalty of up to \$4,000 for the first refusal and up to \$8,000 for a second refusal within three years.

Extend Reduced Transfer Tax Rates for Qualifying REITs for Three Years (REV, Part U)

The Enacted Budget extends through September 1, 2026 both the New York State and New York City real estate transfer taxes for real estate investment trusts (REITs).

Allow Department of Tax and Finance the Right to Appeal Tax Appeals Tribunal Decisions (REV, Part V)

The Enacted Budget allows Tax and Finance the right to appeal adverse Tax Appeals Tribunal decisions. Currently a taxpayer may appeal an adverse decision of the Tribunal to a court, Tax and Finance cannot. This would allow DTF to petition the Appellate Division, Third Department, for review of Tax Appeals Tribunal decisions, as taxpayers can do now.

Technical Correction to the Deposit Timeframe (REV, Part W)

The Enacted Budget clarifies that monies deposited by Tax and Finance must be deposited within three business days, instead of calendar days.

Authorize a Franchised Corporation’s Payment Structure to Fund the Belmont Redevelopment Project (REV, Part X)

The Enacted Budget funds the \$455 million redevelopment of Belmont Park and cease racing at Aqueduct. The entire renovation project is expected within 3 years and upon completion, “within thirty days after the substantial completion of the Belmont project, an Aqueduct Redevelopment Community Advisory Board will be formed to assess all bids made in response to the request for proposals on developing the Aqueduct property.”

Eliminate Quick Draw Restrictions (REV, Part Y)

The Enacted Budget Intentionally Omits this Part.

Relates to the Operation of Off-Track Betting Corporations (REV, Part Z)

The Enacted Budget Intentionally Omits this Part.

Extend Authorized Use of Capital Funds by a Certain Off-track Betting Corporation for One Year (REV, Part AA)

The Enacted Budget Intentionally Omits this Part.

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

The Enacted Budget extends various expiring provisions throughout the Racing, Pari-Mutuel Wagering and Breeding law for another year.

Require State S Corporation Conformity with Federal Return (REV, Part CC)

The Enacted Budget Intentionally Omits this Part.

Liability of a Person who Presents False Claims for Money or Property (REV, Part DD)

The Enacted Budget closes a loophole in the False Claims Act that prohibits actions being taken against companies that knowingly fail to pay taxes by not filing tax returns. This provision was initially included in the Senate’s one house budget proposal.

Repeal Transferability of the Investment Tax Credit (REV, Part EE)

The Enacted Budget repeals a portion of 210-B of the tax law.

Production Tax Credits for Cider, Wine, and Liquor (REV, Part FF)

The Enacted Budget enhances the Alcoholic Beverage Production Tax Credit amounts for cider, wine, and liquor with the intent to provide parity to the various small producers of these New York State beverages. This provision was initially included in the Assembly’s one house budget proposal.

Establishing a Permanent Rate for the MTA Business Tax Surcharge (REV, Part GG)

The Enacted Budget sets the corporate franchise tax MTA surcharge to 30% of for income within the MCTD. New York’s 2014 tax reform legislation previously authorized the Commissioner of Taxation and Finance to determine the rate of the surcharge so as to meet state financial projections.

II. Energy & Environment

EmPower Plus Program – Capital Projects, pg. 139

The Enacted Budget includes \$200 million for services and expenses, loans, grants, and other costs related to clean energy projects, including but not limited to the NYSERDA's new EmPower Plus Program for low-income energy efficiency, heating and cooling, health and safety and other related energy improvements and expenses.

Energy Affordability Program – Aid to Localities, pg. 1189

The Enacted Budget includes \$200 million for assistance to customers of utility affordability programs as advanced by the energy affordability policy working group, for residential customers that do not currently qualify for the energy affordability policy program but whose income is below the state median income.

Next Generation 911 – Aid to Localities, pg. 992

The Enacted Budget includes a \$20 million for services and expenses related to the creation and operation of a fiberoptic cable-based network for public safety answering point centers, to be distributed pursuant to a plan developed by the commissioner of homeland security and emergency services and approved by the director of the budget, as proposed in the Executive Budget.

Environmental Protection Fund (S.4004-C/A.3004-D, p.143)

The Enacted Budget includes \$400 million for the Environmental Protection Fund (EPF), which 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.

New York Works (S.4004-C/A.3004-D, p.159)

The Enacted Budget includes \$90 million for the New York Works statewide capital infrastructure program, plus \$20 million in New York Works funding for construction at the Conklingville Dam. New York Works funding is used to improve access to State lands, rehabilitate campgrounds, a repair and rehabilitate dams, and upgrade DEC recreational facilities. Funding is also used for air monitoring infrastructure, remediating environmental contamination information technology, and repairs and maintenance of state infrastructure, state lands, and fish hatcheries.

Clean Water Infrastructure (S.4004-C/A.3004-D, p.164)

A \$500 million appropriation is included in the Enacted Budget to support additional investments in clean water projects throughout the State. This appropriation is the fifth installment of a five-year \$2.5 billion program for drinking water and wastewater infrastructure, and water quality protection (Clean Water Infrastructure Act of 2017).

Lead Service Line Replacement (S.4008-C/A.3008-C, Part UU/p.35)

New York is to receive \$115 million annually for the next five years in federal funding to inventory and replace lead service lines in public water systems. The new budget authorizes localities to access low-cost financing through the Environmental Facilities Corporation to satisfy loan requirements of the federal funding.

Authorizes NYPA to Build Renewable Energy Generating Projects (ELFA, Part QQ)

The Enacted Budget authorizes and directs NYPA to plan, design, develop, finance, construct, own, operate, maintain and improve, either alone or jointly with other entities, renewable energy generating projects in the state, including its territorial waters. The Enacted Budget includes new provisions requiring the acquisition of any land for a project be purchased from a willing seller at fair market value which is supported by the determination of an independent appraiser. Other new provisions are included to protect productive farmland from being utilized for projects.

The bill will require NYPA (in consultation with NYSERDA, ORES, DPS, “climate and resiliency experts”, labor organizations, and environmental justice and community organizations) to produce a study and report on the state’s progress toward renewable goals and separately produce a strategic plan to attain such goals.

NYPA would be authorized to sell renewable power, energy, ancillary services and/or renewable energy credits or attributes associated with any renewable energy generating project as follows:

- i. To NYSERDA, including for the purpose of supporting the greenhouse gas emission reduction goals in the CLCPA through participation in programs administered by NYSERDA or for such other purposes as both may agree;
- ii. into markets operated by NYISO;
- iii. to any load serving entity in the state, including LIPA (directly, or through PSEG), including but not limited to the purpose of providing bill credits to end-use electricity consumers in disadvantaged communities;
- iv. to manufacturers of green hydrogen and other new technologies that are intended in whole or part to displace fossil fuel use in the state for use at facilities located in the state;
- v. to any public entity or authority customer;
- vi. to community distributed generation providers, energy aggregators and similar entities for the benefit of subscribers to community distributed generation projects, including end-use electricity consumers located in disadvantaged communities; and
- vii. to any CCA community.

This bill directs NYPA to establish the Renewable Energy Access and Community Help Program (REACH) that will enable end-use electricity consumers in disadvantaged communities, including end-use electricity customers who reside in buildings that have on-site net-metered generation or who participate in a community choice aggregation or community distributed generation project (unless they opt out of REACH) to receive bill credits generated by the production of renewable energy by a renewable energy system developed, constructed, owned, or contracted for by NYPA.

The bill also directs NYPA, within two years of the effective date, to propose a plan to phase out small natural gas peaker plants by December 31, 2030, unless these plants support emergency services or are needed for reliability.

All Electric Buildings (ELFA, Part RR)

New Buildings

The Enacted Budget includes a provision that will require the building code to prohibit the installation of fossil-fuel equipment and building systems, in any new building not more than seven stories in height, except for a new commercial or industrial building greater than one hundred thousand square feet in conditioned floor area, on or after December thirty-first, two thousand twenty-five. The prohibition on the installation of fossil-fuel equipment and building systems extends to all new buildings after December thirty-first, two thousand twenty-eight.

Existing Buildings

The prohibition does not apply to any building existing prior to the effective date.

Exemptions

The prohibition in new buildings allows exemptions for the generation of emergency back-up power and standby power systems, in a manufactured home, or in a building or part of a building that is used as a manufacturing facility, commercial food establishment, laboratory, car wash, laundromat, hospital, other medical facility, critical infrastructure, including but not limited to emergency management facilities, wastewater treatment facilities, and water treatment and pumping facilities, agricultural building, fuel cell system, or crematorium.

New buildings that fall under the exemption, except for agricultural buildings, need to limit the use of fossil fuel systems to the area of the building that is difficult or infeasible to electrify and need to be constructed in a manner that is electrification ready. Exemptions need to be periodically reviewed by the building code council.

The code shall also allow for exemption of a new building construction project that requires an application for new or expanded electric service when electric service cannot be reasonably provided by the grid as operated by the local electric corporation or municipality provided, however, that the PSC shall determine reasonableness for purposes of this exemption.

Decarbonization of State-Owned Facilities

NYPA is authorized and directed to establish decarbonization action plans for fifteen of the highest-emitting state-owned facilities, including studying the feasibility of thermal energy networks for such facilities. "Highest-emitting facilities" means state-owned facilities that are among the highest producers of greenhouse gas emissions and collectively account for at least thirty percent of the greenhouse gas emissions as recorded by the authority's [Build Smart NY program](#) established pursuant to Executive Order 88 of 2012.

Climate Action Fund (ELFA, Part TT)

The Enacted Budget establishes the New York Climate Action Fund, which would consist of revenues generated pursuant to regulations and actions taken by NYSERDA or any other state entity pursuant greenhouse gas emission reductions. This would include future regulations establishing a cap-and-invest program for greenhouse gas emitters.

The Fund would consist of three separate accounts with differing allocations, as follows:

- Thirty percent to the consumer climate action account;
- Three percent to the industrial small business climate action account; and
- Sixty-seven percent to the climate investment account.

The Consumer Climate Action Account will provide benefits to help reduce potential increased costs of various goods and services to consumers in the State. The Industrial Small Business Climate Action Account will provide benefits to help reduce potential increased costs of various goods and services to industrial small businesses incorporated, formed or organized, and doing business in New York. The Climate Investment Account will assist the state's transition to a less carbon intensive economy.

Projects that receive at least \$100,000 of funds from the account are subject to prevailing wage, with few exceptions, including, but not limited to construction projects for affordable housing.

Data Privacy Protections for Abortion Access (HMH, Part U)

The Enacted Budget adds new sections to the General Business Law to prevent persons or entities headquartered or incorporated in New York from sharing information with out-of-state law enforcement agencies, whether civil or criminal, of individuals seeking abortion care in New York State. The bill provides for limited exceptions when a person or entity has been served with a warrant and has been provided attestation that the information is not sought in connection with reproductive health care services that are lawful under New York law.

The Enacted Budget also prevents any person, corporation, partnership, or association from delivering digital advertisements through the use of geofencing technology to individuals at health care facilities.

Extend NYPA's Authority to Procure and Sell Power (ELFA, Part SS)

The Enacted Budget will extend until June 30, 2033, NYPA's authorization relating to the sale of market power, the procurement and sale of power, energy, and related products from renewable energy sources, and the financing of renewable energy projects for NYPA customers, public entities, or CCA communities. This provision will also create an expiration date of June 30, 2024 for the provision of Part LL of Chapter 58 of the laws of 2019 which authorized NYPA to own no more than six renewable energy generation projects.

Omitted from the Enacted Budget

The following provisions were included in the Governor's Executive Budget proposal, but were "intentionally omitted" or otherwise rejected in the final budget agreement:

- **Energy-Intensive, Trade-Exposed Industry (Senate One-House Resolution)**
The provision proposed by the State Senate in its one-house budget resolution relating to energy-intensive, trade-exposed industry and linkages to other regional programs is not included in the final budget.
- **Cap and Invest Program (S.4008/A.3008, Part AAA/p,155)**
The Enacted Budget intentionally omits the Executive Budget to implement a cap-and-invest program to reduce greenhouse gas emissions from 1990 levels by 40% by 2030 and no less than 85% by 2050.
- **Waste Reduction and Recycling Infrastructure Act (TED, Part PP)**

The Enacted Budget intentionally omits the Executive Budget proposal for an extended producer responsibility program for packaging and paper products. The proposal would define the products and entities covered, establish minimum convenience standards, recycling rates, recovery rates, post-consumer recycled content rates, source reduction rates, and create a funding mechanism.

- **"Forever Chemicals" Clean Up (TED, Part QQ)**

The Enacted Budget intentionally omits the Governor's proposal to create a new program to aid municipalities in investigating and remediating sites contaminated with emerging contaminants, such as per- and polyfluoroalkyl substances (PFAS), known as "forever chemicals."

III. Transportation and Infrastructure

MTA

- All Funds appropriation of \$4.4 billion.
- \$1.6 billion in current year to close the MTA's operating deficit
 - \$1.15 billion from a City of New York only Payroll Mobility Tax increase
 - \$165 million from increasing NYC's paratransit contribution
 - \$300 million from a one-time State subsidy.
- The new revenue:
 - \$65 million to reduce the proposed MTA fare increase from 5.5 % to 4%
 - \$35 million for subway service frequency enhancements
 - \$15 million for a fare-free bus pilot program in NYC

Department of Transportation

- All Funds appropriation of \$14.6 billion
 - \$1.8 million for the Rail Safety Program
 - \$306.6 million for Upstate transit operating assistance
 - \$1.3 billion for capital aid to localities (\$60 million for CHIPS)

MTA Tax Increment Financing and Procurement Extender (TED, Part C)

The Enacted Budget extends provisions authorizing the creation of "mass transportation capital districts" to facilitate Tax Increment Financing for Metropolitan Transportation Authority (MTA) capital projects and certain provisions governing MTA procurement.

Increase NYC's Contribution to the MTA (TED, Part D)

The Enacted Budget amends New York City's contribution to the MTA paratransit MetroCard program.

MTA Compulsory Arbitration Two-Year Extender (TED, Part G)

The Enacted Budget extends certain dispute resolution provisions to facilitate settlements between the MTA and labor representatives. These provisions are set to expire on July 1, 2023. This bill would extend the sunset provision by two years, from July 1, 2023, to July 1, 2025.

Autonomous Vehicle Technology Extender (TED, Part J)

The Enacted Budget extends the authority of the Commissioner of the Department of Motor Vehicles (DMV) to authorize demonstrations and tests of autonomous vehicle technology to April 1, 2024.

New York City Bus Operation-Related Photo Devices (ELFA, Part MM)

The Enacted Budget creates a program to operate bus operation-related photo devices in New York City. The demonstration program will impose monetary liability on owners of vehicles that fail to comply with bus operation-related traffic regulations. The program expires on July 1, 2028.

MTA Fare-Free Bus Pilot Program (ELFA, Part NN)

The Enacted Budget requires the MTA to establish and implement a fare-free bus pilot program in New York City to be implemented within 90 days.

Increase the Top Metropolitan Commuter Transportation Mobility Tax Rate (TED, Part Q)

The Enacted Budget creates two separate rate schedules for the Metropolitan Commuter Transportation Mobility Tax; a rate for employers located outside of New York City and a rate for employers with the five boroughs. For employers in the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester, the previous rates remain intact. For employers in the counties of Bronx, Kings, New York, Queens, and Richmond, the bill effectively increases the top rate from 0.32% to 0.60% for employers with payroll expense in excess of four hundred thirty-seven thousand five hundred dollars in any calendar quarter, for taxable quarters beginning on or after July 1, 2023.

The bill also creates two separate rate schedules for individual earners, keeping the rate the same for those located outside of New York City. For individual earners located within New York City, the bill increases the rate imposed upon net earnings exceeding fifty thousand dollars to 0.47% for tax year 2023 and to 0.60% for tax years beginning on or after January 1, 2024.

Providing Financial Relief to the Metropolitan Transportation Authority (TED, Part R)

The Enacted Budget dedicates revenue from certain casino fees and taxes to the Metropolitan Transportation Authority (MTA) including:

- Directing 100% of the license fees received to the MTA
- Split the recurring revenues from a newly built casino facility within New York City between the MTA and education purposes
- split the recurring revenues from a newly built casino facility outside New York City as follows: 40% to education; 40% to the MTA; and 20% to localities.

For a Video Lottery Terminal (VLT) that converts to a casino within New York City:

- Until the hold harmless amount is achieved, 80% would go to education and 20% to the MTA. Once the education hold harmless amount is hit, 100% of the recurring revenue would be directed to the MTA until it receives the same amount as the education hold

harmless amount, at which point any excess recurring revenue would be split evenly between the MTA and education.

For a VLT facility conversion outside New York City:

- Until the state education hold harmless amount was paid, the recurring revenue would be split 80% to education and 20% to localities, and once the hold harmless amount was achieved, the recurring revenue would be split 80 percent to the MTA and 20 percent to localities until the MTA receives the same amount as the education hold harmless amount, at which point the recurring revenue would be split 40% to the MTA, 40% to education, and 20% to localities.

Authorizing the Dormitory Authority to Enter into Certain Design and Construction Management Agreements (TED, Part LL)

The Enacted Budget extends this provision through April 1, 2025.

Issue and Renewal of Bus Registration Certificates (TED, Part BBB)

The Enacted Budget authorizes the issuance or renewals of certificates or registrations for entities that exclusively manufacture or assemble busses for the use of public transportation.

IV. Labor, Workforce & Public Protection

Labor & Workforce

Index the Minimum Wage to Inflation (ELFA, Part S)

The Enacted Budget increases the state's hourly minimum wage from 2024-2026.

Downstate (New York City, Nassau, Suffolk and Westchester counties):

\$16 on and after January 1, 2024

\$16.50 on and after January 1, 2025

\$17 on and after January 1, 2026

Upstate:

\$15 on and after January 1, 2024

\$15.50 on and after January 1, 2025

\$16 on and after January 1, 2026

Beginning on January 1, 2027, the hourly minimum wage rate will be a wage of “not less than the adjusted minimum wage rate established annually by the commissioner.” This rate will be determined by the previous three-year periods as published by the non-seasonally adjusted consumer price index for northeast region.

Exceptions starting in 2027:

There will be no minimum wage increase be no increase if the following year if any of the following occur, limited, however two consecutive years:

- If the non-seasonally adjusted consumer price index for the northeast region urban wage earners and clerical workers (CPI-W) is negative
- If the three-month moving average of the seasonally adjusted New York State unemployment rate rises by ½ % or more over the previous year
- If there is a recurring decrease in the seasonally adjusted, total non-farm employment for New York State

Year Extension for Displaced Workers (TED, Part U)

The Enacted Budget extends the Assistance Demonstration Project, originally enacted in 2004, which allows the Department of Financial Services to subsidize health insurance continuation benefits available to eligible displaced workers in the entertainment industry and other dislocated workers.

Weekly Employment Insurance Benefits (ELFA, Part CC)

The Enacted Budget amends the effective date of provisions related to the calculation of weekly employment insurance benefits for workers who are partially unemployed to the first Monday after April 1, 2024.

State Workforce

Expand Continuous Recruitment of a Diverse, Inclusive, and Talented Workforce (PPGG, Part S)

The Enacted Budget provides that the Department of Civil Service or municipal commissions may use a continuous recruitment testing process to establish an eligible list for any open competitive class position and to hold continuous recruitment exams.

55-b & 55-c Candidate Expansion (PPGG, Part T)

The Enacted Budget increases the maximum number of positions in state government designated for individuals with disabilities from 1,200 to 1,700. This would also give employees hired under sections 55-b and 55-c of the Civil Service Law an opportunity to transfer into a competitive class position, provided they meet the requirements for transfer.

Amending the Contribution Stabilization Program for participating employers in the New York State and Local Retirement System (PPGG, Part W)

The Enacted Budget allows employers to use reserve funds to reduce their pension bill in years they are eligible to amortize a portion of their bill. Under current law, the employer's contribution rate must exceed the system's graded rate to access their reserve funds. This would also lower the maximum amount in an employer's reserve account from 100% of payroll to an amount that does not exceed the employer's previous year's contribution amount.

Amending Methods of State Procurement – Electronic Submission (PPGG, Part R)

The Enacted Budget allows for state agencies to require electronic submissions for the submission of bids for commodity and service and technology contracts from April 1, 2023 through March 31, 2027. By December 1, 2026, OGS must submit a report to the legislature

outlining the participation of electronic submissions and further recommendations for future use of electronic bidding as a permissible method of procurement.

Waiving State Civil Service Examination Fees (PPGG, Part EE)

The Enacted Budget waives application fees for all examinations held between July 1, 2023 and December 31, 2025. This bill also allows for municipal commissions to waive their application fees as well.

Heart Presumption for Police and Fire (PPGG, Part LL)

The Enacted Budget clarifies the intent regarding the existing statutory “heart presumption” with regard to performance of duty and accidental disability benefits for certain police officers and fire fighters in New York State.

Virtual Meeting Flexibility for Individuals with Disabilities (TED, Part X)

The Enacted Budget allows for members of public bodies that have certain disabilities may fulfill quorum requirements at meetings via videoconferencing.

Public Protection

Extend Various Criminal Justice and Public Safety Programs That Would Otherwise Sunset (PPGG, Part A)

The Enacted Budget extends for two years various criminal justice and public safety programs including: psychological testing of correctional officer candidates; expanding the geographic area of employment of certain police officers; determinate sentencing; work release programs and furloughs for incarcerated individuals; the earned eligibility program; substance abuse treatment for incarcerated individuals; alternatives to incarceration; armory rent; the ignition interlock program for individuals convicted of alcohol-related violations; electronic court appearances; the adult interstate compact; mandatory arrest in cases of domestic violence; protective measures for child witnesses; and allowing county District Attorneys in New York City to retain a portion of recoveries they make before the filing of an accusatory instrument with the remaining amount distributed equally between the State and the City of New York.

Increases Compensation for Assigned Counsel (ELFA, Part GG)

The Enacted Budget increases the hourly rate for assigned private counsel to \$158, not to exceed \$10,000.

Amendments to the State’s Bail Laws (ELFA, Part VV)

The Enacted Budget includes three changes to the state’s bail laws.

Subpart A

Non-Monetary Conditions

The Legislature advances language that eliminates the requirement that non-monetary conditions of release be the “least restrictive conditions that will reasonably assure the principal’s return to court and the principal’s compliance with court conditions. Instead, non-monetary conditions would have to reflect the findings of the individualized determination warranting such imposition of non-monetary conditions to assure the principal’s return to court and the principal’s compliance with court conditions. The court must consider the kind and

degree of control or restriction necessary to reasonably assure the defendant's return to court and compliance with court conditions and set a securing order consistent with that determination. The court must consider the factors for making a bail determination, the circumstances warranting such revocation, and the nature and extent of the defendant's noncompliance with previously ordered non-monetary conditions.

Subpart B

The Enacted Budget prohibits the issuance of an appearance ticket for defendants who have committed a domestic violence offense.

Subpart C

The Enacted Budget adds additional data collection and reporting requirements for the Office of Court Administration. OCA must collect and report every month data regarding pretrial commitments to local correctional facilities.

Technical Amendments to the Concealed Carry Improvement Act (PPGG, Part F)

The Enacted Budget amends certain sections of the definition of sensitive location to include that persons responsible for security in places of worship may carry firearms and that holding an active license to sell alcohol renders an establishment a sensitive location. In addition, this would amend certain sensitive location exemptions, among other things, by including that individuals who constitute law enforcement or retired law enforcement under federal law or revenue collection offices of the Metropolitan Transportation Authority are exempt from the prohibition against carrying firearms in such locations.

Stabilizing Fire Service to Improve Emergency Response (PPGG, Part H)

The Enacted Budget provides a training stipend for volunteer fire fighters.

V. Economic Development

Excelsior Linked Deposit Program (TED, Part FF)

The Enacted Budget increases the maximum loan amount from \$2 million to \$4 million and the lifetime cap from \$2 million to \$6 million under the Excelsior Linked Deposit Program.

Extension of UDC Authorization to Administer the Economic Development Fund (TED, Part GG)

The Enacted Budget extends the ability of the New York State Urban Development Corporation to administer the Economic Development Fund to July 1, 2024.

Small Business Innovation Research Grant Program (TED, Part DD)

The Enacted Budget establishes a matching grant program for small businesses who have been awarded funds under the federal Small Business Innovation Research or Small Business Technology Transfer programs by increasing grant amounts, authorizing Empire State Development to issue a commitment letter to those seeking a federal grant, and providing assistance to access existing ESD small business programs.

Small Business and Entrepreneurs Grant Program (TED, Part GGG)

The Enacted Budget establishes a new Pilot Entrepreneurial Training Grants Program to provide grants to entrepreneurs and small businesses of at least \$5,000 up to \$25,000. This program will expire after two years.

MWBE Statewide Disparity Study (TED, Part FFF)

The Enacted Budget extends the statewide disparity study regarding the participation of minority and women-owned business enterprises in state contracts through August 15, 2024.