



NEW YORK STATE SENATE DEMOCRATIC MAJORITY  
STAFF ANALYSIS OF  
THE 2020-21 EXECUTIVE BUDGET



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CHAIR, SENATE FINANCE COMMITTEE

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CHIEF OF STAFF AND MAJORITY COUNSEL

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# Staff Analysis of the SFY 2020-21 Executive Budget

*As Prepared by the Senate Counsel and Finance Staff*

**Shontell M. Smith**  
Chief of Staff and Majority  
Counsel

**Todd Scheuermann**  
Secretary to the Senate Finance  
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**Eric Katz**  
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Assistant Deputy Counsel

**Michael Swanson**  
Director of Education Finance

**Shelley Andrews**  
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**Noah Mamis**  
Director of Majority Policy and Research

## **Counsel Staff**

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Katie Kocijanski	Joanna Schmidt
Kenan Kurt	Carolyn Sheridan

## **Finance Staff**

Donavan Borington	Michela Paniccia
Jacqueline Donaldson	Shantal Plass
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Jessica Fowler	Meeti Purani
David Frazier	Zacharie St. Hubert
Christopher Friend	Mark Swarts
Annette Highley	Michael Szydlo
Saieed Khalil	Kevin Ressler
Lahmar Louis	Ashley Steele
Rhett Maiorana	

Jason Clark, Publication Editor

January 27, 2020

Dear Colleagues:

On Tuesday, January 21, Governor Andrew M. Cuomo proposed the Executive Budget for State Fiscal Year 2020-21. The Executive Budget proposes All Funds expenditures of \$178.6 billion, State Operating Funds expenditures of \$105.8 billion and General Fund expenditures of \$81.9 billion.

The mid-year update of the State Financial Plan estimated a SFY 2020-21 General Fund gap of \$6.1 billion. The Executive Budget proposal closes the gap through spending reductions totaling \$4.9 billion and additional revenue totaling \$2.1 billion resulting from upward revenue forecasts and other actions.

Out-year budget gaps are forecast to be \$1.9 billion in SFY 2020-21, \$3.3 billion in SFY 2022-23, and \$3.3 billion in SFY 2023-24. The out-year gaps are expected to be addressed primarily by unidentified spending reductions needed to adhere to the two percent spending growth cap.

The Executive Budget also includes significant policy proposals that will require careful review. These include authorizing adult use of cannabis products, a proposed \$3 billion Bond Act for environmental purposes and climate resilience, and establishment of a second “Medicaid Redesign Team” to reduce cost growth in the Medicaid program.

This analysis prepared by staff of the Senate Finance Committee and Counsel’s Office will support our careful deliberation of the Executive Budget. I look forward to working with you to craft an enacted State Budget that serves the needs of all New Yorkers while being responsible stewards of public resources.

Sincerely,

A handwritten signature in black ink that reads "Liz Krueger". The signature is written in a cursive, flowing style.

Liz Krueger  
Chair  
Senate Finance Committee

# 2020 JOINT LEGISLATIVE BUDGET HEARING SCHEDULE

Legislative Office Building  
Hearing Room B

<b>Day</b>	<b>Date</b>	<b>Time</b>	<b>Hearing</b>
Monday	January 27	11:00 AM	Environmental Conservation
Tuesday	January 28	9:30 AM	Transportation
Wednesday	January 29	9:30 AM	Health
Thursday	January 30	9:30 AM	Human Services
Monday	February 3	11:00 AM	Mental Hygiene
Tuesday	February 4	9:30 AM	Higher Education
Wednesday	February 5	9:30 AM	Workforce
		1:00 PM	Housing
Monday	February 10	11:00 AM	Local Government
Tuesday	February 11	9:30 AM	Elementary Education
Wednesday	February 12	9:30 AM	Public Protection
Thursday	February 13	9:30 AM	Economic Development
		1:00 PM	Taxes

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# Financial Plan and Revenue



STAFF ANALYSIS OF  
THE 2020-21 EXECUTIVE BUDGET

# SFY 2020-21 Executive Budget Financial Plan Overview

## Overview

The State Constitution requires that the Executive make an annual submission to the Legislature containing his plan of recommended appropriations, expenditures, and cash disbursements necessary to carry out programs, along with estimates of revenues and cash receipts expected to be available to support these expenditures and disbursements for the forthcoming fiscal year. The State Constitution requires explicit recommendations for making changes to the current revenue structure and legislation to implement such recommendations.

The Executive Budget Financial Plan accompanies the legislation that contains all proposed appropriations and reappropriations and other legislation needed to implement the Executive Budget. This document provides a comprehensive outline of the government's financial resources and the spending amounts that are required to carry out its programs.

## Two-Percent Spending Benchmark

Year-over-Year Spending (millions of dollars)				
	SFY 2019-20 Enacted*	SFY 2020-21 Proposed	Change	Percent Change
General Fund Disbursements	79,011	81,921	2,910	3.7%
State Operating Funds Disbursements	103,882	105,811	1,929	1.9%
State Funds Disbursements	115,509	118,510	3,001	2.6%
All Funds Disbursements	175,909	178,592	2,683	1.5%

\* As indicated in the SFY 2020-21 Executive Budget Financial Plan

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For almost ten years, the Executive Budget has included a limitation on growth of State spending from State Operating Funds, the measure of spending on operations that are funded with State resources. While not all spending is captured in State Operating Funds, recent Executive Budgets have had a two percent, year-over-year benchmark limit on State Operating Funds spending growth.

The SFY 2020-21 Executive Budget proposal projects an increase in State Operating Funds spending of \$1.9 billion, or 1.9 percent, for a total of \$105.8 billion – as compared to the updated SFY 2019-20 Enacted Budget Financial Plan. On an All Funds basis, the SFY 2020-21 Executive Budget projects total spending of \$178.6 billion, an increase of \$2.7 billion or 1.5 percent from the SFY 2019-20 Enacted Budget Financial Plan.

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<sup>1</sup> “The SFY 2020-21 Executive Budget Financial Plan restates prior State Fiscal Year State Operating Funds spending to reflect certain Medicaid spending; future discussion and analysis of spending in this Financial Plan Overview will use the information from the Executive Budget Financial Plan for SFY 2020-21.

## **Budget Surplus / (Gap)**

<b>Executive Budget General Fund Surplus / (Gap) Estimate (millions of dollars)</b>		
<b>Fiscal Year</b>	<b>Mid-Year Update Surplus / (Gap)</b>	<b>Surplus / (Gap) after Gap-Closing Plan</b>
SFY 2020-21	(6,073)	0
SFY 2021-22	(7,529)	(1,939)
SFY 2022-23	(8,549)	(3,313)

The Mid-Year update released in November by the Division of Budget estimated a General Fund budget gap of \$6.1 billion in SFY 2020-21, \$7.5 billion in SFY 2021-22, and \$8.5 billion in SFY 2022-23. In addition, the Mid-Year update indicated that the Medicaid Global Cap has a structural imbalance due to several factors, including reimbursement to providers for the cost of the increase in the minimum wage, the phase-out of enhanced Federal funding, and increased enrollment and costs in managed long term care.

As currently proposed, the SFY 2020-21 Executive Budget is balanced following the Gap-Closing Plan, which includes modifications to certain revenues and disbursements by the State. The Gap-Closing Plan recognizes \$2.1 billion more in tax receipts, but most of the Gap-Closing Plan consists of anticipated savings to be realized through the Medicaid Redesign Team II and other cost-containment measures relating to Medicaid spending.

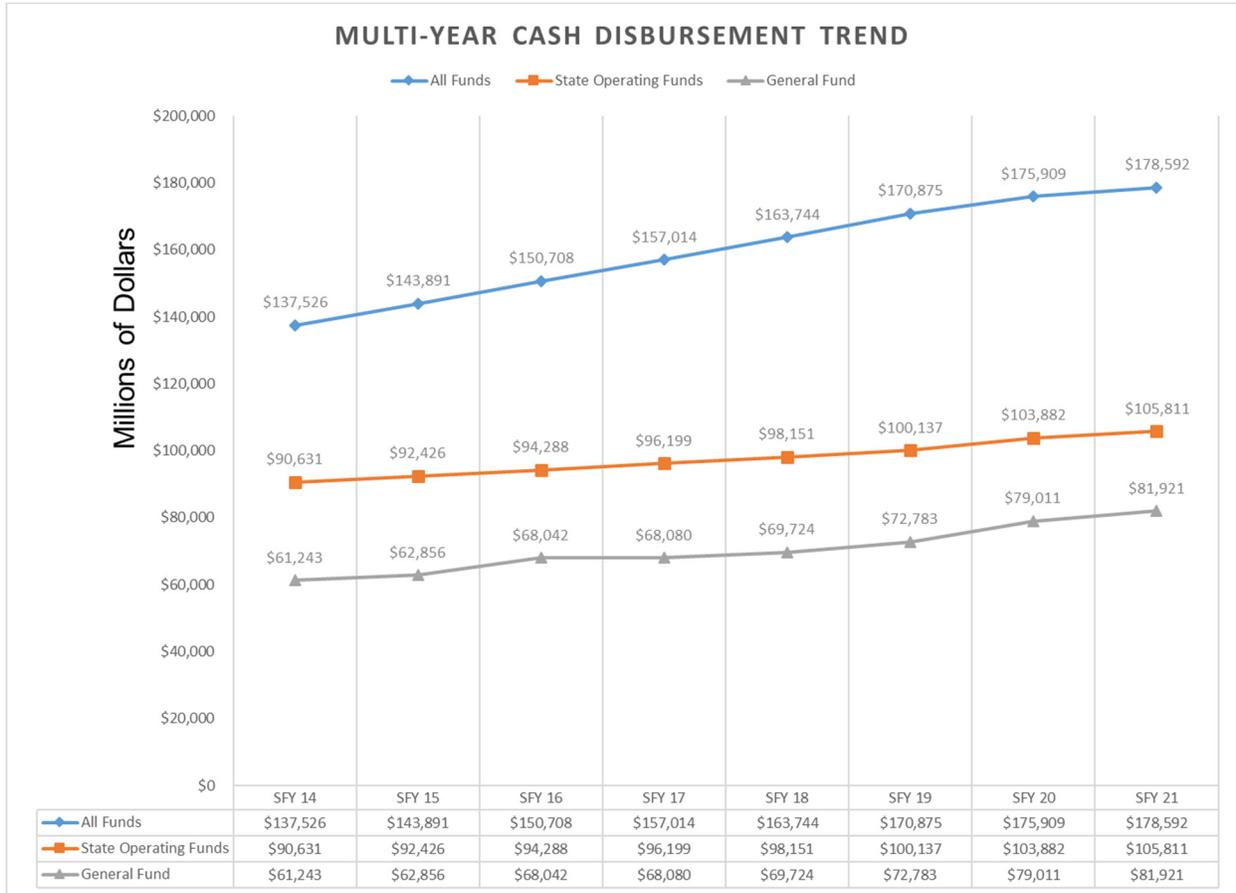
## **Revenues**

<b>SFY 2020-21 Receipts (millions of dollars)</b>				
<b>Funding Source</b>	<b>SFY 2019-20 Current</b>	<b>SFY 2020-21 Proposed</b>	<b>Change</b>	<b>Percent</b>
General Fund	78,332	81,298	2,966	3.8%
State Operating Funds	102,785	105,248	2,463	2.4%
All Funds	178,253	175,325	(2,928)	-1.6%

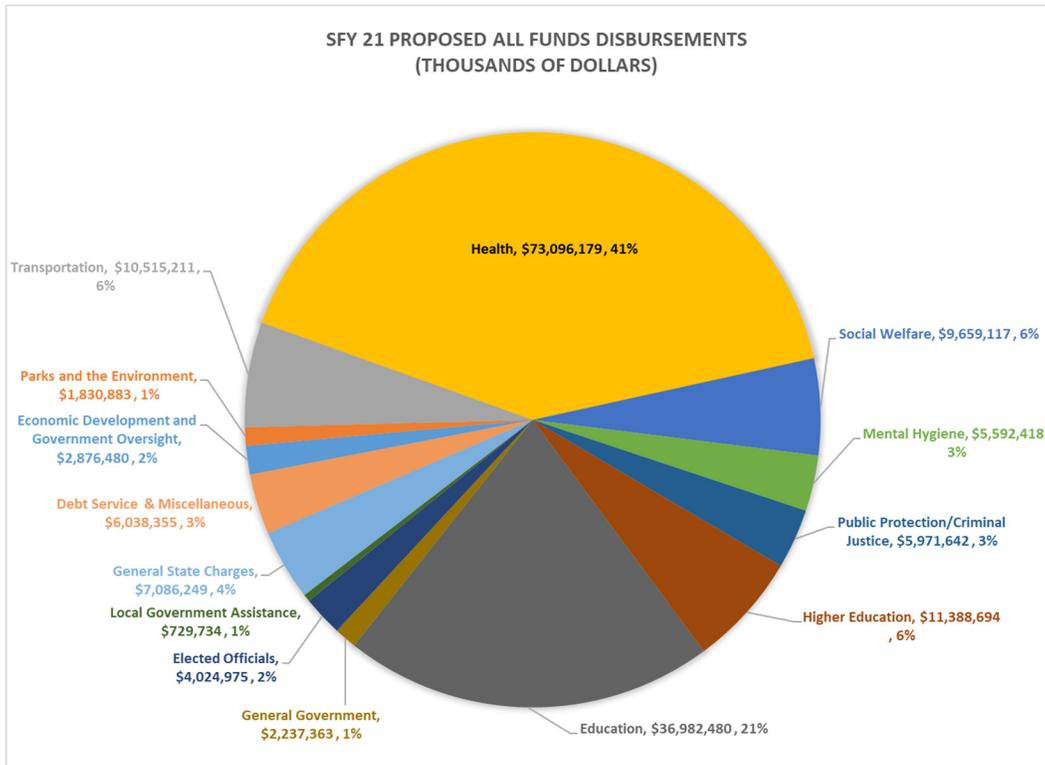
The Executive Budget projects that State All Funds receipts will total \$175.3 billion in SFY 2020-21, which is 1.6 percent below the current year estimate of \$178.3 billion. The All Funds amount includes federal receipts (operating and capital), which is projected to be almost \$4 billion less (or six percent) less in the SFY 2020-21 Executive Budget relative to the current estimate for this fiscal year. General Fund and State Operating Fund receipts are both projected to be higher, but not enough to offset the projected loss of Federal receipts.

## Spending

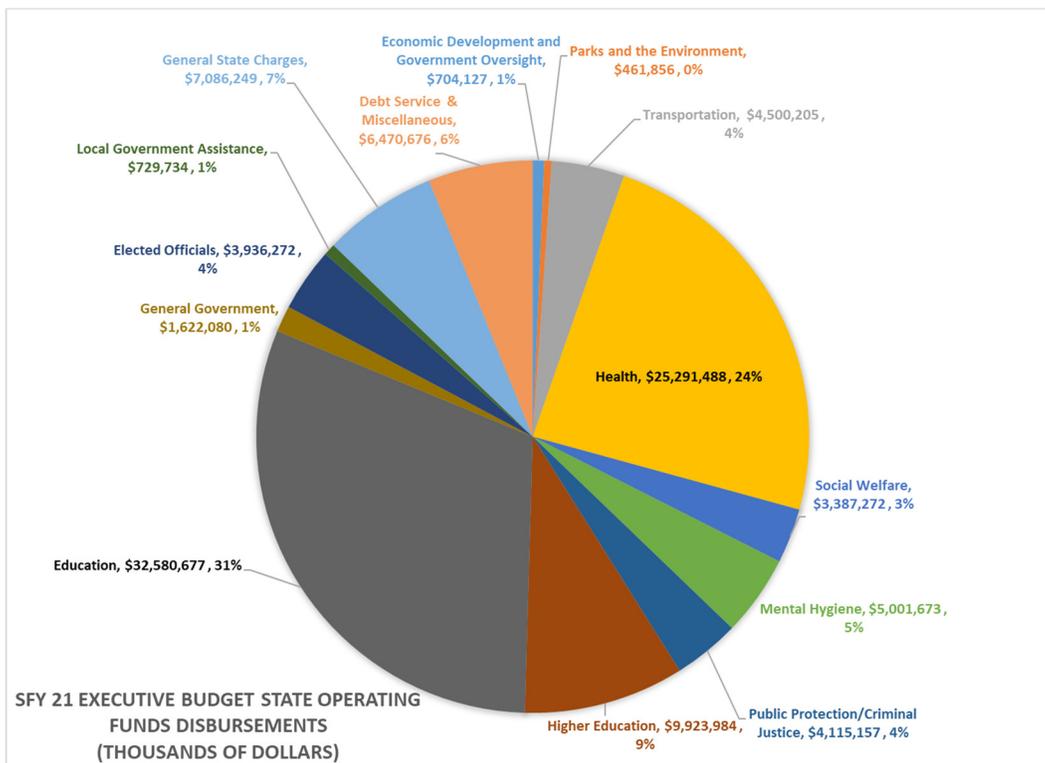
Below is a chart reflecting the growth of All Funds, State Operating Funds, and General Fund spending since SFY 2013-14.



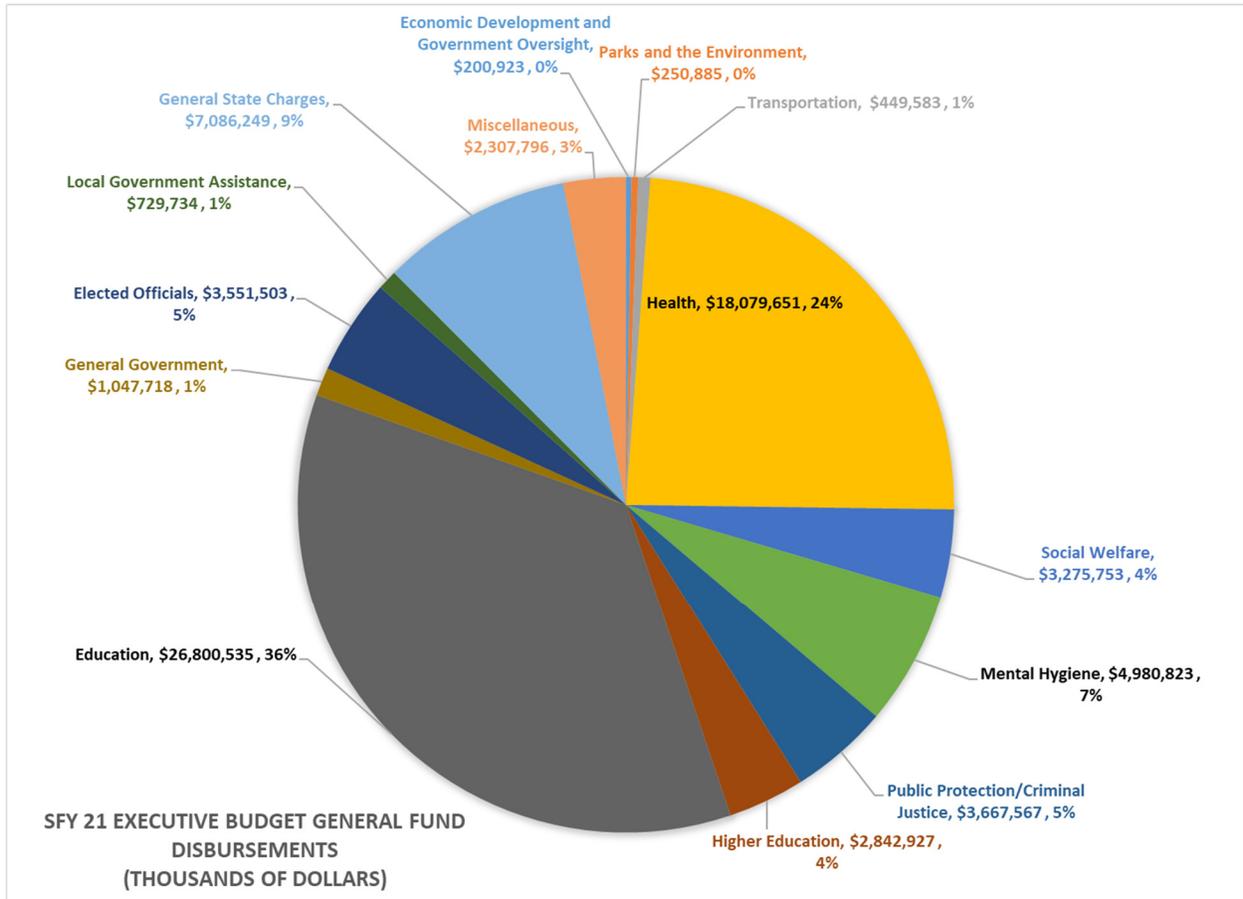
All Funds disbursements in SFY 2020-21 are projected to total \$178.6 billion, an increase of \$2.7 billion or 1.5 percent over the current estimate for SFY 2019-20. Below is a breakdown of how the All Funds disbursement is proposed in the Executive Budget.



State Operating Funds disbursements in SFY 2020-21 are projected to total \$105.8 billion, an increase of \$1.9 billion or 1.9 percent. Below is a breakdown of how the State Operating Funds disbursement is proposed in the Executive Budget.



General Fund disbursements in SFY 2020-21 are projected to total \$81.9 billion, an increase of \$2.9 billion or 3.7 percent over the current estimate for SFY 2019-20. Below is a breakdown of how the General Fund disbursement is proposed in the Executive Budget.



All Funds Cash Financial Plan							
SFY 2018-19 through SFY 2020-21							
(millions of dollars)							
	SFY 2018-19	SFY 2019-20			SFY 2020-21		
	Results*	Current	Change	Percent	Proposed	Change	Percent
<b>Opening Fund Balance</b>	12,749	9,975	(2,774)	-21.8%	12,563	2,588	25.9%
<b>Receipts</b>							
Taxes	75,578	82,390	6,812	9.0%	87,932	5,542	6.7%
Miscellaneous Receipts	31,184	29,701	(1,483)	-4.8%	26,253	(3,448)	-11.6%
Federal Receipts	61,344	66,162			62,187		
<b>Total Receipts</b>	<b>168,106</b>	<b>178,253</b>	<b>10,147</b>	<b>6.0%</b>	<b>176,372</b>	<b>(1,881)</b>	<b>-1.1%</b>
<b>Disbursements</b>							
Local Assistance	127,432	131,441	4,009	3.1%	131,550	109	0.1%
Departmental Operations						0	
Personal Service	14,324	14,925	601	4.2%	15,269	344	2.3%
Non-Personal Service	6,764	6,863	99	1.5%	6,810	(53)	-0.8%
General State Charges	8,624	9,007	383	4.4%	9,363	356	4.0%
Debt Service	6,699	5,166	(1,533)	-22.9%	6,012	846	16.4%
Capital Projects	7,032	8,507	1,475	21.0%	9,025	518	6.1%
<b>Total Disbursements</b>	<b>170,875</b>	<b>175,909</b>	<b>5,034</b>	<b>2.9%</b>	<b>178,029</b>	<b>2,120</b>	<b>1.2%</b>
<b>Other Financing Sources (Uses)</b>							
Transfer from Other Funds	38,731	44,935	6,204	16.0%	45,766	831	1.8%
Transfer to Other Funds	(38,869)	(45,080)	(6,211)	16.0%	(45,931)	(851)	1.9%
Bond and Note Proceeds	133	389			850		
<b>Net Other Financing Sources (Uses)</b>	<b>(5)</b>	<b>244</b>	<b>249</b>	<b>4980.0%</b>	<b>685</b>	<b>441</b>	<b>180.7%</b>
<b>Excess (Deficiency) of Receipts over Disbursements and Reserves</b>	<b>(2,774)</b>	<b>2,588</b>	<b>5,362</b>	<b>193.3%</b>	<b>(972)</b>	<b>(3,560)</b>	<b>-137.6%</b>
<b>Closing Fund Balance</b>	<b>9,975</b>	<b>12,563</b>	<b>2,588</b>	<b>25.9%</b>	<b>11,591</b>	<b>(972)</b>	<b>-7.7%</b>

State Operating Funds Cash Financial Plan							
SFY 2018-19 through SFY 2020-21							
(millions of dollars)							
	SFY 2018-19	SFY 2019-20			SFY 2020-21		
	Results*	Current	Change	Percent	Proposed	Change	Percent
<b>Opening Fund Balance</b>	13,607	12,362	-1,245	-9.1%	11,360	-1,002	-8.1%
<b>Receipts</b>							
Taxes	74,144	80,950	6,806	9.2%	86,502	5,552	6.9%
Miscellaneous Receipts	23,485	21,760	(1,725)	-7.3%	18,672	(3,088)	-14.2%
Federal Receipts	73	75			74		
<b>Total Receipts</b>	<b>97,702</b>	<b>102,785</b>	<b>5,083</b>	<b>5.2%</b>	<b>105,248</b>	<b>2,463</b>	<b>2.4%</b>
<b>Disbursements</b>							
Local Assistance	66,177	70,324	4,147	6.3%	70,754	430	0.6%
Departmental Operations							
Personal Service	13,687	14,289	602	4.4%	14,608	319	2.2%
Non-Personal Service	5,370	5,422	52	1.0%	5,422	0	0.0%
General State Charges	8,204	8,681	477	5.8%	9,015	334	3.8%
Debt Service	6,699	5,166	(1,533)	-22.9%	6,012	846	16.4%
Capital Projects	0	0	0	0.0%	0	0	0.0%
<b>Total Disbursements</b>	<b>100,137</b>	<b>103,882</b>	<b>3,745</b>	<b>3.7%</b>	<b>105,811</b>	<b>1,929</b>	<b>1.9%</b>
<b>Other Financing Sources (Uses)</b>							
Transfer from Other Funds	36,512	41,399	4,887	13.4%	41,848	449	1.1%
Transfer to Other Funds	(35,322)	(41,304)	(5,982)	16.9%	(42,355)	(1,051)	2.5%
Bond and Note Proceeds	0	0					
<b>Net Other Financing Sources (Uses)</b>	<b>1,190</b>	<b>95</b>	<b>(1,095)</b>	<b>-92.0%</b>	<b>(507)</b>	<b>(602)</b>	<b>-633.7%</b>
<b>Excess (Deficiency) of Receipts over Disbursements and Reserves</b>	<b>(1,245)</b>	<b>(1,002)</b>	<b>243</b>	<b>-19.5%</b>	<b>(1,070)</b>	<b>(68)</b>	<b>6.8%</b>
<b>Closing Fund Balance</b>	<b>12,362</b>	<b>11,360</b>	<b>(1,002)</b>	<b>-8.1%</b>	<b>10,290</b>	<b>(1,070)</b>	<b>-9.4%</b>

**General Fund Cash Financial Plan**  
**SFY 2018-19 through SFY 2020-21**  
(millions of dollars)

	SFY 2018-19	SFY 2019-20			SFY 2020-21		
	Results*	Current	Change	Percent	Proposed	Change	Percent
<b>Opening Fund Balance</b>	<b>9445</b>	<b>7206</b>	<b>-2239</b>	<b>-23.7%</b>	<b>6527</b>	<b>-679</b>	<b>110.4%</b>
<b>Receipts</b>							
Taxes							
Personal Income Tax	21,621	24,333	2,712	12.5%	26,405	2,072	8.5%
Consumption/Use Tax	7,681	8,123	442	5.8%	8,496	373	4.6%
Business Taxes	5,501	6,400	899	16.3%	7,228	828	12.9%
Other Taxes	1,086	1,112	26	2.4%	1,193	81	7.3%
Miscellaneous Receipts	3,586	2,979	(607)	-16.9%	2,106	(873)	-29.3%
Transfers from Other Funds							
PIT in Excess of Revenue							
Bond Debt Service	21,346	24,917	3,571	16.7%	26,395	1,478	5.9%
ECEP in Excess of Revenue							
Bond Debt Service	0	1	1	n/a	2	1	100.0%
Sales Tax in Excess of LGAC							
Bond Debt Service	3,113	3,441	328	10.5%	3,662	221	6.4%
Sales Tax in Excess of							
Revenue Bond Debt Service	2,653	2,994	341	12.9%	2,651	(343)	-11.5%
Real Estate Taxes in Excess							
of CW/CA Debt Service	956	952	(4)	-0.4%	974	22	2.3%
All Other	3,001	3,080	79	2.6%	2,186	(894)	-29.0%
<b>Total Receipts</b>	<b>70,544</b>	<b>78,332</b>	<b>7,788</b>	<b>11.0%</b>	<b>81,298</b>	<b>2,966</b>	<b>3.8%</b>
<b>Disbursements</b>							
Local Assistance	49,745	53,573	3,828	7.7%	54,775	1,202	2.2%
Departmental Operations							
Personal Service	8,719	9,065	346	4.0%	9,559	494	5.4%
Non-Personal Service	2,622	2,673	51	1.9%	3,027	354	13.2%
General State Charges	7,139	7,626	487	6.8%	7,910	284	3.7%
Transfers to Other Funds							
Debt Service	786	517	(269)	-34.2%	570	53	10.3%
Capital Projects	1,888	3,182	1,294	68.5%	3,535	353	11.1%
State Share Mental Hygiene Medic	(29)	0	29	-100.0%	0	0	0.0%
SUNY Operations	1,020	1,185	165	16.2%	1,273	88	7.4%
Other	893	1,190	297	33.3%	1,272	82	6.9%
<b>Total Disbursements</b>	<b>72,783</b>	<b>79,011</b>	<b>6,228</b>	<b>8.6%</b>	<b>81,921</b>	<b>2,910</b>	<b>3.7%</b>
<b>Excess (Deficiency) of Receipts over</b>							
<b>Disbursements and Reserves</b>	<b>(2,239)</b>	<b>(679)</b>	<b>1,560</b>	<b>69.7%</b>	<b>(623)</b>	<b>56</b>	<b>8.2%</b>
<b>Closing Fund Balance</b>	<b>7,206</b>	<b>6,527</b>	<b>(679)</b>	<b>-9.4%</b>	<b>5,904</b>	<b>(623)</b>	<b>-9.5%</b>

## Capital Fact Sheet

### Monetary Settlements

Since SFY 2014-15, the State has received a total of nearly \$12.8 billion in Extraordinary Monetary Settlements. Approximately \$8.1 billion in Extraordinary Monetary Settlements has been appropriated for capital projects to date.

SUMMARY OF RECEIPTS OF EXTRAORDINARY MONETARY SETTLEMENTS BETWEEN REGULATORS AND FINANCIAL INSTITUTIONS (millions of dollars)							
	SFY 2015	SFY 2016	SFY 2017	SFY 2018	SFY 2019	SFY 2020	Total
<b>Extraordinary Monetary Settlements</b>	<b>4,942</b>	<b>3,605</b>	<b>1,317</b>	<b>805</b>	<b>1,186</b>	<b>896</b>	<b>12,751</b>
Aetna Insurance Company	0	0	0	0	2	0	2
Agricultural Bank of China	0	0	215	0	0	0	215
American International Group, Inc.	35	0	0	0	0	0	35
Athene Life Insurance	0	0	0	0	15	0	15
AXA Equitable Life Insurance Company	20	0	0	0	0	0	20
Bank Leumi	130	0	0	0	0	0	130
Bank of America	300	0	0	0	0	0	300
Bank of America Merrill Lynch	0	0	0	0	42	0	42
Bank of Tokyo Mitsubishi	315	0	0	0	0	0	315
Barclays	0	670	0	0	15	0	685
BNP Paribas	2,243	1,348	0	350	0	0	3,941
Chubb	0	0	0	0	1	0	1
Cigna	0	0	0	2	0	0	2
Citigroup (State Share)	92	0	0	0	0	0	92
Commerzbank	610	82	0	0	0	0	692
Conduent Education Services	0	0	0	0	1	0	1
Credit Agricole	0	459	0	0	0	0	459
Credit Suisse AG	715	30	0	135	0	0	880
Deutsche Bank	0	800	444	0	205	0	1,449
FedEx	0	0	0	0	26	0	26
Goldman Sachs	0	50	190	0	55	0	295
Google/YouTube	0	0	0	0	0	34	34
Habib Bank	0	0	0	225	0	0	225
Intesa SanPaolo	0	0	235	0	0	0	235
Lockton Affinity	0	0	0	0	7	0	7
Mashreqbank	0	0	0	0	40	0	40
Mega Bank	0	0	180	0	0	0	180
MetLife Parties	50	0	0	0	20	0	70
Morgan Stanley	0	150	0	0	0	0	150
MUFG Bank	0	0	0	0	0	33	33
Nationstar Mortgage	0	0	0	0	5	0	5
New Day	0	1	0	0	0	0	1
Ocwen Financial	100	0	0	0	0	0	100
Oscar Insurance Company	0	0	0	0	1	0	1
PHH Mortgage	0	0	28	0	0	0	28
PricewaterhouseCoopers LLP	25	0	0	0	0	0	25
Promontory	0	15	0	0	0	0	15
RBS Financial Products Inc.	0	0	0	0	100	0	100
Société Générale SA	0	0	0	0	498	0	498
Standard Chartered Bank	300	0	0	0	40	322	662
Unicredit	0	0	0	0	0	507	507
UBS	0	0	0	0	41	0	41
Volkswagen	0	0	32	33	0	0	65
Wells Fargo	0	0	0	0	65	0	65
Western Union	0	0	0	60	0	0	60
William Penn	0	0	0	0	6	0	6
Other Settlements	7	0	(7)	0	1	0	1

GENERAL FUND SUMMARY OF RECEIPTS AND USE/TRANSFER OF FUNDS FROM EXTRAORDINARY MONETARY SETTLEMENTS BETWEEN REGULATORS AND FINANCIAL INSTITUTIONS								
(millions of dollars)								
	SFY 2015-2019	SFY 2020	SFY 2021	SFY 2022	SFY 2023	SFY 2024	SFY 2025	Total
<b>Opening Settlement Balance in General Fund</b>	0	4,194	2,640	2,017	976	271	34	0
<b>Receipt of Extraordinary Monetary Settlements</b>	11,855	896	0	0	0	0	0	12,751
<b>Use/Transfer of Funds</b>	7,661	2,450	623	1,041	705	237	34	12,751
<b>Capital Purposes:</b>	4,134	1,316	623	1,041	705	237	34	8,090
Dedicated Infrastructure Investment Fund	3,373	1,391	879	926	476	231	34	7,310
Environmental Protection Fund	120	0	0	0	0	0	0	120
Mass Transit	70	5	5	2	2	1	0	85
Healthcare	25	100	80	63	52	5	0	325
Clean Water Grants	0	0	25	50	175	0	0	250
Javits Center Expansion	546	320	134	0	0	0	0	1,000
Bond Proceed Receipts for Javits Center Expansion	0	(500)	(500)	0	0	0	0	(1,000)
<b>Other Purposes:</b>	3,122	6	0	0	0	0	0	3,128
Audit Disallowance - Federal Settlement	850	0	0	0	0	0	0	850
CSX Litigation Payment	76	0	0	0	0	0	0	76
Financial Plan - General Fund Operating Purposes	1,807	0	0	0	0	0	0	1,807
Mass Transit Operating	10	0	0	0	0	0	0	10
MTA Operating Aid	194	0	0	0	0	0	0	194
Department of Law - Litigation Services Operations	180	6	0	0	0	0	0	186
OASAS Chemical Dependence Program	5	0	0	0	0	0	0	5
<b>Reservation of Funds:</b>	405	1,128	0	0	0	0	0	1,533
Rainy Day Reserves	250	238	0	0	0	0	0	488
Reserve for Economic Uncertainties	0	890	0	0	0	0	0	890
Reserve for Retroactive Labor Agreements	155	0	0	0	0	0	0	155
<b>Closing Settlement Balance in General Fund</b>	4,194	2,640	2,017	976	271	34	0	0

In addition to providing funding for the appropriated projects above, Monetary Settlement funds have been used to provide flexibility with regard to timing bond issuances to save on interest costs. For example, settlement funds were used to advance \$1.3 billion in funding for higher education, transportation, and economic development that was subsequently reimbursed with bond proceeds.

The Executive Budget proposes to deposit \$890 million in settlement monies received during SFY 2019-20 into reserves, and, going forward, the Executive plans to deposit future settlement receipts into State reserves. The Executive Budget also continues existing Monetary Settlement fund commitments toward initiatives funded through the Dedicated Infrastructure Investment Fund and for mass transit, healthcare, clean water grants, and expansion of the Javits Center. Finishing these initiatives will draw down the balance of the settlement monies by the end of SFY 2024-25.

### **New Five Year State Capital Plan**

The Executive Budget increases the State's planned SFY 2020-2024 infrastructure investment by \$25 billion to a total of \$175 billion. The plan includes funding for transportation and mass transit systems, affordable housing, economic and community development, schools, environmental and park facilities, and energy efficiency upgrades. The \$175 billion infrastructure plan includes:

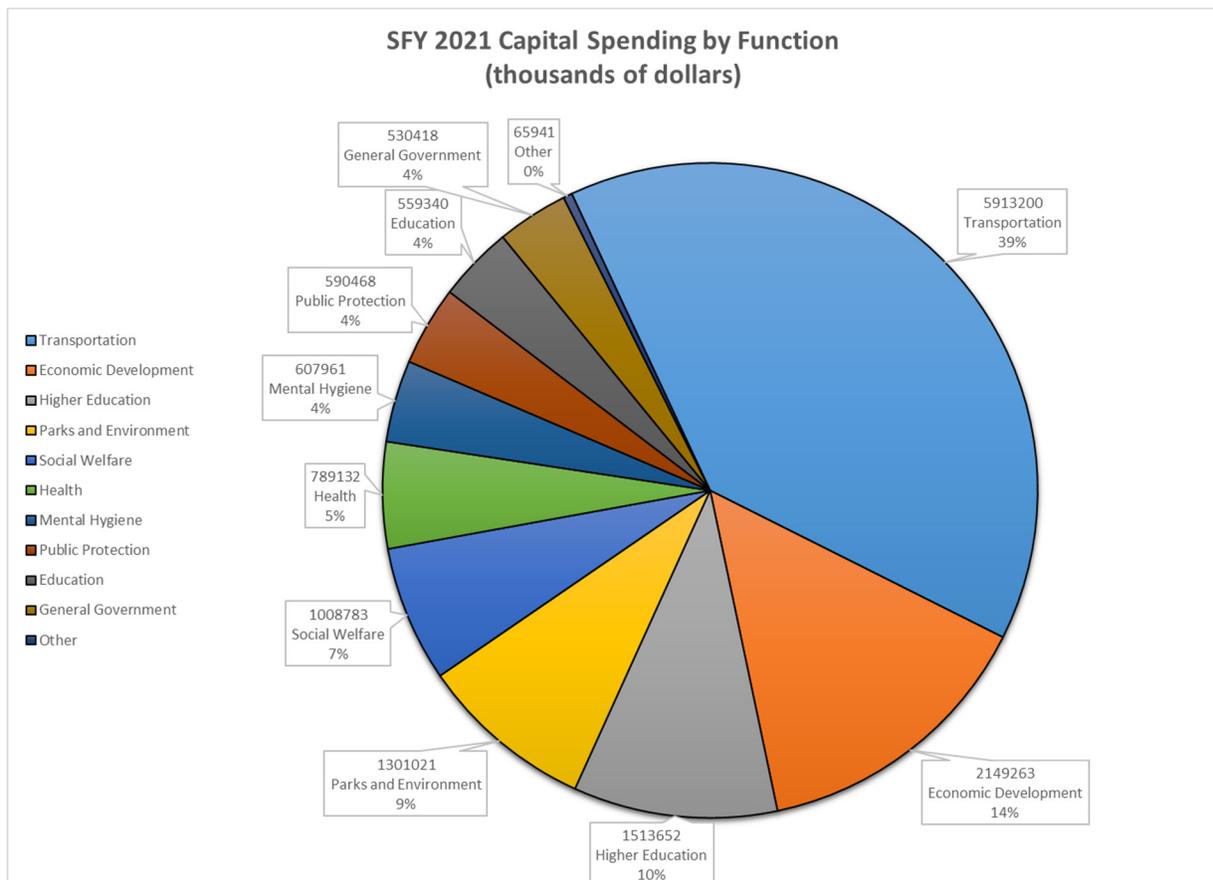
- \$87 billion for transportation, including mass transit, railroads, airports, highways, and bridges and tunnels across the State.
- \$35 billion for improving environmental facilities and parks and the development of green energy.
- \$11 billion for economic and community development.

- \$9 billion to further the State's investment in the construction of high-quality, affordable housing for the people of New York.
- \$19 billion to help school districts build new and better school buildings.
- \$14 billion to improve and maintain SUNY and CUNY buildings, the State's health care facilities, and other capital assets.

**SFY 2020-21 Capital Spending**

State capital spending is projected to total \$15 billion in SFY 2020-21. The Executive Budget proposal includes \$14.5 billion in spending that appears in the State’s Financial Plan and \$563 million in off-budget spending that is financed directly from bond proceeds. Financing for capital spending in SFY 2020-21 is supported with State debt (\$8.8 billion, 59 percent), State cash resources (\$4.1 billion, 27 percent), and Federal aid (\$2.2 billion, 14 percent).

State capital spending over the next five years is expected to average approximately \$13.3 billion annually. In SFY 2020-21, capital spending is projected to increase by 7.5 percent over SFY 2019-20.



### **Restore Mother Nature Bond Act**

The Executive Budget proposes a \$3 billion “Restore Mother Nature” bond act for projects such as flood risk mitigation through stream and wetland restoration, land acquisition, forest and habitat preservation, and water quality improvement projects. The issuance of bonds would be subject to voter approval in November 2020. If approved by voters, General Obligation debt which counts against the State’s debt cap would be incurred.

### **SFY 2020-21 Debt Summary**

Current State-related debt outstanding is projected at \$60.4 billion for SFY 2020-21. This is an increase of \$3.4 billion, or 6 percent. The Executive Budget expects debt issuances of \$7.7 billion netted against debt retirements of \$4.3 billion. From SFY 2020-21 through SFY 2024-25, State-related debt is projected to increase an average of 3.7 percent annually, reaching \$68.4 billion by the end of the capital plan timeframe.

The Executive Budget also projects State-supported debt to reach 3.93 percent of personal income in SFY 2020-21. State-supported debt is a narrower definition of debt than State-related debt. It is used to measure compliance with the Debt Reform Act of 2000. The Debt Reform Act caps outstanding State-supported debt issued since April 1, 2000 at 4 percent of personal income. Based on the Executive Budget’s projections, the State would reach the 4 percent cap in SFY 2023-24, before seeing a decline in outstanding debt in SFY 2024-25, ending that year with \$855 million in capacity below the cap.

### **New York City Impacts**

The Executive Budget indicated a positive impact to New York City in local fiscal year 2021. However, the impact of the proposed local Medicaid cap is not estimated.

## Revenue Highlights

- **Net Revenue Impact of Executive Revenue Legislation:** The net revenue impact of the Executive's revenue legislation is +\$51 million in SFY 2020-21 and +\$112 million in SFY 2021-22.
- **Shift Basic STAR (School Tax Relief) Exemptions to the Credit Program (Part AA):** The Executive proposes to limit the Basic STAR Benefit for homeowners in the Exemption program who earn up to \$200,000. This proposal would reduce General Fund spending by \$74 million in SFY 2020-21 and by \$68 million in SFY 2021-22. The proposal reduces revenue by an identical amount in both fiscal years, leaving no net impact to the Financial Plan.
- **Extend and Reform the Film Production Tax Credit (Part M):** The Executive proposes to reduce the production credit rate from 30 percent to 25 percent. The post-production credit rate in New York City and the other counties of the Metropolitan Commuter Transportation District will also be cut from 30 to 25 percent. The amount for the post-production credit in the rest of the State is cut from 35 to 30 percent. This proposal does not impact the State Financial Plan.

## State Receipts Tables

All Funds Receipts (Millions of Dollars)				
	Estimated SFY 2020-21	Forecast SFY 2021-22	\$ Change	% Change
<b>Personal Income Tax</b>				
Withholding	44,429	46,597	2,168	4.9
Estimated Payments	17,869	19,098	1,229	6.9
Final Returns	3,608	3,882	274	7.6
Other Payments	1,646	1,717	71	4.3
<b>Gross Collections</b>	<b>67,552</b>	<b>71,294</b>	<b>3,742</b>	<b>5.5</b>
STAR Special Revenue Fund	0	0	0	
Refunds/Offsets	(10,742)	(11,802)	(1,060)	9.9
Revenue Bond Tax Fund	0	0	0	
<b>Net Collections</b>	<b>56,810</b>	<b>59,492</b>	<b>2,682</b>	<b>4.7</b>
<b>User Taxes and Fees</b>				
Sales and Use	16,719	17,285	566	3.4
Cigarette/Tobacco	963	931	(32)	-3.3
Vapor Excise Tax	14	6	(8)	-57.1
Motor Fuel Tax	524	522	(2)	-0.4
Highway Use Tax	143	145	2	1.4
Alcoholic Beverage	269	272	3	1.1
Opioid Excise Tax	100	100	0	0.0
Medical Cannabis Excise Tax	6	6	0	0.0
Adult-Use Cannabis Tax	20	63	43	215.0
Taxicab Surcharge	0	0	0	
Auto Rental Tax	115	118	3	2.6
<b>Total</b>	<b>18,873</b>	<b>19,448</b>	<b>575</b>	<b>3.0</b>
<b>Business Taxes</b>				
Corporation Franchise	5,640	5,547	(93)	-1.6
Corporation and Utilities	657	673	16	2.4
Insurance	2,364	2,433	69	2.9
Bank	90	0	(90)	-100.0
PBT	1,159	1,106	(53)	-4.6
<b>Total</b>	<b>9,910</b>	<b>9,759</b>	<b>(151)</b>	<b>-100.9</b>
<b>Other Taxes</b>				
Estate	1,174	1,229	55	4.7
Real Estate Transfer Tax	1,144	1,179	35	3.1
Emp. Comp. Expense Program	3	6	3	100.0
Pari-Mutuel	15	15	0	0.0
Other	3	3	0	0.0
<b>Total</b>	<b>2,339</b>	<b>2,432</b>	<b>93</b>	<b>107.7</b>
<b>Total Tax Collections</b>	<b>87,932</b>	<b>91,131</b>	<b>3,199</b>	<b>3.6</b>
<b>Miscellaneous Receipts</b>	<b>26,253</b>	<b>25,695</b>	<b>(558)</b>	<b>-2.1</b>
<b>Federal Grants</b>	<b>62,187</b>	<b>65,818</b>	<b>3,631</b>	<b>5.8</b>
<b>Total Receipts</b>	<b>176,372</b>	<b>182,644</b>	<b>6,272</b>	<b>3.6</b>

General Fund (Millions of Dollars)				
	Estimated SFY 2020-21	Forecast SFY 2021-22	\$ Change	% Change
<b>Personal Income Tax</b>	26,405	27,834	1,429	5.4
<b>User Taxes and Fees</b>				
Sales and Use	7,828	8,093	265	3.4
Cigarette/Tobacco	299	301	2	0.7
Alcoholic Beverage	269	272	3	1.1
Opioid Excise Tax	100	100	0	0.0
<b>Total</b>	<b>8,496</b>	<b>8,766</b>	<b>270</b>	<b>3.2</b>
<b>Business Taxes</b>				
Corporation Franchise	4,578	4,460	(118)	-2.6
Corporation and Utilities	483	498	15	3.1
Insurance	2,092	2,152	60	2.9
Bank	75	0	(75)	-100.0
<b>Total</b>	<b>7,228</b>	<b>7,110</b>	<b>(118)</b>	<b>-97</b>
<b>Other Taxes</b>				
Estate	1,174	1,229	55	4.7
Employer Compensation Expense Program	1	3	2	200.0
Pari-Mutuel	15	15	0	0.0
Other	3	3	0	0.0
<b>Total</b>	<b>1,193</b>	<b>1,250</b>	<b>57</b>	<b>205</b>
<b>Total Tax Collections</b>	<b>43,322</b>	<b>44,960</b>	<b>1,638</b>	<b>3.8</b>
<b>Miscellaneous Receipts</b>	<b>2,106</b>	<b>1,957</b>	<b>(149)</b>	<b>-7.1</b>
<b>Federal Grants</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Total Receipts</b>	<b>45,428</b>	<b>46,917</b>	<b>1,489</b>	<b>3.3</b>

- Sweeps and Transfers (PPGG Part VV):** The Sweeps and Transfers section of the Public Protection / General Government Article VII legislation includes the necessary statutory authorization for transfers, temporary loans, and amendments to miscellaneous capital/debt provisions, including bond caps necessary to support the State's Financial Plan in the fiscal year 2020-21. It proposes certain modifications to improve the State's General Fund position in the upcoming fiscal year. Specifically, it would: (1) authorize temporary loans and the deposits of certain revenues to specific funds and accounts, (2) authorize the transfers and deposits of funds to and across various accounts, (3) extend various provisions of Chapter 59 of the Laws of 2017 in relation to capital projects and certain certifications, (4) modify various debt and bond provisions necessary to implement the budget, and (5) include language providing the director of the Division of the Budget the ability to modify certain appropriations in the case of federal funds shortfalls above a certain level, with a plan subject to Legislative disapproval.

<b>FY 2021 Executive's Revenue Action Proposals</b>				
<b>(All Funds/millions of dollars)</b>				
	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>
<b>Personal Income Tax</b>	<b>(40)</b>	<b>(5)</b>	<b>(159)</b>	<b>(154)</b>
Reduce the Burden on Small Businesses	0	(3)	(6)	(6)
Enhance Empire State Child Credit	0	0	(157)	(157)
Authorize DTF to Provide Unclaimed Tax Benefits	(2)	(2)	(2)	(2)
Cap Maximum Amount and Income for Long-Term Care Insurance Credit	0	28	28	28
Make Warrantless State Tax Debt Collection Methods Permanent	40	40	40	40
Shift Basic STAR Benefits to the Credit Program	(74)	(68)	(62)	(57)
Make Exceptions for Late Enhanced STAR Filers	(4)	0	0	0
Deny STAR Benefits to Delinquent Property Owners	0	0	0	0
Remove References to the STAR Offset Program	0	0	0	0
<b>Consumption/Use Taxes</b>	<b>5</b>	<b>53</b>	<b>75</b>	<b>131</b>
Enact a Comprehensive Tobacco Control Policy	(25)	(33)	(33)	(33)
Reform Tobacco Products Tax	10	23	23	23
Enact the Cannabis Regulation and Taxation Act	20	63	85	141
Enhance Cigarette Tax Enforcement and Penalties	0	0	0	0
Make Technical Amendments Related To Alcoholic Beverage Taxes	0	0	0	0
<b>Business Taxes</b>	<b>0</b>	<b>(36)</b>	<b>(55)</b>	<b>(41)</b>
Reduce Burden on Small Businesses	0	(36)	(50)	(36)
Extend Hire-A-Vet Credit for Two Years	0	0	(5)	(5)
Extend Excelsior Tax Credit Program and Enhance Tax Credits for Green Projects	0	0	0	0
Extend and Reform the Film Production Tax Credit	0	0	0	0
<b>Other Initiatives</b>	<b>85</b>	<b>100</b>	<b>100</b>	<b>100</b>
Eliminate Quick Draw Minimum Size Restriction	15	30	30	30
Impose Certificate of Need Fee	70	70	70	70
Extend Oil and Gas Fee for Three Years	0	0	0	0
Establish a Motion Picture Theater Alcohol Permit	0	0	0	0
Update Criminal Tax Fraud Statutes	0	0	0	0
Make Technical Amendments to Telecommunications and Railroad Ceiling Programs	0	0	0	0
Abolish the State Board of Real Property Taxes	0	0	0	0
Allow for the Appointment of Acting County Directors of Real Property Tax Services	0	0	0	0
Provide Local Options for Placing Converted Condos into the Homestead Class	0	0	0	0
Modernize and Merge Real Property Tax Forms and Processes	0	0	0	0
Extend Pari-Mutuel Tax Rates and Simulcast Provisions for One Year	0	0	0	0
Build a New Equine Drug Testing Lab	0	0	0	0
Authorize Entry Into the Mid-Atlantic Drug Compact	0	0	0	0
Amend Sports Wagering Lounge Restrictions	0	0	0	0
<b>REVENUE ACTION PROPOSALS TOTAL</b>	<b>\$ 51</b>	<b>\$ 112</b>	<b>\$ (39)</b>	<b>\$ 36</b>

## Article VII Revenue Bill

- **Make Warrantless State Tax Debt Collection Methods Permanent (Part A):** The Executive proposes legislation making permanent two Department of Tax and Finance (DTF) authorizations for warrantless debt collection methods. These include extending income executions (first passed in 2013) and bank account data matching (first passed in 2017). Income executions allow DTF to garnish up to 10 percent of wages until a fixed and final tax debt is paid off. Bank account data matching allows DTF to work with banks to locate assets being hidden by delinquent taxpayers without having to first issue a tax warrant for the debt. These two programs, which were last extended for three years, make collection of past-due fixed and final tax debts more efficient and taxpayer-friendly as they reduce the need for issuing public tax warrants.

*State Fiscal Impact: This proposal would increase All Funds State revenue by approximately \$40 million annually beginning SFY 2020-21.*

- **Extend Hire-A-Vet Credit for Two Years (Part B):** The Executive proposes to extend the Hire-A-Vet Tax Credit for two years, adding 2020 and 2021 hiring periods. Employers hiring a veteran who begins employment on or after January 1, 2014, and before January 1, 2022, has employment in New York State for a least one year and works 35 hours each week, may claim a refundable credit in the tax year in which the qualified veteran completes one year of employment from the taxpayer. The credit is equal to 10 percent of wages paid to a qualified veteran (up to \$5,000) and 15 percent of wages paid to a disabled veteran (up to \$15,000).

*State Fiscal Impact: This proposal would reduce All Funds State revenue by approximately \$5 million in FY 2023 and FY 2024.*

- **Extend Oil and Gas Fee for Three Years (Part C):** The Executive proposes legislation extending the fee paid by energy companies to fund a program whereby the Department of Taxation and Finance (DTF) establishes a unit of production values that local assessors must use when assessing oil and gas wells and related facilities. Currently set to expire on March 31, 2020, the Executive extends this program through March 31, 2024.

*State Fiscal Impact: This proposal would have no impact on the State Financial Plan.*

- **Reduce Taxes on Small Businesses (Part D):** The Executive proposes to reduce the business income tax rate from the current 6.5 percent to 4 percent for businesses with 100 or fewer employees, and with net income below \$390,000. This tax cut only applies to such small businesses that file taxes under Article 9-A of the tax law, i.e., corporate tax filers.

Additionally, the Executive Budget proposes to triple the amount farmers and proprietors can subtract from their Adjusted Gross Income (AGI) for taxation purposes. Instead of excluding 5 percent of net items of income, gain, loss, and deduction entering into federal adjusted gross income, the Executive proposes to exclude 15 percent. Only businesses that file taxes under the personal income tax code and earn a business income of \$250,000 or less annually are eligible.

Furthermore, the Executive Budget proposes to expand the refundability of the investment tax credit from only new businesses to include taxpayers whose primary source of income is from

farming, allowing taxpayers to receive the full benefit of their credits earned within the tax year.

Lastly, New York State S Corporations (a.k.a. pass-through entities) are required to make estimated tax payments if they believe their tax liability will exceed \$1,000 and are subject to a tax penalty if they underpay. The Executive Budget proposes to repeal this penalty.

*State Fiscal Impact: This proposal would reduce All Funds State revenue by approximately \$39 million in SFY 2021-22, \$56 million in 2023, and \$42 million in FY 2024 and thereafter.*

- **Cap the Maximum Amount and Income for Long-Term Insurance Credit (Part E):** The Executive proposes to limit the Long-Term Care Insurance Credit to a maximum of \$1,500, and to taxpayers with incomes under \$250,000. Currently, the Long-Term Insurance Credit is 20 percent of premiums with no maximum credit amount, and it is open to taxpayers regardless of income.

*State Fiscal Impact: This proposal would increase All Funds State revenue by approximately \$28 million beginning SFY 2021-22.*

- **Authorize Department of Taxation and Finance to Provide Unclaimed Tax Benefits (Part F):** The Executive proposes authorizing DTF to pay the earned income tax credit to low-income families that qualify for but failed to claim the credit on their returns automatically, without the need for these families to file an amended tax return. The New York State earned income tax credit is equal to 30 percent of a taxpayer's allowable federal earned income credit, reduced by the amount of any household credit. Additionally, DTF will be authorized to provide taxpayers the standard deduction if the taxpayer elected to itemize deductions but had deductions rejected, leaving their approved deduction amount below the standard deduction amount. In such cases under current law, a taxpayer could file an amended return, and they will retain that right.

*State Fiscal Impact: This proposal would reduce All Funds State revenue by approximately \$2 annually beginning SFY 2020-21.*

- **Enhance the Empire State Child Credit (Part G):** The Executive proposes to expand the Empire State Child Credit to include children under the age of four for families with household adjusted gross incomes (AGI) of \$50,000 or less starting in the tax year 2021. To qualify for this credit currently, a taxpayer must have a child between the ages of four to sixteen and:
  - Have claimed the federal child tax credit, additional child tax credit or credit for other dependents; or
  - Have a federal AGI of \$110,000 or less for taxpayers who are married filing a joint return, \$75,000 or less for single filers or heads of households, or \$55,000 or less for taxpayers who are married filing separately.

Under current law, this credit is equal to 33 percent of the pre-2018 Federal Child Tax Credit, or \$100 per qualifying child, whichever is greater. The maximum credit per qualifying child is \$330, and this credit is reduced as household AGI increases. This proposal leaves benefit levels unchanged.

*State Fiscal Impact: This proposal would reduce All Funds State revenue by approximately \$157 million beginning FY 2023.*

- Make Technical Amendments Related to Alcoholic Beverage Taxes (Part J):** The Executive proposes legislation making technical amendments to alcoholic beverage taxes, including (1) updating and conforming annual reporting requirement thresholds for small alcohol producers in Tax Law to the State Liquor Authority's (SLA) annual alcohol production caps for farm producer licenses; (2) standardizing the tax exemption of inter-distributor sales by extending the exemption to every registered distributor; and (3) repealing the one cent per liter tax levied on liquor containing less than two percent of alcohol by volume, simplifying the ABT return process and the move toward web-based filing.

*State Fiscal Impact: This proposal would have no impact on the State Financial Plan.*
- Update Criminal Tax Fraud Statutes (Part K):** The Executive proposes legislation amending the existing tax fraud statutes to add language they believe clarifies the intent of these laws to prosecute anyone who defrauds the State of tax revenue. The Executive states that there has been some amount of legal confusion regarding whether individuals who knowingly fail to file taxes when required or who received fraudulent refunds could be charged with tax fraud given that current language appears to state that some tax must have been paid for liability to attach. This proposal amends the language to make it clear the law covers all instances of tax fraud. The proposal also creates two new felony crimes. Persons filing 10 or more fraudulent tax returns with the intent to underpay taxes or claim unearned or increased refunds could be charged with criminal tax preparation in the second degree, a D felony. Persons submitting 50 or more fraudulent returns could be charged with criminal tax preparation in the first degree, a C felony. The proposal would also allow authorities to aggregate the amounts of different tax fraud acts into a single charge for all those acts carried out in a single 365 day period, or to aggregate all the amounts of tax fraud committed as part of a single tax fraud scheme over several years into a single charge.

*State Fiscal Impact: This proposal would have no impact on the State Financial Plan.*
- Extend Excelsior Tax Credit Program & Enhance Tax Credits for Green Projects (Part L):** The Executive proposes to extend the Excelsior Jobs Program by establishing new credit caps through 2039 and allowing the use of unused credits through 2049. The current program lays out a schedule of credits, which are capped annually through tax year 2024. Any credits not allocated out of those scheduled amounts could still be allocated through 2030. The Executive proposal would add fifteen more years of statutorily capped credits, with \$200 million being set aside for each of the tax years from 2025 through 2039. Any unused credits could then be used through 2049. The Executive also removes language that creates uncertainty as to the amount of carryforward credits that can be used during a year with a statutory cap.

Furthermore, the Executive Budget proposes to provide enhanced benefits to taxpayers who engage in the green economy by increasing the refundable Jobs Credit from a maximum of 6.85 percent to a maximum of 7.5 percent for net new jobs in a qualifying Green Project. The exact amount of the credit is the result of negotiations between Empire State Development and the applicants. The Executive Budget also proposes that these participants receive an increase in the refundable investment tax credit from a maximum of 2 percent to a maximum of 5 percent for new capital investment in a qualifying Green Project, as well as an increase in the Research and Development Tax Credit from a maximum of 6 percent to a maximum of 8 percent of eligible expenses in a qualifying Green Project.

*State Fiscal Impact: This proposal does not impact the State Financial Plan.*

- Extend and Reform the Film Production Tax Credit (Part M):** The Executive proposes to reduce the production credit rate from 30 to 25 percent. The post-production credit rate in New York City and the other counties of the Metropolitan Commuter Transportation District will also be cut from 30 to 25 percent. The amount for the post-production credit in the rest of the State is cut from 35 to 30 percent. This cut would apply for all productions applying for the credit after April 1 of this year. The Executive also proposes requiring minimum project spending amounts of \$1 million in NYC, and the counties of Westchester, Rockland, Suffolk and Nassau, and \$250,000 for counties in the rest of the State. This limit would not apply for pilot episodes. Furthermore, the Executive Budget proposes that future variety shows be excluded from the definition of “qualified film.” The Executive Budget also proposes extending the credit for one more year through 2025.

*State Fiscal Impact: This proposal does not impact the State Financial Plan.*
- Provide Local Options for Placing Converted Condos into the Homestead Class (Part N):** The Executive proposes to enable municipalities, at local option, to place converted condos assessed at full value using the sales-based approach in the homestead class, thereby aligning the taxation of these units with that of other residential properties. Current law requires condos to be valued using comparable rental values, which denies localities the ability to place such properties in a homestead class. Current law also allows certain localities to value units that have been converted from rental units to condos using a sales-based approach. This change would allow localities that choose to treat condos valued using a sales-based approach to be taxed like all other residential units valued using a sales-based approach. This does not apply to special assessment units like New York City or Nassau.

*State Fiscal Impact: This proposal does not impact the State Financial Plan.*
- Allow Appointment of Acting County Directors or Real Property Tax Services (Part P):** The Executive proposes to allow counties to appoint an Acting County Director of Real Property Tax Services who would, per the Executive, provide service coverage until a new director is appointed. The property tax system has a number of statutorily mandated deadlines and also limits the individuals authorized to make certain changes to the tax rolls. This results in possible delays if the office of Director of Real Property Tax Services is vacant, as no one else would have the legal authority to finalize certain actions.

*State Fiscal Impact: This proposal does not impact the State Financial Plan.*
- Modernize and Merge Real Property Tax Forms and Processes (Part Q):** The Executive proposes to modernize and simplify the process of filing certain Real Property Tax forms. Currently, when a property is sold, two physical forms must be filed with DTF, one containing information for the payment of taxes, including the Real Estate Transfer Tax (RETT), which is covered under tax secrecy laws as a tax return, and a second form containing almost all the same exact information that will be used for public real property ownership records. The Executive proposes granting DTF the authority to create an online filing system, in which individuals would be able to enter all this information online, with tax specific information remaining secret while property ownership information would remain public information. New York City and Westchester have instituted their electronic deed recording systems, so they would have to opt in so that properties sold in those areas would be covered by this new system.

This system would be implemented such that localities, which collect local filing fees for this information, would be held harmless.

*State Fiscal Impact: This proposal does not impact the State Financial Plan.*

- **Abolish the State Board of Real Property Tax Services (Part R):** The Executive proposes to eliminate the State Board of Real Property Tax Services and transfer its powers to the Tax Commissioner. According to the Executive, the status quo is inconsistent with the structure of other agencies that hear appeals. The Board lost most of its responsibilities in 2010, when the State Office of Real Property Services was merged into the Department of Taxation and Finance, making these posts far less attractive. Two of the five board positions are vacant, meaning that the failure of a single member to show up at a meeting denies the Board quorum, which creates difficulties and delays in getting the Board to resolve the few complaints the Board has authority to hear.

*State Fiscal Impact: This proposal does not impact the State Financial Plan.*

- **Technical Amendments to Telecommunications & Railroad Ceiling Programs (Part T):** The Executive proposes changes to clarify that a final equalization rate cannot be established until the telecommunications ceiling is established, as well as to eliminate the specialty property reporting requirement. The Executive also proposes to align the mismatched valuation dates in the railroad ceiling program to, as the Executive contends, ensure that the State ceiling and local assessment both reflect the same set of facts. The ceiling is a value determined by the State as the maximum assessment value a locality may impose on special franchise properties such as telecommunication, utility, and railroad properties.

*State Fiscal Impact: This proposal does not impact the State Financial Plan.*

### **Comprehensive Tobacco Legislation**

- **Reform the Tobacco Products Tax (Part H):** The Executive proposes legislation closing a loophole when tobacco products do not pass directly from the manufacturer to the distributor, resulting in substantial State tax receipt losses. Currently, and as is often the case with imported tobacco products, tobacco distributors have the option to establish a different “wholesale price” by demonstrating an “industry standard of markups relating to the purchase price,” rather than the higher price paid by the distributor for the products being distributed. The Budget eliminates that option and amends the definition of “wholesale price” to reflect the price at which tobacco products are sold to a New York State registered distributor.

*State Fiscal Impact: This proposal would increase All Funds State revenue by approximately \$10 million in SFY 2020-21 and \$23 million annually.*

- **Enhance Cigarette Tax Enforcement and Penalties (Part I):** The Executive proposes legislation making it more difficult for sellers to evade tax liabilities and violation penalties while increasing penalties if they do, therefore improving compliance and increasing State cigarette tax revenue, which goes toward health care. The Executive proposes the following measures:
  - Authorizing DTF to revoke a cigarette retailer’s Certificate of Registration (CoR) to sell tobacco products after the first violation, which triggers the process of revoking their Certificate of Authority (CoA), which is the required license to collect sales tax and operate a business;

- Increasing the duration of the revocation period from six months to one year to reflect the time a CoA revocation hearing may take;
- Adding affiliate person language to eliminate the common practice of one individual owning several different retail locations using slightly different business names each with its own CoR and thereby accumulating several violations at different locations while avoiding the full impact of the penalties and punishments; and
- Amending the revocation process for lottery and liquor licenses by requiring they automatically be revoked upon revocation of a CoR for a violation of selling untaxed cigarettes.

*State Fiscal Impact: This proposal would have no immediate impact on the State Financial Plan but would preserve the State's existing revenue streams.*

### **Cannabis Regulation and Taxation Act**

- **Enact the Cannabis Regulation and Taxation Act (Part BB):** The Executive is reintroducing the CRTA, which would enable the sale of adult-use cannabis and shift oversight of the existing hemp and medical marijuana programs to a new Office of Cannabis Management (OCM). The proposal would create a new Cannabis Law, which would govern adult-use cannabis, medical cannabis, and hemp. The proposal amends the tax law to establish taxes on the production and sale of adult-use cannabis and directs revenue sharing between the various levels of government. The proposal allows counties or cities with more than 100,000 residents to opt out of commercial activity. The plan also amends the Penal and Vehicle and Traffic laws to create new penalties related to unlawful and unlicensed activity.

*State Fiscal Impact: This proposal would increase All Funds State revenue by approximately \$20 million in SFY 2020-21, \$63 million in SFY 2021-22, \$85 million FY 2023, \$141 million FY 2024, and \$188 million in FY 2025. The SFY 2020-21 Executive Budget also includes \$13 million in new funding to support the operations of the new Office of Cannabis Management.*

- **School Tax Relief (STAR) Program Reforms:** The Revenue Bill for Fiscal Year 2021 includes several provisions designed to make the STAR program more efficient and effective. STAR was enacted in 1997 to assist homeowners with their local property tax burden. The Basic STAR exemption applies to any household earning under \$500,000 per year who owns their primary residence. The program compensates eligible homeowners for a certain portion of their property tax bill. The amount depends on the amount of the tax bill, the percentage of fair market value that is reflected in the assessment, and property values in that county relative to the state.

The SFY 2020-21 Executive Budget continues efforts to move taxpayers from the STAR exemption program to the STAR credit program. Under the exemption program, homeowners receive a deduction on the local property tax, and the State compensates the locality for the lost revenue (this is an expenditure for the State). Under the credit program, the eligibility and benefits are identical to the exemption program, but it differs in administration: homeowners pay the full tax bill (eliminating the need for localities to be reimbursed) and homeowners receive the benefit in the form of a check from the State. Technically, this reduces tax revenue, as opposed to an expenditure with the exemption program.

- **Deny STAR Benefit to Delinquent Property Owners (Part O):** The Executive proposes to eliminate the STAR benefits for homeowners that do not pay their property taxes. Localities would provide DTF with information on homeowners who were delinquent on paying property taxes for more than a year. DTF would send these taxpayers a notice requiring them to pay their tax debt within 30 days or then lose their STAR benefit, whether it be the exemption or credit. Taxpayers would not be able to receive STAR benefits again until the locality affirmed that they had paid off their debt. At that point, STAR benefits could be granted again, though only in the form of the credit. The Executive proposal requires DTF to set up a standard set of rules and regulations under which localities would report tax delinquents to DTF so that a STAR credit or exemption can be justifiably withheld until delinquent property taxes are paid.  
*State Fiscal Impact: This proposal does not impact the State Financial Plan.*
- **Remove References to the STAR Offset Program (Part S):** The Executive proposes to remove references to the obsolete STAR Offset Program. The STAR Offset Program, which applied to school years 2013-14 through 2015-16, permitted the Department of Taxation and Finance (DTF) to use a homeowner's STAR benefit to offset a past-due State tax liability.  
*State Fiscal Impact: This proposal does not impact the State Financial Plan.*
- **Make Exceptions for Late Enhanced STAR Filers (Part U):** The Executive proposes to re-open enrollment in the Income Verification Program (IVP) for Enhanced STAR recipients. Although the SFY 2018-19 Enacted Budget required all Enhanced STAR recipients to enroll in the IVP, some of these Enhanced STAR recipients failed to do so in time to receive their full STAR benefit. By reopening the enrollment period, these recipients will be allowed to retroactively verify their income, with the DTF providing enhanced STAR benefits to qualified late enrollees.  
*State Fiscal Impact: The estimated cost to the Financial Plan revenue will be approximately \$4 million in SFY 2020-21.*
- **Shift Basic STAR (School Tax Relief) Exemptions to the Credit Program (Part AA):** The Executive proposes to limit the Basic STAR Benefit for homeowners in the Exemption program who earn up to \$200,000. The SFY 2019-20 Enacted Budget limited the Basic STAR Benefit to homeowners in the Exemption program who earn up to \$250,000, down from \$500,000. In the SFY 2019-20 Enacted Budget, the income eligibility for the STAR Credit was unchanged at \$500,000. The Executive proposal also leaves the income eligibility for the STAR Credit unchanged. This proposal aims to continue the shift away from providing STAR benefits in the form of an exemption towards providing STAR benefits in the form of a tax credit while maintaining the level of relief. The Executive estimates this would move 80,000 more taxpayers from the STAR exemption to the credit.  
*State Fiscal Impact: This proposal would reduce General Fund spending by \$74 million in SFY 2020-21 and by \$68 million in SFY 2021-22. The proposal reduces revenue by an identical amount in both fiscal years, leaving no net impact to the Financial Plan.*

**Department of Taxation and Finance**

**State Operations and Aid to Localities:**

The SFY 2020-21 Executive Budget recommends \$468.6 million All Funds (\$271.9 million General Fund; \$196.6 million Other Funds) for the Department of Taxation and Finance, the same level of funding appropriated in SFY 2019-20.

**Full-Time Equivalent (FTE) Positions:**

The Executive Budget recommends a workforce of 4,085 FTEs for the Department, which is consistent with the SFY 2019-20 budget.

**Reappropriations:**

The Executive Budget recommends State Operations reappropriations totaling \$17 million. These reappropriations are from the Revenue Analysts, Collection, Enforcement, Processing, and Real Property Tax Program.

**Division of Tax Appeals**

The SFY 2019-20 Executive Budget recommends a \$3.0 million General Fund appropriation and a workforce of 27 FTEs for the Division of Tax Appeals, both unchanged from SFY 2019-20.



# Education



STAFF ANALYSIS OF  
THE 2020-21 EXECUTIVE BUDGET

## Education Highlights

### Appropriations

- **School Aid**: The Executive Budget recommends \$28.5 billion in School Aid, an \$826 million (3.0 percent) increase over School Year (SY) 2019-20. The increase is comprised of \$504 million in Foundation Aid, a \$200 million lump of unallocated Foundation Aid, a \$72 million increase in expense-based aids, and \$50 million in competitive grants.
- **Foundation Aid**: The Executive Budget increases Foundation Aid by \$704 million: \$504 million allocated on the School Aid run plus an unallocated \$200 million intended for high-need school districts. Within the \$504 million increase is a \$50 million increase in the Community Schools Set-Aside. Beginning in SY 2020-21, the Executive proposes to consolidate ten different expense-based aid categories into Foundation Aid. This change causes \$1.85 billion to be shifted out of expense-based aids and reallocated through Foundation Aid, resulting in total proposed Foundation Aid of \$20.8 billion for SY 2020-21.
- **Competitive Grants**: The Executive Budget provides \$50 million in new competitive grants: \$16 million to improve student and teacher performance, \$15 million for pre-kindergarten expansion, \$10 million for Empire State After School expansion, \$6 million for new Early College High Schools, \$1.5 million for Master Teachers, \$1 million for curriculum development on diversity and inclusion, and \$500,000 for a STEM Entrepreneur-in-Residence program.

### Article VII

- **Expense-Based Aids Consolidation (ELFA Part A)**: Beginning in SY 2020-21, the Executive proposes consolidation of ten expense-based aid categories (BOCES, High Tax, Special Services, Hardware and Technology, Charter School Transitional, Software, Library, Textbook, Supplemental Public Excess Cost, and Academic Enhancement) reallocated through Foundation Aid. This consolidation results in an additional \$1.85 billion within Foundation Aid.
- **Limitations on Building Aid and Transportation Aid (ELFA Part A)**: Beginning with projects approved after July 1, 2020 and transportation expenses in SY 2020-21, the Executive Budget limits Building Aid reimbursement and Transportation Aid reimbursement. With respect to Building Aid reimbursement, the Executive Budget limits reimbursement for incidental costs, reduces reimbursement ratios for low- and average-need school districts, and eliminates the Building Aid reimbursement rate lookback option. With respect to Transportation Aid reimbursement, the Executive Budget reduces reimbursement rates by eliminating one of the three formula options and limits approved transportation operating expenses.
- **Reissuance of Surrendered, Revoked or Terminated Charters (ELFA Part A)**: The Executive Budget provides for the reissuance of surrendered, revoked, or terminated charters – commonly known as “zombie charters” – and specifies that these charters shall not be counted within the limits of the New York City or statewide charter school cap.
- **Syracuse Comprehensive Education and Workforce Training Center (ELFA Part B)**: The Executive Budget proposes a Syracuse Comprehensive Education and Workforce Training

Center to be established and operated by the Syracuse City School District, focusing on science, technology, engineering, arts, and math for high school students. The Center will partner with higher education institutions, including SUNY Empire State College, to offer early college opportunities, apprenticeships, and career opportunities.

- **Rochester City School District Monitor (ELFA Part C)**: The Executive Budget requires the Commissioner of Education and the Mayor of Rochester to jointly appoint a monitor to oversee the academic and fiscal policies of the Rochester City School District.

## Education Agency Details

State Education Department All Funds Appropriations				
Agency	Available SFY 2019-2020	Executive Recommendation SFY 2020-2021	\$ Change	% Change
State Education Department	\$37,408,663,850	\$37,823,357,850	\$414,694,000	1.1%
<b>Total State Education Department</b>	<b>\$37,408,663,850</b>	<b>\$37,823,357,850</b>	<b>\$414,694,000</b>	<b>1.1%</b>

### Overview

The Executive Budget proposes \$38 billion in All Funds appropriations for the State Education Department (SED) in SFY 2020-21. This is an increase of \$415 million, or 1.1 percent, over SFY 2019-20 levels and is reflective of an \$826 million School Aid increase. The Executive Budget also recommends a workforce of 2,692 FTEs for SED, consistent with SFY 2019-20 levels.

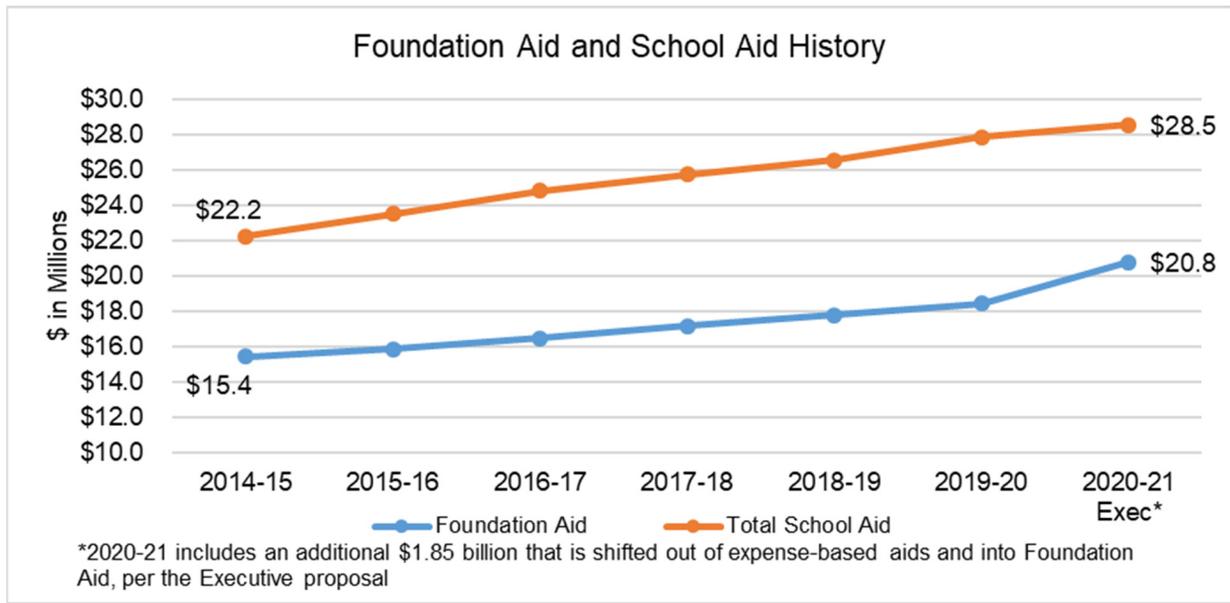
### P-12 Education

The Executive Budget provides \$28.5 billion in School Aid, an increase of \$826 million (3.0 percent). The \$826 million increase is comprised of the following components:

- Expense-Based and Categorical Aids (\$72 million)
- Foundation Aid Allocated on the Run (\$504 million)
- Unallocated Foundation Aid to High-Need School Districts (\$200 million)
- Competitive Grants (\$50 million)

2020-21 Executive Budget - School Aid Increase Components (\$ in Millions)				
	SY 2019-20	SY 2020-21	\$ Increase	% Increase
Foundation Aid	\$20,256	\$20,759	\$504	2.5%
Expense-Based Aids	\$6,960	\$7,035	\$75	1.1%
<b>School Aid On The Run</b>	<b>\$27,216</b>	<b>\$27,794</b>	<b>\$579</b>	<b>2.1%</b>
Categorical Aids	\$289	\$286	(\$3)	-1.0%
Competitive Grants	\$219	\$269	\$50	22.8%
Unallocated Foundation Aid	\$0	\$200	\$200	n/a
<b>Total School Aid</b>	<b>\$27,724</b>	<b>\$28,549</b>	<b>\$826</b>	<b>3.0%</b>

Foundation Aid: The Executive Budget increases Foundation Aid by \$704 million: \$504 million allocated on the School Aid run plus an unallocated \$200 million that is to be used for high-need school districts. High-need school districts receive 79 percent of the \$504 million Foundation Aid increase that is allocated based on student need and district wealth. Every school district is guaranteed a 0.25 percent year-over-year increase.



Expense-Based Aid Consolidation into Foundation Aid: Beginning in SY 2020-21, the Executive proposes to consolidate ten expense-based aid categories (BOCES, High Tax, Special Services, Hardware & Technology, Charter School Transitional, Software, Library Materials, Textbook, Supplemental Public Excess Cost, and Academic Enhancement) into Foundation Aid. This change causes \$1.85 billion to be shifted out of expense-based aids and into Foundation Aid. Absent this shifting of expense-based aids into Foundation Aid, Foundation Aid would total \$18.9 billion in SY 2020-21 instead of the \$20.8 billion that is shown on the Executive’s School Aid run.

2020-21 Executive Budget - School Aid On The Run (\$ in Millions)				
Aid Category	SFY	SFY	\$	%
	2019-20	2020-21	Increase	Increase
Foundation Aid Pre-Consolidation	\$18,405	\$18,909	\$504	2.7%
<i>BOCES</i>	\$1,012	-	-	-
<i>Special Services</i>	\$264	-	-	-
<i>High Tax</i>	\$223	-	-	-
<i>Textbooks (Incl. Lottery)</i>	\$173	-	-	-
<i>Computer Software</i>	\$45	-	-	-
<i>Charter School Transitional Aid</i>	\$46	-	-	-
<i>Computer Hardware</i>	\$37	-	-	-
<i>Academic Enhancement Aid</i>	\$28	-	-	-
<i>Library Materials</i>	\$18	-	-	-
<i>Supplemental Public Excess Cost</i>	\$4	-	-	-
<b>Foundation Aid Consolidated Aids Subtotal</b>	<b>\$1,851</b>	<b>\$1,851</b>	<b>\$0</b>	<b>0.0%</b>
Foundation Aid Post-Consolidation	\$20,256	\$20,759	\$504	2.5%
<i>Community Schools Setaside</i>	\$250	\$300	\$50	20.0%
Building	\$3,056	\$3,049	(\$7)	-0.2%
Transportation	\$1,993	\$2,095	\$102	5.1%
Excess Cost - High Cost	\$660	\$613	(\$47)	-7.2%
Excess Cost - Private	\$395	\$422	\$28	7.0%
Universal Prekindergarten	\$846	\$849	\$3	0.3%
Reorganization Operating Incentive	\$6	\$5	(\$1)	-14.0%
Full-Day Kindergarten Conversion	\$4	\$2	(\$2)	-42.8%
<b>Total Formula-Based Aids on the Run</b>	<b>\$27,216</b>	<b>\$27,794</b>	<b>\$579</b>	<b>0.5%</b>

Community Schools Set-Aside: The Executive Budget increases the Foundation Aid Community Schools Set-Aside from \$250 million to \$300 million, with \$41.9 million of this increase targeted to 100 school districts containing at least one school identified as a Comprehensive Support & Improvement (CSI) School or with significant five-year growth in English language learners (ELLs). Additionally, \$8.1 million is targeted to 168 school districts that have not yet received a Community Schools Set-Aside but have relatively low district wealth.

Expense-Based Aids: The Executive Budget provides a \$75 million increase in funding for expense-based aids that were not consolidated into Foundation Aid for SY 2020-21. These aids (Transportation Aid, Building Aid, Public/Private Excess Cost Aids, Full-Day Kindergarten Conversion Aid, Universal Prekindergarten, and Reorganization Operating Aid) reimburse school districts for costs incurred in the previous school year based on wealth-equalized reimbursement ratios.

Prekindergarten: The Executive provides \$15 million to fund a new round of prekindergarten grant awards for high-need school districts. The Executive Budget also appropriates \$849 million to fund the fourth year of prekindergarten consolidation into Universal Prekindergarten Aid on the run, including:

- \$416 million for base UPK
- \$333 million for Statewide Universal Full-Day Prekindergarten grants awarded in 2014-15
- \$30 million from competitive grants awarded in 2015-16

- \$10 million from competitive grants awarded in 2016-17
- \$5 million from competitive grants awarded in 2017-18
- \$15 million from competitive grants awarded in 2018-19
- \$25 million for the Federal Preschool Development Grants awarded in 2015-16, with the State assuming the cost in 2019-20
- \$15 million from competitive grants awarded in 2019-20

Executive Initiatives: The Executive Budget continues to fund \$219 million in awards from past competitive grants and proposes \$50 million for new competitive grant programs, including

- \$16 million to improve student and teacher performance, pursuant to a plan developed by the Director of the Budget
- \$15 million for new three- and four-year-old pre-kindergarten grants in half-day and full-day programs
- \$10 million for a new round of Empire State After School program grants geared toward meeting the needs of homeless students or students affected by gang violence, with \$2 million directed to high-need school districts on Long Island
- \$6 million to create at least six new Early College High Schools, with priority given to schools that have graduation rates below the State average
- \$1.5 million for a new cohort of Master Teachers with a focus on high-performing teachers in schools with high rates of teacher turnover (awards are \$15,000 per year for four years)
- \$1 million for the development of curriculum on civic education and values, the State's shared history of diversity, and the role of religious freedom in the United States
- \$500,000 for a Science, Technology, Engineering, and Math (STEM) Entrepreneur in Residence Pilot Program to provide grants to high-need middle schools to partner with local businesses to expose students to careers in STEM fields

Nonpublic Schools: The Executive Budget provides the following aid to nonpublic schools for SY 2020-21:

- \$198.9 million, an increase of \$5.8 million (3.0 percent), in Mandated Services Aid to reimburse the actual expenditures of nonpublic schools for specified State testing and data collection activities
- \$35 million, an increase of \$5 million (17 percent), for STEM instruction
- \$15 million in capital funding for nonpublic school safety equipment, the same level as last year
- \$922,000 to support academic intervention services

Charter Schools:

- The Executive Budget provides \$24.9 million in direct support for New York City charter school students, equal to the level of State support as SFY 2019-20. When coupled with the statutory tuition rate growth, New York City charter schools are projected to receive a 5.3 percent increase per pupil.
- The Executive Budget provides \$161 million to reimburse the cost of supplemental basic tuition payments to charter schools made by school districts in SY 2019-20 (\$1,000 per pupil).

- The Executive Budget includes \$50 million in Charter School Facilities Aid reimbursement to New York City.
- The Executive also proposes to reissue charters that were surrendered, revoked, or terminated after July 1, 2015. These charters will be reissued outside of both the New York City and statewide charter school caps.

Special Education: The Executive Budget includes the following Special Education funding proposals for SY 2020-21:

- \$1.04 billion for preschool special education (State aid covers 59.5 percent of the overall costs associated pursuant to Section 4410 of the Education Law, with counties paying the remaining 40.5 percent)
- \$613 million in Public Excess Cost Aid to provide reimbursement to school districts for the additional costs associated with providing resource-intensive special education programs for students with disabilities
- \$422 million in Private Excess Cost Aid to provide reimbursement to school districts for public school students with more severe disabilities placed in private school settings, Special Act school districts, or the State-operated schools in Rome and Batavia
- \$365 million for summer school special education programs for school-age students pursuant to Section 4408 of the Education Law
- \$104 million for private schools for the blind and deaf, including \$93.7 million in base funding for the State share of tuition costs and \$10.2 million in additional funding

Teacher Resource and Computer Training Centers: The Executive Budget provides \$4.3 million for the remaining costs of the \$14.3 million Teacher Resources and Computer Training Centers program from SY 2019-20 and does not provide any new funding for SY 2020-21.

Grant Programs and Additional Aid Categories: The Executive Budget provides funding for the following programs:

- \$96 million for the Employment Preparation Program (EPE)
- \$34.4 million for the School Lunch/Breakfast Program
- \$25 million for Teachers of Tomorrow
- \$18 million for the My Brother's Keeper initiative
- \$18.5 million for Bilingual Education Grants
- \$13.8 million for health services in the Big Four school districts
- \$12 million for the Roosevelt School District
- \$10.5 million for the education of youth detained in local correctional facilities
- \$10 million for locally sourced food reimbursement
- \$8.1 million for districts participating in the Urban-Suburban Transfer Program
- \$5.8 million to subsidize the cost of Advanced Placement and International Baccalaureate test fees
- \$2.3 million to fully subsidize the cost of reduced-price meals
- \$2 million for the Teacher Mentor Intern Program
- \$1.2 million for Community Schools Regional Technical Assistance Centers

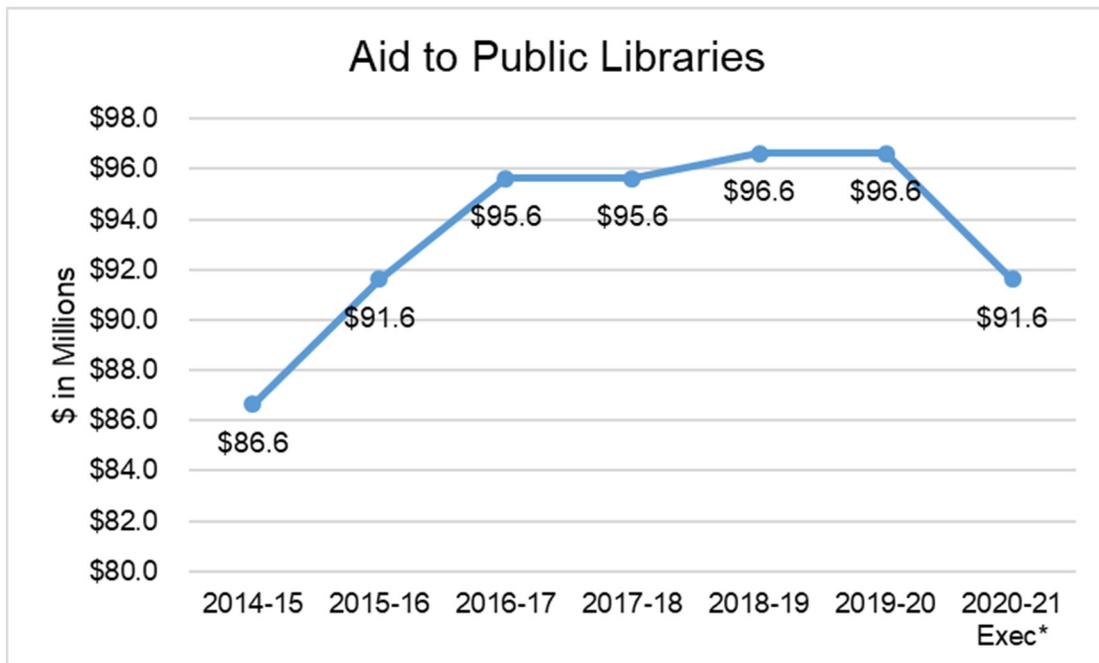
Other Notable Programmatic Support Eliminated: The Executive Budget discontinues or reduces funding for the following programs:

- Discontinues \$12 million for the Yonkers City School District
- Discontinues \$3 million for the East Ramapo Central School District
- Discontinues \$1.2 million for Buffalo School Health Services
- Discontinues \$1.2 million for Rochester School Health Services
- Discontinues \$1 million in reimbursement for nonpublic school immunization record-keeping
- Discontinues \$903,000 for Henry Viscardi School
- Discontinues \$903,000 for the New York School for the Deaf
- Discontinues \$500,000 for the Mill Neck Manor School for the Deaf
- Reduces funding by \$500,000 to a total of \$740,000 for the Center for Autism and Related Disabilities at SUNY Albany
- Discontinues \$500,000 for the Consortium for Worker Education Credential Initiative
- Discontinues \$475,000 for the Executive Leadership Institute
- Discontinues \$475,000 for the Magellan Foundation
- Discontinues \$450,000 for the New York City Community Learning Schools Initiative
- Discontinues \$250,000 for the Long Island Pre-K Initiative
- Discontinues \$150,000 for the National Association of Social Workers for test preparation materials

**Cultural Education**

The Executive Budget provides:

- \$91.6 million for aid to public libraries (\$5 million decrease)
- \$14 million in capital funds for library construction (\$20 million decrease)
- \$14 million for public television and radio (\$250,000 decrease)



### **Office of Higher Education and the Professions**

The Executive Budget maintains funding for higher education opportunity programs administered by SED at FY 2019-20 levels, including

- \$35.5 million for the Higher Education Opportunity Program
- \$18.4 million for the Liberty Partnerships Program
- \$6 million for the Foster Youth Initiative
- \$15.8 million for the Science and Technology Entry Program (STEP)
- \$12 million for the Collegiate Science and Technology Entry Program (CSTEP)

The Executive Budget also provides \$25.4 million in capital funding to support the development of SED's electronic licensing (e-licensing) system.

### **Adult Career and Continuing Education Services (ACCES)**

The Executive Budget provides:

- \$13.4 million for Independent Living Centers, a reduction of \$500,000
- \$6.3 million for Adult Literacy Education, a reduction of \$1.5 million

### **Article VII**

- **Expense-Based Aids Consolidation (ELFA Part A)**: Beginning in school year 2020-21, the Executive Budget consolidates ten expense-based aid categories (BOCES, High Tax, Special Services, Hardware and Technology, Charter School Transitional, Software, Library, Textbook, Supplemental Public Excess Cost, and Academic Enhancement), reallocates them through Foundation Aid, and provides formula-based increases each year. This consolidation results in an additional \$1.85 billion within Foundation Aid that was shifted out of expense-based aids. The proposed language will not apply to Full Day Kindergarten Conversion Aid, Universal Prekindergarten Aid, High Cost Excess Cost Aid, Private Excess Cost, Building Aid, or Transportation Aid. The Executive also proposes limitations on Building Aid and Transportation Aid as described below.
- **Limitations on Building Aid and Transportation Aid (ELFA Part A)**: Beginning with projects approved after July 1, 2020 and transportation expenses in SY 2020-21, the Executive Budget limits building aid reimbursement and transportation aid reimbursement. With respect to building aid reimbursement, the Executive Budget limits reimbursement for incidental costs to only critical projects approved by the Commissioner of Education, reduces reimbursement ratios by altering the incentive decimal calculation, eliminates the building aid reimbursement rate lookback option, and reduces the minimum reimbursement ratio from 10 percent to 5 percent. With respect to transportation aid reimbursement, the Executive Budget reduces reimbursement rates by eliminating one of the three transportation aid ratio formula options and limits growth in approved transportation operating expenses.
- **Reissuance of Surrendered, Revoked or Terminated Charters (ELFA Part A)**: The Executive Budget proposes to reissue charters that were surrendered, revoked, or terminated after July 1, 2015, to allow new charters to replace those that have closed. The language specifies that these charters shall not be counted within the limits of the New York City or statewide charter school caps.

- **Syracuse Comprehensive Education and Workforce Training Center (ELFA Part B)**: The Executive Budget proposes that a Syracuse Comprehensive Education and Workforce Training Center be established and operated by the Syracuse City School District, focusing on science, technology, engineering, arts, and math for high school students. The Center will partner with higher education institutions, including SUNY Empire State College, to offer early college opportunities, apprenticeships, and career opportunities.
- **Rochester City School District Monitor (ELFA Part C)**: The Executive Budget requires the Commissioner of Education and the Mayor of Rochester to jointly appoint a monitor to oversee the academic and fiscal policies of the Rochester City School District (RCSD). In addition, the Commissioner and Mayor of Rochester will jointly oversee the district and monitor in certain instances, including the approval of a financial plan for the school district and the district's proposed budget. This proposal shall remain in effect until June 30, 2021. According to the State Comptroller's Office, RCSD is facing a current deficit of \$40.5 million.
- **Civics, Diversity and Religious Freedom Curriculum (ELFA Part A)**: The Executive Budget proposes to expand current curriculum requirements to include instruction on civics, diversity, and the role of religious freedom in the United States.
- **Special Education Waivers (ELFA Part A)**: The Executive Budget proposes to allow school districts, approved private schools, or BOCES to submit an application for a waiver from special education duties outlined in state law, so long as the district, private school, or BOCES can demonstrate that it will continue to meet all federal requirements if such waiver is granted. The commissioner of SED can grant or deny requests for a waiver.
- **Contracts for Excellence (ELFA Part A)**: The Executive Budget proposes to extend Contracts for Excellence for SY 2020-21 for those districts that are currently required to submit a Contract for Excellence, unless all schools within the district are identified as in good standing. Currently, certain districts are required to submit a Contract for Excellence concerning schools within the district in need of academic improvement. Contracts for Excellence require these districts to set aside a portion of Foundation Aid to specific program initiatives aimed at raising student achievement.

# Higher Education



STAFF ANALYSIS OF  
THE 2020-21 EXECUTIVE BUDGET



## **Higher Education Highlights**

### **Appropriations**

- **Excelsior Scholarship & Enhanced Tuition Award Expansion:** The Executive Budget provides \$146 million for Excelsior Scholarship Awards and \$7.6 million for Enhanced Tuition Awards in SFY 2020-21. The Executive Budget proposes to expand eligibility for the Excelsior Scholarship at the State University of New York (SUNY) and City University of New York (CUNY) colleges, while also expanding Enhanced Tuition Awards at private degree granting colleges and universities. The Executive proposes a two-year phase-in, increasing the maximum income threshold from the current \$125,000 to \$135,000 for academic year (AY) 2021-22, and up to \$150,000 for AY 2022-23.
- **Opportunity Programs Maintained:** The Executive Budget proposes to maintain funding for opportunity programs largely at the SFY 2019-20 levels, totaling \$211 million in support.
- **Capital Funding:** The Executive Budget includes \$1.9 billion in new appropriations for SUNY and CUNY capital projects. The Executive provides \$400 million (split equally between SUNY and CUNY) in State support for a new 2:1 capital matching grant program for new construction and major renovations. The three SUNY Hospitals each receive an additional \$50 million in capital appropriations. The Higher Education Capital Matching Grant Program (HECap) did not receive any new funding.

### **Article VII**

- **Continuing the Rational Tuition Policy (ELFA Part D):** The Executive Budget includes an extension of the rational tuition policy until the AY 2024-25 allowing the Boards of SUNY and CUNY to continue to increase resident undergraduate tuition by up to \$200 each academic year.
- **Excelsior Scholarship Expansion (ELFA Part E):** The Executive Budget includes language expanding eligibility for the Excelsior Scholarship at public colleges and universities by increasing the family income eligibility threshold for Excelsior to \$150,000.

## Higher Education Agency Details

Higher Education Agencies All Funds Appropriations				
Agency	Available SFY 2019-2020	Executive Recommendation SFY 2020-2021	\$ Change	% Change
State University of New York	\$11,158,771,100	\$11,883,742,100	\$724,971,000	6.5%
City University of New York	\$4,770,116,700	\$5,287,010,200	\$516,893,500	10.8%
Higher Education Services Corporation	\$1,220,066,000	\$1,155,472,000	(\$64,594,000)	-5.3%
Council on the Arts	\$46,983,000	\$46,883,000	(\$100,000)	-0.2%
<b>Total Higher Education</b>	<b>\$17,195,936,800</b>	<b>\$18,373,107,300</b>	<b>\$1,177,170,500</b>	<b>6.8%</b>

### Overview

The Executive Budget recommends an All Funds appropriation of \$18.4 billion for higher education and arts in New York. This is a \$1.18 billion increase or 6.8 percent over SFY 2019-20 levels and is largely reflective of increases in capital funding for both SUNY and CUNY.

### City University of New York

The Executive Budget recommends an All Funds appropriation of \$5.3 billion for CUNY with a workforce totaling 13,730 FTEs, consistent with SFY 2019-20 levels.

CUNY Senior Colleges: The Executive Budget provides CUNY senior colleges with \$1.39 billion, an increase of \$23 million over SFY 2019-20. There is a new Fiduciary Fund appropriation totaling \$187 million to support an accounting change aligning the accounting of tuition and fees. Tuition revenue is projected to increase by \$36 million to \$1.22 billion as a result of the \$200 rational tuition increase that was authorized in SFY 2017-18 for CUNY senior colleges. Fringe benefits are projected to increase by \$24.3 million to a total of \$841.8 million in SFY 2020-21.

The Executive Budget maintains funding for the following CUNY senior college programs at SFY 2019-20 levels:

- \$28.1 million for the Search for Education, Elevation and Knowledge (SEEK) opportunity program
- \$1.5 million for CUNY LEADS
- \$4 million for Open Educational Resources

The Executive Budget discontinues or reduces funding for the following CUNY senior college programs:

- Reduces State support of the School of Labor and Urban Studies by \$1.5 million to a total of \$2.18 million
- Discontinues \$200,000 for the Brooklyn College Small Business Center
- Discontinues \$50,000 for the Community Legal Resource Network at CUNY Law School

CUNY Community Colleges: The Executive Budget maintains base operating aid for community colleges at \$2,947 per full-time equivalent (FTE) student, the same as SFY 2019-20. However, the 98 percent funding floor that was included in the SFY 2019-20 Enacted Budget is not continued.

This results in overall community college base aid of \$225.2 million for CUNY, a decrease of \$3.6 million from SFY 2019-20, that can be mainly attributed to declines in enrollment.

The Executive Budget maintains funding for the following CUNY community college programs at SFY 2019-20 levels:

- \$1.3 million for the College Discovery opportunity program
- \$2 million for the Next Generation Job Linkage Program
- \$2 million for the CUNY Apprenticeship Program

The Executive Budget discontinues or reduces funding for the following CUNY community college programs:

- Discontinues \$2.5 million of State support for the Accelerated Studies in Associate Programs (ASAP)
- Discontinues \$2 million for the Family Empowerment Community College Pilot Program
- Reduces funding by \$902,000 to a total of \$813,100 for child care centers

CUNY Capital: The Executive Budget proposes \$200 million for the State share of a new Strategic Needs Capital Matching Program to provide CUNY senior colleges with funding for expansion projects at a 2:1 match. The Executive Budget also provides \$284.2 million for CUNY critical maintenance projects, which is level funding from SFY 2019-20. The Executive provides \$64.3 million for the State’s 50 percent share of projects at CUNY community colleges.

<b>CUNY Capital Funding (\$ in Millions)</b>				
<b>Program</b>	<b>SFY 2019-20</b>	<b>SFY 2020-21</b>	<b>\$ Change</b>	<b>% Change</b>
Critical Maintenance	\$284.2	\$284.2	\$0.0	0.0%
Strategic Needs Capital Matching Program - State Share	\$0.0	\$200.0	\$200.0	n/a
Strategic Needs Capital Matching Program - Campus Share	\$0.0	\$100.0	\$100.0	n/a
Community Colleges	\$68.3	\$64.3	(\$4.0)	-5.9%
<b>Total CUNY Capital</b>	<b>\$352.5</b>	<b>\$648.5</b>	<b>\$296.0</b>	<b>84.0%</b>

**State University of New York**

The Executive Budget recommends an All Funds appropriation of \$11.9 billion for SUNY with a workforce totaling 46,836 FTEs, consistent with SFY 2019-20 levels.

SUNY State-Operated Colleges: The Executive Budget provides \$3.1 billion in support for SUNY state-operated campuses, an increase of \$97 million over SFY 2019-20 levels. The Executive proposes a \$1.92 billion appropriation for tuition, encompassing the \$53 million increase in tuition revenue from a \$200 tuition increase. Employee fringe benefits are projected to increase by \$96 million to a total of \$1.86 billion.

The Executive Budget maintains funding for the following SUNY state-operated college programs at SFY 2019-20 levels:

- \$32 million for Educational Opportunity Programs (EOP)

- \$62 million for Education Opportunity Centers (EOC), including \$5.5 million for ATTAIN labs
- \$4 million for Open Educational Resources
- \$3.9 million for the Cornell Cooperative Extension Program

The Executive Budget discontinues or reduces funding for the following SUNY state-operated college programs:

- Reduces funding by \$700,000 to a total of \$1.97 million for Small Business Development Centers
- Reduces funding by \$600,000 to a total of \$6 million for Graduate Diversity Fellowships
- Discontinues \$500,000 for the SUNY Tele-Counseling Initiative for mental health services
- Reduces funding by \$250,000 to a total of \$250,000 for the New York State Veterinary College at Cornell
- Discontinues \$200,000 for the SUNY Institute for Leadership and Diversity and Inclusion
- Reduces funding by \$150,000 to a total of \$200,000 for the SUNY Hispanic Leadership Institute
- Discontinues \$150,000 for the Cornell Center in Buffalo
- Reduces funding by \$100,000 to a total of \$100,000 for the Center for Women in Government
- Discontinues \$100,000 for the American Chestnut Research and Restoration Project
- Discontinues \$100,000 for the Benjamin Center at SUNY New Paltz
- Discontinues \$50,000 for the Stony Brook Algonquin Language Revitalization Project

SUNY Community Colleges: The Executive Budget maintains base aid for community colleges at \$2,947 per FTE, the same as SFY 2019-20. However, the 98 percent funding floor that was included in the SFY 2019-20 Enacted Budget is not continued. This results in overall community college base aid of \$431.2 million for SUNY, a reduction of \$22.7 million from last year, which is largely attributed to declines in enrollment.

The Executive Budget maintains funding for the following SUNY community college programs at SFY 2019-20 levels:

- \$3 million for the SUNY Apprenticeship Program
- \$3 million for the Next Generation Job Linkage Program
- \$1.9 million for workforce development

The Executive Budget discontinues or reduces funding for the following SUNY community college programs:

- Discontinues \$3 million for the Family Empowerment Community College Pilot Program
- Reduces funding by \$1.1 million to \$1 million total for child care centers
- Discontinues \$100,000 for the Orange County Community College BRIDGES Program

SUNY Capital: The Executive Budget proposes \$200 million for the state share of a new Strategic Needs Capital Matching Program to provide SUNY state-operated colleges with funding for expansion projects at a 2:1 match. The Executive Budget also provides \$550 million for SUNY critical maintenance projects, which is flat from SFY 2019-20. The Executive provides \$46 million

for the State’s 50 percent share of projects at SUNY community colleges. Additionally, \$150 million is provided to the three SUNY Hospitals, with each campus receiving \$50 million (SUNY Downstate, SUNY Upstate, and Stony Brook).

<b>SUNY Capital Funding (\$ in Millions)</b>				
<b>Program</b>	<b>SFY 2019-20</b>	<b>SFY 2020-21</b>	<b>\$ Change</b>	<b>% Change</b>
Critical Maintenance	\$550.0	\$550.0	\$0.0	0.0%
Strategic Needs Capital Matching Program - State Share	\$0.0	\$200.0	\$200.0	n/a
Strategic Needs Capital Matching Program - Campus Share	\$0.0	\$100.0	\$100.0	n/a
Community Colleges	\$37.1	\$46.0	\$9.0	24.2%
SUNY Hospitals	\$100.0	\$150.0	\$50.0	50.0%
<b>Total SUNY Capital</b>	<b>\$687.1</b>	<b>\$1,046.0</b>	<b>\$359.0</b>	<b>52.2%</b>

SUNY Hospitals: The Executive Budget proposes to increase SUNY Hospitals spending authority by \$136 million, to a total of \$3.2 billion.

**State Education Department – Office of Higher Education and the Professions**

The Executive Budget maintains funding for higher education opportunity programs that are administered by the State Education Department at FY 2019-20 levels, including:

- \$35.5 million for the Higher Education Opportunity Program (HEOP)
- \$18.4 million for the Liberty Partnerships Program
- \$6 million for the Foster Youth Initiative
- \$15.8 million for the Science and Technology Entry Program (STEP)
- \$12 million for the Collegiate Science and Technology Entry Program (CSTEP)

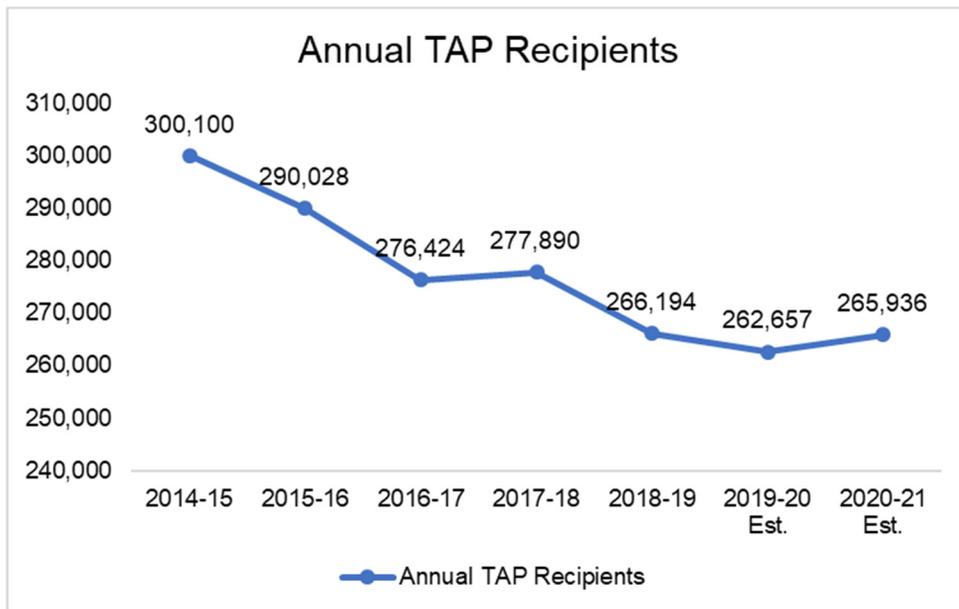
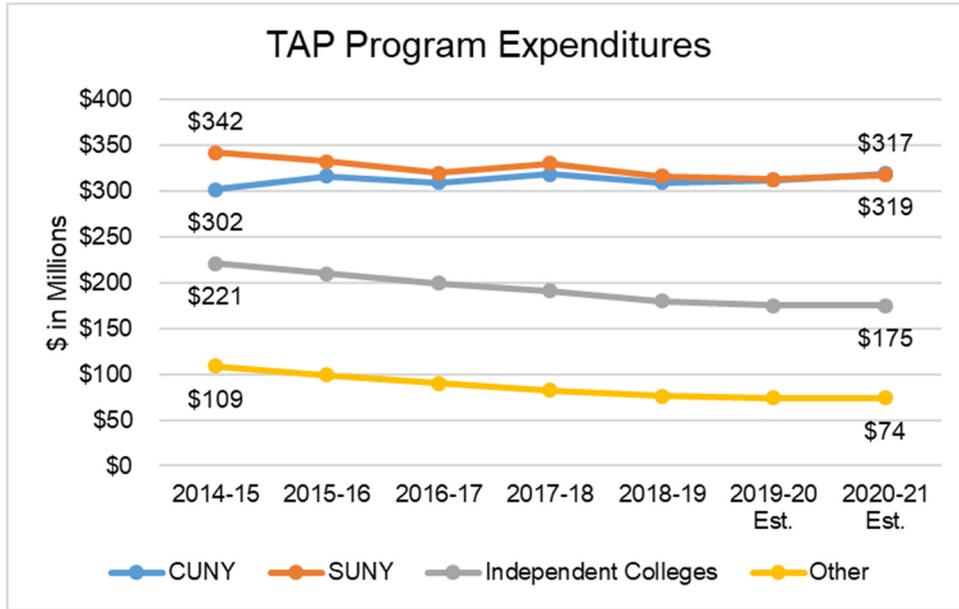
Additionally, \$35 million is maintained for unrestricted aid to independent colleges (Bundy Aid).

<b>Opportunity Program Funding Levels (\$ in Millions)</b>				
<b>Program</b>	<b>SFY 2019-20</b>	<b>SFY 2020-21</b>	<b>\$ Change</b>	<b>% Change</b>
SUNY Educational Opportunity Centers (EOC)	\$62.0	\$62.0	\$0.0	0.0%
SED Higher Education Opportunity Program (HEOP)	\$35.5	\$35.5	\$0.0	0.0%
SUNY Educational Opportunity Program (EOP)-SUNY	\$32.2	\$32.2	\$0.0	0.0%
CUNY Search for Education, Elevation, and Knowledge (SEEK)	\$28.1	\$28.1	\$0.0	0.0%
SED Liberty Partnership Program	\$18.4	\$18.4	\$0.0	0.0%
SED Science and Technology Entry Program (STEP)	\$15.8	\$15.8	\$0.0	0.0%
SED Collegiate Science and Technology Program (CSTEP)	\$12.0	\$12.0	\$0.0	0.0%
SED Foster Youth Initiative	\$6.0	\$6.0	\$0.0	0.0%
CUNY Accelerated Study in Associates Program (ASAP)	\$2.5	\$0.0	(\$2.5)	-100.0%
CUNY College Discovery	\$1.3	\$1.3	\$0.0	0.0%
<b>Total</b>	<b>\$213.8</b>	<b>\$211.3</b>	<b>(\$2.5)</b>	<b>-1.2%</b>

**Higher Education Services Corporation**

The Executive Budget proposes \$1.2 billion in All Funds appropriations for the Higher Education Services Corporation (HESC) with a workforce totaling 176 FTEs, consistent with SFY 2019-20 levels.

Tuition Assistance Program: The Executive Budget provides \$860 million for the Tuition Assistance Program (TAP) for SFY 2020-21. TAP recipients have been declining by an average of approximately 7,500 FTEs each year over the past five years, causing TAP expenditures to decline in that same time period as evidenced by the charts below.



Excelsior Scholarship: The Executive Budget provides \$146 million to fund the first phase of the proposed expansion of the Excelsior Scholarship from the current \$125,000 maximum adjusted gross income threshold to \$135,000 in AY 2020-21. It is anticipated that the second phase of the proposal to increase the maximum income threshold from \$135,000 to \$150,000 in AY 2021-22 will cost an additional \$20 million.

Enhanced Tuition Awards: The Executive Budget provides \$7.6 million to fund the first phase of the proposed expansion of the Enhanced Tuition Awards from the current \$125,000 maximum adjusted gross income threshold to \$135,000 in AY 2020-21. The second phase of the proposal will increase the maximum income threshold from \$135,000 to \$150,000 in AY 2021-22.

Other Scholarships and Programs: The Executive Budget provides \$70.2 million, an increase of \$491,000, for all other scholarships and programs. This \$70.2 million includes:

- \$3.9 million for the Patricia McGee nursing scholarship
- \$1.7 million in loan forgiveness for licensed social workers
- \$150,000 for loan forgiveness for young farmers
- \$50,000 for child welfare worker loan forgiveness
- \$50,000 for child welfare worker scholarships
- \$3.1 million for the part-time scholarship award program

### **Higher Education Capital Matching Grant Program (HECap)**

The Executive Budget does not include any new support for the HECap program for independent colleges.

### **Council on the Arts**

The Executive Budget provides \$46.89 million in All Funds appropriations for the Council on the Arts, including \$40.6 million for grants awarded to not-for-profit arts organizations. The proposed workforce of 30 FTEs is consistent with SFY 2019-20 levels. The Council on the Arts provides more than 2,400 grants to local theaters, museums, and dance companies across the State. The Executive reduced Council on the Arts funding by \$100,000 through the removal of two legislative adds to support the Museum of the City of New York and the Bronx Museum of the Arts.

### **Article VII**

- **Extension of the Rational Tuition Policy at SUNY and CUNY (ELFA Part D)**: The Executive proposes to continue the rational tuition plan policy at the State University of New York (SUNY) and the City University of New York (CUNY). The Executive proposes to extend until AY 2024-25 the authorization for the Boards of SUNY and CUNY to raise tuition by up to \$200 each academic year. The existing authorization, scheduled to end in AY 2020-21, does not affect the current year tuition increase and would only apply to tuition increases in future State budgets.
- **Excelsior Scholarship Expansion (ELFA Part E)**: The Executive proposes expanding eligibility for the Excelsior Scholarship at public colleges and universities. The Executive proposes increasing the family income eligibility threshold for Excelsior to \$150,000 over a

two-year phase-in. In AY 2021-22, the proposed increase in the family eligibility income threshold is from \$125,000 to a maximum of \$135,000. The family income threshold beginning in AY 2022-23 and afterwards would then increase again to the new maximum of \$150,000. The Excelsior Scholarship provides last-dollar tuition awards that, in combination with other State and Federal financial aid programs, allow eligible students to attend a SUNY or CUNY institution tuition-free.

- **Enhanced Tuition Awards Program Expansion (ELFA Part F)**: The Executive also proposes expanding eligibility for Enhanced Tuition Awards at private degree-granting colleges and universities. Similar to the proposal for the Excelsior Scholarship (Part E), the Executive proposes increasing the family income threshold to be eligible for an Enhanced Tuition award to \$150,000 over a two-year phase-in. In AY 2021-22, the proposal increases the family income threshold from \$125,000 to up to \$135,000. The family income threshold beginning in AY 2022-23 and afterwards would then rise to the new maximum of \$150,000. Enhanced Tuition Awards provide up to \$6,000 in aid to eligible students attending a private college located in New York State.
- **Certified Public Accountants Minority Ownership (ELFA Part G)**: The Executive proposes to allow non-Certified Public Accountants (CPAs) to own a minority stake in an accounting firm. CPAs under the Executive’s proposal would need to hold at least 51 percent of the outstanding stock shares, directors and officer positions. The Executive proposes to require that the president, chairperson of the board, and chief executive officer(s) be CPAs. The Executive also proposes setting requirements on CPA firms to assure that in the future the majority of any firms’ assets and shares continue to be controlled by CPAs. The State Education Department is authorized to collect a new \$300 fee from each non-CPA.

# Health and Mental Hygiene



STAFF ANALYSIS OF  
THE 2020-21 EXECUTIVE BUDGET



## Health and Mental Hygiene Highlights

### Appropriations

- \$1.8 billion for Department of Health and \$29.1 million for Mental Hygiene agencies to support the costs associated with the \$15 minimum wage increase.
- \$14.2 million in funding to support the loss of Title X funding and approximately \$3.7 million for services and expenses related to State grants for family planning service programs.
- \$45 million to support new services for Office of People with Developmental Disabilities, including certified housing supports in the community, independent living, day program and employment options, respite options and self-directed services and supports.
- Increase of \$12.5 million for Office of Mental Health to support up to 500 additional Adult Housing beds and services.
- Eliminates funding for the following public health programs:
  - Empire Clinical Research Investigator Program (ECRIP) - (\$3.445 million)
  - The Area Health Education Center Public Health Program - (\$1.662 million)
  - Ambulatory Training Program - (\$1.8 million)
  - Diversity in Medicine/Post-Baccalaureate Program - (\$1.244 million)
  - Health Workforce Retraining Program - (\$9.16 million)
- The Executive proposes reconvening the Medicaid Redesign Team (MRT), which was first convened in 2011. The composition of the MRT II has not yet been determined. Chaired by Michael Dowling, president and CEO of Northwell Health, and Dennis Rivera, former chair of SEIU 1199, MRT II will be responsible for creating a savings plan of \$2.5 billion by April 1, 2020. The MRT II has been instructed to have no impact on local governments, no impact on beneficiaries, and to focus on identifying industry efficiencies and areas for improved program integrity. It should be noted that MRT II is being done administratively by the Executive and there is no statutory authority included in the Health & Mental Hygiene bill. Appropriation language stipulates that if there is a failure to achieve the \$2.5 billion in aggregate savings from the recommendations made by MRT II enacted in chapters of the laws of 2020, uniform across the board cuts shall be applied to achieve \$2.5 billion in aggregate savings.

### Article VII

- **Medicaid Local District Spending Reform:** The Executive proposes a risk-sharing arrangement between the State and counties to limit the growth of the local share of the Medicaid program to three percent, and to keep local governments within the two percent property tax cap. The Executive expects \$150 million in State share savings in SFY 2021 and SFY 2022.
- **Tobacco and Vaping Control Policies:** The Executive includes an omnibus anti-smoking proposal to: (1) prohibit the sale of flavored electronic cigarettes and e-liquids intended or reasonably expected to be used with or for the consumption of nicotine; (2) prohibit the sale of tobacco products and e-cigarettes in pharmacies; (3) prohibit the use of coupons for the purchase of tobacco products and e-cigarettes and public displays of these products; (4) regulate “carrier oils” that have caused recent vaping illnesses; (5) restrict advertising of e-cigarettes; (6) require e-cigarette manufacturers to disclose ingredient lists to DOH; (7)

prohibit the shipping of e-cigarettes directly to consumers; (8) expand the definition of “place of employment” for purposes of regulating partial outdoor spaces in accordance with the Clean Indoor Air Act; and (9) increasing penalties for violations of these new and existing e-cigarettes and tobacco product laws.

- **Create a New Program for the Sex Offender Management and Treatment Act (SOMTA) Population:** The Executive authorizes the Office of Mental Health (OMH) to establish a program within OMH psychiatric facilities for the treatment of confined sex offenders separate and apart from the general forensic population as these populations have different treatment needs. The Executive projects a savings of \$2.5 million from efficiencies in treating this population separately from the general population because of shorter lengths of stays of the SOMTA population.

## Health and Mental Hygiene Agency Details

Health and Mental Hygiene Agency All Funds Appropriations				
Agency	Available SFY 2019-2020	Executive Recommendation SFY 2020-2021	\$ Change	% Change
Department of Health	\$160,247,261,571	\$88,507,729,100	(\$71,739,532,471)	-44.8%
State Office for the Aging	\$273,186,500	\$271,641,500	(\$1,545,000)	-0.6%
Office of Medicaid Inspector General	\$50,021,000	\$50,021,000	\$0	0.0%
Office of Mental Health	\$4,403,776,500	\$4,454,322,000	\$50,545,500	1.1%
Office for People with Developmental Disabilities	\$4,830,684,000	\$5,002,031,000	\$171,347,000	3.5%
Office of Addiction Services and Supports	\$807,493,000	\$821,087,000	\$13,594,000	1.7%
Justice Center for the Protection of People with Special Needs	\$58,022,000	\$58,574,000	\$552,000	1.0%
<b>Total</b>	<b>\$ 170,670,444,571</b>	<b>\$ 99,165,405,600</b>		

### Health

#### State Office For The Aging

The SFY 2020-21 Executive Budget proposes \$271.6 million in All Funds appropriations for State Office for the Aging (SOFA). This is a decrease of \$1.5 million, or -0.6 percent, below SFY 2020-21 levels and is the result of the discontinuation of one-time Legislative adds totaling \$3.3 million, as well as additional funding of:

- \$868,000 for the Community Services for the Elderly Program (CSE) and Expanded In-Home Services for the Elderly Program (EISEP)
- \$798,000 for the Wellness-In Nutrition Program

#### EISEP Investment

The Executive Budget continues the implementation of the SFY 2020-21 investment of \$15 million for the Expanded In-Home Services for the Elderly Program. This investment delays Medicaid costs in personal care and nursing home placement resulting in \$34 million in Medicaid savings.

#### Defer the SFY 2020-21 Increase to the Cost of Living Adjustment

The Executive Budget delays the statutory SFY 2021-22 COLA increase, saving \$3.6 million.

#### Department Of Health

The Executive Budget proposes \$88.51 billion in All Funds appropriations for the Department of Health (DOH) in SFY 2021-22. The Executive Budget proposal includes one-year appropriations for the Medicaid spend, as opposed to the two-year appropriations previously used, which accounts for the drastic change in All Funds spending.

## Medicaid

### Medicaid Reform

The Executive has convened a Medicaid Redesign Team (MRT II) charged with identifying additional cost-containment measures that are to provide approximately \$2.5 billion in gap-closing savings in SFY 2020-21 and ensure that future spending adheres to the Medicaid Global Cap. MRT II is directed to develop a plan that does not rely on local governments as funding sources and has minimal impact on beneficiaries, and to find recurring savings through industry efficiencies and/or new resources provided by the industry itself. Absent the Legislature's agreement to the MRT II's recommendations, appropriation language exists to allow across the board cuts as an alternative measure to realize the \$2.5 billion savings.

The first MRT was created in SFY 2011-12 by Executive Order #5, issued by Governor Cuomo. MRT I consisted of 27 stakeholders from across the healthcare sector, including state agency commissioners, consumer advocates, two members from the state Assembly, and two members from the state Senate. MRT I was co-chaired by Michael Dowling (then of Northshore LIJ Health System), and Dennis Rivera (then of SEIU Healthcare). MRT I was given a deadline of March 1, 2011 to develop a \$2.2 billion savings package which was presented to Governor Cuomo for his consideration in the SFY 2012-13 budget process. The package of recommendations included the creation of a Medicaid global spending cap that was tied to the medical component of the Consumer Price Index and the charge to transition services from fee-for-service to managed care. MRT I was a multi-year plan that included the creation of ten workgroups that proposed additional long-term reforms, some of which are still being implemented by the Department of Health.

### Medicaid Local District Spending Reform

The Executive proposes a risk-sharing arrangement between the State and counties to limit the growth of the local share of the Medicaid Program to three percent, and to keep local governments within the two percent property tax cap. The Executive anticipates \$150 million in State share savings in SFY 2021-22 and SFY 2022-23.

### Medicaid Global Cap

The SFY 2021-22 Executive Budget maintains the statutory growth level of three percent over SFY 2020-21.

<b>Medicaid Spend (in Millions)</b>				
<b>Agency</b>	<b>Available SFY 2019-2020</b>	<b>Executive Recommendation SFY 2020-2021</b>	<b>\$ Change</b>	<b>% Change</b>
Medicaid	\$ 74,816	\$ 73,388	\$ (1,428)	-1.9%
Medicaid Global Cap	\$ 19,433	\$ 20,006	\$ 573	2.9%

### Minimum Wage

The Executive Budget invests \$1.8 billion to support the direct costs of SFY 2021-22 minimum wage increases for health care workers that provide services reimbursed by Medicaid on behalf of the Department of Health.

<b>SFY 2020 to SFY 2021 Minimum Wage Impacts</b>			
<b>(Millions)</b>			
	<b>SFY 2020</b>	<b>SFY 2021</b>	<b>Increase</b>
Home Care (MLTC)	\$1,227.40	\$1,519.70	\$292.30
Transportation (MLTC)	\$29.90	\$37.00	\$7.10
Home Care (MMC)	\$76.00	\$83.30	\$7.30
Personal Care	\$80.00	\$81.80	\$1.80
Home Health	\$12.70	\$13.00	\$0.30
Nursing Homes	\$9.90	\$14.40	\$4.50
Inpatient	\$1.10	\$2.00	\$0.90
Outpatient (Clinic)	\$5.70	\$5.90	\$0.20
ALPs	\$2.30	\$2.10	(\$0.20)
Hospice	\$0.10	\$0.10	\$0.00
Transportation (FFS)	\$7.80	\$8.10	\$0.30
<b>Total</b>	<b>\$1,452.90</b>	<b>\$1,767.40</b>	<b>\$314.50</b>

### **Health Care Reform Act (HCRA)**

The Executive Budget extends provisions of the Health Care Reform Act to March 31, 2023, and proposes eliminating funding for the following public health programs:

- Empire Clinical Research Investigator Program (ECRIP) - \$3.445 million
- The Area Health Education Center Public Health Program - \$1.662 million
- Ambulatory Training Program - \$1.8 million
- Diversity in Medicine/Post-Baccalaureate Program - \$1.244 million
- Health Workforce Retraining Program - \$9.16 million

### Rural Health Consolidation

The Executive Budget consolidates the Rural Health Care Access Development and Rural Health Care Network Development programs into one program, and reduces funding by \$3.27 million to \$9.4 million for SFY 2020-21. The overarching goal of these programs is to improve the health of New Yorkers living in rural areas by supporting the development and operation of rural health networks. Rural health networks facilitate cooperative and collaborative efforts among rural health providers, which is vital to improve access to essential services, enhance coordination of services, increase the efficiency of service delivery, and preserve the stability and viability of rural communities.

### Medical Indemnity Fund (MIF)

The Executive Budget suspends HCRA contributions to the MIF in SFY 2020-21, providing \$52 million in financial plan relief. The Executive does not expect that payments to providers on behalf of recipients will be interrupted in SFY 2020-21, and the annual deposit of \$52 million will resume in SFY 2021-22. Entering SFY 2021-22, the fund balance is expected to begin at \$193.1 million.

### Roswell Park Cancer Institute

The Executive Budget reduces support for the Roswell Park Cancer Institute from \$51.3 million by \$13.3 million for a total appropriation of \$38 million.

### Emergency Assistance Distributions

The Executive Budget reduces funding for services and expenses, including grants, related to emergency assistance distributions by \$16 million to \$2.9 million in SFY 2021-22. The \$16 million was to hedge the risk of the lost Federal dollars for Title X funding, which the Executive commits to funding out of the GF.

### Physician Excess Medical Malpractice Program

The Executive Budget reduces funding to the Physician Excess Medical Malpractice Program by \$22.3 million from SFY 2020-21 to \$105.1 million for SFY 2021-22.

### Elderly Pharmaceutical Insurance Coverage Program (EPIC)

The Executive reduces funding for the Elderly Pharmaceutical Insurance Coverage (EPIC) Program by \$16.5 million to \$104.4 million. EPIC provides secondary coverage for Medicare Part D and EPIC-covered drugs purchased after any Medicare Part D deductible is met. EPIC also covers approved Part D-excluded drugs once a member is enrolled in Part D.

### Essential Plan (EP)

The Executive continues funding for the Essential Plan (EP) program at \$5.27 billion. The EP was launched in January of 2016 as a more affordable health insurance option for low- and moderate-income New Yorkers. The federally funded EP is credited with generating over \$1.5 billion in State savings through the transition of approximately 770,000 individuals from State-only Medicaid.

## **Medical Assistance Program**

### Enhanced Safety Net Hospitals

The SFY 2020-21 Enacted Budget included a \$16 million increase to Enhanced Safety Net Hospitals. This funding has been excluded from the SFY 2021-22 Executive Budget proposal. The Executive also limits funding of Enhanced Safety Net Hospitals to critical access hospitals and sole community hospitals, excluding both public hospitals and disproportionate share hospitals.

## **Other Investments**

### Health Prevention, Diagnostic, Detection & Treatment

The Executive Budget increases funding for the expenses of various health prevention, diagnostic, detection and treatment services by \$1.5 million to \$5.19 million.

## **Other Savings Proposals**

### Child Health Insurance Program (CHIP)

The Executive Budget reduces CHIP funding by \$85 million from SFY 2020-21 to \$1.65 billion in SFY 2021-22. The Executive Budget cites claims of enhanced Federal funding through a health

services initiative for non-Medicaid programs that support children as the action behind these efficiencies.

## **Public Health**

### Early Intervention

The Executive Budget includes a number of administrative proposals to reform commercial insurance reimbursement for Early Intervention Services and anticipates savings of \$1.5 million in the out-years from this proposal. Additionally, the Executive proposes a pay and pursue model for the Early Intervention program, which anticipates a savings of \$400,000 when fully annualized.

### Reproductive Health

The Federal government implemented new eligibility rules for Title X funds in 2019. The rule prohibits family planning providers that receive Title X funds from offering patients information about abortion services, including referring patients to other health programs for abortion services. In light of New York not coming into compliance with the gag rule, the Executive Budget proposal includes \$14.2 million in funding to support the loss of Title X funding.

Additional monies are allocated for services and expenses related to State grants for a program of family planning services, including:

- \$1,780,304 for Public Health Solutions
- \$910,532 for Planned Parenthood of NYC, Inc.
- \$901,980 for The Door – A center of Alternatives
- \$571,500 for the William F. Ryan Community Health Center
- \$233,552 for the Community Healthcare Network
- \$202,132 for the Charles B. Wang Community Health Center

## **Capital Projects**

### Statewide Health Care Facility Transformation Program

The Statewide Health Care Facility Transformation Program (SHCFTP) was established to provide funding in support of capital projects, debt retirement, working capital or other non-capital projects that facilitate health care transformation activities such as mergers, consolidation, acquisitions or other activities. The goal of these activities is to create financially sustainable systems of care, preserve or expand health care services, and modernize facility infrastructure.

In SFY 2019-20, \$525 million was allocated for the SHCFTP bringing the total to \$1.22 billion. To date \$991 million has been awarded leaving a remaining \$229 million to be released for Statewide III. The request for applications has yet to be released.

### Enhancing the Quality of Adult Living Program

The Enhancing the Quality of Adult Living (EQUAL) Program was established to enhance residents' quality of care and life experiences in adult care facilities. In the current program, funding can be used for a broad array of projects that improve quality of life. Use of funds under this program may include air conditioning, furnishings, activities and community outings.

The Executive Budget establishes a second category for the EQUAL program intended to target capital projects and shifts \$3.27 million into Capital Projects for services and expenses of a quality program for adult care facilities. Specifically, the program targets facilities with a high population of residents who receive supplemental security income, and use the funds to support capital improvement projects that will enhance the physical environment of the facility and promote a higher quality of life for residents. The shifting of funds also provides General Fund relief.

## Summary

Below is the table which captures anticipated savings associated with the SFY 2021-22 Executive Budget public health proposals:

SFY 2021 Executive Budget Public Health Proposals				
State Investments / (Savings) in Millions				
Department of Health - Local Assistance	Effective Date	Legal Admin	State Operating Funds Total	Gap Closing Total
Child Health Plus - Health Services Initiative	4/1/2020	Admin	(\$73.36)	(\$73.36)
SOFA - COLA Deferral	4/1/2020	Legal	(\$3.64)	(\$3.64)
Reduce and Consolidate Rural Health Funding	4/1/2020	Legal	(\$3.27)	(\$3.27)
Medical Indemnity Fund SFY21 Payment	4/1/2020	Admin	(\$52.00)	(\$52.00)
Discontinue Health Workforce Retraining Program	4/1/2020	Admin	(\$9.16)	(\$9.16)
Discontinue ECRIP	4/1/2020	Legal	(\$3.45)	(\$3.45)
Discontinue Ambulatory Training Program	4/1/2020	Legal	(\$1.80)	(\$1.80)
Discontinue Area Health Education Centers Program	4/1/2020	Legal	(\$1.66)	(\$1.66)
Discontinue Diversity in Medicine	4/1/2020	Legal	(\$1.24)	(\$1.24)
Discontinue Adult Cystic Fibrosis Assistance Program	4/1/2020	Legal	(\$0.38)	(\$0.38)
Discontinue Adelphi University Breast Cancer Support	4/1/2020	Admin	(\$0.28)	(\$0.28)
Discontinue Workforce Studies	4/1/2020	Legal	(\$0.15)	(\$0.15)
Discontinue Falls Prevention Program	4/1/2020	Admin	(\$0.11)	(\$0.11)
Discontinue Gateway Institute (CUNY)	4/1/2020	Admin	(\$0.08)	(\$0.08)
Discontinue LTC Community Coalition	4/1/2020	Admin	(\$0.03)	(\$0.03)
Discontinue Upstate Medical (SUNY)	4/1/2020	Admin	(\$0.02)	(\$0.02)
Finance half of EQUAL Program with Capital Grants	4/1/2020	Legal	(\$3.27)	
Reduce Roswell Park Subsidy	4/1/2020	Admin	(\$13.34)	(\$13.34)
<b>Total Local Assistance</b>			<b>(\$167.24)</b>	<b>(\$163.97)</b>
<b>Department of Health - State Operations</b>				
Certificate of Need Fee Increase	4/1/2020	Admin	\$0.00	(\$70.00)
Modernization of Center of Environmental Health Fees	4/1/2020	Legal	\$0.00	(\$4.93)
Discontinue Health Occupation and Workplace Demo	4/1/2020	Admin	(\$1.28)	(\$1.28)
Discontinue Section 405.4 Hospital Audits	4/1/2020	Legal	(\$0.85)	(\$0.85)
<b>Total State Operations</b>			<b>(\$2.13)</b>	<b>(\$77.06)</b>
<b>Total Budget Actions</b>			<b>(\$169.37)</b>	<b>(\$241.03)</b>

## **Mental Hygiene**

### **Office of Mental Health**

The Executive Budget proposes \$4.45 billion in All Funds appropriations for the Office of Mental Health (OMH), a \$50.5 million or 1.1 percent increase from SFY 2020-21.

The Executive Budget includes:

- \$20 million Residential Stipend Increase
- \$21.1 million in targeted compensation increases for direct care and clinical staff
- \$4 million to support the costs associated with the movement to a \$15 minimum wage
- \$12.5 million for up to 500 additional Adult Housing beds and services
- \$10 million for continuation of funds in light of the scheduled end of JP Morgan Settlement
- \$2.5 million for Kingsboro Psychiatric Center Transformation
- \$1 million for Veterans/First Responders Suicide Prevention
- \$118,000 for Eating Disorders Program, previously under Department of Health
- Savings of \$2.5 million for the new Sex Offender Management and Treatment Act (SOMTA) Program reform
- Savings of \$2.3 million by reducing funding provided for administration of non-Medicaid programs to Local Governments
- Discontinuation of approximately \$6.2 million in legislative adds

### **Transformation of Kingsboro Psychiatric Center**

The Executive Budget includes \$2.5 million to develop a voluntary-operated, step-down transition to community residence program on the Kingsboro campus, transforming the campus into a Recovery Hub Facility. The facility will be focused on shortening lengths of stay and providing centralized community support services.

### **Suicide Prevention**

The Executive Budget includes \$1 million in new funds for services and expenses related to suicide prevention efforts for veterans, first responders, law enforcement, and corrections officers.

### **Office of Addiction Services and Supports**

The Executive Budget proposes \$821 million in All Funds appropriations for the Office of Addiction Services and Supports (OASAS), a \$13.6 million or 1.7 percent increase from SFY 2020-21.

The Executive Budget includes:

- \$8.9 million in targeted compensation increases for direct care and clinical staff
- \$1.4 million to support the costs associated with the movement to a \$15 minimum wage
- \$4.9 million in debt service re-estimates
- \$1.7 million in community bed re-estimates
- \$1.5 million new special revenue fund for Behavioral Health Ombudsman
- Savings of \$366 thousand by reducing funding provided for administration of programs to Local Governments

- Discontinuation of nearly \$5.5 million in legislative adds

#### Behavioral Health Ombudsman

The Executive Budget continues \$1.5 million in funding to support the behavioral health ombudsman program, which helps individuals and their families navigate the behavioral health care system to ensure access to care and services, and resolve issues when care is delayed or denied. The Executive Budget provides authority to utilize up to \$1.5 million in funds received in the newly established Behavioral Health Parity Compliance Fund. Penalties imposed on insurance carriers who violate New York's Behavioral Health Parity laws will be collected in the Fund. Currently the funding is provided through the General Fund.

#### Opioid Crisis

The Executive Budget does not provide any new funding specific to addressing the opioid crisis, but continues existing prevention, treatment, and recovery programs.

#### **Office of People with Developmental Disabilities**

The Executive Budget proposes more than \$5 billion in All Funds appropriations for the Office for People with Developmental Disabilities (OPWDD), a \$171 million or 3.5 percent increase from SFY 2020-21.

The Executive Budget includes:

- \$75.9 million to address the expiration of enhanced federal medical assistance percentages for Care Coordination Organization which shall expire June 1, 2020
- \$66.4 million in targeted compensation increases for direct care and clinical staff
- \$45 million in new services, including certified housing supports in the community, independent living, day program and employment options, respite options and self-directed services and supports.
- \$23.7 million to support the cost associated with the movement to a \$15 minimum wage
- Discontinuation of \$590,000 in legislative adds
- Savings of \$16 million by submitting claims on past services

#### OPWDD Transition into Managed Care

In July 2018, OPWDD transitioned to an enhanced care coordination model through the development of regional Care Coordination Organizations (COOs). The Executive Budget does not include any new funding to support the continued transition into Managed Care. OPWDD and DOH expect to release guidance regarding the requirements and standards to serve individuals with intellectual and/or developmental disabilities (IDD) in Provider-Led Specialized IDD Plans (SIP-PL) for public comment in the near future.

#### **Justice Center for the Protection of People with Special Needs**

The Executive Budget proposes \$58.57 million in All Funds appropriations for the Justice Center for the Protection of People with Special Needs (Justice Center), a \$522,000 or 1 percent increase from SFY 2020-21.

## HMH Article VII

### Extends HCRA and Cuts Programs (Part A)

Originally created to fund graduate medical assistance and the Indigent Care Pool for hospitals that provide uncompensated care, the Health Care Reform Act (HCRA) now supports several health programs, including a significant portion of the Medicaid program. The Executive has proposed extending the Health Care Reform Act (HCRA) to March 31, 2023, maintaining the provider fees, insurer fees, and cigarette taxes that currently fund HCRA, and terminating several public health programs supported by HCRA.

The Executive proposes that the Indigent Care Pool be excluded from the renewal of HCRA and be considered during the MRT II process, and Physicians Excess Medical Malpractice Program is only renewed for one year through HCRA and then will also be considered during the MRT II process.

The initiatives renewed or eliminated in HCRA include:

- **Extending Administrative Authority for HCRA:** The Executive proposes maintaining the authority to receive and transfer funds dedicated to administrative payments for HCRA until SFY 2024-25.
- **Eliminating Public Health Programs:** The Executive proposes eliminating the following public health programs that were previously funded by HCRA:
  - Empire Clinical Research Investigator Program (ECRIP)
  - The Area Health Education Center Public Health Program
  - Ambulatory Training Program
  - Diversity in Medicine/Post-Baccalaureate Program
  - Health Workforce Retraining Program
- **Extending the Authority for Clinic Bad Debt and Charity Care Payments:** The Executive extends funding for uncompensated care by voluntary, nonprofit diagnostic and treatment centers and for public diagnostic and treatment centers until SFY 2024-25.
- **Continues the Covered Lives Needs Assessment:** The Covered Lives Assessment is a regional tax on commercial insurance based on the number of individuals the insurer is covering. Insurers pay the annual assessment as a surcharge, which then funds graduate medical education. The Executive proposes extending the Covered Lives Needs Assessment until SFY 2024-25.
- **Extending Cigarette Taxes:** The cigarette taxes that are collected to fund HCRA are extended through until SFY 2024-25.
- **Extending HCRA Funding Mechanisms:** The Executive proposes extending the collection of some surcharges, assessments and allowances that comprise the HCRA funding pool through December 31, 2023, and extending the collection of income from some invested funds until SFY 2024-25.
- **Extending the Health Care Initiatives Pools:** The Health Care Initiatives Pools are designed to provide coverage for uninsured and underinsured children and assist health facilities. The Executive proposes extending this funding until SFY 2024-25.
- **Extending Payment Methodology for Certain Inpatient Hospital Services:** The Executive proposes extending the payment methodology for how hospitals will be reimbursed for certain inpatient hospital services until SFY 2024-25.

- **Extending Funding for the Home Care Workforce Recruitment and Retention Program:** This program adjusts Medicaid rates for the purposes of improving recruitment, training and retention of home health aides and other personnel with direct care responsibility. The Executive proposes extending funding at \$100 million per State Fiscal Year until SFY 2024-25.
- **Extending Funding for the Personal Care Services Worker Recruitment and Retention Program:** The program for enhanced rates for personal care services providers will be extended until SFY 2024-25.
- **Extending the Medical Indemnity Fund:** The Medical Indemnity Fund provides funding for future health care costs of children who have birth-related neurological injuries to reduce premium costs for medical malpractice insurance coverage. The Executive extends the MIF through December 31, 2021.
- **Discontinuing the Health Workforce Retraining Initiative:** The Health Workforce Retraining Initiative supports the training and retraining of health care employees to address changes in the health workforce by awarding grants through a competitive procurement process. Programs funded by the Health Workforce Retraining Initiative allowed health care workers to gain skills for a new position, continue professional development in their current position, or otherwise adapt to shifting technical requirements in the health workforce.
- **Discontinue Hospital Resident Compliance Audits (Part B):** The Executive repeals provisions that require the Department of Health to annually audit hospital compliance with the amount of hours a resident physician may work in a week. The Department of Health will instead administratively require hospitals to submit an attestation that they are in compliance with resident working hour and working condition requirements.
- **Early Intervention Pay and Pursue (Part C):** The Executive proposes to require insurance companies to pay early intervention program service provider claims from providers that are participating in the insurer's network and then pursue via external appeal any disagreements about whether the early intervention program service was medically necessary. If the reviewer determines that the services were not medically necessary, the insurer could require a refund of any overpayment. If a reviewer determines that early intervention services rendered by a provider were not medically necessary more than 60 percent of the time in any 12-month period, the insurer may review that provider's claims for medical necessity prior to payment in the following 12-month period. The proposal expressly allows an insurer to require preauthorization for early intervention services, and a claim for which prior authorization was denied will not be subject to the pay and pursue requirements.
- **Restructure the Enhanced Quality of Adult Living (EQUAL) Program (Part D):** The Enhanced Quality of Adult Living (EQUAL) program was created in 1999 to fund quality of life improvements in Adult Homes and other Adult Care Facilities. Funding is currently based on the number of SSI residents in the facility.

The Executive proposes creating two categories of Adult Care Facilities for the EQUAL funding application: 1) Adult Care Facilities in which at least 25 percent of the resident population has serious mental illness (SMI) or at least 25 persons have SMI, whichever is less, and 2) Adult Care Facilities with the highest populations of residents who receive SSI.

The Executive proposes that Adult Care Facilities with a higher number of residents with SMI can apply for funding that supports the mental hygiene training of staff, and independent skills

training for residents who want to transition from the Adult Care Facilities to a community-based setting. Adult Care Facilities with a higher number of SSI can apply for funding that supports physical improvements to the facility that are subject to Department of Health approval.

The Executive maintains the requisite review and approval of any application of EQUAL funds by the Adult Care Facility residents via the residents' council of the facility. Adult Care Facilities that meet the eligibility of both categories of funding may only apply for funding intended for facilities with a higher number of residents with SMI. The Executive assumes \$3.27 million in savings by financing half of the cost with capital grants.

- **Discontinuation and Transfer of Certain Public Health Programs (Part E)**: The Executive proposes discontinuing two Public Health related programs including:
  - The Health Occupation Development & Workplace Demonstration Program on the basis that the program is no longer necessary following the elimination of the Health Workforce Retraining Initiative (HWRI) under HCRA. The sole purpose of the program was to support administration, including the development, implementation, and monitoring of the HWRI program. This proposal is expected to produce a savings of \$9.16 million.
  - The Cystic Fibrosis Health Care Program, with the understanding that the program assists 70 individuals with cystic fibrosis that are not eligible for Medicaid with covering the costs of certain out-of-pocket, uncovered medical expenses. The discontinuation of this program is expected to produce a savings of \$380,000.

In addition, the Executive Budget provides for the transfer of two Public Health programs out of the Department of Health and into another State Agency:

- The Autism Awareness and Research Fund, and all associated funding, is transferred to the purview of the Office for People With Developmental Disabilities (OPWDD). The Executive states the transfer is “essential” as OPWDD has the most relevant expertise to select and support autism research and awareness projects. This \$22,000 Fund exists to support autism awareness projects and/or autism research projects.
  - The Comprehensive Care Centers for Eating Disorders (CCCED) are transferred from the Department of Health to the Office of Mental Health (OMH). In addition, the Executive Budget extends to OMH the authority to promulgate additional rules and regulations relating to eligibility criteria for being named a CCCED.
  - Currently, the New York State Department of Health has funded partnerships in three areas of the State Rochester, Albany, and New York City, as Comprehensive Care Centers for Eating Disorders (CCCED). At these centers individuals affected by the complex issues associated with eating disorders are provided expert treatment and a seamless continuum of care to guide them into and through recovery. Considered another “essential” transfer, the Executive states that the proper expertise for administering this program lies within the Office of Mental Health and transfers a \$118,000 appropriation from the Department of Health to the Office of Mental Health.
- **Extenders (Part F)**: The Executive Budget extends:
    - A provision that allows prescribers who issue 25 or fewer prescriptions annually to not use electronic prescribing through June 1, 2023.

- The limit on method of payment for prescription drugs and the dispensing fee under the medical assistance program until SFY 2024-25.
- The nursing home upper payment limit and intergovernmental transfer provisions at \$500 million through until SFY 2024-25.
- The Comprehensive Health Services Program which provides payments for uncompensated care to voluntary non-profit diagnostic treatment centers until SFY 2024-25.
- The use of funds of the Office of Professional Medical Conduct for activities of patient health information and Quality Improvement Act of 2000 until SFY 2024-25.
- Provisions relating to the Statewide Health Information Network of New York (SHIN-NY) and statewide planning and research cooperative system until SFY 2024-25.
- Methods of reimbursement to participating provider pharmacies and prescription drug coverage until SFY 2024-25.
- The ability of DOH to issue certificates of authority to accountable care organizations through December 31, 2024.
- The authority of the Commissioner of Health to apply Federally established consumer price index penalties to generic drug price increases until SFY 2023-24.
- The Health Care Refinancing Shared Savings Program, which provides incentives for nursing homes to refinance debt, until SFY 2026-27.
- Regulatory waiver authority for DOH, OMH, OPWDD, and OASAS to allow providers who are involved in DSRIP projects, or who would like to scale and replicate the ideas coming out of the DSRIP program, to avoid duplicative requirements, through April 1, 2024.
- The Home Care Medicare Maximization program through February 1, 2023.
- The Nursing Home Medicare Maximization program through February 1, 2023.
- The utilization threshold exemption for Medicaid Services, which places limits on the number of services a Medicaid member may receive in a year, through July 1, 2021.
- Authorization for the State to negotiate supplemental rebates directly with manufacturers both inside and outside of Managed Care to leverage total Medicaid prescription brand name drug volume until SFY 2027-28.
- **Prescription Drug Pricing and Accountability Board (Part G)**: The Executive proposes to allow the Superintendent of the Department of Financial Services to investigate and penalize as appropriate, via civil fines, both fraud in the sale of prescription drugs and the increase in price by more than 100 percent of a prescription drug if such an increase is improper. The Executive also proposes to create a drug accountability board, whose members are appointed by the Superintendent of the Department of Financial Services, to assist in investigations regarding prescription drug pricing and fraud.
- **Expansion of Scope of Practice For Pharmacy Technicians (Part H)**: The Executive proposes legislation to clarify the scope of practice of licensed pharmacy technicians. The Executive adds language to clarify that public health care facilities and pharmacies owned by them can employ pharmacy technicians to assist licensed pharmacists. The Executive also proposes expanding where a pharmacy technician may practice by expanding this to any registered pharmacy, where currently it is only public health care facilities. The Executive also proposes increasing the number of technicians that can be supervised by one pharmacist from four to six.

- **Authorizes Pharmacists To Administer Adult Immunizations and Collaborative Drug Therapy (Part I):** The Executive proposes expanding the types of immunizations that a pharmacist may administer to a person 18 years of age or older to include any immunization recommended by the advisory committee on immunization practices of the Centers for Disease Control and Prevention pursuant to a patient specific or non-patient specific order from a physician or nurse practitioner. Currently, pharmacists may only administer influenza, pneumococcal, acute herpes zoster, meningococcal, tetanus, diphtheria, or pertussis immunizations.

The Executive also proposes expanding the existing collaborative drug therapy demonstration program by removing the program's demonstration designation and making the program permanent. The collaborative drug therapy program also now adds that pharmacists engaging in a formal collaborative practice arrangements with physicians, can also engage in such practice arrangements with physician assistants or nurse practitioners. As part of this expansion the Executive changes the requirements for a pharmacist to receive certification to participate in collaborative drug therapy management. The Executive proposes that to qualify, a pharmacist must satisfy two of the following criteria:

- Certification in a Relevant Practice Area - Areas can include ambulatory care, critical care, geriatric pharmacy, nuclear pharmacy, nutritional support pharmacy, oncology pharmacy, pediatric pharmacy, pharmacotherapy, or psychiatric pharmacy.
  - Postgraduate Residency - Residency through an accredited program that requires at least half of the program be providing direct patient care services.
  - One Year of Clinical Services - Pharmacist must have provided clinical services under a collaborative practice agreement with a physician, physician assistant, nurse practitioner or health care facility or have documented patient experience of one year or one thousand hours that is acceptable by the State Board of Pharmacy.
- **Health Related Consumer Protections (Part J):**
    - Hospital Administrative Denials (Subparts 1, 2, 3) - The Executive proposes to prohibit administrative denials by insurers for emergency services, observation stays, and all inpatient admissions. This essentially means that an insurer cannot deny a hospital's claim simply because a hospital failed to comply with an administrative requirement of the insurer.
    - Prompt Pay (Subpart 4) - The Executive proposes to modify the prompt pay law by requiring insurers to notify members or providers electronically of claims denials (in addition to in writing) if the underlying claim was submitted electronically. The plan would also be required to specify the type of plan or product in which the member was enrolled, and, if the plan later determines that payment is due, the plan must pay within 15 days, with interest calculated based on the date of the initial claim (and a 30 or 45 day window for processing, as the law currently requires).
    - Coding Disputes (Subpart 5) - The Executive proposes to require plans to allow hospitals to submit more information if a claim is denied or payment decreased due to a coding issue. If payment is increased by the plan after the information is reviewed, prompt pay interest would be required.
    - Health Care Administration Simplification Workgroup (Subpart 6) - The Executive proposes to require DFS, in conjunction with DOH, to convene a healthcare administrative

- simplification workgroup (comprised of insurers, hospitals, physicians, and consumers) to study mechanisms to reduce administrative costs through simplification and technology.
- Health Care Claims Reports (Subpart 7) - The Executive proposes to require insurers and plans to submit quarterly and annual health care claim reports. The reports would include the number and dollar value of claims received, paid, pending, and denied. The reports would be posted on the DFS website. DFS would also have the authority to promulgate regulations requiring the submission of additional reports to assess the effectiveness of new payment policies.
  - Utilization Review for Inpatient Rehabilitation Services (Subparts 8, 9, 10, 11) - The Executive proposes to require utilization review determinations for inpatient rehabilitation services to be made within one business day rather than the current three days the law allows. (A utilization review is an insurer's review of the medical necessity of a proposed treatment or admission, so that the insurer can approve or deny the treatment or admission.) The Executive would also require compliance with the prompt pay law when a utilization review agent overturns an adverse determination on appeal.
  - Provisional Credentialing (Subparts 12, 13) - The Executive proposes to require health plans to treat as "provisionally credentialed" physicians who are newly-licensed, physicians who relocate to New York, or physicians who receive a new tax ID number based on a corporate change who are employed by a hospital or facility whose other physicians participate in a health plan's network. This would allow physicians to provide services to plan members while going through the full plan credentialing process. These physicians would be considered participating in the plan's network upon submission of a completed credentialing application and the plan being notified in writing that the physician has been granted hospital privileges.
  - Independent Dispute Resolution for Emergency Services (Subparts 14, 15, 16, 17) - The Executive proposes to amend the recently-enacted emergency services independent dispute resolution (IDR) provisions to (a) include safety net hospitals within the reach of the IDR mandate and (b) prohibit balance billing except for copays, deductibles, or cost-sharing.
  - **Physician Profile Enhancements (Part K):** This proposal requires additional information to be posted on the New York State Physician Profile website. This new information would include hours of operation of the physician's practice, the availability of assistive technology, whether the physician is accepting new patients, the physician's website and social media accounts, any physicians that share a practice, and workforce research and planning information.

In addition, the Executive Budget clarifies that any information related to the health care plans the physician is affiliated with will now be updated by DOH and is no longer the responsibility of the physician, authorizes an employee or contractor to update the physician profile on behalf of the physician, requires the profiles to be updated within six months of a physician's re-registration application, and allows physicians to omit information from their profiles regarding their appointments to medical school faculties, their website and social media accounts, and the name of physicians they share a practice with (however, they will no longer be able to omit information regarding the location of their practice and the healthcare plans that they are affiliated with).

- **Increased Enforcement of Professional Misconduct of Certain Licensed Healthcare Professionals (Part L):** The Executive includes several provisions to increase Department of

Health (DOH) and State Education Department (SED) enforcement of professional misconduct by licensed physicians, physician assistants, specialist assistants, and medical residents. A license to practice medicine for these professionals could be revoked if SED is ordered to do so by the State Board for Professional Medical Conduct in DOH or the licensee failed to register with SED for two consecutive periods. In addition, these professions must now undergo fingerprinting and a criminal history background check prior to licensure. The criminal history check will be composed of searches of both the State's Criminal Justice Services and the Federal Bureau of Investigation database.

The Executive also expands the definition of "professional medical misconduct" to include:

- Complaints resolved by stipulation or agreement;
- Failure to respond in 10 (instead of 30 days) to a DOH request for access to records during an inquiry;
- Willfully harassing, abusing, or intimidating a patient's caregiver or surrogate; and
- Failure to notify the Department of Health within 24 hours of being charged with a crime in any jurisdiction.

This part also makes additional changes to the provisions related to professional misconduct investigations and proceedings undertaken by the Department of Health's Office of Professional Medical Conduct (OPMC) by having the Executive Director of OPMC appointed by the Commissioner of Health (instead of the chairperson of OPMC), requiring the immediate convening of an investigative committee against a licensed professional (instead of 90 days), authorizing the Commissioner of Health to disclose information about OPMC investigations at his/her discretion, allowing for substituted service of charges by mail instead of personal service on the licensee, publishing the charges immediately (instead of after five business days) after serving the licensee, making all OPMC administrative warnings and consultations public, and requiring licensees to notify OPMC within 24 hours if the licensee is charged with a crime in any jurisdiction.

This part also authorizes the Commissioner of Health to take a "summary action" against a licensee without a hearing, if the licensee does not respond to the Commissioner's order to produce documents during an investigation, including a temporary suspension of the medical professionals license. The license will remain suspended until a hearing is held and may continue until 180 days after the date of service of the order.

The part also requires hospitals to report to the Department of Health within 30 days that the hospital notified a third party contractor not to assign personnel to the hospital for professional services because of an alleged mental or physical impairment, incompetence, malpractice, misconduct, or impairment of patient safety or welfare.

- **Banning Specific Fentanyl Analogs (Part M)**: The Executive includes 24 formulations, and other biochemically related structures of those formulations, of Fentanyl to the list of Schedule I controlled substances, and two additional forms of Fentanyl to the Schedule II list of Controlled Substances. The Executive Budget also authorizes the Commissioner of Health to classify any substance as a Schedule I controlled substance that is listed as a Schedule I controlled substance on the federal schedule.

By classifying these substances as a "Schedule I" controlled substance, it would now be illegal to manufacture, sell, prescribe, distribute, dispense, administer, possess, have under control, abandon, or transport these substances in New York State. A "Schedule II" controlled substance requires a prescription from a licensed health professional.

- **Antimicrobial Resistance Prevention (Part N)**: The Executive requires every hospital and nursing home to establish an antibiotic stewardship program that includes training for all licensed healthcare staff that provide direct patient care on antimicrobial resistance and infection prevention and control. This program must also meet or exceed federal Medicare and Medicaid standards for antimicrobial stewardship programs in health care facilities.
- **Expansion of Sexual Assault Forensic Examiner (SAFE) Program To All Hospitals with ER's (Part O)**: The Executive proposes to expand the Sexual Assault Forensic Examiner (SAFE) Program to all 189 hospitals that maintain an emergency room from the current 45 SAFE-designated hospitals. The SAFE designation would no longer exist. Every hospital emergency room will now have to:
  - Ensure that every victim is met within 60 minutes of arriving at the hospital by a sexual assault forensic examiner, is given a sexual assault medical forensic exam (if they consent), and receives followup information, counseling, medical treatment and referrals for treatment;
  - Designate a qualified staff person to exercise administrative and clinical oversight of the treatment of sexual assault victims;
  - Ensure that all emergency room staff receive training for assessing and treating victims of sexual assault; and
  - Attest to the Department of Health (beginning March 1, 2021) the number of sexual assault forensic examiners available to the hospital, the contact information of the designated person who oversees the treatment of sexual assault victims, and that trainings have been completed.

Hospitals without emergency rooms must establish a protocol of how to transfer a sexual assault victim to a hospital with an emergency room. The Commissioner of Health must issue a report to the Governor and Legislature about the effectiveness of sexual assault forensic examiners in providing treatment in emergency rooms by November 30, 2023.

- **Increases Center for Environmental Health Fees (Part P)**: The Executive proposes updating six fees administered by the Department of Health's Center for Environmental Health that are expected to raise \$680,000 in revenue. The following fees are proposed to be increased:
  - Subdivision plan filing fees – increased from \$12.50 to \$50, or from \$25 to \$100 for plans that satisfy both DOH and the DEC sewage requirements
  - Children's overnight, summer day, or traveling summer day camp permit fees – increased from \$200 to \$800 (with the exemption for charitable, philanthropic and religious programs maintained)
  - Tanning facility registration fee – increased from \$30 to \$100
  - Tanning facility inspection fee – increased from \$50 to \$200
  - Initial asbestos safety program completion certificates – increased from \$20 to \$50
  - Refresher asbestos safety program completion certificates – increased from \$12 to \$30

- **Tobacco and Vaping Control Policies (Part Q)**: The Executive includes several provisions related to controlling the use of electronic cigarettes and tobacco products. These provisions include:
  - Prohibiting the sale of flavored electronic cigarettes, liquid nicotine or other vaping products that are expected to be used with or for the consumption of nicotine with a \$100 fine per package for violating this prohibition
  - Expanding the definition of “indoor area” to include areas with a full or partial roof for purposes of the Clean Indoor Air Act’s prohibition on smoking in certain public places (except for some destination resort gaming facilities)
  - Prohibiting the sale of tobacco products, electronic cigarettes or other vaping products in pharmacies and further limiting the public display of these products at other stores
  - Prohibiting the use of coupons, multi-package discounts, or other price reduction instruments for the purchase of tobacco products and electronic cigarettes
  - Prohibiting the shipment of electronic cigarettes, liquid nicotine, and other vapor products intended or reasonably intended to include nicotine directly to consumers except for registered vapor products dealers
  - Extending the prohibition on distributing without charge tobacco products to include electronic cigarettes, electronic liquids and vaping products
  - Restricting advertising of electronic cigarettes, electronic liquids and vaping products to adult publications only, requiring these advertisements to be limited to black static words on white background, prohibiting any audio or video advertising from including music or sound effects, and prohibiting manufacturers from advertisement false or misleading statements regarding electronic cigarettes as a smoking cessation device or the safety of the devices
  - Requiring vapor products and electronic cigarette manufacturers to disclose ingredient information to DOH, including research on the effect of human health of that ingredient and post this information on the manufacturer’s website with a penalty of \$5,000 for failing to do so
  - Increasing penalties for retailers that sell to minors from \$300-\$1,000 to \$1,000-\$2,000 for a first violation and from \$500-\$1,500 to \$1,500-\$3,000 for subsequent violations, increasing the suspension of a retail dealer’s license from 6 months to one year, and increasing the surcharge from \$50 to \$250 for violations of these provisions that is payable to the local law enforcement agency to be used for compliance checks
- **Medicaid Local District Spending Reforms (Part R)**: The Executive proposes a risk-sharing arrangement between the State and counties to limit the growth of the local share of the Medicaid program to three percent, and to keep local governments within the two percent property tax cap. The Executive expects \$150 million in State share savings in SFY 2020-21 and SFY 2022-23.
  - Determining an Annual Growth Rate for Medicaid Local Spending: The Executive proposes establishing an annual rate of growth of three percent for the local share of every county. This rate of annual growth is separate from the Medicaid Global Spending Cap which was established in SFY 2011-12 by the first Medicaid Redesign Team.
  - Verification of the Property Tax Cap: The Executive proposes counties verify to the Department of Health that they have adopted a fiscal budget that does not exceed the two percent property tax cap. Local governments are required to make the verification no later than April 20, 2020 and then by January 15 in subsequent years.

- New York City Included In Property Tax Cap: Even though New York City is not under the property tax cap, the Executive proposes New York City assume it does have a two percent property tax cap for purposes of this proposal. New York City must confirm that it has passed a budget that would not exceed a two percent property tax cap by July 15 each year.
- Establishing a Penalty for Medicaid Growth Higher Than Three Percent: The Executive proposes counties that exceed the three percent cap in Medicaid local share spending must then remit to the State the difference between the actual local district spend and what the savings under the three percent cap were expected to be. Any federal share must first be removed before remitting the difference in actual spending versus projected savings.
- Authorizing State Requests for Financial Information: The Executive authorizes the Department of Health and the Division of Budget to request any financial or statistical record needed to verify spending by a local district.
- Allowing Waivers for Financial Hardship: The Executive allows counties to submit applications for financial hardship to the director of the Division of the Budget.
- Sharing Savings with Local Districts: The Executive proposes that if a local district is successful in adhering to the two percent property tax cap and identifying savings to keep local share Medicaid spending at under three percent, then the local district will be able to receive 25 percent of the shared savings.
- **Certificate of Need Surcharge (Part S)**: The Executive Budget proposes a new surcharge on all Certificate of Need (CON) applications of three percent of the total capital value of the project. This surcharge does not apply to applications where the costs are being solely funded by state grants. In addition, the Commissioner of Health, in consultation with the Budget Director may exempt applications under criteria developed by the Commissioner of Health. This proposal is expected to generate \$70 million in revenue.
- **Extension of Physicians Excess Medical Malpractice Program (Part T)**: The Executive Budget extends the Excess Medical Malpractice Program and the Department of Financial Services rate-setting authority for the program until June 30, 2021.
- **Regulation of Pharmacy Benefit Managers (Part U)**: The Executive Budget requires Pharmacy Benefit Managers (PBMs) to register with, and become licensed by, the Department of Financial Services (DFS). The Superintendent of DFS may set minimum standards for the issuance of a PBM license, including standards of conduct, which may address things such as prohibitions on spread pricing and anticompetitive conduct.

Every PBM must report annually to DFS information requested by the Superintendent, including any pricing discounts, clawbacks, etc. received by the PBM, and the terms of any contract between the PBM and any other party relating to pharmacy benefit management services provided to a health plan (including but not limited to dispensing fees paid to pharmacies). A PBM must disclose in writing to a health plan with whom the PBM has a contract any activity or arrangement of the PBM that presents a conflict of interest with the PBM's contractual relationship with, or duties to, the health plan. No contract with a health plan shall limit access to financial or utilization information of the PBM in relation to pharmacy benefit management services provided to the health plan. DFS may suspend, revoke, or refuse to renew or issue a PBM license if it determines that the PBM violated the insurance law, provided misleading information in its application or reports, or demonstrated untrustworthiness, amongst other things.

## Mental Hygiene

- **Streamlining Pre-Admission Process for Residential Treatment Facilities (Part V)**: The Executive changes the pre-certification review process for admission of children to Office of Mental Health residential treatment facilities by removing the use of the Pre-Admission Certification Committee (PACC) that currently makes the pre-certification decisions and replaces it with an advisory board that is established after consultation with the Council on Children and Families. These PACCs serve geographic areas and meet monthly to certify a child’s admission or transfer to an OMH licensed residential treatment facility.

A new provision is also added to require that for Medicaid patients, certification must now also include a determination that the services of the residential treatment facility are necessary for the patient and require a regular medical necessity review to ensure that these services are still needed. In addition, the powers of the PACC to determine eligibility criteria is eliminated, and instead the Commissioner of Mental Health, along with the Commissioners of Social Services, the Office of Children and Family Services, and the State Education Department will determine admission criteria for residential treatment facilities.

- **Establish Jail-Based Restoration Programs for County Jails (Part W)**: The Executive proposes allowing localities (outside of New York City) to develop specialized residential mental health units within their local jails to house, treat and eventually restore felony level defendants to competency as they await trial. An agreement is required between the Office of Mental Health, the Director of Community Mental Health Services, and the sheriff of the respective locality. Currently, felony defendants who are deemed not competent to stand trial must receive treatment in a psychiatric hospital, general hospital or outpatient setting. The Executive projects a savings of \$1.7 million from the reduced need of OMH forensic beds to serve this population if one county implements one of these units.
- **Create a New Program for the Sex Offender Management and Treatment Act (SOMTA) Population (Part X)**: The Executive authorizes the Office of Mental Health (OMH) to establish a program within OMH psychiatric facilities for the treatment of confined sex offenders separate and apart from the general forensic population as these populations have different treatment needs. Employees that are engaged in the care and treatment of these sex offenders will be transferred to the secure treatment and rehabilitation center. These employees will remain in their current geographic location and maintain their civil service title and status. The Executive projects a savings of \$2.5 million from efficiencies in treating this population separately from the general population as a result of shorter lengths of stays of the SOMTA population
- **Extend Comprehensive Psychiatric Emergency Programs (CPEP) and Make Other Technical Amendments to Improve Operational Efficiency (Part Y)**: The Executive proposes to extend the expiration of the Comprehensive Psychiatric Emergency Program (CPEP) from July 1, 2020 to July 1, 2024. In addition to this extender, outdated provisions referencing “rural CPEPs” and “crisis residence services” are removed. CPEP provides hospital-based crisis intervention services, extended observation beds, crisis outreach services, and crisis residence services for a specific region.

The Executive also proposes to extend the length of time an individual can be held for observation, care, or treatment from 72 to 96 hours, require triage and referral services be

provided by a psychiatric nurse practitioner or physician, and require a referral for followup crisis intervention services for the patient if deemed necessary.

- **Establish the Behavioral Health Parity Compliance Fund and Strengthen Efforts to Ensure Compliance with State and Federal Behavioral Health Parity Laws (Part Z):** The Executive proposes requiring the Department of Financial Services and the Department of Health to promulgate regulations by October 1, 2020 to enforce the behavioral health parity laws enacted in the SFY 2019-20 budget. The Executive also creates a new fund, known as the “Behavioral Health Parity Compliance Fund” that, beginning October 1, 2020, will include fines and penalties collected from insurers who violate State and/or federal parity laws. These funds will go to further enforcing the parity laws, and also to fund the Behavioral Health Ombudsman program.
- **Justice Center Statewide Central Register (SCR) Checks (Part AA):** The Executive removes the requirement that the Justice Center check the statewide central register (SCR) of child abuse for all of its investigations and instead allows the SCR to be checked when determined by the Justice Center to be relevant to an investigation. Currently, these checks are mandatory for all Justice Center investigations, regardless of the nature of the investigation of an allegation of abuse or neglect of a vulnerable person.
- **Office for People with Developmental Disabilities Authority to Issue Operating Certificates (Part BB):** The Executive provides OPWDD with the authority to issue operating certificates to providers that offer community-based Medicaid State Plan services for individuals with intellectual and developmental disabilities (I/DD). This would allow OPWDD direct oversight of providers of these services, particularly the Care Coordination Organizations (CCOs) that are responsible for managing care for the entire service population.

Prior to the implementation of CCOs, care coordination services were provided by not-for-profit providers that received operating certificates needed to provide other services. CCOs are regional cooperatives of existing providers of developmental disability services, and will provide Health Home care management services and Home and Community Based Services. CCOs are designed to provide person-centered care coordination that integrates health care needs with developmental disability service needs.

The Executive proposes removing duplicative criminal background check requirements for prospective employees of Health Homes or their subcontractors that serve individuals with developmental disabilities. The Executive proposes removing the reimbursement for Health Homes conducting criminal background checks on prospective employees. The Executive also proposes removing the ability of Health Homes serving individuals with developmental disabilities to temporarily approve a prospective employee while the employee is undergoing a criminal background check.

There is an estimated \$100,000 savings associated with implementation of this proposal.

# Human Services and Housing



STAFF ANALYSIS OF  
THE 2020-21 EXECUTIVE BUDGET



## Human Services and Housing Highlights

### Appropriations

- **Raise the Age:** The Executive Budget provides \$250 million in funding to support continued implementation of Raise the Age, an increase of \$50 million over SFY 2019-20.
- **Advantage After School:** The Executive Budget provides \$28 million in funding for the Advantage After School program.
- **Homeless Housing and Assistance Program:** The Executive Budget provides \$128 million in capital support for supportive housing initiatives, an increase of \$64 million, doubling last year's funding level.
- **Code Blue Program:** The Executive budget includes a discrete appropriation of \$13 million to support local social service districts in implementing emergency measures for the homeless during inclement winter weather.
- **Office of Storm Recovery:** The Executive proposes to eliminate \$72 million in capital funding that had been appropriated to continue the recovery and rebuilding efforts in the areas affected by Superstorm Sandy.
- **Housing Development Fund Program:** The Executive proposes to increase funding by approximately \$7 million to provide for additional and improved housing for farmworkers.

### Article VII

- **Elimination of State Share for Committee for Special Education Residential Placements:** The Executive eliminates the State share for Committee for Special Education residential placements, which is currently shared by the State, local social services district, and school district. The State share would be shifted to the school district, which will result in a \$26 million savings for the State.
- **Family First Prevention Services Act (FFPSA) Provisions:** To bring New York into compliance with the federal FFPSA by September 2021, the Executive proposes to require periodic assessments and Family Court review and approval for foster care children placed in qualified residential treatment programs.
- **Office of Rent Administration Billing:** The Executive proposes to streamline the reimbursement process for the State's cost in administering New York City's rent regulations. The proposal also eliminates language that designates Division of Housing and Community Renewal (DHCR) to administer the rent regulations in New York City and instead designates the State generally.
- **Legalize Gestational Surrogacy:** The Executive proposes to legalize and regulate gestational surrogacy, wherein the surrogate has no genetic connection to the child.
- **Expansive Equal Rights Amendment (Concurrent Resolution):** The Executive proposes a constitutional amendment to add sex, sexual orientation, gender identity or expression, ethnicity, national origin, age, and disability as protected classes in the New York Constitution's anti-discrimination clause.

## Human Services Agency Details

### Overview

The Executive Budget recommends \$10.5 billion in All Funds appropriation authority for the agencies comprising the Human Services and Housing functional area for SFY 2020-21. This is a decrease of \$34.5 million, or 0.3 percent, over SFY 2019-20 levels. The year to year change is largely the result of a decrease in appropriation authority for DHCR offset by increases in the Office of Children and Family Services and Raise the Age, which are described in more depth below.

Human Services and Housing Agency Funds Appropriations				
Agency	Available SFY 2019-2020	Executive Recommendation SFY 2020-2021	change	percent
Office of Children and Family Services	\$3,812,266,350	\$3,820,913,150	\$8,646,800	0.2%
Raise the Age	\$200,000,000	\$250,000,000	\$50,000,000	25.0%
Office of Temporary and Disability Assistance	\$5,826,586,000	\$5,827,304,000	\$718,000	0.01%
Division of Housing and Community Renewal	\$402,138,000	\$308,887,000	(\$93,251,000)	-23.2%
State of New York Mortgage Agency	\$215,199,849	\$216,274,429	\$1,074,580	0.5%
Division of Veterans' Services	\$21,251,000	\$19,606,000	(\$1,645,000)	-7.7%
Division of Human Rights	\$18,153,000	\$18,153,000	\$0	0.0%
Office of the Welfare Inspector General	\$1,312,000	\$1,312,000	\$0	0.0%
National and Community Service	\$30,773,300	\$30,773,300	\$0	0.0%
Pay for Success Contingency Reserve	\$69,000,000	\$69,000,000	\$0	0.0%
<b>Total Human Services and Housing</b>	<b>\$10,596,679,499</b>	<b>\$10,562,222,879</b>	<b>(\$34,456,620)</b>	<b>-0.3%</b>

### Office of Children and Family Services (OCFS)

The SFY 2020-21 Executive Budget recommends \$3.8 billion in All Funds appropriation authority for the Office of Children and Family Services, an increase of \$8.6 million or 0.2 percent, from SFY 2019-20. The Executive Budget recommends a workforce of 2,856 FTEs for SFY 2020-21, a decrease of 63 FTEs from 2020.

This increase can mainly be attributed to:

- The addition of \$75 million in support for continued compliance and implementation of the Family First Prevention Services Act (FFPSA)
- An increase of \$12.9 million in support for the federal Child Care Block Grant program
- The addition of \$5 million in support for flexible survivor-centered domestic violence services

These increases are partially offset by:

- \$25 million from the reduction of the Child Welfare Services reimbursements
- \$24 million from the reduction of the Child Care Development Fund
- \$22.9 million from the elimination of various Legislative initiatives
- \$22 million from the elimination of the state share of aid to the Committee on Special Education (CSE)

- \$4.25 million from the reduction of state contributions to unions' professional development and quality enhancement activities
- \$3.6 million from the elimination of the Public/Private Partnership Pilot Program
- \$1.9 million from the elimination of the Kinship Navigator/Caretaker Relative Program

#### Child Care Subsidies

The SFY 2020-21 Executive Budget provides \$832 million in overall support for childcare subsidies, which is unchanged from SFY 2019-20. This funding is derived from an array of funding sources including, \$182 million in OCFS General Fund support for childcare, \$428.7 million in TANF support, and \$216.8 million in Child Care Block Grant. The Executive Budget continues to reserve up to \$80 million in federal funding to support implementation of the health and safety requirements of the federal Child Care and Development Fund Block Grant Reauthorization Act of 2014, along with up to \$10 million in additional federal funding to increase child care availability in the State.

#### TANF Child Welfare Service Threshold Increase

The Executive proposes to increase the federal Temporary Assistance for Needy Families (TANF) Flexible Fund for Family Services (FFFS) threshold by \$40 million to \$382 million. The State is currently required to spend a portion of the \$964 million FFFS grant on child welfare services. The State reimburses local social service districts at 62 percent of eligible expenditures net federal funding. The Executive estimates that this proposal will yield \$25 million in savings to the State in SFY 2020-21.

#### Raise the Age

New York's Raise the Age law took effect on October 1, 2018, at which time the age of criminal responsibility increased from 16 to 17 years-old. On October 1, 2019, the second phase of Raise the Age became effective and the age of criminal responsibility increased from 17 to 18 years-old. The SFY 2020-21 Executive Budget provides \$250 million in funding to support continued implementation of Raise the Age, an increase of \$50 million over SFY 2019-20.

#### Youth Leadership Academy Facility Closure

The Executive proposes the closure of the Youth Leadership Academy (YLA) in Delaware County. This 25-bed facility has operated under capacity for several years, currently with eight beds filled. Staff and youths will be relocated to other facilities. OCFS will provide its statutorily required one-year notice in advance of any reductions or closures. The Executive estimates that this proposal will yield \$4.9 million in savings annually.

#### Eliminating the State Share of Committee on Special Education Residential Placement Costs

The Executive proposes to eliminate \$22 million representing the State share of 18.42 percent of the room and board cost associated with the placement of children with severe disabilities by the Committee on Special Education. Currently, outside of New York City, the costs are shared between the local social service district (43.15 percent), the school district (38.42 percent), and the State (18.42 percent). Under this proposal the State's share would be combined into the school district's share.

### Survivor-centered Domestic Violence Pilot Program

The Executive provides \$5 million to establish flexible survivor-centered services for individuals and families who have experienced domestic violence.

## **Article VII**

**Compliance with Federal Family First Prevention Service Act (FFPSA) (ELFA Part M):** The Governor seeks to bring New York State into compliance with the FFPSA. Enacted in 2018, FFPSA is a federal law that reformed federal financing, in an effort to prioritize family-based foster care and limit federal reimbursement for congregate care. Per FFPSA, after two weeks in congregate care, federal Title IV-E funding will only be available for certain settings, such as qualified residential treatment programs (QRTPs), specialized settings providing prenatal or parenting supports, supervised independent living, residential supportive settings for human trafficking survivors, and licensed residential family-based substance abuse treatment facilities.

The Governor's proposal calls for an assessment of the appropriateness of the QRTP placement within 30 days of the start of placement. The court is required to schedule a court hearing no later than 60 days from the date a child is placed in a QRTP. The court will evaluate whether the QRTP placement would be the most effective and appropriate level of care for the child over placement in a foster home.

**Elimination of State Share for Committee on Special Education Residential Placements (ELFA Part N):** The Governor proposes language that would change the current funding structure for Committee on Special Education (CSE) residential placements outside New York City by shifting the State's share to local school districts. A CSE has the authority to recommend placement of students with disabilities in residential schools. OCFS is responsible for the maintenance costs of the students.

Currently, the financial responsibility for residential placements outside of New York City are shared by the state (18.424%), local school district (38.424%), and the local social services district (43.152%). The Governor proposes to eliminate the State's share of 18.424% and shift the cost to the local school district, resulting in the following cost share: local school district (56.848%) and local social services district (43.152%). This cost shift is estimated to save the State approximately \$26 million annually. This proposal is not applicable to New York City.

### **Office of Temporary and Disability Assistance (OTDA)**

The SFY 2020-21 Executive Budget proposes \$5.8 billion in All Funds appropriation authority for the Office of Temporary and Disability Assistance, an increase of \$718,000 or 0.01 percent from SFY 2019-20. The Executive Budget recommends a workforce of 1,987 FTEs for SFY 2020-21, which is unchanged from SFY 2019-20.

This increase can mainly be attributed to:

- An increase of \$64 million in capital support for supportive housing

- The addition of \$13 million in support for the continuation of Code Blue efforts to protect homeless individuals from inclement winter weather
- An increase of \$2.8 million in support for various homeless housing programs, including New York State Supportive Housing Program (NYSSHP), the Solutions to End Homelessness Program (STEHP), and the Operational Support for AIDS Housing Program (OSAH)
- An increase of \$1 million for the Summer Youth Employment program

These increases are offset by decreases of:

- \$23.9 million from the elimination of various Legislative TANF initiatives
- \$4.5 million from the elimination of support for the Empire State Poverty Reduction Initiative
- \$3.9 million from the elimination of various Legislative initiatives

Temporary Assistance for Needy Families (TANF)

Summary of FY 2021 Executive Budget TANF Program				
Program	FY 2020 Enacted	FY 2021 Executive	change	percent
<b>TANF Base</b>	<b>\$1,727,937</b>	<b>\$1,728,693</b>	<b>\$756</b>	<b>0.04%</b>
Family Assistance/Emergency Assistance to Families	\$1,300,000	\$1,300,000	\$0	0.00%
Child Care Subsidies	\$427,937	\$428,693	\$756	0.18%
<b>TANF Initiatives</b>	<b>\$1,055,460</b>	<b>\$1,040,041</b>	<b>(\$15,419)</b>	<b>-1.46%</b>
Advantage After School	\$28,041	\$28,041	\$0	0.00%
ATTAIN	\$4,000	\$0	(\$4,000)	-100.00%
Career Pathways	\$2,850	\$0	(\$2,850)	-100.00%
Centro of Oneida	\$25	\$0	(\$25)	-100.00%
Child Care CUNY	\$141	\$0	(\$141)	-100.00%
Child Care Facilitated Enrollment - Monroe County	\$2,185	\$0	(\$2,185)	-100.00%
Child Care Facilitated Enrollment - Other Counties	\$3,754	\$0	(\$3,754)	-100.00%
Child Care SUNY	\$193	\$0	(\$193)	-100.00%
Flexible Fund For Family Services	\$964,000	\$964,000	\$0	0.00%
Non-Residential DV	\$3,000	\$3,000	\$0	0.00%
Preventive Services	\$1,570	\$0	(\$1,570)	-100.00%
RGRTA	\$82	\$0	(\$82)	-100.00%
Strengthening Families through Stronger Fathers	\$200	\$0	(\$200)	-100.00%
Summer Youth Employment	\$44,000	\$45,000	\$1,000	2.27%
Wage Sidsidy	\$475	\$0	(\$475)	-100.00%
Welfare to Careers	\$800	\$0	(\$800)	-100.00%
Wheels for Work	\$144	\$0	(\$144)	-100.00%
<b>TOTAL TANF</b>	<b>\$2,783,397</b>	<b>\$2,768,734</b>	<b>(\$14,663)</b>	<b>-0.53%</b>

The SFY 2020-21 Executive Budget proposes total TANF appropriations of nearly \$2.8 billion, a decrease of \$14.6 million, or 0.53 percent below SFY 2019-20 levels. The Executive proposal

provides \$28 million for the Advantage After School program. The Executive increases funding for the Summer Youth Employment program by \$1 million in support of minimum wage increases, and eliminates \$19 million in SFY 2019-20 Legislative initiatives. Please see the chart entitled “Summary of SFY 2020-21 Executive Budget TANF Proposal” for more information.

#### Public Assistance

The Executive Budget projects a public assistance caseload of 469,185 recipients in SFY 2020-21, a decrease of 5,293 recipients or 1.1 percent from SFY 2019-20. Safety Net spending is projected at \$1.7 billion, an increase of \$17.6 million from SFY 2019-20 due to an increase in the Safety Net population. The Executive anticipates federal TANF spending at \$1.1 billion, a decrease of \$34.1 million from SFY 2019-20.

#### New York City Reimbursement Rate Change for the Family Assistance Program

The Executive proposes to change the reimbursement rate for NYC from 90 percent to 85 percent for eligible spending on Family and Emergency Assistance benefits utilizing the federal Temporary Assistance to Needy Families Block Grant program. The Executive estimates that this proposal will yield \$51.4 million in savings to the State.

#### Homeless Housing and Assistance Program

The Executive Budget provides \$128 million in capital support for the Homeless Housing and Assistance Program; an increase of \$64 million from SFY 2019-20. These funds will be used for capital construction of housing targeted to individuals and families experiencing homelessness. In addition, the Executive provides \$5 million for supportive housing for veterans experiencing homelessness and \$5 million for supportive HIV/AIDS housing for counties outside of New York City.

#### Code Blue Program Appropriation

The Executive budget includes \$13 million in a discrete appropriation for the Code Blue program to support local social service districts implementation of emergency measures for the homeless during inclement winter weather. The program is the result of the Governor’s 2016 Executive Order directing local social service districts to work with law enforcement and community based organizations to protect homeless individuals when temperatures drop below 32 degrees, including wind chill.

#### Supportive Housing Programs

The Executive provides a total of \$85.8 million in overall support for the New York State Supportive Housing Program (NYSSHP), the Solutions to End Homelessness Program (STEHP) and the Operational Support for AIDS Housing Program (OSAH), or to qualified grantees of these programs. The Executive provides \$42.6 million in support from OTDA for this purpose and an additional \$42.6 million in funding from the Mortgage Insurance Fund (MIF) Excess Reserve, which can be found in ELFA Part H.

### Article VII

- **Pass-Through Authorization of Any Federal SSI and COLA (ELFA Part K):** The

Governor's proposal would statutorily raise the personal needs allowance and monthly Supplemental Security Income standard of need amounts for elderly and disabled recipients of this assistance. This language raises the limits for 2020 by \$4-\$6 per month per individual, dependent on the level of care. It authorizes additional federal COLA increases within the first six months of 2021. This annual COLA increase will take effect December 31, 2020.

- **Legalizing Gestational Surrogacy (ELFA Part L)**: The Executive proposes to legalize and regulate compensated gestational surrogacy, provide procedures for determining the parentage of children conceived through assisted reproduction, eliminate criminal penalties for “traditional” genetic surrogacy, and modernize other areas of law relating to parentage.

The proposal would set out detailed requirements for the contents and conditions of any gestational surrogacy agreement. The proposal also establishes a Surrogates' Bill of Rights reiterating all required elements of the agreement and applying the rights regardless of whether there is no agreement or any agreement provides otherwise.

Under this proposal, the person acting as a surrogate must be at least 21, be a United States citizen or lawful permanent resident, not provide the egg used to conceive the child, complete a medical evaluation, be represented by independent counsel of their choosing paid for by the intended parent, and obtain health insurance paid for by the intended parents, unless the health insurance otherwise comes at no additional cost to the surrogate.

The intended parents must be represented by independent counsel of their own choosing, be adults, at least one must be a United States citizen or lawful permanent resident, and pay for any out-of-pocket medical costs incurred by the surrogate in association with the pregnancy. If the surrogate is not receiving compensation, they may waive the requirement that the intended parents pay for legal counsel, health insurance, and other out-of-pocket medical costs, including costs related to any complications related to the pregnancy arising up to 6 months after birth or termination of the pregnancy.

The proposal also places restrictions on the terms of the agreement. The intended parents and the surrogate must execute the agreement prior to the embryo transfer. If either party is married, their spouse must also sign the agreement, unless they are separated. If an intended parent is separated from their spouse, and the spouse does not sign the agreement, the spouse is not considered an intended parent and has no rights or obligations to the child. If the intended parents are married and separate or divorce during the pregnancy, their rights and responsibilities under the agreement do not change. If the surrogate marries during the pregnancy, that marriage does not affect the validity or terms of the agreement.

Any party can terminate the agreement at any time before the surrogate becomes pregnant by providing notice to all other parties. Upon termination, all parties are released from all obligations, except that intended parents must still reimburse the surrogate for any expenses incurred, and the surrogate may retain any payment already received or obtain any payment to which they are entitled before the termination.

The surrogate must agree to undergo embryo transfer and attempt to carry and give birth to the child, but the agreement cannot limit the person's right to terminate or continue the pregnancy or reduce or retain the number of fetuses or embryos carried. The surrogate also must agree to surrender custody of all resulting children to the intended parent or parents immediately upon birth. The agreement cannot limit the surrogate's ability to make all health and welfare decisions regarding themselves or the pregnancy, utilize the services of the health care practitioner of their choosing, or terminate the pregnancy.

The intended parents must agree to accept custody of all resulting children immediately upon birth, regardless of number, gender, condition, or if the intended embryos were transferred due to laboratory error, execute a will prior to the embryo transfer designating a guardian for all resulting children who will perform the intended parents' obligations under the agreement, pay for a life insurance policy for the surrogate, at the surrogate's option, with the beneficiary of the surrogate's choosing, and pay for counseling for the surrogate, at the surrogate's request.

If the intended parents compensate the surrogate, the compensation must be reasonable and negotiated in good faith based on the medical risks, physical discomfort, inconvenience, and responsibilities the person is assuming. The intended parents may not condition compensation on the characteristics of any resulting children. Prior to the surrogate undergoing any medical procedure other than the initial evaluation for eligibility, the intended parents must place the funds in escrow with an independent escrow agent.

The Department of Health (DOH), in consultation with the Department of Financial Services, will regulate surrogacy programs that arrange agreements. The program must be licensed by DOH, provide all parties with the Surrogate's Bill of Rights, keep all funds paid by the intended parents in escrow, may not be owned or managed by an attorney representing either party, or pay or be paid by such attorney, and may not pay or receive payment from any health care provider involved in the agreement. DOH would also create regulations for health care providers relating to gestational surrogacy and egg donation and make information available on its website. DOH would establish voluntary central tracking registries of persons acting as surrogates and ova donor information to better track health outcomes for surrogates and egg donors.

If a surrogacy agreement is substantially compliant with the law, it will be enforced. If there is an agreement but it does not meet the material requirements of the statute, the court will determine parentage based on the intent of the parties and the best interests of the child. If the parties did not enter into an agreement, then the court will determine the parentage based on existing law. In no dispute will intended parents be able to force the surrogate to be impregnated, terminate the pregnancy, continue the pregnancy, or reduce or retain the number of fetuses or embryos. The proposal also prohibits any mandatory arbitration clause relating to determining the parentage of the child.

The proposal amends the existing law prohibiting surrogacy contracts so that it only applies to genetic surrogacy agreements where the surrogate is also a genetic parent. While the proposal continues to make traditional surrogacy agreements void and unenforceable, it removes the

civil penalties on the parties and the civil and criminal penalties on persons who arrange or assist in the formation of genetic surrogacy agreements.

The proposal also creates a new “judgment of parentage” procedure for the intended parents of children born through assisted reproduction, including surrogacy. Before the child's birth, the parties may petition a court to obtain a judgment of parentage. The judgment is not strictly necessary to confer parental status, as a surrogacy agreement compliant with the legislation will confer parentage on the intended parents by operation of law, but would assist in expediting recognition on the birth certificate and in validating the agreement.

Under current law, the only recognition of assisted reproduction provides that a child conceived through artificial insemination born to a married husband and wife is considered the legitimate birth child of that couple if both spouses consented to the artificial insemination in writing. This proposal would repeal that narrow statute and replace it with comprehensive rules for determining parentage.

First, it makes clear that a donor is not a parent of the child. Second, if the intended parent giving birth to a child is married, both spouses will be presumed to be parents and may only challenge that parentage under limited circumstances. If the intended parents are not spouses, the parent not giving birth must consent to the assisted reproduction in writing to be considered a parent. If there is no consent in writing, however, a court may find consent by clear and convincing evidence.

If a person consents to be an intended parent but dies before the actual conception, the person would not be considered the parent of the resulting child unless the written consent also includes consent to be the parent if assisted reproduction occurs after death.

The proposal also regulates enforcement of embryo disposition agreements. Intended parents may enter these agreements where they agree to create and store embryos for later implantation to govern what happens to the embryos if one of the spouses dies, the spouses get divorced, or the intended parents are not married. Under the proposal, the agreement will be enforced if it is in writing, each intended parent had the advice of independent counsel prior to the execution, and if spouses, any transfer of rights or control occurs only upon divorce. If an intended parent transfers control of the embryo, that person will no longer be a parent of any child conceived from the embryo unless the agreement states otherwise and the person does not provide written notice before the transfer withdrawing consent to be the parent.

Finally, the proposal amends the laws establishing and pertaining to voluntary acknowledgements of paternity to make it gender neutral and reflect the newly recognized parent-child relationships under the larger proposal. The term “acknowledgment of paternity” would be replaced with “acknowledgement of parentage,” and references to a child’s father or mother are rendered gender neutral. The proposal makes changes to account for intended parents of children born through assisted reproduction, including surrogacy.

## **Division of Housing and Community Renewal**

The Executive Budget proposes \$308.9 million in All Funds appropriations for the Division of Housing and Community Renewal (DHCR) for SFY 2020-21. This is a decrease of \$93.3 million, or 23.2 percent, from SFY 2019-20 levels. This decrease is attributed to the following Executive Actions:

- \$72 million reduction due to the Executive proposal to eliminate funding for the Office of Storm Recovery
- \$21 million reduction due to the Executive proposal to fund the Rural Rental Assistance Program (RRAP) using excess resources from the Mortgage Insurance Fund (MIF) rather than through Aid to Localities appropriation language.

The Executive Budget proposes to continue funding for the Tenant Protection Unit at an appropriation level of \$5.5 million.

The Executive Budget proposes an increased funding commitment of approximately \$7 million for the Housing Development Fund Program to provide for additional and improved housing for farm workers.

The Executive Budget reappropriates approximately \$2.5 billion, which is comprised of \$1.9 billion originally appropriated in SFY 2017, and an additional \$541.5 million in SFY 2018 to create and preserve 100,000 affordable housing units and at least 6,000 supportive housing units. When combined with the one-time \$132 million appropriation in SFY 2019, the total amount invested to date in the five-year Housing Plan is approximately \$2.5 billion.

Lastly, the Executive Budget recommends a staffing level of 776 FTEs for DHCR, which represents a flat staffing level when compared to SFY 2019-20 levels. In SFY 2019-20, there was an increase of 94 FTEs from SFY 2019 staffing levels, which corresponded with the increased investment in the oversight, administration and enforcement of laws governing rent regulation.

## **Article VII**

- **Mortgage Insurance Fund (MIF) Excess Reserves (ELFA Part H):** The Executive Budget proposal would use excess reserves from MIF for the following programs:
  - \$12.8 million to the Neighborhood Preservation Program (NPP)
  - \$5.4 million to the Rural Preservation Programs (RPP)
  - \$21 million to the Rural Rental Assistance Program (RRAP)
  - \$42.6 million to the New York State Supportive Housing Program (NYSSHP), the Solutions to End Homelessness Program (STEHP), the Operational Support for AIDS Housing Program (OSAH), or to qualified grantees of these programs.
- **Office of Rent Administration Billing (ELFA Part I):** The Executive proposes authorizing the State to reduce local assistance payments to New York City to offset the costs incurred by the State on the administration of rent regulations. Currently, New York City is required to send DHCR a reimbursement for the State's costs on a quarterly basis. This proposal would

allow the director of the budget to reduce the amount of any payment owed to New York City by the amount of the State's rent administration costs. DHCR would then notify New York City which State payments will be reduced and the amount of the reduction, including any costs incurred by the agencies in reducing such payments. Notably, the proposal also eliminates language that designates DHCR to administer the rent regulations in New York City and instead designates the State generally.

- **Home Inspector Qualifications (TED Part W)**: The Executive proposes language expanding licensure of individuals as home inspectors to those that pass an examination offered by the Secretary of State. Licensure now is restricted to individuals that have passed the National Home Inspector examination.

### **State of New York Mortgage Agency**

The Executive Budget proposes \$139.4 million in All Funds appropriations for the State of New York Mortgage Agency (SONYMA). This represents an increase of approximately \$1.1 million. This increase is entirely due to an increase in certain mortgage recording taxes that SONYMA collects.

### **Division of Veterans' Services**

The SFY 2020-21 Executive Budget recommends \$19.6 million in All Funds appropriation support for the Division of Veterans' Services, a decrease of \$1.6 million, or 7.7 percent below SFY 2019-20 levels. This decrease is the result of eliminating support for all SFY 2019-20 Legislative initiatives. The Executive Budget recommends a workforce of 98 FTEs, which is unchanged from the previous year.

### **Article VII**

- **Establish a State Veterans Cemetery (ELFA Part O)**: The Executive Budget removes the statutory requirement that fifteen years of funding for the perpetual care of a state veterans cemetery be available before conducting an investigation and study on the issue of establishing the state's first state veterans cemetery. Removing the requirement will allow for the establishment of the cemetery sooner.

### **Division of Human Rights**

The Executive Budget recommends \$18.2 million in All Funds appropriation support for the Division of Human Rights, which is unchanged from SFY 2019-20. The Executive recommends maintaining a workforce of 164 FTEs in SFY 2020-21, which is unchanged from the previous year.

## Concurrent Resolution

- **Expansive Equal Rights Amendment (Concurrent Resolution)**: The Executive proposes to adopt a concurrent resolution amending the New York State Constitution to add sex, sexual orientation, gender identity or expression, ethnicity, national origin, age and disability as protected classes in the anti-discrimination clause of Article I, § 11.

## Miscellaneous Agencies

### Office of the Welfare Inspector General

The SFY 2020-21 Executive Budget recommends \$1.3 million in All Funds appropriation support for the Office of the Welfare Inspector General, which is unchanged from SFY 2019-20. The Executive recommends a workforce of seven FTEs, which is unchanged from the previous year.

### National and Community Service

The Executive recommends \$30.8 million in All Funds appropriation support for the Office of National and Community Service, which is unchanged from the previous year. The Executive also recommends a workforce of 10 FTEs, which is unchanged from the previous year. The Office of National and Community Service provides staff support to the New York State Commission on National and Community Service, which qualifies the State for federal community service grants for local nonprofit agencies. Programs supported by these grants include providing youth education, assistance to individuals with disabilities, public health services, and disaster preparedness.

### Pay for Success

The Executive Budget proposes to maintain the current \$69 million appropriation for the Pay for Success Contingency Reserve in SFY 2020-21. Under the Pay for Success model, program financing is provided up-front by private or philanthropic sources. Government payments are only made if the programs achieve agreed upon outcomes, as verified by an independent validator, and public sector savings exceed its costs.

# Public Protection



STAFF ANALYSIS OF  
THE 2020-21 EXECUTIVE BUDGET

## Public Protection Highlights

### Appropriations

The Executive Budget for SFY 2020-21 recommends \$7.4 billion in All Funds appropriations for all agencies comprised in the Public Protection functional area. This is an increase of \$19.2 million or 0.3 percent compared to SFY 2019-20. This recommendation includes:

- \$4.4 billion appropriation in State Operations funding to support personnel, administration and programmatic services of major agencies such as the DOCCS, DHSES, Division of State Police, DCJS, and the Department of Law
- \$2.2 billion appropriation in Aid to Localities funding, providing grants to local governments and community organizations across the State for law enforcement, legal services, Alternatives-To-Incarceration (ATI) programs, and gun violence prevention programs
- \$840 million appropriation in Capital Project funding to support the renovation and enhancement of State facilities, capital grant programs for not-for-profit organizations, and equipment upgrades.

### Article VII

- **Prison Closures:** The Executive proposes to authorize the expedited closure of correctional facilities. Unlike in previous years' proposals, there is no set number of closures authorized. The Executive would retain broad discretion in closing prison facilities with 90 days' notice.
- **Eliminate the "Rape Intoxication Loophole":** The Executive proposes eliminating the requirement that a victim be either unconscious or intoxicated against their will in order to be incapable of consent for certain sex crimes.
- **Create the District Attorney Discovery Compensation Fund:** The Executive proposes creating a fund for District Attorneys to support local assistance and expenses related to technology needed to implement Discovery Reform. \$2 million annually is provided for the fund from retained settlement funds generated by the Manhattan District Attorney's office.
- **Prohibit Ghost Guns:** The Executive proposes banning the exchange of unregistered, unfinished frames and receivers.
- **Establish the Crime of Domestic Terrorism Motivated by Hate and a New Domestic Terrorism Task Force:** The Executive proposes establishing two new Class A felonies for seriously injuring or killing five or more people based on the group's status as members of a protected class. The Executive also proposes establishing a Domestic Terrorism Task Force to study and make recommendations regarding domestic terrorism.

## Public Protection Agency Details

Public Protection Agencies All Funds Appropriations				
Agency	Available SFY 2019-20	Executive Proposal SFY 2020-21	\$ Change	% Change
Department of Corrections & Community Supervision (DOCCS)	\$3,623,062,000	\$3,389,741,000	(\$233,321,000)	-6.4%
Department of Homeland Security and Emergency Services (DHSES)	\$1,568,907,000	\$1,563,307,000	(\$5,600,000)	-0.4%
Division of State Police (DSP)	\$1,018,667,000	\$1,014,276,000	(\$4,391,000)	-0.4%
Division of Criminal Justice Services (DCJS)	\$295,368,000	\$309,859,000	\$14,491,000	4.9%
Division of Military and Naval Affairs (DMNA)	\$157,611,000	\$306,111,000	\$148,500,000	94.2%
Department of Law (OAG)	\$263,627,000	\$272,446,000	\$8,819,000	3.3%
Office of Indigent Legal Services (ILS)	\$210,900,000	\$261,273,000	\$50,373,000	23.9%
Office of Victim Services (OVS)	\$171,798,000	\$211,992,000	\$40,194,000	23.4%
Interest on Lawyer Account (IOLA)	\$47,039,000	\$47,103,000	\$64,000	0.1%
Judicial Commission (3)	\$6,094,000	\$6,094,000	\$0	0.0%
Office for the Prevention of Domestic Violence (OPDV)	\$5,683,000	\$5,733,000	\$50,000	0.9%
State Commission of Correction (SCOC)	\$2,955,000	\$2,955,000	\$0	0.0%
<b>Total Public Protection Agencies</b>	<b>\$7,371,711,000</b>	<b>\$7,390,890,000</b>	<b>\$19,179,000</b>	<b>0.3%</b>

### **Department of Corrections and Community Supervision (DOCCS)**

The Executive Budget recommends an All Funds appropriation of \$3.4 billion, a decrease of \$233.3 million or 6.4 percent compared to SFY 2019-20. The Executive's recommendation supports a total workforce of 27,556 FTEs, a decrease of 1,247 FTEs compared to SFY 2019-20.

*State Operations:* The Executive's recommendation provides \$2.9 billion in funding, a net decrease of \$161 million compared to SFY 2020. DOCCS State Operations budget supports costs related to personnel services, parole board operations, programs, health services, and community supervision. The net decrease in spending is mainly attributed to the following Executive actions:

- \$154.3 million decrease related to a one-time retro payment for the New York State Correctional Officers and Police Benevolent Association (NYSCOPBA) disbursed in SFY 2019-20
- \$6.6 million decrease related to health and support services personnel costs

*Aid to Localities:* The Executive's recommendation provides \$29.5 million in funding, a decrease of \$180,000, from the elimination of a legislative add supporting the Osborne Association's "FamilyWorks" program in Buffalo, New York.

*Capital Projects:* The Executive's recommendation provides \$425 million in funding, a decrease

of \$72 million compared to SFY 2020. This decrease in capital spending is attributed to the solitary confinement reform project, a redesign of several correctional facilities that began in SFY 2019-20.

## **Article VII**

**Prison Closures (PPGG Part F):** The Executive Budget proposal authorizes the expedited closure of state correctional facilities for SFY 2020-21. Existing law requires the Commissioner of DOCCS to confer with multiple State agencies to reduce the potential economic impact of any planned closure and to provide at least 12 months' notice to the local government, the unions, and the staff. The Executive introduced a similar proposal in the FY 2019-20 Budget authorizing the closure of three state correctional facilities in SFY 2019-20. That proposal was included in the Enacted Budget, but only two facilities were closed during this time frame. The current proposal is tied to two additional Article VII proposals. The first authorizes the custody transfer of adolescent offenders under the age of 18 from DOCCS facilities (PPGG - Part G). The second extends the Economic Transformation Program (TED - Part GG), a financial support mechanism for businesses impacted by the closure of correctional facilities.

**Adolescent Offender Custody Transfer (PPGG Part G):** The Executive Budget proposal authorizes the transfer of adolescent offenders under the age of 18 from the custody of DOCCS to the custody of the Office of Children and Family Services (OCFS). This proposal is an extension of the Raise the Age legislation that prohibits young people from being held in adult correctional facilities. OCFS manages the State's juvenile detention centers but did not have custody of young people who had not been charged as juveniles. This proposal would ensure that incarcerated young people are supervised by facilities with the appropriate training and experience to foster their rehabilitation.

**Corcraft Preferred Services Designation (PPGG Part H):** The Executive Budget proposal expands the preferred source designation for Corcraft to include services in addition to the existing preferred source designation that is in place for commodities produced by Corcraft. Corcraft is the brand name of the Department of Corrections and Community Supervision (DOCCS) industry program. The preferred source designation exempts an entity from the competitive procurement process. Corcraft is prohibited by law from selling commodities or providing services to non-government entities. The preferred source designation is currently provided to commodities and services provided by certain non-profits and veterans groups.

## **Division of Homeland Security and Emergency Services (DHSES)**

The Executive Budget recommends an All Funds appropriation of \$1.6 billion, a decrease of \$5.6 million or 0.4 percent compared to SFY 2019-20. The Executive's recommendation supports a total workforce of 614 FTEs. The Executive's recommendation includes \$100 million in funding for the Interoperable Communications programs, which award grants to support projects that develop and/or enhance communications network systems for first responders.

The All Funds appropriation includes \$81.6 million in State Operation funding, \$1.5 billion in Aid To Localities funding, and \$28 million in Capital Project funding. The decrease is attributed to the following actions:

- \$5 million elimination of a one time appropriation for capital improvement projects at the State Preparedness Training Center in Oriskany, New York
- \$600 thousand elimination of the legislative add for Red Cross Emergency Response Preparedness.

## **Article VII**

- **Suspend Subsidy to Revolving Loan Fund from Cell Surcharge Revenue (PPGG Part I)**: The Executive proposes to extend the existing suspension of the annual transfer of \$1.5 million from the Public Safety Communications Account (The Account) to the Emergency Services Revolving Loan Fund (the Fund) for SFY 2020-21 and 2021-22. The Account is used to fund purposes such as interoperable communication grants to counties. The Fund is a means to assist various localities finance emergency response equipment and construction costs related to the housing of such equipment. Since the Fund is structured as a revolving loan fund, the Executive states that it has sufficient funds to continue to finance loans. The Executive states that suspending this transfer will allow the Account to finance its purposes without endangering the functions of the Fund. This transfer has been suspended since SFY 2011-12.

## **Division of State Police (DSP)**

The Executive Budget recommends an All Funds appropriation of \$1 billion, a decrease of \$4.4 million or 0.4 percent compared to SFY 2019-20. The Executive's recommendation supports a total workforce of 5,741 FTEs.

*State Operations:* The Executive's recommendation provides \$885 million in funding, a net decrease of \$5.3 million compared to SFY 2019-20. The net decrease in spending is mainly attributed to the following Executive actions:

- \$5.4 million decrease in funding related to a one-time retroactive collective bargaining payment made to Troopers and Investigators in SFY 2019-20
- \$2 million to support operations of the Hate Crime Task Force, an increase of \$1 million compared to SFY 2019-20.

*Capital Projects:* The Executive's recommendation provides \$128.5 million in funding, a decrease of \$1 million compared to SFY 2019-20.

## **Article VII**

- **Allows for Administrative Subpoenas for Internet Crimes Against Children (PPGG Part L)**: The Executive proposes allowing the State Police to issue administrative subpoenas, which are issued without going before a court, in cases involving certain crimes committed against children via the internet. These subpoenas would be limited to information including usernames, payment information, and ISP addresses, and would not be able to include the contents of messages

## **Division of Criminal Justice Services (DCJS)**

The Executive Budget recommends an All Funds appropriation of \$310 million, a net increase of \$14.5 million or 4.9 percent compared to SFY 2019-20. The Executive's recommendation provides \$84.3 million in State Operations funding, supporting 435 FTEs, which remains unchanged from SFY 2019-20. The Executive's recommendations include the following actions;

*Aid to Localities:* The Executive's recommendation provides \$211 million in funding, a net decrease of \$10.5 million compared to SFY 2019-20. The net decrease is attributed to:

- \$24.3 million elimination in General Fund legislative adds
- \$19.4 million in funding for the Legal Services Assistance Fund (LSAF), a net increase of \$4.2 million compared to SFY 2019-20
- \$7.7 million for Defense Services, a net increase of \$2.2 million for Indigent Legal Services
- \$2 million new appropriation to support statewide implementation of Discovery reform, which would be funded through a new special revenue fund proposed by the Executive.

*Capital Projects:* \$25 million new appropriation for DCJS to support Securing Communities Against Hate Crime (SCAHC) grant, providing funding for safety and security projects for not-for-profit organizations who are at risk of hate crimes or attacks. The Executive has shifted the oversight of this grant program from DHSES to DCJS to enhance execution of the application and grants disbursement process.

**DCJS General Fund Legislative Eliminations**

<b>Program/Recipient</b>	<b>Available SFY 2019-20</b>	<b>Executive Proposal SFY 2020-21</b>	<b>\$ Change</b>	<b>% Change</b>
Westchester Policing Program	\$2,235,000	\$0	(\$2,235,000)	100.00%
New York State Defenders Association	\$1,059,000	\$0	(\$1,059,000)	100.00%
Additional Prisoners Legal Services	\$750,000	\$0	(\$750,000)	100.00%
SNUG Queens County	\$470,000	\$0	(\$470,000)	100.00%
Neighborhood Legal Services	\$400,000	\$0	(\$400,000)	100.00%
Cure Violence (SNUG) Staten Island	\$350,000	\$0	(\$350,000)	100.00%
Southside United HDFC	\$250,000	\$0	(\$250,000)	100.00%
Jewish Community Council of Greater Coney Island Inc. SNUG Brooklyn	\$250,000	\$0	(\$250,000)	100.00%
Gun Violence Research Institute	\$250,000	\$0	(\$250,000)	100.00%
Community Services Society - Record Repair Counseling Corps	\$250,000	\$0	(\$250,000)	100.00%
Child Care Center of New York	\$250,000	\$0	(\$250,000)	100.00%
Brooklyn Conflicts Office	\$250,000	\$0	(\$250,000)	100.00%
Legal Education Opportunity Program - Office of Court Administration	\$225,000	\$0	(\$225,000)	100.00%
Treatment Alternatives for Safer Communities of the Capital District	\$200,000	\$0	(\$200,000)	100.00%
Regional Economic Community Action Program Inc	\$200,000	\$0	(\$200,000)	100.00%
Prisoners Legal Services Newburgh Office	\$200,000	\$0	(\$200,000)	100.00%
Fortune Society	\$200,000	\$0	(\$200,000)	100.00%
Cure Violence (SNUG) with Kings County	\$200,000	\$0	(\$200,000)	100.00%
Community Justice Inc	\$200,000	\$0	(\$200,000)	100.00%
Legal Action Center	\$180,000	\$0	(\$180,000)	100.00%
Shalom Task Force Inc.	\$175,000	\$0	(\$175,000)	100.00%
New York County Defender Services	\$175,000	\$0	(\$175,000)	100.00%
New York County Defender Services	\$175,000	\$0	(\$175,000)	100.00%
Brooklyn Defender	\$175,000	\$0	(\$175,000)	100.00%
The Safe Center LI Inc.	\$160,000	\$0	(\$160,000)	100.00%
Capital District Womens Bar Association Legal Project Inc.	\$160,000	\$0	(\$160,000)	100.00%
Yeshiva University - Kathryn O. Greenberg Immigration Justice Clinic at Cardozo Law School	\$150,000	\$0	(\$150,000)	100.00%
Legal Services NYC - Dream Clinics	\$150,000	\$0	(\$150,000)	100.00%
Legal Aid Society - Immigrant Law Unit	\$150,000	\$0	(\$150,000)	100.00%
Hatian-Americans United for Progress Inc.	\$150,000	\$0	(\$150,000)	100.00%
Greenpoint Outreach Domestic and Family Intervention Program	\$150,000	\$0	(\$150,000)	100.00%
Girl Vow Inc.	\$150,000	\$0	(\$150,000)	100.00%
Friends of the Island Academy	\$150,000	\$0	(\$150,000)	100.00%
Albany Law School - Immigrant Clinic	\$150,000	\$0	(\$150,000)	100.00%
Additional Prisoners Legal Services	\$150,000	\$0	(\$150,000)	100.00%
Rape Crisis Centers	\$147,000	\$0	(\$147,000)	100.00%
Huntington Youth Bureau Youth Development Research Institute Inc.	\$135,000	\$0	(\$135,000)	100.00%
Housing Court Answers Inc.	\$135,000	\$0	(\$135,000)	100.00%
Correctional Association	\$127,000	\$0	(\$127,000)	100.00%
Goddard Riverside Community Center	\$125,000	\$0	(\$125,000)	100.00%
Fortune Society Inc. - Seniors Released to Services	\$125,000	\$0	(\$125,000)	100.00%
Center for Family Representation	\$125,000	\$0	(\$125,000)	100.00%
Brooklyn Legal Services Corp A.	\$125,000	\$0	(\$125,000)	100.00%
Lenox Hill Neighborhood House Inc - Housing Assistance and Legal Assistance	\$115,000	\$0	(\$115,000)	100.00%
SNUG Wyandanch	\$100,000	\$0	(\$100,000)	100.00%
Richmond County District Attorney's Office	\$100,000	\$0	(\$100,000)	100.00%
Opportunities for A Better Tomorrow Inc.	\$100,000	\$0	(\$100,000)	100.00%
Northern Manhattan Improvement Corp	\$100,000	\$0	(\$100,000)	100.00%
New York Legal Assistance Group Incorporated	\$100,000	\$0	(\$100,000)	100.00%
Mobilization for Justice	\$100,000	\$0	(\$100,000)	100.00%
John Jay College	\$100,000	\$0	(\$100,000)	100.00%
Jewish Federation of Greater Buffalo Inc.	\$100,000	\$0	(\$100,000)	100.00%
Her Justice Inc.	\$100,000	\$0	(\$100,000)	100.00%
Greenburger Center for Social and Criminal Justice	\$100,000	\$0	(\$100,000)	100.00%
Greenburger Center for Social and Criminal Justice	\$100,000	\$0	(\$100,000)	100.00%
Friends of Island Academy Inc.	\$100,000	\$0	(\$100,000)	100.00%
Cornell University - Criminal Justice Employment Initiative	\$100,000	\$0	(\$100,000)	100.00%
Center for Court Innovation Youth SOS - Crown Heights	\$100,000	\$0	(\$100,000)	100.00%
Center for Court Innovation - Redhook Community Justice Center	\$100,000	\$0	(\$100,000)	100.00%
Bailey House Project FIRST	\$100,000	\$0	(\$100,000)	100.00%
Mohawk Consortium - Hamilton College	\$90,000	\$0	(\$90,000)	100.00%
Make the Road NY	\$90,000	\$0	(\$90,000)	100.00%
Legal Services of the Hudson Valley - Domestic Violence Legal Service Projects	\$90,000	\$0	(\$90,000)	100.00%
NYPD Law Enforcement Explorers - Bronx	\$80,000	\$0	(\$80,000)	100.00%
Mohawk Consortium	\$75,000	\$0	(\$75,000)	100.00%
Groundswell	\$75,000	\$0	(\$75,000)	100.00%
Center for Employment Opportunities	\$75,000	\$0	(\$75,000)	100.00%
Legal Aid Society of New York - Domestic Violence Services	\$71,831	\$0	(\$71,831)	100.00%
New Yorkers Against Gun Violence Inc.	\$70,000	\$0	(\$70,000)	100.00%
Mobilization for Justice Inc.	\$60,000	\$0	(\$60,000)	100.00%

**DCJS General Fund Legislative Eliminations**

<b>Program/Recipient</b>	<b>Available SFY 2019-20</b>	<b>Executive Proposal SFY 2020-21</b>	<b>\$ Change</b>	<b>% Change</b>
Sanctuary for Families	\$59,976	\$0	(\$59,976)	100.00%
Rochester Legal Aid Society	\$59,159	\$0	(\$59,159)	100.00%
Empire Justice Center	\$52,251	\$0	(\$52,251)	100.00%
Jacob A Riis Neighborhood Settlement 696 Building Queensbridge	\$50,000	\$0	(\$50,000)	100.00%
Exodus Transitional Community	\$50,000	\$0	(\$50,000)	100.00%
Legal Aid Society of Mid-New York	\$45,729	\$0	(\$45,729)	100.00%
Volunteer Legal Services Project of Monroe County	\$45,722	\$0	(\$45,722)	100.00%
Neighborhood Legal Services Inc of Erie County	\$45,722	\$0	(\$45,722)	100.00%
Legal Services of New York City - Queens	\$45,722	\$0	(\$45,722)	100.00%
Legal Services of New York City - Brooklyn	\$45,722	\$0	(\$45,722)	100.00%
Domestic Violence Law Project of Rockland County	\$45,722	\$0	(\$45,722)	100.00%
Elmcor Youth and Adult Acitivities Program	\$44,000	\$0	(\$44,000)	100.00%
Osborne Association	\$31,000	\$0	(\$31,000)	100.00%
NYU Veteran's Entrepreneurship Program	\$30,000	\$0	(\$30,000)	100.00%
Bergen Basin Community Development Corporation	\$26,000	\$0	(\$26,000)	100.00%
Glendale Civilian Patrol	\$25,000	\$0	(\$25,000)	100.00%
Jacob Riis Settlement House	\$20,000	\$0	(\$20,000)	100.00%
Korean - American Family Service Center Inc.	\$10,000	\$0	(\$10,000)	100.00%
<b>Total</b>	<b>\$15,006,556</b>		<b>(\$15,006,556)</b>	<b>100.00%</b>

## Article VII

- **Electronic Security and Targeting of Online Predators Act (e-STOP) (PPGG Part B):** The Executive Budget proposal expands the online activity and information disclosure requirements for sex offenders. Existing law requires sex offenders to provide their e-mail addresses and screen names to DCJS for the purposes of tracking the online activity of the individual. The proposal would update disclosure requirements to meet additional options for social networking that are not specifically covered by existing law. The proposal specifically adds online dating profiles, gaming accounts, social media accounts, and other accounts or platforms used for the purposes of file sharing or information sharing that could facilitate predatory behavior. The proposal is similar to several Senate proposals including S.4099 (Skoufis) and S.1984 (Savino). These proposals prohibit certain online activity, while the Executive proposal requires disclosure for tracking purposes. The Executive proposal additionally creates the criminal penalty of criminal personation by a sex offender to discourage sex offenders from violating the reporting requirements. Criminal personation by a sex offender would be a class E felony.
- **Close the “Rape Intoxication Loophole” (PPGG Part C):** The Executive Budget proposal would eliminate the loophole that establishes that a victim is not intoxicated for the purposes of sex crimes if the intoxication occurred voluntarily. This proposal, which is similar to S.6679B (Biaggi), would allow for a sex crime to be charged where a victim was incapable to give knowing and voluntary consent due to intoxication. In addition, the bill would establish specific charges for Rape in the First Degree and Criminal Sexual Act in the First Degree where the defendant intentionally intoxicated the victim to the point of incapacity.
- **Exemption to Hire Licensed Professionals (PPGG Part D):** The Executive Budget proposes adding the DCJS to the existing list of agencies not required to receive a waiver from the State Education Department (SED) to be able to provide certain professional services. The inclusion of DCJS allows programs operated or funded by DCJS to hire professionals that are licensed in the fields of psychology, social work, or are one of the professions classified as mental health practitioners.
- **Establishes the District Attorney Discovery Compensation Fund (PPGG Part E):** The Executive Budget would establish the District Attorney Discovery Compensation Fund to support implementation of discovery reform. The Fund would be supported by \$2 million annually from funds secured by the Manhattan District Attorney’s deferred prosecution agreements. The money would be available to localities for local assistance services and expenses related to evidence transmission, after appropriation by the Legislature and as allocated by the Director of the Budget. The proposal also requires more accounting from New York City District Attorneys on money obtained from deferred prosecution agreements.
- **Banning Ghost Guns (PPGG Part K):** The Executive proposes banning unfinished frames and receivers, unless the unfinished frame or receiver is bought from a licensed firearms dealer. Dealers would be required to contact State Police to have a serial number issued, and the purchaser would be responsible for having the item engraved with the serial number within 30 days of purchase. The bill establishes Class D felonies for possession of an unregistered, unfinished frame or receiver or the major component of a firearm by a person not otherwise eligible to possess a firearm, and for sale of these items without a gun dealer license. If a licensed dealer violates the registration requirements, such action would be punishable as a Class B misdemeanor with mandatory fines in certain situations.

- **Safe Homes Act (PPGG Part M)**: This proposal, which is similar to S.446 (Hoylman), would allow officers responding to the scene of a domestic violence incident to seize any firearms in plain view or discovered subject to a valid search warrant. These guns would be held for at least 48 hours before being returned to the owner, transferred to a licensed dealer for sale, or held as evidence, depending on the lawful ownership of the gun and whether the gun was suspected to have been used in a crime.
- **Banning Gun Ownership Based on Out-of-State Convictions (PPGG Part N)**: The Executive proposal would prohibit gun ownership based on a person’s out-of-state conviction that is equivalent to a New York conviction that prohibits gun ownership, known as a “serious offense.” This proposal also adds several new serious offenses, including Obscenity in the Third Degree, sex crimes misdemeanors, and misdemeanor drug possession.
- **Requires Gun Data to be Shared with State and National Databases (PPGG Part O)**: This bill would require local law enforcement to share information, including forensic information, with DCJS about guns that are unlawfully possessed, recovered from crime scenes, or reasonably believed to have been used in a crime. DCJS is then required to share the information with the appropriate federal agencies to ensure nationwide information sharing.
- **Share Flags from Mental Health Professionals with Other States (PPGG Part P)**: The Executive proposes creating an exception to the confidentiality requirements of a person’s mental health clinical records for information sent by DCJS to law enforcement entities in other states for determining eligibility for purchasing, possessing, or carrying firearms.
- **Establishes a Domestic Violence Misdemeanor (PPGG Part Q)**: This proposal would establish a new Class A misdemeanor when a person commits a serious offense (a serious crime barring gun possession) or certain other limited Class A misdemeanors against a member of his or her family or household. This crime could be charged along with the underlying crime.
- **Establishes the Crime of Domestic Terrorism Motivated by Hate and Establishes a Domestic Terrorism Task Force (PPGG Part R)**: The Executive proposes two new crimes – Domestic Terrorism Motivated by Hate in the First Degree and Second Degrees. A person would commit the second-degree crime, a Class A-I felony punishable by a sentence of 20 years to life in prison, by intending to cause death or serious physical injury to five or more people and attempting to do so. In the first-degree crime, which carries a mandatory sentence of life in prison, the defendant must succeed in killing at least one person and must be over the age of 18. Further, this proposal establishes a Domestic Terrorism Task Force to study mass shootings, recommend practices to identify potential mass shooters, and recommend practices to identify potential targets.

### **Division of Military and Naval Affairs (DMNA)**

The Executive Budget recommends an All Funds appropriation of \$306 million, a net increase of \$149 million or 94.2 percent compared to SFY 2019-20. The Executive’s recommendation supports a total workforce of 405 FTEs. The Executive’s recommendation includes an \$100 million increase in federal funding for capital projects.

*State Operations:* The Executive’s recommendation provides \$79.9 million in funding, a net increase of \$1.1 million. The net increase is attributed to adjustments in non-personnel services.

*Aid To Localities:* The Executive’s recommendation provides \$1 million in funding to support Service-members’ Group Life Insurance Program;

*Capital Projects:* The Executive’s recommendation provides \$225.2 million in funding, an increase of \$150 million compared to SFY 2019-20. This increase supports \$121 million for a multi-year renovation project of the Jamaica Armory in Queens.

**Department of Law (Office of the State Attorney General-OAG)**

The Executive Budget recommends an All Funds appropriation of \$272.4 million, an increase of \$8.9 million or 3.3 percent compared to SFY 2019-20. The Executive’s recommendation supports a total workforce of 1,839 FTEs. The increase in spending is mainly attributed to the following Executive actions:

*State Operations:* The Executive’s recommendation provides \$266 million in funding, a net increase of \$4.8 million to support operations of the Medicaid Fraud Control and Social Justice units

*Capital Projects:* The Executive’s recommendation provides \$6 million for IT equipment and systems upgrades, \$4 million increase compared to SFY 2019-20.

**Office of Indigent Legal Services (ILS)**

The Executive Budget recommends an All Funds appropriation of \$261.3 million, an increase of \$50.4 million or 23.9 percent compared to SFY 2019-20. The increase supports the statewide implementation of the Hurrell-Harring Settlement, which provides counsel at arraignment and caseload standards for indigent legal services.

**Office of Victim Services (OVS)**

The Executive Budget recommends an All Funds appropriation of \$212 million, a net increase of \$40.2 million or 23.4 percent compared to SFY 2019-20. The Executive’s recommendation supports a total workforce of 102 FTEs. The net increase is mainly attributed to the following Executive actions:

- \$40.4 million increase in the Victims of Crime Act Federal grant
- \$4 million elimination of a one-time appropriation to support programs in Kings County for social and mental health services for at-risk youth populations who witness or experience family, community or interpersonal violence
- \$2.8 million elimination of an appropriation for Rape Crisis Center Services, funded through the General Fund in SFY 2019-20. The Executive Budget shifts this appropriation to the Special Revenue Funds in DCJS for SFY 2020-21.

**Interest on Lawyer Account (IOLA)**

The Executive Budget recommends an All Funds appropriation \$47.1 million, an increase of \$64 thousand or 0.1 percent compared to SFY 2019-20.

**Judicial Commissions**

The Executive Budget recommends All Funds appropriations of the following amounts for the State’s three Judicial commissions: Commission on Judicial Conduct (\$6 million); the Judicial Screening Commission (\$38,000), and Commission on Judicial Nomination (\$30,000). Funding for all three commissions remains unchanged from SFY 2019-20.

**Office for the Prevention of Domestic Violence (OPDV)**

The Executive Budget recommends an All Funds appropriation \$5.7 million, a net increase of \$50,000 or 0.9 percent compared to SFY 2019-20. The net increase derives from a \$100,000 increase in State Operations funding and a \$50,000 decrease from the elimination of a legislative add supporting the SUNY Buffalo Law School's Family Violence and Women's Rights Clinic.

**State Commission of Correction (SCOC)**

The Executive Budget recommends an All Funds appropriation of \$3 million for SCOC, the same amount as SFY 2019-20. The Executive's recommendation supports a total workforce of 32 FTEs.

**Article VII**

**Shared County Jails (PPGG Part OO):** The Executive Budget proposal extends to counties the ability to house their incarcerated population in facilities that are not within their county lines. Existing law requires each county to maintain a local correctional facility. The proposal allows for counties to meet their statutory responsibility to maintain custody of their incarcerated population through a shared services agreement with another county. The proposal aligns with an existing Senate proposal, S.6267-A (Bailey), that would create a similar allowance for Greene County.

## JUDICIARY HIGHLIGHTS

OCA's request includes All Funds appropriations of \$2.4 billion, maintaining continual support for the following programs: \$113 million for Court Facilities Incentive Aid, \$100 million for Judiciary's Civil Legal Services Grant (JCLS) program, and \$47 million for the Criminal Defense Assistance program. OCA's request dedicates \$6 million in revenue from the State Bar Examination fee to the Attorney Licensing Fund (ALF) to support Candidate Fitness, Attorney Discipline and State Board of Law Examiner programs. Traditionally, the State Bar Examination Fee has gone to the General Fund.

### Article VII

- **Court Restructuring**: The Executive proposes a constitutional amendment to consolidate the state's trial court system into a Supreme Court and a Municipal Court and to allow for the creation of new Judicial Departments through statute. The proposal is very similar to the constitutional amendment proposed by Chief Judge Janet DiFiore in 2019.

# JUDICIARY

## **Office of Court Administration (OCA)**

The Office of Court Administration (OCA) is the administrative agency for the Judiciary, one of the three branches of the New York State Government. Article VI of the New York State Constitution outlines the Judiciary’s role and authority. In accordance with Article VII, Section 1 of the New York State Constitution, the Judiciary must submit estimates of its financial needs to the Executive and Legislature on December 1st of each year. The State is responsible for funding all courts except Town and Village Courts. The Judiciary’s workforce consists of over 16,300 employees, which includes 1,300 State Judges and 15,000 nonjudicial staff. Over 3 million cases are filed in the courts each year.

OCA’s SFY 2020-21 request includes a total appropriation of \$3.3 billion, an increase of \$97 million or 3.1 percent compared to SFY 2019-20. This request includes \$2.4 billion in All Funds appropriations and \$848 million in General State Charges (GSC). The total increase consists of \$53.8 million in All Funds appropriations and \$43.2 million in GSC. The table below provides a comparison of year-to-year funding in appropriations.

<b>Judiciary All Funds Appropriation</b>				
<b>Agency</b>	<b>Available SFY 2019-20</b>	<b>Executive Proposal SFY 2020-21</b>	<b>\$ Change</b>	<b>% Change</b>
Office of Court Administration (OCA)	\$3,168,161,866	\$3,265,177,075	\$97,015,209	3.1%

*State Operating Funds:* \$2.37 billion appropriation. The appropriation would support \$2.36 billion in spending, a cash increase of \$45.9 million or 2 percent, compared to SFY 2019-20. The Judiciary’s Budget request provides funding to support all State-paid judges and all filled nonjudicial positions. In addition to personnel, the Judiciary also uses State operating funds to provide aid to localities and support other initiatives as outlined below.

*Aid to Localities:* \$179.5 million, an increase of \$2.6 million or 1.5 percent compared to SFY 2019-20. The Judiciary’s request maintains support for the following programs:

- \$113 million for the Court Facilities Incentive Aid Program, which provides State grants to local governments for the construction and maintenance of court facilities
- \$47 million will be sub-allocated to the Office of Indigent Legal Services to enhance the Judiciary’s Criminal Defense Assistance program
- \$15 million to the New York State Interests on Lawyer Account to support the JCLS
- \$4 million for the Justice Court Assistance Program (JCAP), which provides State grants to towns and villages to assist with automating their judicial courts

*Capital Projects:* \$25 million, a decrease of \$0.7 million or 2.6 percent compared to SFY 2019-20. This funding supports the continuation of improvements to court technology infrastructure to enhance the Judiciary’s security, computer network, and records management systems.

*Court Restructuring:* OCA’s request does not include any funding or attribute any cost-savings to the court restructuring proposal. OCA estimates that if enacted, potential court restructuring related costs would materialize during a six-year phase in period SFY 2022-23 through SFY 2027-28. OCA estimates that the proposal would have a fiscal impact of \$18.1 million once fully implemented. However, the total net cost would be \$13.1 million due to expected cost-savings of \$5 million. OCA anticipates there would be additional savings to state and local governments and litigants.

## **Article VII**

- **Interest Rates on Civil Judgments and Accrued Claims (PPGG Part T):** The Executive proposes to lower the statutory interest rate on civil judgments and accrued claims from nine percent to the one-year United States Treasury Bill rate. This new rate would apply to all judgments and accrued claims against both private parties and state government entities, even if a separate statute or regulation set a different rate for a specific claim, except for judgments and accrued claims with interest rates set by the Tax Law.
- **Consideration of Domestic Violence in Divorce Proceedings (PPGG Part PP):** The Executive proposes adding a specific requirement that judges consider the impact of acts of domestic violence on a party’s earning capacity or ability to obtain meaningful employment when evaluating the probable future financial circumstances of the parties in determining the equitable distribution of property in a divorce proceeding.
- **Civil Orders of Protections for Family Court Offenses (PPGG Part RR):** The Executive proposes language that will allow the Family Court to issue a civil order of protection, based upon any circumstances the court determines is required for the purpose of attempting to stop the violence, end family disruption, and obtain protection. The petitioner will not have to allege that a criminal offense has occurred in order to obtain an order of protection from the court.
- **Court Restructuring (Concurrent Resolution):** The Executive proposes to adopt a concurrent resolution significantly amending the Judiciary Article of the New York State Constitution (Article VI) to restructure and consolidate the court system. The proposal would consolidate New York’s trial courts into a Supreme Court and Municipal Court, allow for the creation by statute of new Judicial Departments, eliminate the cap on the number of Justices of the Supreme Court, and phase out the ability of judges to serve past age 70.

Under the proposal, the Court of Claims would be abolished on October 1, 2022, and all its judges would become Justices of the Supreme Court, and all Acting Justices of the Supreme Court in New York City that have served in that role for at least six months would become full Justices of the Supreme Court. On January 1, 2025, the County, Family, and Surrogate’s Courts would be abolished, and their judges would become Justices of the Supreme Court.

After the merger into Supreme Court, the justices would continue to serve the remainder of their term and that seat would continue to be elected or appointed in the manner that it was before the merger. If the Legislature adds new Supreme Court seats, those Justices would, by default, be elected under current Supreme Court election procedures and serve 14-year terms, but the Legislature could also create new seats to be appointed by the Governor and confirmed by the Senate for a nine-year term. The Supreme Court would be organized by several divisions to handle specialized matters. The initial divisions would be: Family Division, Probate

Division, Criminal Division, State Claims Division, Commercial Division, and General Division. The Chief Administrator of the Courts would have the authority to alter the divisions, remove divisions, or add new ones.

Despite the organization into divisions, any Justice in any division would be able to exercise all of the Supreme Court's jurisdiction. Any cause of action that would have been before the Court of Claims before the court merger would be heard without a jury.

The proposal would repeal the current constitutional cap of one Justice of the Supreme Court per 50,000 residence in a Judicial District, allowing the Legislature to create as many Supreme Court seats as necessary. The Legislature would not be able to set the number of Justices of the Supreme Court in any Judicial District below the number of Justices in that District on December 31, 2021, and each county outside New York City would be required to have at least one Justice of the Supreme Court elected by that county. The proposal would phase out the ability of Justices of the Supreme Court and Court of Appeals Judges to receive "certification" to continue to serve past age 70. The proposal would require that the judge have been in office as a Justice of the Supreme Court or Judge of the Court of Appeals prior to January 1, 2022, to be eligible for certification. On January 1, 2027, the proposal would abolish the New York City Civil and Criminal Courts (including Housing Court), District Courts, and City Courts, and their judges would become Municipal Court Judges. The Legislature would also be able to create new Municipal Courts for counties or parts of counties in the same manner as the Legislature would currently create a District Court. The new Municipal Court would have a uniform statewide subject matter jurisdiction that is similar to the current subject matter jurisdiction of the New York City Civil and Criminal Courts. The New York City Housing Court would continue as the Housing Division within the Municipal Court, with Judges to be appointed by the Mayor of New York City. The Legislature would be empowered to create Housing Divisions in other Municipal Courts.

Finally, the proposal would allow the Legislature to create new Judicial Departments once every ten years. Currently, the Legislature may alter the boundaries of the Judicial Departments by statute, but the creation of new Departments requires a constitutional amendment. The proposal also removes the requirement that the Governor select Appellate Division Justices from among the elected Justices of the Supreme Court and instead allows the Governor to select from any Justices of the Supreme Court, whether elected or appointed. The proposal would direct the court system to accomplish the merger without decrease in salaries, status or rights of non-judicial personnel, to the extent practicable, and to attempt to assign trained personnel to like functions. The proposal also directs the court system to achieve any reduction in non-judicial personnel by attrition, to the extent practicable.

# Transportation and Public Authorities



STAFF ANALYSIS OF  
THE 2020-21 EXECUTIVE BUDGET



## Transportation Highlights

### Appropriations

- **\$6 Billion for a new SFY 2021-2022 DOT Capital Plan**: The Executive proposes a new two-year Department of Transportation's (DOT) capital plan at \$11.9 billion total. \$6 billion is proposed for a first year of funding in the Executive Budget.
- **Statewide Mass Transportation Operating Assistance (STOA) Increase**: The Executive increases non-Metropolitan Transportation Authority (MTA) Downstate aid by 15.8 percent and Upstate aid by 4.2 percent.
- **Consolidated Highway Improvement Program (CHIPs) and Marchiselli**: The Executive Budget discontinues a legislative add of \$65 million for extreme winter recovery, leaving funding for these programs flat at \$478 million.
- **MTA Capital Plan**: The Executive Budget commits \$3 billion in State funding for the 2020-24 MTA Capital Plan.

### Article VII

- **Bridge Authority-Thruway Authority Merger (TED Part G)**: The Executive Budget seeks to merge the Bridge Authority into the Thruway Authority.
- **MTA Sex Offender Ban & Transportation Worker Assaults (TED Part P)**: The Executive Budget proposes legislation authorizing MTA to prohibit repeat offenders of sex-related violations of the MTA code of conduct or Level Three sex offenders from using MTA assets for a period of three years, creates the crime of transit trespass, and separately proposes legislation increasing penalties for assaults on transportation workers and creating a new aggravated harassment crime for assaults against transit workers.
- **MTA Procurement Modifications (TED Part J)**: The Executive Budget proposes to eliminate and modify various procurement regulations that govern New York City Transit and the MTA's purchasing.
- **E-Bikes and Scooters (TED Part XX and Part AAA)**: The Executive Budget proposes legislation authorizing scooters and e-bikes to operate in the State.
- **Design-Build Expansion (TED Part DD)**: The Executive Budget seeks to expand design-build authorization to include various additional agencies and authorities, expand procurement types, and extend the authorization.

## Transportation Agency Details

<b>Transportation Agency All Funds Appropriations (millions)</b>				
	<b>SFY 2019-20 Available</b>	<b>SFY 2020-21 Executive Proposal</b>	<b>\$ Change</b>	<b>% Change</b>
Department of Transportation	\$9,573.1	\$11,777.6	\$2,204.5	23.0%
Department of Motor Vehicles	\$395.9	\$428.4	\$32.5	8.2%
Metropolitan Transportation Authority	\$2,537.1	\$3,928.7	\$1,391.5	54.8%
<b>Total Transportation</b>	<b>\$12,506.1</b>	<b>\$16,134.6</b>	<b>\$3,628.4</b>	<b>29.0%</b>

### Overview

The Executive Budget proposes \$16.1 billion in All Funds appropriations for SFY 2021, an increase of 29 percent from the SFY 2019-20 Enacted Budget. This increase largely results from commitments to the MTA Capital Plan and DOT Capital Plan.

### Department of Transportation

The Executive Budget proposes \$11.8 billion in All Funds appropriations for the DOT. This is an increase of \$2.2 billion, or 23 percent from SFY 2019-20.

The Executive increases non-MTA Statewide Mass Transportation Operating Assistance (STOA) by 11.2 percent. Specifically, the Executive Budget increases Upstate transit aid by 4.2 percent, or \$9.6 million, as a result of fully annualizing the auto rental surcharge that was included in the SFY 2019-20 Enacted Budget. Downstate non-MTA transit aid is increased by 15.8 percent, largely as a result of stronger than anticipated growth in dedicated revenues within the Metropolitan Commuter Transportation District.

<b>SFY 2020-21 Statewide Mass Transportation Operating Assistance (STOA) (millions)</b>				
	<b>SFY 2019-20 Available</b>	<b>SFY 2020-21 Executive Proposal</b>	<b>\$ Change</b>	<b>% Change</b>
<b>MTA Total</b>	<b>\$3,000.0</b>	<b>\$3,315.8</b>	<b>\$315.8</b>	<b>10.5%</b>
Nassau	\$74.4	\$86.5	\$12.1	16.3%
Rockland	\$3.8	\$4.4	\$0.6	16.3%
Staten Island Ferry	\$36.6	\$42.6	\$6.0	16.3%
Suffolk	\$28.9	\$33.6	\$4.7	16.3%
Westchester	\$61.5	\$71.5	\$10.0	16.3%
NYC DOT	\$97.9	\$113.8	\$16.0	16.3%
Suffolk Shuttle	\$0.5	\$0.5	\$0.0	0.0%
LHTL	\$11.0	\$11.0	\$0.0	0.0%
Formulas	\$35.5	\$41.3	\$5.8	16.3%
<b>Non-MTA Downstate Total</b>	<b>\$350.0</b>	<b>\$405.2</b>	<b>\$55.2</b>	<b>15.8%</b>
CDTA	\$40.7	\$42.4	\$1.7	4.2%
CNYRTA	\$37.2	\$38.7	\$1.6	4.2%
NFTA	\$58.6	\$61.1	\$2.5	4.2%
RGRTA	\$45.1	\$47.0	\$1.9	4.2%
Formulas	\$44.8	\$46.7	\$1.9	4.2%
<b>Upstate Total</b>	<b>\$226.5</b>	<b>\$236.1</b>	<b>\$9.6</b>	<b>4.2%</b>
MTA Total	\$3,000.0	\$3,315.8	\$315.8	10.5%
Non-MTA Total	\$576.5	\$641.3	\$64.8	11.2%
<b>STOATotal</b>	<b>\$3,576.5</b>	<b>\$3,957.1</b>	<b>\$380.6</b>	<b>10.6%</b>

Note: The SFY 2020-21 MTA Total has been reduced by \$150 million to account for a neutral transfer of State appropriations dedicated to the MTA Capital Plan lock box.

The Executive Budget provides \$6 billion for the first year of the newly proposed two-year DOT capital program. This includes \$100 million each for BRIDGE NY and PAVE NY. Consolidated Highway Improvement Program (CHIPS) and Marchiselli program funding is kept flat at \$477.8 million and does not include \$65 million added by the Legislature in SFY 2019-20 for extreme winter recovery.

The Executive Budget also proposes a new round of the Upstate Airport Revitalization initiative to be funded at \$100 million. The first round was funded at \$200 million and awarded projects at Elmira Corning Regional Airport, Greater Rochester International Airport, Syracuse Hancock International Airport, Plattsburgh International Airport, Ithaca Tompkins Regional Airport, and Albany International Airport.

The Executive Budget proposes \$100 million over five years to electrify mass transit bus fleets. The systems that qualify for the funding are the Capital District Transportation Authority, Niagara Frontier Transportation Authority, Rochester-Genesee Regional Transportation Authority, Suffolk County Transit, and Westchester Bee-Line. The initiative has a goal of electrifying 25 percent of their fleets by 2025 and 100 percent by 2035.

### Metropolitan Transportation Authority

The Executive Budget proposes MTA operating aid at \$3.3 billion. This does not count \$150 million appropriated by the Legislature to the MTA which is then allocated directly to the Central Business District Tolling lockbox for the 2020-24 MTA Capital Plan. In addition, the Executive Budget continues the Verrazzano Bridge residential and commercial toll rebate program at SFY 2019-20 levels and maintains funding for reduced fares for schoolchildren at \$25.3 million.

The Executive Budget proposes \$3 billion to support the 2020-24 MTA Capital Plan. This is in addition to the \$25 billion authorized as part of the SFY 2019-20 Enacted Budget that is funded by a Central Business District Tolling program and internet and sales tax revenue dedication.

### Department of Motor Vehicles

The Executive Budget proposes \$428.4 million in All Funds appropriations for the Department of Motor Vehicles (DMV), an increase of \$32.5 million, or 54.8 percent from SFY 2020, to support anticipated needs stemming from the four-year license renewal cycle, conversion of licenses to REAL IDs, and implementation of the Driver's License Access and Privacy Act.

## Article VII

### Department of Transportation

- **CHIPS Bidding Threshold (TED Part A)**: The Executive Budget proposes legislation authorizing local governments to use in-house labor instead of competitively bid private labor on projects up to \$750,000 that are funded by the CHIPS. Under current law, municipalities must use private labor if a CHIPS-funded project is \$250,000 or more. This threshold was last increased from \$100,000 in 2011.
- **Increased Penalties for Oversized/Unauthorized Vehicles/Parkway Overhead Strikes (TED Part B)**: The Executive Budget proposes legislation increasing penalties for commercial vehicles ranging from 10,000 to 26,000 pounds from \$250 and/or 15 days imprisonment to up to \$1000 and/or 15 days for the first conviction, from up to \$500 and/or 45 days imprisonment to up to \$1500 and/or 45 days for the second conviction within 18 months, and from up to \$750 and/or 90 days imprisonment for three or more convictions within 18 months to up to \$2500 and/or 90 days for three or more convictions within 18 months. These punishments do not apply to buses or farm vehicles.

For buses and larger vehicles, fines are increased from up to \$350 and/or 15 days to up to \$5,000 and/or 15 days for the first conviction, from up to \$700 and/or 45 days to up to \$7,500 and/or 15 days for a second conviction within 18 months, and from \$1,000 and/or 90 days to \$10,000 and/or 90 days for a third conviction within 18 months, as well as authorizing a one-year vehicle registration suspension. The bill also authorizes additional penalties in New York City for height-related infractions to up to \$5,000 and/or 30 days in jail for the first offense and \$7500 and/or 60 days in jail for a second offense, as well as authorizing the City DOT to suspend vehicle registrations for up to a year for violations of City height and weight regulations.

- **Rear-Facing Blue Lights for Safety Service Patrol Vehicles (TED Part C)**: The Executive Budget proposes legislation creating a definition for safety service patrol vehicles (intended to apply to HELP trucks) that assist with highway incident management and provide motorist assistance, and permits these vehicles to use rear-facing blue lights or combination amber and blue lights. It also expands the “Move Over” Law to require passing vehicles to exercise due care in avoiding these stopped vehicles when they are displaying these lights.
- **SLOW Act – Slow Down and Look Out for Highway Workers and Pedestrians Act (TED Part D)**: The Executive Budget includes various transportation safety proposals, including:
  - Subpart A: Expanding criminal law protections for highway workers and various public transportation and highway workers by including these professionals in the Class D felony of Assault in the Second Degree, creating a Class E felony and including license sanctions for “menacing” a highway worker by putting them in reasonable fear of imminent death or injury, expanding work zone safety and outreach programs, and establishing a Class B misdemeanor under the Vehicle and Traffic Law for intrusion into a highway work zone. The employees added include highway workers, motor vehicle inspectors, and motor carrier investigators.
  - Subpart B: Adding “quick clearance” language exempting motorists of vehicles involved in a crash from keeping their vehicle in the exact location where the crash occurred for purposes of not being considered liable for a Leaving the Scene of an Incident charge. It also clarifies police officers’ and Department of Transportation’s (DOT’s) ability to cause the removal of a vehicle, cargo, or debris that interferes with road usage, and permits any person acting at the direction of DOT or a police officer to remove the vehicle, cargo, or debris. Finally, it provides that DOT, the police officer, or the person directed to remove the items are not liable for damaging such vehicle, cargo, or debris unless the removal was carried out in a reckless or grossly negligent manner.
  - Subpart C: Increasing financial penalties for a motorist’s failure to exercise due care involving physical injury to a pedestrian or bicyclist from up to \$500 and/or 15 days imprisonment to \$1,000 and/or 15 days. Increases penalties involving serious physical injury from \$750 and/or 15 days to \$1,500 and/or 15 days.
- **Additional Penalties for Unlawful For-Hire Vehicle Solicitation at Airports (TED Part H)**: The Executive Budget provides that drivers unlawfully offering ground transportation services at an airport are punishable by a \$3,000 civil penalty and 30-day license suspension in the first instance, \$5,000 and 90-day suspension for the second instance, and \$10,000 and 180-day suspension for three or more violations. For vehicle owners, there would be 30-day, 90-day, and 180-day vehicle registration suspensions required as well. The Department of Motor Vehicles (DMV) would also be empowered to deny registrations or renewals for owners found in violation of this section. The proposal also permits the attorney general or an authority or entity with control of an airport to pursue vehicle forfeiture after two or more infractions. Finally, it provides for a mandatory suspension until termination or suspension fees are paid. Current law already permits a Class B misdemeanor for unlawful solicitation, including a \$750-\$1,500 fine and/or 90 days’ imprisonment.

- **Design-Build Expansion/Extension (TED Part DD)**: The Executive Budget proposes to extend design-build authorization until July 2023, and extend it to the Dormitory Authority (DASNY), Urban Development Corporation/Empire State Development Corporation (ESDC), Office of General Services (OGS), Olympic Regional Development Authority (ORDA), SUNY Construction Fund, and Battery Park City Authority.

Currently the Thruway Authority, DOT, DEC, OPRH, and Bridge Authority are authorized to use design-build on projects greater than \$10 million. The bill provides additional workforce protections against transfer of future duties ordinarily performed by State employees. It also attempts to exempt design-build from various additional procurement laws, such as the lowest responsible bid requirements and various Comptroller reviews. It also expands the types of eligible projects to include buildings and “appurtenant structures” and apply to projects “located in the State” rather than ones owned by the State. The bill also requires the State to consider the contractor’s history of complying with the service-disabled veteran-owned business participation goals, in addition to existing statutory requirements for MWBEs and small businesses. Finally, the bill authorizes use of a one-step procurement process (eliminating the request for qualifications phase), authorizes the use of lump sum, guaranteed maximum price, cost-plus not to exceed, and fee-for-service contracts, and authorizes the State to issue alternative forms of security (instead of conventional payment bonds).

#### Metropolitan Transportation Authority

- **MTA Bond Cap (TED Part I)**: The Executive Budget proposes legislation increasing the Metropolitan Transportation Authority’s (MTA’s) bond cap from \$55.497 billion to \$90.1 billion. This proposal is intended to accommodate future borrowing beginning with the financing of the roughly \$55 billion 2020-24 Capital Program.
- **NYCTA/MTA Procurement Modifications (TED Part J)**: The Executive Budget proposes to eliminate the requirement that New York City Transit Authority (NYCTA) use sealed bidding, eliminates public hearing and newspaper posting requirements for rail car procurements and local bid preferences, and eliminates the authorization to use a Board-approved process for non-competitive negotiated contracts on station work handled by a private entity.

The proposal also clarifies that design-build contracts are exempt from lowest responsible bid laws. It also permits MTA and NYCTA to modify discretionary contracts when it has received no bids or one bid or modify the bid terms. It also allows the MTA to award discretionary contracts for emerging technology projects for goods or services up to \$5 million, and identifies the New York City Partnership Foundation as a potential non-profit that can assist with screening applications. It also reduces the posting timeline from 15 days to five days and allows NYCTA/MTA to post bids on its website rather than in newspapers of general circulation. The language also allows MTA/NYCTA to “piggyback” off existing contracts from other agencies (on top of its existing authorization to use State and City contracts). It also empowers NYCTA to update its qualified products list once per year instead of its currently required two annual updates. Finally, it permanently extends many of these alternative procurement authorizations;

they were enacted as part of the SFY 2016 Enacted Budget deal to fund the 2015-19 Capital Program, and are not set to repeal until April 1, 2021.

- **Tax Increment Financing/Value Capture Extension (TED Part K)**: The Executive Budget proposes legislation extending the authorization empowering MTA to use alternative financing tools such as tax increment financing, special transportation districts, and other value capture arrangements that were adopted in the SFY 2017 Enacted Budget in conjunction with agreement to fund the MTA’s 2015-19 Capital Program. Local approval is needed to authorize any of these arrangements. The law is not set to expire until April 1, 2021. The Executive Budget proposes to extend it to December 31, 2024.
- **Private Property Entry to Clear or Maintain Abutting Vegetation (TED Part L)**: The Executive Budget proposes legislation authorizing the Long Island Rail Road (LIRR) and Metro-North Railroad (MNR) to enter upon private property abutting their rights of way without license, permit, or court order for purposes of removing, trimming, or cutting back any tree, shrub, or other vegetation to preserve commuter rail safety and operations. The bill limits LIRR’s and MNR’s authority to instances where requests have been made to the owner and either denied or been subject to “unreasonable terms and conditions,” the removal or trimming is limited to what is necessary to avoid leaf debris on tracks and to trees/branches expected to fall during extreme weather conditions, and care is taken to avoid damaging trees’ main root/support systems with actual damages available if the LIRR/MNR harms the roots.
- **Increase Criminal Penalties for Transit Worker Assault (TED Part N)**: The Executive Budget expands protections for various public transportation workers by including these professionals in the Class D felony of Assault in the Second Degree. This includes station customer assistants, various maintenance officials and janitors, and other agents who collect fares. Various transit workers, like station agents, are already covered under existing law. Class D felonies can be punishable by up to 2-7 years in prison.
- **New Aggravated Harassment Charge for Various Actions against Transit Officials (TED Part O)**: The Executive Budget expands second degree aggravated harassment laws, which are punishable by a Class A misdemeanor, to include instances where a person strikes, shoves, kicks, spits on, or otherwise subjects a transit official to physical contact. This includes public or private transit officials, including train operators, ticket inspectors, conductors, station cleaners and maintenance staff, station agents, vehicle and track testing officials, and supervisors, among others.
- **Subway Ban for Sex Offenders (TED Part P)**: The Executive Budget proposes legislation authorizing MTA to ban individuals who commit repeat sex-related violations of the MTA Code of Conduct, as well as high-risk sex offenders (Level 3) from using MTA transportation services for a period of three years. The bill also authorizes a judge to impose a prohibition order for public safety purposes as a condition of pre-trial release for defendants charged with sex-related or assault-related crimes, or upon sentencing. It also creates the crime of transit trespass – punishable as a Class A misdemeanor – for individuals violating prohibition/protection orders. MTA would be provided discretion to modify prohibition orders

to permit users to use the system for necessary trips, and would be required to establish an administrative structure to review prohibition order appeals.

### Department of Motor Vehicles

- **Ignition Interlock/Mandatory Surcharges Extension (PPGG Part A)**: The Executive Budget proposes legislation extending the ignition interlock program and mandatory surcharge authorizations from September 1, 2020 until September 1, 2022.
- **Electric-Powered Bicycles (TED Part XX)**: The Executive Budget proposes legislation recognizing three classes of electric-assist bicycle or “e-bike,” including: Class 1 bikes which can only engage with pedal assistance and limited to 20 miles per hour, Class 2 bikes capable of operating without pedal assistance and limited to 20 miles per hour, and Class 3 bikes capable of traveling without pedal assistance and limited to 25 miles per hour.

The e-bike bill language contains the following regulations: Class 3 e-bikes are only permitted to operate in New York City; e-bikes are only allowed to operate on public roads with speed limits of 30 miles per hour or less, unless authorized by local law or regulation. E-bikes can be parked on sidewalks; locals have authority to regulate speed, time, place, and manner restrictions, including requiring helmets, reflecting clothing, and limiting or prohibiting e-bike use. However, localities are prohibited from permitting e-bike use on sidewalks and prohibited from regulating parking on sidewalks.

Further, e-bikes are required to yield to pedestrians and are generally required to operate single-file on the curb or shoulder unless otherwise unsafe due to obstacles or there is sufficient space to accommodate more than single-file. E-bikes are allowed to operate in bicycle and skating lanes, and they are prohibited from operating on a sidewalk. E-bike operators must be at least 16 years old, and e-bikes must be equipped with a bell, a light during the evening, and a brake. Finally, the bill prohibits leaving the scene of an incident and operating under the influence of alcohol or drugs, provided that the DWAI provision is limited to instances where the e-bike is involved in a crash.

- **PTOA/Motor Vehicle Revenue Extender (TED Part YY)**: The Executive Budget proposes legislation permanently extending the distribution of Transportation and Transmission Tax revenues between Upstate (PTOA) and Downstate transit operating systems (MMTOA). These revenues were originally directed solely to the downstate transit fund; the revenue sharing was established in 2013 and is set to expire in 2020. The Executive Budget also permanently extends the section authorizing use of Dedicated Highway and Bridge Trust Fund (DHBTF) revenues for DMV operations. The former was extended for three years previously and the latter for five years when last extended.
- **IPIRP Extender (TED Part ZZ)**: The Executive Budget proposes legislation extending the Internet Point and Insurance Reduction Program (IPIRP), which allows car insurance policyholders to take defensive driving courses online, until April 1, 2022. The program was

previously extended by four years until 2020. The IPIRP pilot program was first authorized in 2005.

- **Electric-Powered Scooters (TED Part AAA):** The Executive Budget proposes legislation recognizing electric-powered scooters (hereinafter “scooters”) for purposes of operation in the State. Scooters are prohibited from transporting more than one person at a time.

The scooter proposal includes the following regulations:

Scooters are only allowed to operate on public roads with speed limits of 30 miles per hour or less and cannot travel more than 15 miles per hour. Scooters are allowed to be parked on sidewalks. Localities are authorized to regulate speed, time, place and manner of operation, including requiring helmets, reflective materials, and prohibitions or location limitations. However, localities are prohibited from permitting scooter use on sidewalks and prohibited from regulating parking on sidewalks.

Additionally, scooters are generally required to operate single-file on the curb or shoulder unless otherwise unsafe due to obstacles or there is sufficient space to accommodate more than single-file. Scooters are allowed to operate in bicycle and skating lanes. Scooter operators must be at least 16 years old, and scooters are prohibited from operating outside of daylight hours unless the operator wears reflective clothing and the scooter is equipped with a light. Operators must keep one hand on the steering mechanism, and 16- and 17- year old operators must wear helmets.

Further, localities are authorized to operate scooter share programs outside of Manhattan, and must protect riders’ data. The bill also prohibits leaving the scene of an incident and operating under the influence of alcohol or drugs, provided that the DWAI provision is only enforceable if the scooter is involved in a crash. Finally, parents are obligated not to authorize or knowingly permit a child to violate these regulations.

#### Thruway Authority

- **Thruway Exit Exemptions for Tandem Trucks/Trailers (TED Part E):** The Executive Budget adds exceptions to the oversize vehicle weight and dimension limits to permit oversize vehicles to operate within limited radii of a variety of Thruway exits. These include a variety of exits Upstate, including Albany, Schenectady, Syracuse, Rochester, and downstate near Kingston.
- **Thruway Authority Fiber Optic System Leases (TED Part F):** The Executive proposes an exemption for the Thruway Authority from public bidding requirements when disposing of property used for the Authority’s fiber optic system. This allows the Thruway Authority to lease its fiber optic assets without a public auction.
- **Merges the Bridge Authority into the Thruway Authority (TED Part G):** The Executive Budget proposes legislation merging the Bridge Authority – which maintains the Bear

Mountain, Newburgh-Beacon, Mid-Hudson, Kingston-Rhinecliff, and Rip Van Winkle Bridges, as well as the Walkway Over the Hudson – with the Thruway Authority. It also increases the Thruway Authority board from seven to eight members, and requires at least one member to be a resident of Orange, Rockland, Westchester, Putnam, Dutchess, Ulster, Greene or Columbia County. The bill also renames the Kingston-Rhinecliff Bridge the “George Clinton Kingston-Rhinecliff Bridge,” reflecting a past ceremonial designation.

- **Toll Enforcement (TED Part M)**: The Executive Budget proposes legislation increasing penalties and providing for additional theft of service language involving tolled roads. It also increases the penalties involving obscuring a license plate on a tolled road to be punishable by \$100-\$500.

# Environment, Energy, Agriculture and Parks



STAFF ANALYSIS OF  
THE 2020-21 EXECUTIVE BUDGET



## Environment, Energy, Agriculture, and Parks Highlights

### Appropriations

- **Environmental Bond Act:** The Executive Budget proposes a \$3 billion “Restore Mother Nature” bond act for projects such as flood risk mitigation through stream and wetland restoration, land acquisition, forest and habitat preservation, and water quality improvement projects. The issuance of bonds would be subject to voter approval in November 2020.
- **Clean Water Infrastructure Act:** The Executive Budget proposes \$500 million for the Clean Water Infrastructure Act, which is a continuation of the Executive’s \$2.5 billion commitment.
- **Environmental Protection Fund:** The Executive Budget proposes a \$300 million Environmental Protection Fund, maintaining the SFY 2020 funding level.
- **Local Agricultural Programs:** The Executive Budget proposes \$27.4 million for agricultural programs, which is a \$5.8 million reduction from SFY 2020.
- **Olympic Regional Development Authority:** The Executive proposes \$144.5 million in capital funding for the Olympic Regional Development Authority, in part to upgrade and modernize their facilities for the 2023 World University Games.

### Article VII

- **Environmental Bond Act:** The Executive Budget proposes a \$3 billion “Restore Mother Nature” bond act for projects such as flood risk mitigation through stream and wetland restoration, land acquisition, forest and habitat preservation, and water quality improvement projects. The issuance of bonds would be subject to voter approval in November 2020. There are two Article VII bills associated with the Bond Act: TED Part QQ authorizes issuance of \$3 billion of general obligation bonds to preserve, enhance and restore the quality of the State’s environment (subject to voter approval in November 2020). TED Part RR amends the Environmental Conservation Law to vest responsibility for implementing the Bond Act with the Department of Environmental Conservation (DEC), authorizing the agency to promulgate regulations to effectuate the Act, and amends the State Finance Law to place Bond Act funds in the joint custody of the State Comptroller and the Commissioner of Taxation and Finance. Part RR specifies broad categories of capital projects eligible for Bond Act funding.
- **Polystyrene Ban:** The Executive would ban the sale, offering for sale, use or distribution of (i) disposable food service containers that contain polystyrene foam and (ii) polystyrene loose fill packaging, effective January 1, 2022. Prepackaged food and raw meat or fish purchased for off-premise consumption would be exempt from the ban. In addition, financial hardship exemptions, as determined by the Department of Environmental Conservation (DEC), would be available to food service providers who operate at less than ten locations in the State.
- **Product Stewardship:** The Executive proposes language to require carpet producers and mattress producers to create stewardship organizations that must submit a stewardship plan to DEC providing for recycling of carpets and mattresses at no cost to consumers. DEC is authorized to propose additional products to add to the stewardship requirement.
- **Fracking Ban:** The Executive proposes language to amend the Environmental Conservation Law to prohibit issuance of permits for high-volume hydraulic fracturing.
- **Small Wireless Facilities Deployment:** The Executive proposes authorization of a maximum rate or fee that municipalities may charge a wireless provider for the use of a municipal right

of way or utility pole for the installation of a small wireless facility. The legislation authorizes the DOT Commissioner to enter into a statewide license agreement with wireless providers to use State rights of way to install communications facilities.

- **Department of Public Service Oversight and Enforcement:** The Executive proposes legislation to authorize The Department of Public Service to undertake administrative investigations and enforcement proceedings against combination gas and electric utilities.

## Environment, Energy, Agriculture, and Parks Agency Details

Environment, Agriculture, Parks, and Energy All Funds Appropriations				
Agency	Enacted Budget SFY 2019-20	Executive Recommendation SFY 2020-21	Change (\$)	Change (%)
Adirondack Park Agency	\$4,684,000	\$6,034,000	\$1,350,000	28.8%
Department of Agriculture and Markets	\$179,849,000	\$191,116,000	\$11,267,000	6.3%
Energy Research and Development Authority	\$17,700,000	\$18,200,000	\$500,000	2.8%
Department of Environmental Conservation	\$1,759,013,000	\$1,769,067,000	\$10,054,000	0.6%
Green Thumb Program	\$3,561,000	\$3,804,000	\$243,000	6.8%
Greenway Heritage Conservancy	\$166,000	\$200,000	\$34,000	20.5%
Hudson River Park Trust	\$23,000,000	\$0	(\$23,000,000)	-100.0%
Hudson River Valley Greenway Communities Council	\$321,000	\$321,000	\$0	0.0%
Olympic Regional Development Authority	\$107,090,000	\$158,590,000	\$51,500,000	48.1%
Office of Parks, Recreation and Historic Preservation	\$481,799,000	\$488,926,000	\$7,127,000	1.5%
Power Authority	\$172,000,000	\$129,000,000	(\$43,000,000)	-25.0%
Department of Public Service	\$104,682,000	\$106,232,000	\$1,550,000	1.5%
<b>Total</b>	<b>\$2,853,865,000</b>	<b>\$2,871,490,000</b>	<b>\$17,625,000</b>	<b>0.6%</b>
<b>"Restore Mother Nature" Environmental Bond Act</b>		<b>\$3,000,000,000</b>		

### Overview

The SFY 2021 Executive Budget proposes \$2.9 billion in All Funds appropriations for State Agencies within the Environmental Conservation functional area, an increase of \$17.6 million, or 0.6 percent, from SFY 2020 budget levels. The largest increases are due to additional capital funds for the Adirondack Park Agency and the Olympic Regional Development Authority to make facilities upgrades. In addition, the Executive Budget proposes a \$3 billion environmental bond act, which would be subject to voter approval in November 2020.

### Adirondack Park Agency

The SFY 2021 Executive Budget recommends All Funds appropriations of \$6 million for the Adirondack Park Agency, an increase of \$1.4 million, or 28.8 percent, from the current fiscal year. This increase is largely due to \$1 million in new capital funding for administrative facilities upgrades.

### Department of Agriculture and Markets

The SFY 2021 Executive Budget recommends All Funds appropriations of \$191.1 million for the Department of Agriculture and Markets, an increase of \$11.3 million, or 6.3 percent, from the current fiscal year. This increase is largely due to an additional \$10 million in capital funds for the NYS Fair and an increase of 40 FTEs. Please see the full Agriculture and Markets chart on the next page for additional details.

Department of Agriculture and Markets			
Account	SFY 2019-20 Enacted	SFY 2020-21 Executive	Change
<b>Local Assistance Programs</b>			
Cornell veterinary diagnostic laboratory	\$4,839,000	\$4,425,000	(\$414,000)
Cornell veterinary diagnostic laboratory - salmonella dublin	\$200,000	\$0	(\$200,000)
Cornell cattle health assurance	\$360,000	\$360,000	\$0
Cornell quality milk program	\$1,174,000	\$1,174,000	\$0
Cornell Johnes disease	\$480,000	\$480,000	\$0
Cornell rabies	\$350,000	\$50,000	(\$300,000)
Cornell Avian disease (avian influenza)	\$252,000	\$252,000	\$0
Cornell berry research	\$260,000	\$260,000	\$0
Cornell honeybee research and extension program	\$150,000	\$150,000	\$0
Cornell maple research	\$125,000	\$75,000	(\$50,000)
Cornell onion research	\$70,000	\$50,000	(\$20,000)
Cornell vegetable research	\$100,000	\$50,000	(\$50,000)
Cornell hard cider research	\$200,000	\$200,000	\$0
Cornell concord grape research	\$250,000	\$200,000	(\$50,000)
Cornell hops and barley research and extension	\$400,000	\$300,000	(\$100,000)
Agriculture in the classroom	\$380,000	\$380,000	\$0
Future Farmers of America (FFA)	\$842,000	\$842,000	\$0
Association of ag educators	\$416,000	\$416,000	\$0
FarmNet (Farm Family Assistance)	\$872,000	\$664,000	(\$208,000)
Pro-dairy	\$1,201,000	\$1,201,000	\$0
Golden nematode	\$62,000	\$0	(\$62,000)
Cornell Small Farms Veterans Program	\$115,000	\$115,000	\$0
Cornell labor specialist	\$200,000	\$200,000	\$0
Farm Viability Institute	\$1,900,000	\$800,000	(\$1,100,000)
Berry growers association	\$60,000	\$60,000	\$0
Corn and soybean growers association	\$75,000	\$75,000	\$0
Taste NY	\$1,100,000	\$0	(\$1,100,000)
Grow NY	\$1,000,000	\$2,000,000	\$1,000,000
NYS brewers association	\$75,000	\$75,000	\$0
NYS cider association	\$75,000	\$75,000	\$0
NYS distillers guild	\$75,000	\$75,000	\$0
NY wine & grape foundation	\$1,079,000	\$1,073,000	(\$6,000)
Christmas Tree Farmers	\$125,000	\$125,000	\$0
Apple growers association	\$750,000	\$478,000	(\$272,000)
Maple producers	\$288,000	\$150,000	(\$138,000)
Apple research & development advisory board	\$500,000	\$500,000	\$0
Dairy profit teams (Cornell Center for Dairy Excellence)	\$370,000	\$370,000	\$0
EBT at farmer's markets	\$138,000	\$138,000	\$0
Farm-to-School	\$750,000	\$750,000	\$0
Agribusiness child development program (ABCD)	\$9,275,000	\$8,275,000	(\$1,000,000)
Local fair assistance (ag and arts promotion)	\$500,000	\$420,000	(\$80,000)
Tractor rollover prevention	\$250,000	\$125,000	(\$125,000)
Turfgrass Association	\$150,000	\$0	(\$150,000)
Northern NY ag development - CCE Jefferson	\$300,000	\$0	(\$300,000)
AFT Farmland for a New Generation - Resource Center	\$200,000	\$0	(\$200,000)
AFT Farmland for a New Generation - Regional Navigator	\$200,000	\$0	(\$200,000)
Harvest NY	\$600,000	\$0	(\$600,000)
Teens for Food Justice	\$20,000	\$0	(\$20,000)
Red Hook Farm Initiative	\$40,000	\$0	(\$40,000)
Met Council Kosher Food Network	\$50,000	\$0	(\$50,000)
<b>Local Assistance Totals</b>	<b>\$33,243,000</b>	<b>\$27,408,000</b>	<b>(\$5,835,000)</b>

### **Energy Research and Development Authority**

The SFY 2021 Executive Budget recommends All Funds appropriations of \$18.2 million for the New York State Energy Research and Development Authority, an increase of \$500,000, or 2.8 percent, from the current fiscal year. This increase is necessary to meet the State's obligations to a federal cost sharing agreement with the U.S. Department of Energy for the management and administration of the nuclear fuel reprocessing plant at West Valley.

### **Department of Environmental Conservation**

The SFY 2021 Executive Budget recommends All Funds appropriations of \$1.8 billion for the Department of Environmental Conservation, an increase of \$10.1 million, or 0.6 percent, from the current fiscal year. This includes \$500 million for the Clean Water Infrastructure Act, which maintains SFY 2020 funding levels, and is as part of a 5-year, \$2.5 billion commitment. The Executive similarly proposes to maintain spending for the Environmental Protection Fund (EPF) at \$300 million. The Executive recommends changes in the disbursement of those funds as follows:

- \$19.7 million, a decrease of \$1 million, for climate change programs
- \$152.1 million, a decrease of \$1.3 million, for open space programs
- \$89.2 million, an increase of \$1 million, for parks and recreation programs
- \$39 million, an increase of \$1.3 million, for solid waste programs

Please see the full EPF chart at the end of this section for additional details.

The SFY 2021 Executive Budget proposes an increase in State Operations funds for 47 additional FTEs for the implementation of the Climate Leadership and Community Protection Act and the Resiliency and Economic Development Initiative.

The SFY 2021 Executive Budget proposes a \$3 billion environmental bond act, "Restore Mother Nature," which would be subject to voter approval in November 2020. The Executive proposes this funding be used for projects such as flood risk mitigation through stream and wetland restoration, land acquisition, forest and habitat preservation, water quality improvement projects, and clean or renewable energy projects.

### **Green Thumb**

The SFY 2021 Executive Budget recommends All Funds appropriations of \$3.8 million, an increase of \$243,000, or 6.8 percent, for Green Thumb. This is due to increases in personal service resulting from changes in the minimum wage.

### **Greenway Heritage Conservancy of the Hudson River Valley**

The SFY 2021 Executive Budget recommends All Funds appropriations of \$166,000 for the Greenway Heritage Conservancy of the Hudson River Valley. The funding is unchanged from the current fiscal year.

### **Hudson River Valley Greenway Communities Council**

The SFY 2021 Executive Budget recommends All Funds appropriations of \$321,000 for the Hudson River Valley Greenway Communities Council. The funding is unchanged from the current fiscal year.

### **Hudson River Park Trust**

The SFY 2021 Executive Budget recommends no funding for the Hudson River Park Trust. Previous years' funding came as part of a matching payment agreement with New York City to complete various infrastructure repairs within the park.

### **Olympic Regional Development Authority**

The SFY 2021 Executive Budget recommends All Funds appropriations of \$158.6 million for the Olympic Regional Development Authority (ORDA), an increase of \$51.5 million, or 48.1 percent, over the current fiscal year. This reflects an increase in capital funding for upgrades, renovations, and modernizations at ORDA facilities in preparation for the 2023 World University Games.

The SFY 2021 Executive Budget includes a sub-allocation in the Office of Parks, Recreation and Historic Preservation New York Works program for \$2.5 million for ORDA capital maintenance and improvements. This is similar to actions taken in previous fiscal years.

### **Office of Parks, Recreation and Historic Preservation**

The SFY 2021 Executive Budget recommends All Funds appropriations of \$488.9 million for the Office of Parks, Recreation and Historic Preservation, an increase of \$7.1 million, or 1.5 percent, over the current fiscal year. This includes increased appropriations for 22 additional FTEs statewide, as well as increased appropriations for the Golf and Retail Store enterprise funds. This includes \$112.5 million in capital funds for New York Works projects.

### **New York Power Authority**

The SFY 2021 Executive Budget recommends All Funds appropriations of \$129 million for the New York Power Authority (NYPA), a decrease of \$43 million, or 25 percent, from the current fiscal year. This decrease reflects a reduction in the State's repayment of funds previously transferred by NYPA to the State.

### **Department of Public Service**

The SFY 2021 Executive Budget recommends All Funds appropriations of \$106.2 million for the Department of Public Service, an increase of \$1.6 million, or 1.5 percent, over the current fiscal year. This increase is to support personal service growth.

## Article VII

- **Farm Laborers Fair Labor Practices Act (TED Part II)**: The Executive proposes legislation amending the Farm Laborers Fair Labor Practices Act by defining the term “immediate family member” to mean family related to the third degree of consanguinity or affinity. Immediate family members are exempt from certain provisions of the Act, including the requirement that farm laborers have at least twenty-four consecutive hours of rest in every calendar week. The proposal also clarifies that employers are not included in such requirement. There are additional technical changes such as cross-referencing the definition of the term “farm laborer” and replacing the term “employee” with “farm laborer” in the section of the law prohibiting such workers from working more than sixty hours in any calendar unless they are paid overtime.
- **Increase Purchase of Local Foods in Schools (TED Part JJ)**: The Executive Budget replaces state procurement procedures and discretionary limits to child nutrition programs with those established by the federal government. Current law sets a discretionary limit of \$50,000 to purchase food from local producers or growers. School districts are required, for purchases of over \$50,000, to obtain permission from the Commissioner of SED and go through a formal bid process. Under the Executive’s proposal, school districts will not need to obtain quotes from producers and growers for purchases of less than \$10,000. School districts must obtain three quotes from producers and growers for purchases up to \$250,000 but are not required to obtain permission from the commissioner of SED and go through a formal bid process.
- **Polystyrene Ban (TED Part PP)**: The Executive Budget proposes legislation prohibiting covered food service providers and stores from selling, offering for sale, use, or distribution of disposable food service containers that contain expanded polystyrene foam (commonly referred to as Styrofoam), and prohibiting covered food service providers, manufacturers and stores from selling, offering for sale, use, or distribution of polystyrene loose fill packaging (also known as packing peanuts). The ban would take effect on January 1, 2022. Exempted from the ban are: prepackaged food received by a food service provider; raw meat or fish purchased for off-premise cooking or preparing; and covered food service providers who demonstrate undue financial hardship as determined by DEC, provided the food service provider does not operate at 10 or more locations in the State. The legislation expressly preempts inconsistent local legislation but does not preempt local laws that are at least as restrictive. Violators are subject to civil penalties, with repeat violators being subjected to stiffer penalties. DEC is authorized to review additional product packaging and promulgate regulations limiting their sale, use, or distribution based on their environmental impact.
- **Restore Mother Nature Bond Act (TED Parts QQ and RR)**: The Executive Budget proposes legislation creating bonded indebtedness of \$3 billion for a broad array of environmental projects. Part QQ authorizes issuance of \$3 billion of general obligation bonds to preserve, enhance, and restore the quality of the State’s environment, subject to voter approval in November 2020. Bond Act funds are to be expended pursuant to appropriations for design, planning, site acquisition, demolition, construction, reconstruction, and rehabilitation related to eligible capital projects. Part RR amends the Environmental Conservation Law to vest responsibility for implementing the Bond Act with DEC, authorizing the agency to promulgate regulations to effectuate the Act, and amends the State Finance Law to place Bond Act funds in the joint custody of the State Comptroller and the Commissioner

of Taxation and Finance. Municipalities are eligible to apply for project funding. Part RR specifies eligible capital projects to include:

- Projects that restore habitat and reduce flood risk, including restoration of freshwater and tidal wetlands, floodplains, and streams; acquisition of real property; enhancement of shoreline protection; forest preservation; development and improvement of fish hatcheries; and removal, alteration, or right-sizing of dams, bridges and culverts
- Projects that improve water quality, including wastewater infrastructure and upgrades, including green infrastructure that reduces stormwater impacts; management of agricultural nutrients; and expansion of riparian buffers
- Projects that protect open space, and development and improvement of parks, campgrounds, nature centers, and other State recreational facilities
- Projects that expand the use of renewable energy to mitigate climate change, including clean energy or resiliency projects
- Projects that preserve, enhance and restore the quality of the State's environment
- **Product Stewardship (TED Part SS)**: The Executive Budget proposes legislation adding a new title to the Environmental Conservation Law requiring carpet producers and mattress producers to create stewardship organizations that must submit a product stewardship plan for covered items to DEC for review and approval. Producers must have an approved stewardship plan by July 1, 2021. The stewardship plan must certify that the stewardship program will accept for collection all discarded covered items, describe the methods that will be used for collection at no cost to consumers, address safe transport and handling of collected items, explain how they will be recycled or reused, and incorporate annual performance standards determined by DEC. The plan must also demonstrate achievement by January 1, 2022 of a convenience standard of having at least one collection site in each county of the State, and at least one additional collection site for every 50,000 residents located in a municipality. Stewardship organizations will be required to pay fees sufficient to cover DEC's administration and enforcement costs and, beginning in 2023, to submit annual reports to the agency assessing the program's effectiveness. Producers are prohibited from selling or offering for sale covered items unless they are part of a stewardship organization and, beginning January 1, 2023, retailers and distributors are prohibited from selling or offering for sale any items not covered by a stewardship plan. After three years, DEC is to submit a report on potential additional products to add to the stewardship requirement. Violations of the bill's requirements are punishable by civil penalties, and all producers in a stewardship organization are jointly and severally liable for penalties imposed against the organization. The legislation explicitly preempts local laws governing recycling of covered items.
- **Wetland Maps (TED Part TT)**: The Executive Budget proposes legislation to amend the Freshwater Wetlands Act to provide that freshwater wetland maps prepared by DEC are for educational purposes only and are not controlling for purposes of determining whether a freshwater wetlands permit is required for a regulated activity. The legislation also provides for maps to be posted on DEC's website rather than filed in the county clerk's office as currently required. The legislation also expands the enforcement authority of DEC and the Attorney General to include Article 34 of the Environmental Conservation Law (relating to coastal erosion hazard areas).
- **Bay Park Alienation (TED Part UU)**: The Executive Budget proposes legislation to establish temporary surface and permanent subsurface easements for the purpose of constructing, operating, maintaining and repairing a sewer main beneath certain parklands owned by Nassau

County, East Rockaway, and the Village of Rockville Center. The sewer main is part of the Bay Park Conveyance Project, a joint project between DEC and the Nassau County Department of Public Works to convey treated effluent from the Bay Park Sewage Treatment Plant to the Cedar Creek Water Pollution Control Plant, which will reduce nitrogen loading into the Western Bays on Long Island. The affected municipalities are required to dedicate an amount equal to or greater than the fair market value of the easements to the acquisition of new parklands and/or capital improvements to existing park and recreational facilities. The temporary easements expire upon completion of the project and DEC is required to restore the surface of the affected parklands so that their use for park purposes can be resumed.

- **Financial Security for Plugging and Reclaiming Wells (TED Part VV):** The Executive Budget proposes legislation authorizing DEC to classify wells (including wells for the purpose of producing oil or gas, or for the purpose of solution mining, storage, injection, brine disposal or geothermal) and lands in the immediate vicinity of such wells as abandoned or orphaned. The legislation authorizes DEC to promulgate regulations specifying the amount of financial security required for plugging and surface restoration of regulated wells and lands in the immediate vicinity of such wells.
- **Fracking Ban (TED Part WW):** The Executive Budget proposes legislation amending the Environmental Conservation Law to prohibit the issuance of permits for high-volume hydraulic fracturing. The act would take effect immediately.
- **Increasing maturity of hardship loans for municipal water projects (TED Part KK):** The Executive proposes increasing the maximum maturity period of zero interest loans provided to municipalities, using money from the Water Pollution Control Revolving Fund or the Drinking Water Revolving Fund, from 20 years to 40 years. These loans are provided only to municipalities that meet the hardship criteria set in Environmental Conservation Law or Public Health Law.
- **Robocalls (TED Part T):** The Executive proposes legislation that requires voice service providers to implement an effective call authentication framework and provide free call blocking technology to customers. The legislation restricts telemarketer use of automatic telephone dialing systems and pre-recorded sales messages. It also requires telemarketers to obtain a certificate of registration from the Department of State. The proposal authorizes the Department of Public Service (DPS) to establish and maintain a telemarketing do-not-call list.
- **To Authorize Utility and Cable Television Assessments that Provide Funds to the Department of Health from Cable Television Assessment Revenues and to the Departments of Agriculture and Markets, Environmental Conservation, and State, and the Office of Parks, Recreation and Historic Preservation from Utility Assessment Revenues (TED Part Y):** The Executive proposes the authorizing a utility assessment to reimburse related utility regulatory expenses in the Office of Parks, Recreation & Historic Preservation and the Departments of Agriculture and Markets, Environmental Conservation, and State. The proposal includes the authorization of a cable television assessment to reimburse expenses incurred by the Department of Health public service education program. Current law permits DPS to assess public utilities and cable television companies for costs related to regulation of their respective industries. This is an annual authorization of a transfer of funds.
- **To Authorize the Department of Public Service to Undertake Administrative Investigations of and Commence Enforcement Proceedings Against All Regulated Public Utility Corporations (TED Part Z):** The Executive proposes legislation authorizing DPS to undertake administrative investigations and enforcement proceedings against combination gas

and electric utilities. The legislation removes the requirement that the Public Service Commission (PSC) hold a hearing on assessed penalties against combination gas and electric corporations. A new sub-section is added to Public Service Law that extends the administrative investigative provisions, as authorized for DPS, to all regulated public utility corporations.

- **Small Wireless Facilities Deployment (TED Part BB)**: The Executive proposes legislation authorizing municipalities to charge a wireless provider a rate or fee for the use of municipal rights of way or utility poles with respect to the installation of small wireless facilities. The legislation also provides wireless providers the right to collocate small wireless facilities, and to install and operate utility poles, within the municipal right of way. The DOT Commissioner is authorized to enter into a statewide license agreement with wireless providers to use State rights of way to install communications facilities.
- **Authorize the New York State Energy Research and Development Authority (NYSERDA) to Finance a Portion of its Energy Research, Development and Demonstration Program, and its Energy Policy and Planning Program, as well as Climate Change Related Expenses of the Department of Environmental Conservation and the Department of Agriculture and Markets' Fuel NY Program, From an Assessment on Gas and Electric Corporations (TED Part HH)**: The Executive proposal would allow NYSERDA to finance a portion of its research, development and demonstration program, the energy policy & planning program, climate change related expenses, and the Fuel NY program from an assessment on gas and electric corporations. The assessment cannot exceed \$22.7 million annually. Part HH allows the Executive to designate certain funds for programs that otherwise would not be funded through NYSERDA's budget.
- **Authorize the New York Power Authority to Form a Pure Captive Insurance Company (TED Part CCC)**: The Executive proposes legislation to authorize the New York Power Authority (NYPA) to create a captive insurance company to provide insurance coverage on its assets for risks from terrorism, cyber/technology, hydro flows, and environmental damage. The legislation provides that the captive insurance company shall have all the privileges, immunities, tax exemptions, and other exemptions of NYPA and NYPA's property.
- **Transfer of Pier 76 Tow Pound to the Hudson River Park (TED Part DDD)**: The Executive proposes legislation to amend the Hudson River Park Act to convey the City of New York's possessory interest in Pier 76 to the Hudson River Park Trust on or before December 31st, 2020. If the City of New York continues to occupy Pier 76 subsequent to December 31st, 2020, the City must pay \$12 million to the trust, and \$3m thereafter in monthly rent, for as long as the property is occupied.

<b>ENVIRONMENTAL PROTECTION FUND</b>			
<b>Account</b>	<b>SFY 2019-20 Enacted</b>	<b>SFY 2020-21 Executive</b>	<b>Change</b>
<b>Climate Change Mitigation and Adaptation</b>	<b>\$20,650,000</b>	<b>\$19,650,000</b>	<b>(\$1,000,000)</b>
<b>Greenhouse Gas Management</b>	<b>\$1,500,000</b>	<b>\$1,500,000</b>	<b>\$0</b>
<i>Regenerate NY</i>	\$500,000	\$500,000	\$0
<i>Cornell natural working lands</i>	\$500,000	\$500,000	\$0
<b>Climate Resiliency Plans</b>	<b>\$2,000,000</b>	<b>\$1,000,000</b>	<b>(\$1,000,000)</b>
<i>Wood Products Development Council</i>	\$200,000	\$200,000	\$0
<b>Smart Growth Grant Program</b>	<b>\$2,000,000</b>	<b>\$2,000,000</b>	<b>\$0</b>
<b>Climate Resilient Farms Program</b>	<b>\$4,500,000</b>	<b>\$4,500,000</b>	<b>\$0</b>
<i>Cornell Soil Health</i>	\$200,000	\$200,000	\$0
<i>Hudson Valley Carbon Farming Pilot</i>	\$400,000	\$0	(\$400,000)
<b>Climate Smart Communities</b>	<b>\$10,650,000</b>	<b>\$10,650,000</b>	<b>\$0</b>
<i>Resiliency planting program</i>	\$500,000	\$500,000	\$0
<i>Community forests grant program*</i>	\$0	\$500,000	\$500,000
<b>Open Space</b>	<b>\$153,425,000</b>	<b>\$152,110,000</b>	<b>(\$1,315,000)</b>
<b>Land Acquisition</b>	<b>\$33,087,000</b>	<b>\$30,000,000</b>	<b>(\$3,087,000)</b>
<i>Land Trust Alliance</i>	\$2,500,000	\$2,500,000	\$0
<i>Urban Forestry</i>	\$1,000,000	\$1,000,000	\$0
<i>Regions 1, 2, and 3</i>	\$3,000,000	\$3,000,000	\$0
<i>Lake George Park Commission</i>	\$200,000	\$200,000	\$0
<i>Land Trust Alliance conservation easements'</i>	\$0	\$3,000,000	\$3,000,000
<b>Albany Pine Bush Preserve</b>	<b>\$2,675,000</b>	<b>\$2,675,000</b>	<b>\$0</b>
<b>Long Island Central Pine Barrens</b>	<b>\$2,000,000</b>	<b>\$2,000,000</b>	<b>\$0</b>
<b>Enivonmental Commissions</b>	<b>\$1,063,000</b>	<b>\$1,085,000</b>	<b>\$22,000</b>
<i>Susquehanna River Basin Commission</i>	\$259,000	\$259,000	\$0
<i>Delaware River Basin Commission</i>	\$359,500	\$359,500	\$0
<i>Ohio River Valley Water Sanitation Commission</i>	\$14,100	\$14,100	\$0
<i>Interstate Environmental Commission</i>	\$41,600	\$41,600	\$0
<i>New England Interstate Water Pollution Control Comm.</i>	\$38,000	\$38,000	\$0
<i>SUNY ESF Center for Native Peoples and the Env.</i>	\$350,000	\$373,000	\$23,000
<b>Long Island South Shore Estuary</b>	<b>\$900,000</b>	<b>\$900,000</b>	<b>\$0</b>
<b>Agricultural non-point source pollution abatement</b>	<b>\$18,000,000</b>	<b>\$18,000,000</b>	<b>\$0</b>
<i>Cornell IPM</i>	\$1,000,000	\$1,000,000	\$0
<i>Cornell Co-op Ext. Suffolk County</i>	\$500,000	\$500,000	\$0
<i>Cornell pesticide management ed. Program.</i>	\$250,000	\$250,000	\$0
<b>Non-agricultural non-point source pollution abatement</b>	<b>\$7,000,000</b>	<b>\$6,000,000</b>	<b>(\$1,000,000)</b>
<i>Cornell Community IPM</i>	\$550,000	\$550,000	\$0
<b>Farmland Protection</b>	<b>\$18,000,000</b>	<b>\$17,000,000</b>	<b>(\$1,000,000)</b>
<i>Cornell Land Classification and Master Soils List</i>	\$95,000	\$95,000	\$0
<i>Tug Hill Tomorrow</i>	\$1,000,000	\$1,000,000	\$0
<b>Biodiversity stewardship</b>	<b>\$1,350,000</b>	<b>\$1,350,000</b>	<b>\$0</b>
<i>Pollinator Protection</i>	\$500,000	\$500,000	\$0
<i>Cary Institute of Ecosystem Studies - Catskills</i>	\$100,000	\$100,000	\$0
<b>Hudson River Estuary Management</b>	<b>\$6,500,000</b>	<b>\$6,500,000</b>	<b>\$0</b>
<i>Mohawk River</i>	\$1,000,000	\$1,000,000	\$0
<b>FLLOWPA</b>	<b>\$2,300,000</b>	<b>\$2,300,000</b>	<b>\$0</b>
<b>Lake Erie Watershed Protection</b>	<b>\$250,000</b>	<b>\$250,000</b>	<b>\$0</b>
<b>Water Quality Improvement Programs</b>	<b>\$17,750,000</b>	<b>\$19,000,000</b>	<b>\$1,250,000</b>
<i>Suffolk County to address nitrogen</i>	\$3,000,000	\$3,000,000	\$0
<i>Suffolk County sewer improvement projects</i>	\$1,500,000	\$1,500,000	\$0
<i>Nassau County Bay Park Outfall Pipe</i>	\$5,000,000	\$5,000,000	\$0
<i>Removal and disposal of firefighting foam with PFOS</i>	\$100,000	\$0	(\$100,000)

ENVIRONMENTAL PROTECTION FUND			
Account	SFY 2019-20 Enacted	SFY 2020-21 Executive	Change
Source water planning	\$5,000,000	\$5,000,000	\$0
Town of Hempstead Marine Lab	\$350,000	\$0	(\$350,000)
Chautauqua Lake Association*	\$0	\$150,000	\$150,000
Chautauqua Lake Partnership*	\$0	\$95,000	\$95,000
<b>Ocean and Great Lakes projects</b>	<b>\$17,250,000</b>	<b>\$19,750,000</b>	<b>\$2,500,000</b>
Peconic Bay Estuary Program	\$200,000	\$200,000	\$0
Great Lakes Commission	\$60,000	\$60,000	\$0
<b>Invasive Species</b>	<b>\$13,300,000</b>	<b>\$13,300,000</b>	<b>\$0</b>
Lake George	\$450,000	\$450,000	\$0
Cornell Plant Certification Program	\$120,000	\$120,000	\$0
Golden Nematode research*	\$0	\$62,000	\$62,000
Eradication	\$6,050,000	\$6,050,000	\$0
Hemlock wooly adelgid	\$500,000	\$500,000	\$0
Southern Pine Beetle	\$500,000	\$500,000	\$0
Pine Barrens Commission	\$250,000	\$250,000	\$0
<b>Soil and Water Conservation Districts</b>	<b>\$10,500,000</b>	<b>\$10,500,000</b>	<b>\$0</b>
<b>Agricultural Waste Management</b>	<b>\$1,500,000</b>	<b>\$1,500,000</b>	<b>\$0</b>
Cornell dairy acceleration program	\$700,000	\$700,000	\$0
<b>Parks, Recreation and Historic Preservation</b>	<b>\$88,200,000</b>	<b>\$89,200,000</b>	<b>\$1,000,000</b>
<b>Waterfront revitalization projects</b>	<b>\$14,500,000</b>	<b>\$14,500,000</b>	<b>\$0</b>
Inner city and underserved	\$9,000,000	\$9,000,000	\$0
Climate change resiliency planning	\$2,000,000	\$2,000,000	\$0
Niagara River Greenway	\$200,000	\$200,000	\$0
<b>Municipal parks projects</b>	<b>\$19,500,000</b>	<b>\$19,500,000</b>	<b>\$0</b>
Inner city and underserved	\$10,000,000	\$10,000,000	\$0
Tivoli	\$250,000	\$250,000	\$0
Hudson River Valley Trail Grants	\$500,000	\$500,000	\$0
SUNY ESF	\$120,000	\$120,000	\$0
Paul Smiths College	\$180,000	\$180,000	\$0
Catskill Center for Conservation and Development*	\$0	\$150,000	\$150,000
East River Esplanade 107th Street Pier	\$1,000,000	\$0	(\$1,000,000)
<b>Public access and stewardship</b>	<b>\$33,000,000</b>	<b>\$36,000,000</b>	<b>\$3,000,000</b>
Belleayre	\$1,000,000	\$1,000,000	\$0
Parks and Trails Friends Groups	\$1,000,000	\$1,000,000	\$0
Adirondack Architectural Heritage for Camp Santanoni*	\$0	\$250,000	\$250,000
New York Protected Area Database*	\$0	\$55,000	\$55,000
Essex County Adirondack Park shuttle*	\$0	\$1,200,000	\$1,200,000
<b>Hudson River Park Trust</b>	<b>\$3,200,000</b>	<b>\$3,200,000</b>	<b>\$0</b>
<b>Zoos, botanic gardens, and aquaria</b>	<b>\$16,000,000</b>	<b>\$14,000,000</b>	<b>(\$2,000,000)</b>
<b>Navigation Law programs</b>	<b>\$2,000,000</b>	<b>\$2,000,000</b>	<b>\$0</b>
<b>Solid Waste</b>	<b>\$37,725,000</b>	<b>\$39,040,000</b>	<b>\$1,315,000</b>
<b>Non-hazardous landfill closures</b>	<b>\$700,000</b>	<b>\$765,000</b>	<b>\$65,000</b>
Essex County	\$300,000	\$0	(\$300,000)
Hamilton County	\$150,000	\$0	(\$150,000)
<b>Municipal recycling projects</b>	<b>\$14,000,000</b>	<b>\$14,750,000</b>	<b>\$750,000</b>
Food donation and recycling/organics projects	\$2,000,000	\$2,000,000	\$0
<b>Secondary materials regional marketing assistance</b>	<b>\$200,000</b>	<b>\$200,000</b>	<b>\$0</b>
<b>Pesticide Program</b>	<b>\$1,800,000</b>	<b>\$1,800,000</b>	<b>\$0</b>
Long Island Pesticide Preventior.	\$200,000	\$200,000	\$0
<b>Environmental Justice projects</b>	<b>\$7,000,000</b>	<b>\$7,000,000</b>	<b>\$0</b>
Connect Kids	\$1,000,000	\$2,000,000	\$1,000,000

<b>ENVIRONMENTAL PROTECTION FUND</b>			
<b>Account</b>	<b>SFY 2019-20 Enacted</b>	<b>SFY 2020-21 Executive</b>	<b>Change</b>
<i>EJ community impact and jobs training</i>	\$3,000,000	\$3,000,000	\$0
<i>Non-profit competitive grants</i>	\$500,000	\$500,000	\$0
<i>Adirondack Diversity Initiative</i>	\$250,000	\$250,000	\$0
<b>Natural resource damages</b>	<b>\$2,025,000</b>	<b>\$2,025,000</b>	<b>\$0</b>
<b>Pollution Prevention Institute</b>	<b>\$4,000,000</b>	<b>\$4,000,000</b>	<b>\$0</b>
<i>Interstate Chemicals Clearinghouse</i>	\$100,000	\$100,000	\$0
<b>Environmental health assessments</b>	<b>\$6,500,000</b>	<b>\$6,500,000</b>	<b>\$0</b>
<i>Clean Sweep NY</i>	\$500,000	\$500,000	\$0
<i>Center for Clean Water at Stony Brook</i>	\$1,000,000	\$1,000,000	\$0
<i>Children's Environmental Health Centers</i>	\$2,000,000	\$2,000,000	\$0
<i>Fresh Connect</i>	\$625,000	\$625,000	\$0
<b>Brownfield Opportunity Area grants</b>	<b>\$1,500,000</b>	<b>\$2,000,000</b>	<b>\$500,000</b>
<b>Environmental Protection Fund Total</b>	<b>\$300,000,000</b>	<b>\$300,000,000</b>	<b>\$0</b>

*\*denotes new program*



# Economic Development



STAFF ANALYSIS OF  
THE 2020-21 EXECUTIVE BUDGET



## Economic Development Highlights

### Appropriations

- **Regional Economic Development Council Initiative:** The Executive Budget proposes \$150 million in capital funding for SFY 2020-21 for the Tenth Round of the Regional Economic Development Councils.
- **New York Works Economic Development Fund:** The Executive Budget proposes \$220 million in capital funding for the New York Works Economic Development fund, the same as SFY 2019-20.
- **High Technology Matching Grants:** The Executive Budget proposes \$6 million in General Fund spending for the High Technology Matching Grants Program, the same level of funding as the three previous years.
- **Consolidation of Centers of Excellence and Centers for Advanced Technology:** The Executive Budget proposes consolidation of Centers of Excellence (COE) into pre-existing Centers for Advanced Technology (CAT), with a combined fund of \$19.5 million.
- **Diversity Job Training:** The Executive Budget proposes \$2 million for hiring and keeping a diverse workforce in the motion picture and television industries.
- **Minority and Women-Owned Business Development:** The Executive Budget proposes \$635,000 in SFY 2020-21 General Fund spending for the Minority and Women-Owned Business Development and Lending Program.

### Article VII

- **Extend Authorization of the New York State Urban Development Corporation to Administer the Empire State Economic Development Fund (TED Part EE):** The Executive proposes legislation that would extend the authority of the UDC to administer the Economic Development Fund through July 1, 2021, a one year extension.
- **Extend the General Loan Powers of the New York State Urban Development Corporation (TED Part FF):** The Executive proposes legislation that would extend the loan powers of the UDC to July 1, 2021, a one year extension..
- **Amend Economic Transformation Program Eligibility (TED Part GG):** The Executive proposes legislation that would amend the eligibility for the Economic Transformation and Facility Redevelopment Program.
- **Consolidation of Centers of Excellence and Centers for Advanced Technology (TED Part BBB):** The Executive proposes legislation that would merge the Centers of Advanced Technology (CAT) and Center of Excellence (COE) programs.
- **Make Permanent the New York Buy American Act (TED Part EEE):** The Executive proposes legislation that would make permanent the New York Buy American Act.

## Economic Development Agency Details

Economic Development Agency All Funds Appropriations				
Agency	Available SFY 2019-20	Executive Recommendation SFY 2020-21	\$ Change	% Change
Department of Economic Development	\$93,006,000	\$87,603,000	(\$5,403,000)	-6%
Empire State Development Corporation	\$934,584,000	\$477,940,000	(\$456,644,000)	-49%
<b>Total</b>	<b>\$1,027,590,000</b>	<b>\$565,543,000</b>	<b>(\$462,047,000)</b>	<b>-45%</b>

### Overview

The Executive Budget proposes \$565.5 million in All Funds appropriations for State Agencies within the economic development functional area in SFY 2020-21, a decrease of \$462 million (or 45 percent) from SFY 2019-20 Budget levels. This decrease largely reflects the elimination of a \$325 million one-time capital appropriation for the High Technology Innovation and Economic Development Infrastructure, and \$110 million for NYSUNY and NYCUNY 2020 capital projects.

### Department of Economic Development (DED)

The Executive Budget proposes \$87.6 million in All Funds appropriations for the Department of Economic Development, a decrease of \$5.4 million (or 6 percent) from SFY 2019-20. This decrease largely reflects \$7.2 million cut from the consolidation of the Centers of Excellence and Centers for Advanced Technologies Program, offset by \$2 million for the Diversity Job Training Development Fund.

Please refer to the Department of Economic Development State Operations and Aid to Localities charts on the next page for more details.

### Empire State Development Corporation (ESDC) a/k/a Urban Development Corporation

The Executive Budget proposes All Funds appropriations totaling \$477.9 million for the Empire State Development Corporation in SFY 2020-21, a decrease of \$456.6 million (or 49 percent) from SFY 2019-20. This decrease largely reflects the elimination of a \$325 million one-time capital appropriation for the High Technology Innovation and Economic Development Infrastructure, and \$110 million for NYSUNY and NYCUNY 2020 capital projects.

Please refer to the Empire State Development Aid to Localities and Capital Funding charts on the following page for more details.

Department of Economic Development			
State Operations			
Program	Enacted SFY 2020	Executive SFY 2021	Change
Administration State Purposes Account	\$3,207,000	\$3,207,000	\$0
Additional Contractual Services for Database of Deals	\$500,000		(\$500,000)
Clean Air Program	\$387,000	\$387,000	\$0
Ec Dev Program State Purposes Account	\$11,691,000	\$12,191,000	\$500,000
Fed Misc Grants Account	\$2,000,000	\$2,000,000	\$0
Diversity Job Training Development Fund	\$0	\$2,000,000	\$2,000,000
Procurement Opportunities Newsletter Acct	\$885,000	\$885,000	\$0
Marketing and Advertising State Purposes Account	\$2,337,000	\$2,337,000	\$0
Tourism Marketing	\$2,500,000	\$2,500,000	\$0
Commerce Economic Development Assistance Acct	\$3,188,000	\$3,188,000	\$0
<b>Total</b>	<b>\$26,695,000</b>	<b>\$28,695,000</b>	<b>\$2,000,000</b>

Department of Economic Development			
Aid to Localities			
Program	Enacted SFY 2020	Executive SFY 2021	Change
Centers of Excellence	\$9,595,663	\$0	(\$9,595,663)
Additional Services and Expenses of Centers of Excellence	\$2,704,337	\$0	(\$2,704,337)
Centers for Advanced Technology	\$13,818,000	\$19,500,000	\$5,682,000
Additional Centers for Advanced Technology	\$591,000	\$0	(\$591,000)
Technology Development Organization Matching Grants	\$1,382,000	\$1,382,000	\$0
Additional Technology Development Organization Matching Grants	\$609,000	\$0	(\$609,000)
Industrial Technology Extension Service	\$921,000	\$921,000	\$0
SUNY Polytechnic Institute and RPI Focus Center	\$3,006,000	\$3,006,000	\$0
High Technology Matching Grants Program	\$6,000,000	\$6,000,000	\$0
NYS Innovation Hot Spots and Incubators	\$5,000,000	\$5,000,000	\$0
Small Business Innovation Research	\$0	\$1,500,000	\$1,500,000
Tourism Promotion Matching Grants	\$3,815,000	\$3,815,000	\$0
Addl Tourism Promotion Matching Grants	\$593,000	\$0	(\$593,000)
Local Tourism Promotion	\$100,000	\$0	(\$100,000)
Beekmantown Gateway Information Center	\$196,000	\$0	(\$196,000)
Binghamton Gateway Information Center	\$196,000	\$0	(\$196,000)
Agritourism	\$3,971,000	\$3,971,000	\$0
Science and Technology Law Center Program	\$343,000	\$343,000	\$0
Manufacturing Extension Partnership Prog Acct	\$12,000,000	\$12,000,000	\$0
Matching Funds for Manufacturing Extension Partnership Prog	\$1,470,000	\$1,470,000	\$0
<b>Total</b>	<b>\$64,841,000</b>	<b>\$57,438,000</b>	<b>(\$7,403,000)</b>

Empire State Development Corporation (UDC)			
Capital			
Program	Enacted SFY 2020	Executive SFY 2021	Change
Clarskon-Trudeau Partnership	\$5,000,000	\$0	(\$5,000,000)
NYSUNY 2020	\$55,000,000	\$0	(\$55,000,000)
NYCUNY 2020	\$55,000,000	\$0	(\$55,000,000)
Retention of Pro Football in Western NY	\$2,331,000	\$2,357,000	\$26,000
Market NY Program	\$8,000,000	\$8,000,000	\$0
New York Works Economic Development Fund	\$220,000,000	\$220,000,000	\$0
Regional Economic Development Council Initiative	\$150,000,000	\$150,000,000	\$0
Life Sciences Lab and Public Health Initiative in Capital District	\$0	\$0	\$0
High Technology Innovation & Economic Development Infrastructure	\$325,000,000	\$0	(\$325,000,000)
<b>Total</b>	<b>\$820,331,000</b>	<b>\$380,357,000</b>	<b>(\$439,974,000)</b>

Empire State Development Corporation (UDC)			
Aid to Localities			
Program	Enacted FY 2020	Executive FY 2021	Change
Minority and Women-Owned Business Development and Lending F	\$635,000	\$635,000	\$0
Addl Minority and Women-Owned Business Development	\$365,000	\$0	(\$365,000)
Addl Federal Community Development Financial Institutions Prog	\$150,000	\$0	(\$150,000)
Federal Community Development Financial Institutions Prog	\$1,495,000	\$1,495,000	\$0
Entrepreneurial Assistance Program	\$490,000	\$490,000	\$0
Addl Entrepreneurial Assistance Program	\$1,274,000	\$1,274,000	\$0
Empire State Economic Development Fund	\$26,180,000	\$26,180,000	\$0
Program Administration for State Ec Dev Initiatives	\$44,500,000	\$42,500,000	(\$2,000,000)
Addl Program Administration (including NYS census)	\$20,000,000	\$10,000,000	(\$10,000,000)
Market NY Program	\$7,000,000	\$7,000,000	\$0
Urban and Community Development Program	\$3,404,000	\$3,404,000	\$0
Women's Enterprise Development Center, Inc.	\$20,000	\$0	(\$20,000)
The Joint Bellrose Business District Development Corporation	\$50,000	\$0	(\$50,000)
Bronx Overall Economic Development Corporation	\$550,000	\$0	(\$550,000)
Bronx Cooperative Development Initiative	\$25,000	\$0	(\$25,000)
Brooklyn Alliance, Inc.	\$500,000	\$0	(\$500,000)
Brooklyn Chamber of Commerce	\$300,000	\$0	(\$300,000)
Brooklyn Neighborhood Improvement Association	\$100,000	\$0	(\$100,000)
Harlem Park to Park Initiative	\$100,000	\$0	(\$100,000)
New York Women's Chamber of Commerce	\$100,000	\$0	(\$100,000)
Queens Chamber of Commerce	\$500,000	\$0	(\$500,000)
Queens Economic Development Council	\$100,000	\$0	(\$100,000)
Adirondack North Country, Inc.	\$100,000	\$0	(\$100,000)
North Country Chamber of Commerce	\$200,000	\$0	(\$200,000)
Bayside Business Association	\$50,000	\$0	(\$50,000)
Buffalo Niagara Partnership	\$150,000	\$0	(\$150,000)
Invest Buffalo Niagara, Inc	\$50,000	\$0	(\$50,000)
Buffalo Niagara International Trade Gateway Organization	\$50,000	\$0	(\$50,000)
World Trade Center Buffalo Niagara	\$50,000	\$0	(\$50,000)
Kingsbridge Riverdale Van Cortland Development Corp	\$140,000	\$0	(\$140,000)
Retention of Pro Football	\$4,605,000	\$4,605,000	\$0
CenterState CEO	\$100,000	\$0	(\$100,000)
Canisius College	\$150,000	\$0	(\$150,000)
Canisius College for NCAA Hockey	\$100,000	\$0	(\$100,000)
Stony Brook Medicine's National Cancer Institute	\$670,000	\$0	(\$670,000)
<b>Total</b>	<b>\$114,253,000</b>	<b>\$97,583,000</b>	<b>(\$16,670,000)</b>

## **Article VII**

- **Internet Neutrality Requirements and Enforcement (TED Part AA):** The Executive proposes legislation prohibiting any Internet Service Provider (ISP) in the State from blocking, throttling, paid-prioritizing, zero-rating or manipulating access to the Internet through any other means, except when necessary for technical or public safety reasons. ISPs use such practices to provide speed up or slow down particular services to give their affiliates and partners a competitive advantage. The proposal further authorizes the Public Service Commission and the Attorney General to enforce this prohibition. This legislation also provides for a private right of action against the ISP for willful violation or deceptive

practices. Lastly, the legislation codifies provisions of Executive Order No. 175, prohibiting public agencies from procuring services from ISPs that do not adhere to internet neutrality principles.

- **Extending DASNY’s Authority to Create Subsidiaries (TED Part CC)**: The Executive proposes extending authorization for the Dormitory Authority of the State of New York (DASNY) to create subsidiaries to limit potential liability of the Authority, to July 1, 2024. Current law requires such subsidiaries to be structured as public benefit corporations controlled entirely DASNY. This authorization was last extended in 2018 and expires on July 1, 2020. Currently, DASNY has two subsidiaries, NGHP Holding Corporation and Atlantic Avenue Healthcare Property Holding Corporation.
- **Amend Economic Transformation Program Eligibility (TED Part GG)**: The Executive proposes legislation that would amend eligibility requirements for the Economic Transformation and Facility Redevelopment Program. Under current law, eligibility for the program is limited to businesses affected by prison closures between April 1, 2011 and March 31, 2012. This legislation eliminates the March 31, 2012 deadline, thereby allowing any business affected by a prison closure from 2011 onward to apply for the aid. The program provides job creation and investment incentives for firms located within a certain distance of closed prison facilities. Tax credits are also provided to businesses in the community around the closure to assist with the rebuilding of businesses.
- **Consolidation of Centers of Excellence and Centers for Advanced Technology (TED Part BBB)**: The Executive proposes legislation that would merge the Centers of Advanced Technology (CAT) and Center of Excellence (COE) programs. Both programs are funded by Empire State Development’s Division of Science, Technology, and Innovation (NYSTAR) and are generally intended to foster collaboration between the academic research community and the private sector to promote investment in emerging technologies. The CAT program is distinguishable as it is a competitive application process.

There are 13 COEs and 15 CATs. The Executive proposal would eliminate the COE program altogether. The CAT program would remain in existence, and the statute is amended to give the Department of Economic Development (or ESD) authority to run the program instead of NYSTAR. Under the proposal, any entities who are currently participating in the COE program can apply to receive designation as a CAT. Traditionally, Centers of Excellence are funded within the Executive Budget at \$12.3 million, and Centers for Advanced Technology are funded at \$14.4 million. The SFY 2020-21 Executive Budget combined appropriation is \$19.5 million; a decrease of \$7.2 million.

- **Making the New York Buy American Act Permanent (TED Part EEE)**: The Executive proposes legislation that would make the New York Buy American Act permanent. Enacted in December 2017, Buy American requires all construction, reconstruction, alteration, repair, maintenance or improvement projects on roads and bridges over \$1 million awarded by the DOT, OGS, SUNY, DASNY, MTA, Bridge Authority, and Thruway Authority to use domestic iron and steel. This law is set to expire April 15, 2020.

The law contains exceptions for the following instances: where the purchasing mandate is not in the public interest, where it would jeopardize receipt or ability to apply for federal funds, if there is an “immediate or emergency need,” if iron or steel is not manufactured in sufficient

quantities or two quality or design standards, the steel or iron is necessary for critical infrastructure repairs, or due to reciprocal trade agreements. When the Act was proposed in 2017, the European Union opposed the legislation, noting that the EU is a significant export market and job source for New York and that nearly 300,000 New York jobs are supported by European investment.

# Racing and Gaming



## Racing and Gaming Highlights

### Gaming Commission

The SFY 2020-21 Executive Budget recommends \$432.5 million All Funds for the Gaming Commission, an increase of \$24.0 million (5.9 percent) from the amount appropriated in SFY 2019-20. The Executive Budget recommends continuing a \$100,000 State Operations appropriation for the Racing Fan Advisory Council and provides an increase of \$24 million (8.1 percent) in Aid to Localities. This Aid to Localities \$24 million increase is due to uncertainty with the Tribal State Compact, the unpredictability of commercial gaming revenues, and the timing of payments to localities.

Gaming Commission All Funds Appropriations				
Category	Available SFY 2019-2020	Executive Recommendation SFY 2020-2021	\$ Change	% Change
State Operations	\$113,514,000	\$113,514,000	\$0	0.00%
Aid To Localities	\$295,000,000	\$319,000,000	\$24,000,000	7.50%
<b>Total</b>	<b>\$408,514,000</b>	<b>\$432,514,000</b>	<b>\$24,000,000</b>	<b>5.50%</b>

### Tribal State Compact

The Executive Budget recommends an appropriation of \$257.0 million for the Tribal State Compact Revenue Program, which represents the local share of the State's estimated revenues from Native American casinos. The Executive Budget also recommends an appropriation of \$62.0 million for the Gaming Program, which represents the local share of the State's estimated revenues from commercial casino gaming revenues.

Under State Finance Law, in instances where the State receives monies from Native American casino revenues as part of the terms of a compact held with the State, the State must provide aid to the local host government of the casino and the surrounding counties within that tribe's exclusivity zone. The local host of the casino may receive up to 25 percent of the State's share of compact revenues, while the surrounding non-host counties within the exclusivity zone receive 10 percent of the State's share of compact revenues, distributed on a per-capita basis.

The Executive Budget recommendation provides overall funding of \$6 million for Madison and Oneida counties. Madison County previously received \$2.25 million in funding, but the Executive's increase of \$1.5 million to \$3.5 million is a recognition of the opening of Point Place, the second casino in Madison County. Madison County previously received impact payments due to the location of the Oneida Indian Nation's Yellow Brick Road Casino in the county. As part of the Executive Budget, Oneida County will receive \$2.5 million in shared host community gaming revenue as part of the Executive Budget proposal.

The State also has a compact agreement with the Seneca Nation, which requires exclusivity payments on slot machine revenue from the Seneca Niagara, Seneca Allegany, and Seneca Buffalo Creek Casinos. The State also has compact agreements with the St. Regis Mohawk Tribe, which requires exclusivity payments on slot machine revenue from the Akwesasne Mohawk Casino, and

with the Oneida Nation, which requires exclusivity payments from slot machine revenue from Turning Stone, Yellow Brick Road, and Point Place Casinos.

Tribal State Compact receipts are estimated to increase primarily due to potential for the anticipated receipt of outstanding payments owed by the Seneca Nation since the onset of SFY 2017-18. The Seneca Tribe has been withholding payments to New York since spring 2017, arguing that the 2002 revenue sharing compact between the State and the Tribe does not speak to how revenue would be shared after 2016. Following an arbitration panel ruling, a U.S. District Court judge has ordered the Seneca Nation to pay New York State more than \$255 million.

### **Racing Reform Program**

Funding for the Racing Reform Program facilitated and financed activities associated with the implementation of Chapter 354 of the Laws of 2005 as amended by Chapters 18 and 140 of the Laws of 2008, which together established the Non-Profit Racing Association Oversight Board and made significant reforms to racing and gaming regulations. The SFY 2020-21 Executive Budget recommends State Operations reappropriation support of \$1.6 million. These reappropriations are available to finance any State costs resulting from this legislation.

### **Video Lottery Gaming**

The historical mission of the New York State Division of the Lottery (Lottery) is to raise revenue for education by administering Lottery games. In 2001, the Legislature approved the installation of Video Lottery Terminals (VLTs) at the State's horse racing facilities to complement the Lottery's pre-existing games of chance. For districts eligible to receive Foundation Aid, a share of video lottery terminal (VLT) proceeds is computed by multiplying each district's share of the total SA1617 3609-a general aid amount, expressed as a percent, by the VLT appropriation for the current year.

VLTs are in use at Batavia Downs Gaming, Empire City Casino by MGM Resorts, Finger Lakes Gaming & Racetrack, Hamburg Gaming, Jake's 58 (Suffolk OTB facility), Resorts World Casino (which also hosts the Nassau OTB machines), Saratoga Casino, and Vernon Downs Casino. In SFY 2018-19, approximately 64 percent of the education funding contribution from VLT facilities was derived from Resorts World and Empire City. The table below shows the current statutory distribution of VLT Net Machine Income (NMI) (after prize payouts). VLT receipts are distributed among education funding, agent commission, and the remaining allowance for administration expenses.

<b>VLT Receipts Distribution By Location (After Prize Payout)</b>			
<b>VLT Facility</b>	<b>Education Funding</b>	<b>Agent Commission</b>	<b>Administrative Allowance</b>
Hamburg Gaming	34.00%	56.00%	10.00%
Vernon Downs	34.00%	56.00%	10.00%
Batavia Downs	39.00%	51.00%	10.00%
Resorts World	40.00%	50.00%	10.00%
Nassau Downs OTB	45.00%	45.00%	10.00%
Jakes's 58	45.00%	45.00%	10.00%
Saratoga	50.50%	39.50%	10.00%
Empire City	50.50%	39.50%	10.00%
Finger Lakes	52.50%	37.50%	10.00%

### Gaming Receipts

<b>Gaming Receipts By Component FY 2019</b>							
<b>Component</b>	<b>Lottery</b>	<b>VLTs</b>	<b>Casinos</b>		<b>IFS**</b>	<b>TSC***</b>	<b>All Funds</b>
<b>Distribution</b>	Education	Education	Education	Localities*	Education	Total	<b>Total</b>
<b>Gaming Receipts</b>	\$2,533	\$939	\$136	\$34	\$5	\$90	\$3,996

Notes: \*A portion of commercial gaming casinos (20 percent) receipts are directed to localities.

\*\* IFS stands for Interactive Fantasy Sports.

\*\*\* TSC stands for Tribal State Compact.

## SFY 2020-21 Executive Article VII Racing and Gaming Bills

- **Build a New Equine Drug Testing Lab (REV Part V)**: The Executive Budget authorizes the New York Racing Association (NYRA) to use their capital funds to finance, construct, and equip a new equine drug testing laboratory. The Gaming Commission would then operate or contract for the operation of the laboratory. Under current law, the Gaming Commission must use a “state college within the state with an approved equine science program.” Currently, Morrisville College is the only qualified provider for equine drug testing in New York State. Capital expenditures are presently limited by statute to maintaining and upgrading the Aqueduct, Belmont Park, and Saratoga racetracks. The SFY 2019-20 Executive Budget proposed to remove the Morrisville Equine Drug Lab Restriction by allowing for other equine drug testing laboratories to be used by the Gaming Commission. This proposal was intentionally omitted from the SFY 2019-20 Enacted Budget.  
*State Fiscal Impact: This proposal does not impact the State Financial Plan.*
- **Authorize Entry into the Mid-Atlantic Drug Compact (REV Part W)**: The Executive Budget proposes to authorize the Gaming Commission to enter the Mid-Atlantic Drug Compact. This measure was proposed in the SFY 2019-20 Executive Budget, but was omitted from the Enacted Budget. The Mid-Atlantic Equine Drug Testing Compact was created for the purpose of adopting and implementing thoroughbred industry drug, medication, and laboratory testing rules, regulations, and procedures. Under this Compact, a Compact Commission will propose, consider, and adopt uniform rules and regulations relating to thoroughbred equine medication practices and drug testing. This Compact would allow participating states to implement model rules and policies for Thoroughbred racing at the same time. Proposed rules are subject to public comment and would require an 80 percent supermajority of participating states in order to take effect. Maryland and Delaware adopted the Compact in 2018, and it is currently under consideration in West Virginia, New Jersey, and Pennsylvania.  
*State Fiscal Impact: This proposal does not impact the State Financial Plan.*
- **Amend Sports Wagering Lounge Restrictions (REV Part X)**: Commonly referred to as the business of “sports betting,” sports pools accept wagers on sports events by various systems and methods of wagering. Under current law, a sports pool can only be operated in a sports wagering lounge inside a casino. The Executive Budget proposes to end the limitation of allowing sports wagering only in designated sports lounges. This measure would allow for sports wagering outside of the sports wagering lounge, but would still limit sports wagering to within the casino.  
*State Fiscal Impact: This proposal does not impact the State Financial Plan.*
- **Eliminate Quick Draw Minimum Size Restriction (REV Part Y)**: The Executive Budget would eliminate the current 2,500 square foot size restriction that limits which locations can offer Quick Draw. This measure would expand the current number of eligible license agents to approximately 17,000. Under current law, Quick Draw retailers must be at least 2,500 square feet or have an on-premises consumption license from the New York State Liquor Authority.  
*State Fiscal Impact: This proposal would increase All Funds State revenue by \$15 million in SFY 2020-21 and \$30 million in SFY 2021-22.*
- **Extend Pari-Mutuel Tax Rates and Simulcast Provisions for One Year (REV Part Z)**: The Executive Budget would extend the current pari-mutuel tax rate structure and other racing-

related provisions for one year. These provisions have been extended numerous times since their original enactment, most recently in SFY 2019-20.

*State Fiscal Impact: This proposal does not impact the State Financial Plan.*



# Labor and Workforce



STAFF ANALYSIS OF  
THE 2020-21 EXECUTIVE BUDGET



## Labor and Workforce Highlights

### Appropriations

- **Reduction in State Workforce:** The State Workforce would decrease by 1,077 Full Time Employees (FTEs) from March 2020 Estimates to March 2021 Estimates.
- **Employment and Training Program Reductions:** The Executive Budget does not include numerous appropriations added by the Legislature for various employment and training programs, which totaled \$13 million in SFY 2019-20.

### Article VIIIs

- **Janus v. AFSCME Response:** The Executive Budget proposes legislation that will allow employers to share personal information about new hires with employee organizations without risking an improper practice charge. The proposal also requires that employers provide minimum of ten days' notice of orientations to employee organizations.
- **Guarantee Access to Sick Leave:** The Executive proposes legislation requiring every employer in the state to provide sick leave.
- **Require Prevailing Wage to be Paid on Certain Private Construction Projects:** The Executive proposes legislation establishing prevailing wage requirements applicable to construction projects performed under private contract. It establishes a Public Subsidy Board that may alter the proposal in the future. Construction work is covered if at least 30 percent of the total construction costs and the project costs over \$5 million dollars, subject to various outlined exemptions.
- **Establish the New York Digital Marketplace Worker Classification Task Force:** The Executive proposes the creation of a task force to provide the Governor and Legislature with a legislative recommendation addressing conditions of employment and classification of gig economy workers. The Executive further proposes that the Commissioner of Labor promulgate regulations determining the classification of digital marketplace workers and may exempt any company if the company enters into a collective bargaining agreement.

## Labor And Workforce Agency Details

<b>Labor and Workforce Agency All Funds Appropriations</b>				
<b>Agency</b>	<b>Available SFY 2019-2020</b>	<b>Executive Recommendation SFY 2020-2021</b>	<b>Change</b>	<b>% Change</b>
Department of Labor	\$3,631,178,000	\$3,618,163,000	(\$13,015,000)	-0.4%
Labor Management Committees	\$38,555,000	\$33,222,000	(\$5,333,000)	-13.8%
General State Charges	\$6,038,328,000	\$6,266,876,000	\$228,548,000	3.8%
Department of Civil Service	\$56,741,000	\$56,741,000	\$0	0.00%
Workers' Compensation Board	\$196,439,000	\$196,439,000	\$0	0.0%
Workers' Compensation Reserve	\$9,590,000	\$9,590,000	\$0	0.0%
Office of Employee Relations	\$8,683,000	\$8,683,000	\$0	0.0%
Deferred Compensation Board	\$892,000	\$892,000	\$0	0.0%
Public Employment Relations Board	\$4,056,000	\$4,056,000	\$0	0.0%
<b>Total Labor and Workforce</b>	<b>\$9,984,462,000</b>	<b>\$10,194,662,000</b>	<b>\$210,200,000</b>	<b>2.1%</b>

### **Overview**

The Executive Budget proposes approximately \$10 billion in All Funds appropriations for the agencies comprising the Labor and Workforce functional area in SFY 2019-20-21. This is an increase of approximately \$210.2 million, or 2.1 percent over SFY 2019-20. The largest dollar change is in the General State charges budget, which supports the costs of State employee and retiree fringe benefits and pays other State responsibilities, such as taxes on State-owned land and payments in lieu of taxes (PILOTS).

### **Department of Labor**

The Executive Budget proposes \$3.6 billion in All Funds appropriations for the Department of Labor (DOL), which is a decrease of approximately \$13 million from SFY 2019-20 levels. None of the approximately \$13 million in legislative adds for various employment and training programs are included in the Executive Budget. The DOL's workforce will remain constant at 2,987 FTEs, which is the same as in SFY 2019-20.

### **Department of Civil Service**

The Executive Budget proposes \$58.7 million in All Funds appropriations for the Department of Civil Service, which would remain flat from SFY 2019-20 levels. The Executive Budget would continue to reimburse costs related to providing sick leave for employees with a qualifying World Trade Center condition. FTEs will remain constant at 362 FTEs.

Workforce Impact Summary								
All Funds								
FY 2019 Through FY 2021								
	FY 2019 Actuals (03/31/19)	Starting Estimate (03/31/20)	Attritions	New Fills	Fund Shifts	Mergers	Net Change	Ending Estimate (03/31/21)
<b>Major Agencies</b>								
Children and Family Services, Office of	3,008	2,919	(541)	478	0	0	(63)	2,856
Corrections and Community Supervision, Department of	29,117	28,803	(2,027)	780	0	0	(1,247)	27,556
Education Department, State	2,606	2,692	(269)	269	0	0	0	2,692
Environmental Conservation, Department of	2,996	3,115	(234)	281	0	0	47	3,162
Financial Services, Department of	1,342	1,391	(145)	145	0	0	0	1,391
General Services, Office of	1,803	1,971	(145)	149	0	0	4	1,975
Health, Department of	4,715	5,615	(467)	505	0	(16)	22	5,637
Information Technology Services, Office of	3,566	3,451	(140)	140	0	0	0	3,451
Labor, Department of	2,838	2,987	(324)	324	0	0	0	2,987
Mental Health, Office of	13,856	13,757	(2,037)	1,932	0	0	(105)	13,652
Motor Vehicles, Department of	2,363	2,815	(571)	571	0	0	0	2,815
Parks, Recreation and Historic Preservation, Office of	2,010	2,041	(152)	174	0	0	22	2,063
People with Developmental Disabilities, Office for	19,037	18,590	(2,430)	2,430	0	0	0	18,590
State Police, Division of	5,784	5,741	(260)	260	0	0	0	5,741
Taxation and Finance, Department of	3,806	4,085	(86)	86	0	0	0	4,085
Temporary and Disability Assistance, Office of	1,995	1,987	(224)	224	0	0	0	1,987
Transportation, Department of	8,442	8,520	(383)	383	0	0	0	8,520
Workers' Compensation Board	1,044	1,109	(56)	56	0	0	0	1,109
<b>Subtotal - Major Agencies</b>	<b>110,328</b>	<b>111,589</b>	<b>(10,491)</b>	<b>9,187</b>	<b>0</b>	<b>(16)</b>	<b>(1,320)</b>	<b>110,269</b>
<b>Minor Agencies</b>	<b>7,639</b>	<b>8,373</b>	<b>(912)</b>	<b>1,209</b>	<b>0</b>	<b>16</b>	<b>313</b>	<b>8,686</b>
<b>Subtotal - Subject to Direct Executive Control</b>	<b>117,967</b>	<b>119,962</b>	<b>(11,403)</b>	<b>10,396</b>	<b>0</b>	<b>0</b>	<b>(1,007)</b>	<b>118,955</b>
<b>University Systems</b>								
City University of New York	13,806	13,730	0	0	0	0	0	13,730
State University Construction Fund	142	141	0	0	0	0	0	141
State University of New York	46,448	46,836	0	0	0	0	0	46,836
<b>Subtotal - University Systems</b>	<b>60,396</b>	<b>60,707</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>60,707</b>
<b>Independently Elected Agencies</b>								
Audit and Control, Department of	\$2,610	\$2,663	(\$134)	\$134	\$0	\$0	\$0	\$2,663
Law, Department of	\$1,826	\$1,839	(\$89)	\$89	\$0	\$0	\$0	\$1,839
<b>Subtotal - Independently Elected Agencies</b>	<b>\$4,436</b>	<b>\$4,502</b>	<b>(\$223)</b>	<b>\$223</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$4,502</b>
<b>Agency Total</b>	<b>\$182,799</b>	<b>\$185,171</b>	<b>(\$11,626)</b>	<b>\$10,619</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$1,007)</b>	<b>\$184,164</b>

Workforce Impact Summary								
All Funds								
FY 2019 Through FY 2021								
	FY 2019 Actuals (03/31/19)	Starting Estimate (03/31/20)	Attritions	New Fills	Fund Shifts	Mergers	Net Change	Ending Estimate (03/31/21)
<b>Minor Agencies</b>								
Addiction Services and Supports, Office of	728	737	(92)	92	0	0	0	737
Adirondack Park Agency	49	54	(1)	1	0	0	0	54
Aging, Office for the	89	95	(16)	16	0	0	0	95
Agriculture and Markets, Department of	461	512	(26)	66	0	0	40	552
Alcoholic Beverage Control, Division of	108	120	(18)	193	0	16	191	311
Arts, Council on the	28	30	(3)	3	0	0	0	30
Budget, Division of the	252	261	(55)	55	0	0	0	261
Civil Service, Department of	346	362	(66)	66	0	0	0	362
Correction, Commission of	30	32	(2)	2	0	0	0	32
Criminal Justice Services, Division of	413	435	(32)	32	0	0	0	435
Deferred Compensation Board	4	4	0	0	0	0	0	4
Economic Development, Department of	139	153	(35)	35	0	0	0	153
Elections, State Board of	74	85	(7)	7	0	0	0	85
Employee Relations, Office of	75	77	(6)	6	0	0	0	77
Executive Chamber	112	136	(42)	42	0	0	0	136
Financial Control Board, New York State	10	13	0	0	0	0	0	13
Gaming Commission, New York State	397	430	(19)	19	0	0	0	430
Higher Education Services Corporation, New York State	156	176	(19)	19	0	0	0	176
Homeland Security and Emergency Services, Division of	559	614	(35)	35	0	0	0	614
Housing and Community Renewal, Division of	584	776	(69)	69	0	0	0	776
Hudson River Valley Greenway Communities Council	0	1	0	0	0	0	0	1
Human Rights, Division of	159	164	(33)	33	0	0	0	164
Indigent Legal Services, Office of	31	36	(3)	5	0	0	2	38
Inspector General, Office of the	81	92	(5)	5	0	0	0	92
Interest on Lawyer Account	9	9	0	0	0	0	0	9
Judicial Conduct, Commission on	38	43	(2)	2	0	0	0	43
Justice Center for the Protection of People with Special Needs	425	429	(68)	67	0	0	(1)	428
Labor Management Committees	68	77	(10)	10	0	0	0	77
Lieutenant Governor, Office of the	5	7	(1)	1	0	0	0	7
Medicaid Inspector General, Office of the	405	426	(42)	111	0	0	69	495
Military and Naval Affairs, Division of	382	405	(44)	44	0	0	0	405
Prevention of Domestic Violence, Office for	23	28	(2)	2	0	0	0	28
Public Employment Relations Board	30	33	(2)	2	0	0	0	33
Public Ethics, Joint Commission on	51	52	(2)	2	0	0	0	52
Public Service Department	489	528	(42)	42	0	0	0	528
State, Department of	491	565	(80)	92	0	0	12	577
Statewide Financial System	134	142	(10)	10	0	0	0	142
Tax Appeals, Division of	22	27	(1)	1	0	0	0	27
Veterans' Services, Division of	87	98	(5)	5	0	0	0	98
Victim Services, Office of	88	102	(16)	16	0	0	0	102
Welfare Inspector General, Office of	7	7	(1)	1	0	0	0	7
<b>Subtotal - Minor Agencies</b>	<b>7,639</b>	<b>8,373</b>	<b>(912)</b>	<b>1,209</b>	<b>0</b>	<b>16</b>	<b>313</b>	<b>8,686</b>

## General State Charges

The Executive Budget proposes \$6.3 billion in All Funds for General State charges, which is \$228.5 million or 4 percent higher than appropriation levels in SFY 2019-20. This is primarily due to an increase in employee and retiree health insurance (\$179 million), workers' compensation for injured workers (\$69 million), and payment of the Social Security payroll tax (\$34 million).

## Labor Management Committees

The Executive Budget proposes \$33.2 million in All Funds for Collective Bargaining Agreements (CBAs) that have been settled with enabling legislation enacted, which is \$5.3 million less than

was appropriated in SFY 2019-20 due to the current status of CBAs. Any costs of new CBAs will be incorporated within separate legislation. The Labor Management Committees' FTE count will remain constant at 77.

### **Public Employment Relations Board**

The Executive Budget proposes approximately \$4 million in All Funds appropriations for the Public Employment Relations Board (PERB). This appropriation is flat when compared with SFY 2019-20. PERB's FTE levels will remain constant at 33.

### **Workers' Compensation Board**

The Executive budget proposes \$196.4 million in All Funds appropriations for the Workers' Compensation Board (WCB). This appropriation is flat when compared with SFY 2019-20. The WCB's workforce will remain flat at 1,109 FTEs.

### **Workers' Compensation Reserve**

The Executive budget proposes \$9.6 million in All Funds appropriations for the Workers' Compensation Reserve (WCR). This appropriation is flat when compared with SFY 2019-20. There are no FTE's associated with this fund.

### **Office of Employee Relations**

The Executive Budget proposes \$8.7 million in All Funds appropriations for the Office of Employee Relations (OER). This appropriation is flat when compared with SFY 2019-20. OER's FTE levels will remain constant at 77.

### **Deferred Compensation Board**

The Executive Budget proposes \$892,000 in All Funds appropriations for the Deferred Compensation Board (DCB). This appropriation is flat when compared with SFY 2019-20. The DCB's workforce will remain constant at four FTEs.

### **Article VII**

- **Ceases Reimbursement of Income Related Monthly Adjustment Amount (IRMAA) to High-Income State Retirees and Caps Reimbursement of the Medicare Part B Premiums for State Retirees to 2020 Levels (PPGG Parts S & U):** The Executive Budget proposes legislation that would eliminate reimbursement of IRMAA to high income state retirees. This proposal would save the state \$3.7 million in the first quarter of 2021, increasing to \$15.7 million dollars in SFY 2020-21. The proposal would also limit reimbursement of Medicare Part B premiums paid to retirees at an amount equal to SFY 2019-20's standard Medicare premium charge, which is currently \$144.60. This proposal would result in savings of \$2.2 million in SFY 2020-21 and \$11.8 million in SFY 2021-22.

Under current law, all state retirees who vest lifetime health benefits and reach the age of 65 are enrolled in Medicare Part B in lieu of the state’s own health insurance. The State then reimburses State retirees for their Medicare Part B costs. Because the federal government sets premium rates, the reimbursement amount has increased over the years and increases automatically. This change would freeze the reimbursement rate and force the Legislature to negotiate for a statutory change in order to increase the premium reimbursement. Similar proposals have been rejected by the Legislature in each of the past several budgets.

### Standard Medicare Premium Rates 2012-2020

Standard Medicare Premium Rates 2012 - 2020					
2012	2013-2016	2017	2018	2019	2020
\$99.00	\$104.90	\$121.80	\$134.00	\$135.50	\$144.60

### IRMAA Premium Rates

IRMAA Premium Rates			
Single Retirees	Married Retirees	IRMAA Premium (monthly)	Total Premium (monthly)
Up to \$87,000	Up to \$174,000	\$0	\$144.60
\$87,001-\$109,000	\$174,001-\$218,000	\$57.80	\$202.40
\$109,001-\$136,000	\$218,001-\$272,000	\$144.60	\$289.20
\$136,001-\$163,000	\$272,001-\$326,000	\$231.40	\$376.00
\$163,001-\$500,000	\$326,001-\$750,000	\$318.10	\$462.70
Over \$500,000	Over \$750,000	\$347.00	\$491.60

- **Implement a Sliding Scale Reimbursement of Healthcare Costs for Future New York State Civilian Hires at Retirement (PPGG Part V):** The Executive Budget proposes an Article VII to scale healthcare reimbursement based upon years of service. This proposal would affect employees hired on or after October 1, 2020, and consequently any savings from this proposal would not be realized until at least 2030. This proposal would not apply to police officers, firefighters, uniformed personnel in the Department of Corrections and Community Supervision, security hospital treatment assistants or any State employee who has retired with ordinary, accidental, or performance of duty disability.

Currently, reimbursement of healthcare costs is the same for all retirees with over 10 years of state service, and such employees lock in lifetime healthcare benefits at the same reimbursement rate as an employee. Under this proposal, a sliding scale would be implemented so that only employees with 30 years of service would earn retiree healthcare at the current employee rate. The exact rates would vary based on employee grade and years of service in the following manner:

Sliding Scale Reimbursement of Healthcare Costs				
State Service	Proposed Single Premiums		Proposed Family Premiums	
	Grade 9 or lower	Grade 10 or higher	Grade 9 or lower	Grade 10 or higher
10 - 20 years	54% - 72%	50% - 68%	39% - 57%	35% - 53%
20 - 30 years	78% - 88%	74% - 84%	63% - 73%	59% - 69%

- Janus v. AFSCME Response (PPGG Part W):** The Executive Budget proposes legislation that will allow employers to share personal information about new hires with employee organizations without risking an improper practice charge. Legislation enacted in the SFY 2019-20 Budget established an improper practice charge to share the contact information of employees. The proposed language will ensure that employers continue to share information with employee organizations while maintaining the privacy protections enacted in prior legislation. The proposal also requires that employers provide minimum of ten days' notice of orientations to employee organizations. Finally, the legislation provides a technical correction to reflect that employers, unions, and the Comptroller are indemnified against claims on any dues (in addition to agency shop fees) collected prior to the *Janus* decision.
- Ensure Pay Equity at State and Local Public Authorities (PPGG Part Q):** The Executive proposes legislation that would extend recently enacted pay equity protections for State employees to employees of public authorities at the state and municipal level. This legislation mirrors changes made to Civil Service Law Section 115 enacted in Chapter 743 of the Laws of 2019 (S.456B/Benjamin).

This legislation establishes a policy of equal pay for all public authorities on the basis of protected class status. The legislation also outlines the various exceptions based on bona fide factors. Those factors include a system of pay based on seniority, one that measure earnings by quantity or quality of production, one that bases earnings on geographic differentials, or one based on collectively bargained agreements.

While many Public Authorities are treated as Municipal Civil Service Commissions and are covered by the Civil Service Law, it is not clear that all authority employees are afforded the same rights as State employees. This proposal aims to explicitly ensure that employees of State and local authorities are afforded the same pay equity protections as other State employees.

- Guarantee Access to Sick Leave (ELFA Part J):** The Executive proposes legislation requiring every employer in the state to provide sick leave each calendar year as follows:

  - Employers with four or fewer employees shall provide at least five days of unpaid sick leave.
  - Employers with between five and ninety-nine employees shall provide at least five days of paid sick leave.
  - Employers with one-hundred or more employees shall provide at least seven days of paid sick leave.

Employees shall accrue sick leave at a rate of no more than one hour per every thirty hours worked, beginning at the start of their employment or the effective date of the law, whichever

is later. The Commissioner of Labor shall have the authority to adopt regulations and issue guidance on these provisions including the standards for the accrual, use, payment, and employee eligibility of paid sick leave. The proposal further prohibits employers from penalizing or retaliating against employees for complaining that their employer has violated these provisions.

- **Require Prevailing Wage to be Paid on Certain Private Construction Projects (TED Part FFF):** The Executive proposes legislation establishing prevailing wage requirements applicable to construction projects performed under private contract. Construction projects are covered if (1) the project is paid for in whole or in part out of public funds, (2) when aggregated, such public funds constitute at least thirty percent of the total construction costs, and (3) the project costs over five million dollars. The proposal specifically includes and specifically exempts numerous types of projects as outlined below.

The proposal establishes a Public Subsidy Board that shall make binding recommendations and that could effectively rewrite provisions of the law and apply a different standard for future projects receiving public subsidies than provided for in this proposal. Specifically, the proposal states the board may examine and make binding recommendations on:

- The minimum dollar threshold percentage of public funds
- The minimum dollar threshold of projects
- Construction work excluded as a covered project
- The definition of construction
- Whether particular benefits, monies, or credits shall constitute public funds.

The Board, under the proposal, contains eleven members appointed by the Executive. One member shall be recommended by temporary president of the Senate, another by the speaker of the Assembly, one by the Commissioner of Labor, one by the President of the Empire State Development Corporation, and one by the Director of the Division of the Budget. Other members include a representative of employees in the construction industry, a representative of employers in the construction industry. The Commissioner of Labor shall be the chair. The board shall have the power to conduct public hearings.

Owners or developers of a property may seek guidance from the Board and the Board may render an opinion as to whether the project is a covered project. Any such determination shall not be reviewable by the Department of Labor or the fiscal officer.

“Paid for in whole or in part out of public funds” shall mean the following under this proposal:

- Payment of money by a public entity directly to or on behalf of the contractor, subcontractor, developer or owner that is not subject to repayment
- Savings achieved from fees, rents, interest rates, other loan costs, or insurance costs lower than market rate costs
- Savings from reduced taxes as a result of tax credits, tax abatements, tax exemptions, or tax increment financing
- Any other savings from reduced, waived, or forgiven costs that would have otherwise been at a higher or market rate but for the involvement of the public entity

- Money loaned by the public entity that is to be repaid on a contingent basis or
- Credits that are applied by the public entity against repayment of obligations to the public entity.

Under this proposal, any public entity providing any of the above funds must identify the nature and dollar value of the funds, whether they are otherwise excluded, and notify the recipient of the determination and of their obligations.

The proposal excludes these funding sources from deeming a project as being “paid for in whole or in part out of public funds:”

- 421-A Benefits
- Funds that are not provided primarily to promote, incentivize, or ensure that construction work is performed,
- Funds used to incentivize or ensure the development of a comprehensive sewage system (but the sewage work itself will still be considered a public work)
- Tax benefits provided for projects of which the value is not able to be calculated at the time the work is to be performed
- Any other public monies, credits, savings, or loans determined by the Public Subsidy Board to be exempt.

The proposal excludes the following types of construction projects:

- **Private dwellings:** Construction work performed on one- or two-family dwellings where the property is the owner’s primary residence, or where the owner owns no more than four dwelling units
- **Not-for-profit projects:** Construction work performed under contract with a non-profit where the non-profit has gross annual revenue less than \$5 million dollars
- **Affordable housing:** Construction work on privately owned housing where:
  - No less than 30 percent of the residential units are affordable up to 80 percent AMI and that the period of affordable housing is no less than fifteen years from the date of construction
  - No less than 35 percent of the residential units involves supportive housing services for vulnerable populations
  - Construction work is performed on an existing building paid in whole or in part out of public funds on affordable units to incentivize retention of those units, and are subject to a regulatory agreement with a government entity
  - Other affordable or subsidized housing as determined by the Public Subsidy Board
- **Manufactured home parks:** Construction work performed on a manufactured home park where such home park is subject to a regulatory agreement with a local, state, or federal government entity for no less than fifteen years
- **Projects subject to collective bargaining agreements:** Construction work performed under a pre-hire collective bargaining agreement between an owner or contractor and a bona fide building and trade labor union that has established itself as the representative for all workers on a project, provides that only contractors and subcontractors who sign a pre-negotiated agreement with the union can work on such a project, or construction work

performed under a labor peace agreement, project labor agreement, or any other enforceable agreement between an owner or contractor and a bona fide building and trade labor union

- **Downtown Revitalization:** Construction work performed on projects funded by section 16-N of the Urban Development Corporation Act or Downtown Revitalization Initiative
- **Renewable energy:** Construction work and engineering and consulting services performed in connection with the installation of a renewable heating or cooling system, or energy storage system, with a capacity equal to or under five megawatts
- **Supermarket retail space:** Construction work performed on supermarket retail space built or renovated under the Food Retail Expansion to Support Health (FRESH) program through the New York City Industrial Development Agency
- **Small Business Incubation programs:** Construction work performed for interior fit-outs and improvements under 10,000 square feet through small business incubation programs operated by the New York City Economic Development Corporation
- **Schools:** Construction work on space to be used as a school under 20,000 square feet pursuant to a lease from a private owner to the New York City Department of Education and the School Construction Authority
- **Brownfields:** Construction work performed on projects that received tax benefits related to brownfield mediation, brownfield redevelopment, and historic rehabilitation.

Owners and developers must certify under penalty of perjury within five days of the commencement of construction work whether the project at issue is subject to the requirements in this proposal, using a standard form developed by the fiscal officer. The owners and developers are responsible for retaining payroll records for six years from the conclusion of the project. The owner and developer may authorize the prime contractor to be responsible for payroll records, but they will still be held jointly and severally liable for any violations. Any records obtained by the fiscal officer will be subject to the Freedom of Information Law. The fiscal officer may issue rules and regulations governing the provisions under this proposal.

This proposal also identifies requirements necessary for the objective of diversity in the following ways:

- Each owner and developer of a covered project must comply with the objectives and goals of minority and women-owned business enterprises (MWBES).
- The Department of Labor, Division of Minority and Women's Business Development, and the Division of Service-Disabled Veterans' Business Development must make training and resources available to assist MWBES and service-disabled veteran-owned business enterprises on covered projects achieve and maintain compliance.
- The fiscal officer shall report to the Executive, Senate, and Assembly by July 1, 2022 on the participation of MWBES in relation to covered projects and contracts for public works as well as the diversity practices of contractors and subcontractors employing laborers, workers, and mechanics on such projects. The report shall include aggregated data on utilization and participation of MWBES, including Employment of minorities and women in construction-related jobs, the commitment of contractors and subcontractors to adopt practices and policies that promote diversity in the work force, and the compliance of

contractors and subcontractors with other equal employment opportunity requirements and anti-discrimination laws.

- The fiscal officer may require any owner or developer to disclose information on the participation of MWBEs and diversity practices of contractors and subcontractors in the performance of any covered project.
- All apprenticeship programs must report data on the total number of apprentices, the demographic information of such apprenticeships, the rate of advancement and graduation of apprentices, and the rate of placement of apprentices onto job sites including demographic information of such apprentices that are placed. This data will be publicly available on the Department of Labor website by July 1, 2022 and on an annual basis no later than December 31 of each following year.

The proposal further identifies methods in which the Fiscal Officer may enforce these provisions, including the issuance of a stop-work order.

- **Establish the New York Digital Marketplace Worker Classification Task Force (TED Part GGG):** The Executive proposes the creation of a task force to provide the Executive and Legislature with a legislative recommendation addressing conditions of employment and classification of gig economy workers. The task force consists of nine members: seven members appointed by the Executive, one member appointed by the Temporary President of the Senate, and one member appointed by the Speaker of the Assembly. Members of the task force shall include but not be limited to representatives of impacted businesses, labor groups, and workers. The task force is required under the proposal to submit a report on May 1, 2020 containing a legislative recommendation containing the following:
  - The necessary wages sufficient to provide adequate maintenance and protect the health of gig economy workers, including benefits
  - The proper classification of workers
  - The criteria necessary to determine if a worker is an employee
  - Laws regulating health and safety for independent contractors
  - Collective bargaining
  - The availability of anti-discrimination and privacy protections for independent contractors
  - Any other statutory changes necessary.

The Executive further proposes that the Commissioner of Labor promulgate regulations determining the classification of digital marketplace workers. A “digital marketplace company” is defined as an entity that operates a website or smartphone application, or both, that customers use to purchase, schedule, or arrange services including but not limited to repair, maintenance, construction, painting, assembly, cleaning, laundry, housekeeping, delivery, transportation, cooking, tutoring, massage, acupuncture, babysitting, home care, healthcare first aid, companionship, or instruction, whether such entity utilizes one or more individuals to provide such services. The entity also:

- Establishes the gross amounts earned by the individual providing services
- Establishes the amounts charged to the consumer
- Collects payment from the consumer
- Pays the individual, or

- Any combination of the prior factors.

These regulations must consider the following factors:

- Whether the individual is free from control and direction of the digital marketplace company
- Whether the individual performs work that is outside the usual course of the digital marketplace company's business
- Whether the individual is customarily engaged in an independently established trade, occupation, profession or business that is similar to the service at issue.

The Commissioner may exempt any company from the application of this provision if the company enters into a collective bargaining agreement.

- **Waive the State Police Maximum Age for Appointment for Individuals Employed as Park Police Officers (PPGG Part J):** The Executive proposes legislation to authorize the Division of State Police to waive the maximum age for appointment for individuals employed as a police officer in the Office of Parks, Recreation and Historic Preservation (OPRHP), where the appointment is a result of the State Police assuming the law enforcement responsibilities of OPRHP.
- **New York State Insurance Fund Small Business Relief – Investment Authority (PPGG Part GG):** The Executive proposes legislation authorizing the State Insurance Fund to invest in additional types of funds and securities. The State Insurance Fund (SIF) is a self-supporting, self-run nonprofit state agency that acts as a government insurance carrier providing workers' compensation and disability benefits for employers in New York State. It is the largest workers' compensation insurance carrier in New York and competes with private insurance carriers. It is required by law to provide the lowest possible premiums. Current law requires that it limit its investment of surplus or reserve funds to a list of approved securities described in the Banking Law. The Executive proposes striking this provision of law and provides that reserve funds instead be invested a category of investments described in the Insurance Law. The proposal further requires that any funds exceeding 70 percent of the aggregate of loss reserves, expense reserves, and unearned premium reserves be permitted to be invested in a category of investments described in the Insurance Law, except that these investments shall not be subject to the qualitative standards or quantitative limitations as set forth in the Insurance Law. The Executive claims that these measures will achieve savings for small businesses.
- **New York State Insurance Fund Small Business Relief – Audit Compliance Authority (PPGG Part HH):** The Executive proposes legislation authorizing SIF to cancel policies due to failure by the employer to cooperate with a payroll audit. Currently, SIF may only cancel policies due to non-payment of premiums and assessments. The proposal defines the terms under which the policy may be cancelled due to failure to cooperate with a payroll audit as follows:
  - If the employer fails to make or keep an appointment during regular business hours with a payroll auditor after SIF has made at least two attempts to arrange an appointment, including contacting the employer's broker or accountant, if any, or

- If the employer fails to furnish business records in the course of a payroll audit as required by existing law.

At least 15 days in advance of sending a notice of cancellation, the proposal requires SIF to send a warning notice specifying a means of contacting SIF to set up an audit appointment. Only one such warning notice is required. The employer is ineligible to contract for a subsequent policy with SIF until SIF receives full cooperation in completing any payroll audit on the cancelled policy and the billed premium on the cancelled policy is paid. The same is true for any employer owned or controlled, directly or indirectly, by any person or entity who directly or indirectly owns or controls an employer whose policy was cancelled for failure to cooperate with a payroll audit. These measures are currently in law for employers whose policies were cancelled for non-payment of premiums and assessments.

The proposal further requires employers insured by the fund to keep records on employee classification, employee accidents, and records on subcontractors without their own workers' compensation policies.

- **New York State Insurance Fund Small Business Relief – Out of State Coverage (PPGG Part II)**: The Executive proposes legislation expanding the purpose of SIF by permitting it to enter into agreements with insurers licensed to write workers' compensation insurance outside of the state in order to issue policies to SIF policyholders under laws of states other than New York. The proposal further authorizes SIF to receive premiums into its workers' compensation fund for policies written under these agreements. Such fund will (1) reimburse all losses and loss-adjustment expenses paid by a licensed insurer under such policies and (2) fees to a licensed insurer for administering claims and policies covered by such agreements.

The proposal further outlines the conditions under which a policyholder is eligible for insurance in states other than New York under these agreements:

- The policyholder's workers' compensation premiums with SIF must be greater than the premiums charged to cover the policyholder's obligations to pay worker' compensation benefits in all states, in the aggregate, other than New York
- The payroll for the policyholder's operations in New York must be greater than the policyholder's payroll in all states, in the aggregate, other than New York for the prior policy period
- The policyholder must meet SIF's underwriting criteria for other states coverage as specified by rules of the SIF commissioners.



# General Government



STAFF ANALYSIS OF  
THE 2020-21 EXECUTIVE BUDGET



## General Government Highlights

### Appropriations

- **Office of Cannabis Management**: The Executive Budget creates the office of Cannabis Management and includes \$34.3 million in funding for the operation of this office.
- **Online Voter Registration**: The Executive Budget provides \$16 million in capital funding for expenditures related to online voter registration.
- **Code Enforcement Program**: The Executive Budget includes \$2.2 million under the Department of State to establish the code enforcement program.

### Article VII

- **Manual Recounts (PPGG Part JJ)**: The Executive proposes legislation requiring the board of elections to conduct a complete manual audit of voting records within fifteen days after each general, special, or primary election.
- **Ban on Contributions from Foreign-Influenced Corporations (PPGG Part SS)**: The Executive proposes legislation banning campaign contributions from foreign influenced corporations or other entities.
- **Nothing to Hide Act – Disclosure of Tax Returns (PPGG Part TT)**: The Executive proposes legislation requiring that the oath of office of a statewide elected official, member of the legislature, head of a state agency, or elected local official paid in excess \$100,000, must be filed together with a certification that the official will annually file their New York state income tax return with JCOPE.
- **Disclosure Requirements for Charitable Nonprofit Entities (PPGG Part UU)**: The Executive proposes legislation requiring charitable nonprofit organizations to file an annual report with the Department of Taxation and Finance containing certain information about in-kind donations and certain donations received for advocacy communications.
- **Statewide Financial System Procurement and Contracting Authority (PPGG Part Z)**: The Executive proposes language authorizing the Statewide Financial System (SFS) to internally issue and award procurements and contracts to support their business operations. All procurements and contracts would be subject to the approval of the Division of the Budget and the Office of the State Comptroller.
- **Permanent 15-Year Lease Authority (PPGG Part A)**: The Executive proposes permanently extending the state’s ability to enter into 15-year leases. The proposal also grants permanent authority to enter into agreements for a payment-in-lieu-of-taxes (PILOT) when State buildings or other facilities are acquired by a lease or lease-purchase in instances where bonds and notes are issued.
- **Requires Sexual Harassment Disclosure From State Contractors (PPGG Part BB)**: The Executive Budget proposes legislation that would require bidders on state contracts to supply reports on sexual harassment.
- **Creates a New Alcohol License for In-State Higher Education Institutions Allowing Both Retail and Manufacturing Privileges for Training Purposes (PPGG Part CC)**: The Executive Budget proposes legislation that would create a new type of alcohol license for higher education institutions to have both full retail and manufacturing privileges.

- **Allows the Holders of an On-Premises Retail Alcohol License to Meet the Food and Service Requirements to Serve Alcoholic Beverages in Movie Theaters (PPGG Part DD):** The Executive proposes legislation allowing traditional movie theaters to serve alcoholic beverages for movies rated PG-13, R, or NC-17. Currently, only movie theaters that serve sit-down meals can receive a license to sell alcohol.
- **Allows Manufacturers, Wholesalers, and Retailers to Have an Ownership Interest in Each Other Without Needing Legislative Approval for Each License (PPGG Part EE):** This proposal amends the existing prohibition on licensed manufacturers and wholesalers having ownership interests in licensed alcohol retailers and vice versa to conform to existing federal rules.
- **Expands the Hours During Which Alcoholic Beverages May Be Sold on Certain International Airport Property (PPGG Part FF):** The Executive Budget proposes legislation that will allow alcohol to be served at LaGuardia, JFK, and Stewart International Airports at all hours except between 3am and 6am.

## General Government Agency Details

General Government All Funds Appropriations				
Agency	Available SFY 2019-20	Executive Recommendation SFY 2020-21	\$ Change	% Change
Division of Alcoholic Beverage Control	\$13,313,000	\$47,622,000	\$34,309,000	257.7%
Department of Audit and Control	\$366,728,000	\$384,787,000	\$18,059,000	4.9%
Division of the Budget	\$49,721,000	\$49,184,000	(\$537,000)	-1.1%
State Board of Elections	\$36,259,000	\$46,398,000	\$10,139,000	28.0%
Executive Chamber	\$17,854,000	\$17,854,000	\$0	0.0%
Department of Financial Services	\$437,830,963	\$439,155,963	\$1,325,000	0.3%
Office of General Services	\$1,236,536,000	\$1,251,222,000	\$14,686,000	1.2%
Office of Information Technology Services	\$861,360,000	\$1,011,360,000	\$150,000,000	17.4%
Office of the Inspector General	\$7,244,000	\$7,244,000	\$0	0.0%
Office of the Lieutenant Governor	\$630,000	\$630,000	\$0	0.0%
Joint Commission on Public Ethics	\$5,582,000	\$5,582,000	\$0	0.0%
Department of State	\$265,637,000	\$255,043,000	(\$10,594,000)	-4.0%
Statwide Financial System	\$30,506,000	\$31,161,000	\$655,000	2.1%
<b>Total General Government</b>	<b>\$3,329,200,963</b>	<b>\$3,547,242,963</b>	<b>\$218,042,000</b>	<b>6.5%</b>

### Overview

General Government consists of 22 agencies, boards and commissions that play an essential role in the day-to-day operations of New York State government and provide an array of services that directly affect people and businesses throughout the State. Overall, these agencies have two goals: to provide oversight, regulation and enforcement of State laws and create an efficient and effective use of government services and funding.

The SFY 2020-21 Executive Budget proposes \$3.55 billion in All Funds support for the various agencies under General government, which reflects a year-to-year increase of \$218 million or 6.5 percent. Highlights of the SFY 2020-21 Executive proposal are detailed below.

### Division of Alcoholic Beverage Control

The SFY 2020-21 Executive Budget proposes \$47.6 million in All Funds Support, which represents an increase of \$34.31 million or 257.7 percent over FY 2020 Enacted levels. This increase in funding is attributed to a special revenue-other (SRO) appropriation of \$34.3 million. These funds would be used to establish the Office for Cannabis Management.

The Office of Cannabis Management would be a centralized office responsible for oversight of all activities that support a comprehensive cannabis regulatory system, including licensing, distribution of cannabis products in the adult use, industrial, and medical cannabis markets. The appropriation of \$34.3 million for the Office of Cannabis Management would only be available pursuant to a Chapter of the Laws of 2020.

The remaining appropriation of \$13.3 million in General Fund support, included in the SFY 2020-21 Executive Budget is consistent with SFY 2019-20 Enacted levels and would support 120 FTEs. This level of staffing is consistent with SFY 2019-20 Enacted levels.

## **Article VII**

- **Creates a New Alcohol License for In-State Higher Education Institutions Allowing Both Retail and Manufacturing Privileges for Training Purposes (PPGG Part CC):** The Executive Budget proposes legislation that would create a new type of liquor license for higher education institutions to have both retail and manufacturing privileges.

The proposal would allow any college or university accredited by the board of regents to apply for this new so-called institutional license. Licensees would be permitted to:

- Operate a manufacturing facility on the premises for the production of mead, beer, liquor and/or wine
- Sell alcoholic beverages in bulk to other manufacturers licensed in the state
- Sell alcoholic beverages to persons outside of the state under the laws of the place of delivery
- Sell alcoholic beverages to manufacturers, wholesalers and retailers licensed in the state
- Sell alcoholic beverages manufactured by the licensee and any NYS labeled beverages at retail (for on or off-premises consumption), provided that food is available
- Sell and manufacture condiments, soft drinks and other alcohol related foods, gifts, equipment and supplies

The Executive claims this is necessary both to spur the creation of additional hospitality and alcohol production programs and to make it easier for existing programs, which must apply for multiple different manufacturing and retail licenses currently. This proposal includes language easing tied-house restrictions on these license holders. The legislation would give higher education institutions permissions and privileges far greater than all other licensees.

- **Allows the Holders of an On-Premises Retail License to Meet the Food and Service Requirements to Serve Alcoholic Beverages in Movie Theaters (PPGG Part DD):** The Executive proposes legislation to allow traditional movie theaters to serve alcoholic beverages for movies rated PG-13, R, or NC-17. Currently, only movie theaters that serve sit-down meals can receive a license to sell alcohol.

To be eligible, the movie theater must meet specific requirements, including but not limited to:

- Serving food typically found in a movie theater, like popcorn and snacks;
- Requiring written evidence of age such as a driver's license for every purchase of an alcoholic beverage;
- Limiting the purchase of an alcoholic drink to one per transaction; and
- Limiting the sale of alcoholic beverages to one hour prior to the first movie showing and ending sales after the end of the last movie showing.

Additionally, where a municipality is required to be notified about the license application, the municipality may express an opinion on whether it should be approved. The municipality's opinion must be considered when making a decision on the application.

- **Allows Manufacturers, Wholesalers, and Retailers to Have an Ownership Interest in Each Other Without Needing Legislative Approval for Each License (PPGG Part EE):** The Executive proposes to amend New York's "tied-house" rules to make them less restrictive. New York currently has a strict prohibition on any licensed manufacturer or wholesaler having an ownership interest in an alcohol retail license, and a prohibition on any retail licensee having an ownership interest in a manufacturer or wholesaler. The only way to receive an exemption from these statutory prohibitions is via statute on a case-by-case basis.

This proposal would end this practice by generally conforming New York law with federal tied-house rules. Federal rules allow for tied-houses as long as:

- One licensee does not exercise control over, or participate in, the management, directly or indirectly, of the other licensee's business or business decisions;
- The interest does not result in the retail licensee purchasing the products of the related manufacturer or wholesalers to the exclusion, in whole or part, of purchasing products from other manufacturers or retailers;
- The manufacturer or wholesaler offers their products or services to all other retailers in the market on the same terms as to the retailer they have an interest in; and
- The retailer purchases products from wholesalers with no interest in that retailer or from wholesalers they have no interests in.

The conditions would not apply in cases in which a manufacturer or wholesaler has total and complete ownership over the premises of an alcohol retailer. In such a case, a manufacturer or wholesaler could sell their products at such a location exclusively. The law is also amended to explain that such ownership relations do not constitute banned gifts or services.

- **Expands the Hours During Which Alcoholic Beverages May Be Sold on Certain International Airport Property (PPGG Part FF):** The Executive Budget proposes legislation that will allow alcohol to be served at LaGuardia, JFK, and Stewart International Airports at all hours except between 3am and 6am. Currently, the airports are subject to the same beverage limitations as other licensees between 4am and 8am. This will align the service hours of all Port Authority-owned international airports.

### **Department of Audit and Control**

The SFY 2020-21 Executive Budget proposes \$384.8 million in All Funds support, which is an increase of \$18.06 million or 4.9 percent over SFY 2019-20 Enacted levels. The SFY 2020-21 Executive Budget maintains support for 2,663 FTEs, which is consistent with SFY 2019-20 Enacted levels.

The SFY 2020-21 Executive Budget provides \$342.7 million in State Operation funding, which reflects an increase of \$7.96 million over the SFY 2019-20 Enacted Budget. This increase is attributed to State operations expenditures such as personal and non-personal services.

The SFY 2020-21 Executive Budget also consolidates General Fund spending from several programs into the Audit and Control program. This consolidation of program funding, at the request of the Office of State Comptroller, would reduce the administrative burden of the Agency.

Finally, the SFY 2020-21 Executive Budget provides \$10.1 million in new Capital funding for the Department of Audit and Control. This new capital funding would be used for IT equipment purchases, system modernization for unclaimed funds, and an update of the agency's Human Resource system.

### **Division of the Budget**

The SFY 2020-21 Executive Budget proposes \$49.2 million in All Funds support, which is a reduction of \$537,000 from the SFY 2019-20 Enacted levels of \$49.7 million. This level of funding maintains support for 261 FTEs, which is consistent with SFY 2019-20 staffing levels.

The SFY 2020-21 Executive budget eliminates \$537,000 in General Fund spending related to membership dues as follows:

- \$479,000 for Council of State Governments
- \$48,000 for National Conference of State Legislatures
- \$10,000 for National Council of Insurance Legislators

### **State Board of Elections**

The SFY 2020-21 Executive Budget proposes \$30.4 million in All Fund support, which is an increase of 10.14 million over the SFY 2019-20 Enacted Budget. This increase of \$10.1 million is attributed to the following:

- \$21.84 million increase in federal dollars, which would be used for Help America Vote Act activities such as enhanced voter registration
- \$10 million reduction in local assistance funding for Early Voting
- \$3 million reduction in Special Revenue-Other (SRO) funding, which was used for voting machine audits (the Executive Budget includes re-appropriation authority to allow the State Board of Elections to continue to fund existing contracts)
- \$1.3 million increase in funding is attributed to additional Capital funding

The SFY 2020-21 Executive Budget includes \$16 million in Capital funding for expenditures related to online voter registration. The Executive also re-appropriates \$14.7 million in Capital funding from SFY 2019-20 Enacted Budget that was provided for the acquisition of Electronic Poll Books.

## **Article VII**

- **Manual Recounts (PPGG Part JJ)**: The Executive proposes legislation requiring the Board of Elections to conduct a complete manual audit of voting records within fifteen days after each general, special, or primary election when:
  - In a statewide election, a 0.2 percent margin of victory exists; or
  - In all other public elections other than statewide elections, where a 0.5 percent margin of victory exists.

The proposal defines “margin of victory” as the margin of victory for *all votes* cast in the entire election following the initial canvass of votes. The proposal further clarifies that all audits under this section must be performed manually.

- **Ban on Contributions from Foreign-Influenced Corporations (PPGG Part SS)**: The Executive proposes legislation banning campaign contributions from foreign influenced entities, including corporations, limited liability companies, joint-stock associations, or other corporate entities doing business in the state, as well as foreign nationals.

The proposal specifically forbids such entities or individuals from directly or indirectly using any money or property in aid of any political party, committee or organization, or any other entity maintained for a political purpose any candidate or nominee for political office or for any political purpose whatsoever.

The proposal further prohibits any reimbursement or indemnification of any person for money or property used for the above purposes. Any entity that violates this proposal by participating in, aiding, abetting, or advising or consenting to violations shall be guilty of a misdemeanor. Any contribution in violation of the proposal may result in the assessment of a civil fine not to exceed \$10,000 per contribution.

An entity is “foreign influenced” under this proposal if a single foreign national has direct or indirect ownership of five percent or more of the entity, two or more foreign nationals have direct or indirect ownership of ten percent or more of the entity, or if a foreign national participates directly or indirectly in the entity’s decision-making process with respect to the entity’s political activities in the United States, including elections. An individual is a “foreign national” under this proposal if they are a foreign principal or an individual who is not a citizen or national of the United States.

## **Executive Chamber**

The SFY 2020-21 Executive Budget includes \$17.9 million in All Funds support, which is consistent with the SFY 2019-20 Enacted Budget. This level of support maintains funding for 136 FTEs, which is consistent with SFY 2019-20 Enacted levels.

## **Department of Financial Services**

The SFY 2020-21 Executive Budget proposes \$439.2 million in All Funds support, which reflects an increase of \$1.3 million or 0.3 percent over SFY 2019-20 Enacted levels. This level of funding maintains support for 1395 FTEs, which is consistent with SFY 2019-20 Enacted levels.

The increase of \$1.33 million is attributed to increase costs for claims under the Healthy New York Program.

## **Article VII**

- **Licensing Debt Collection Entities (TED, Part LL)**: The Executive proposes a comprehensive licensing scheme under the purview of the Department of Financial Services (DFS) for consumer debt collectors. The license is a renewable, non-transferable, one-year license that may be granted upon application, fee payment and filing of a surety bond. Licensees are required to file an annual report to DFS, which includes business and operations for the previous year. The proposal also explicitly prohibits debt collectors from engaging in unconscionable, deceptive, false, misleading, abusive or unlawful acts or practices. Currently, debt collection agencies are not required to be licensed at the state level. However, certain localities and counties, including New York City, do require licensing. In the City, businesses seeking to collect personal or household debts from City residents must obtain a two-year, renewable Debt Collection Agency License from the NYC Department of Consumer Affairs.
- **Stop Abuse & Deceptive Practices from Student Loan Debt Relief Companies (TED, Part MM)**: The Executive proposes regulating student loan debt consultants by requiring them to execute a written contract with the borrower, which includes the explicit and unqualified right to cancel in the five-day period after signing. Student loan debt consultants, as described in the proposal, include persons or companies that engage in the business of advising, educating and advocating on the behalf of borrowers for profit. The proposal includes an extensive list of prohibitions aimed at limiting the abusive and deceptive practices that consultants may engage in and requires consultants to disclose certain information in their advertisements and contracts, including but not limited to, suggesting that the borrower consult their loan servicer before entering into a contract for services. Under current law, both private and federal loan servicers must be licensed with, and regulated by, the Department of Financial Services (DFS). Servicing refers to entities that receive, apply and notify and interact with borrowers regarding required payment on borrowers' loans. Student loan debt consultants, as defined by the proposal, do not fall under such definition and thus, are unregulated.
- **Unfair, Deceptive and Abusive Practices Act (UDAP) (TED, Part NN)**: The Executive proposal expands the Department of Financial Services' (DFS) regulatory oversight by creating an additional cause of action for the Superintendent to levy civil penalties for unfair, deceptive, or abusive acts or practices undertaken by those subject to DFS's jurisdiction, such as banks, insurance carriers, or other entities that sell financial products or services to consumers and/or small businesses. The proposal achieves this by expanding the definition of "financial product and service" and removing the *mens rea* required to establish fraud or misrepresentation. The proposal further empowers DFS to levy a civil penalty, as well as provide restitution to consumers harmed by any individual's or entity's conduct, which violates

the section. Under current law, only intentional deceptive acts and practices are deemed unlawful. Both the Attorney General and injured parties are granted a right of action against persons or entities that commit deceptive acts or practices. However, the acts considered “deceptive” are limited. This proposal would expand DFS’s authority to enforce not only against deceptive acts and practices, but unfair and abusive ones, as well.

- **Fighting Elder Financial Fraud (TED, Part OO)**: The Executive proposal enables banking institutions that are chartered, organized or licensed under any state’s law to institute a five-day transaction hold that delays financial transactions pending investigation where there is a reasonable belief that financial fraud is taking place against vulnerable adults. Vulnerable adults include individuals who are susceptible to financial exploitation due to physical or mental impairment. Financial exploitation includes the improper taking, withholding, appropriation, or use of a vulnerable adult’s assets and/or any act or omission to obtain control or convert a vulnerable adult’s assets. The proposal requires banking institutions that apply transactional holds to provide notification of the hold and make funds available for the account holder to meet ongoing obligations during the pendency of such hold. It also empowers DFS to promulgate rules and regulations to enforce the terms of the section.

### **Office of General Services**

The SFY 2020-21 Executive Budget proposes \$1.25 billion in All Funds support, reflecting an increase of \$14.7 million or 1.2 percent over FY 2021 levels. This increase is attributed to an increase of \$30 million in capital funding, offset by State Operations reductions of \$15.3 million.

The State Operations reductions of \$15.3 million is attributed to a transfer of personal and non-personal service expenditures of \$24.6 million is transferred to Capital spending. This \$24.6 million in State Operation reduction is offset by increases of almost \$6 million for the Internal Service Fund and \$3.3 million for the Enterprise fund.

The SFY 2020-21 Executive Budget includes \$234 million in Capital funding, reflecting an increase of \$30 million over SFY 2019-20 Enacted levels. This increase is attributed to the following:

- \$24.6 million supporting personal service and non-personal service expenditures being transferred from the General Fund; and
- \$5 million to support expenses for the Capital Court Yard maintenance.

The SFY 2020-21 Executive recommendation for OGS would support 1,975 FTEs, reflecting an increase of four FTE’s over SFY 2019-20 Enacted levels.

### **Article VII**

- **Permanent 15-Year Lease Authority (PPGG Part AA)**: The Executive proposes permanently extending the State’s ability to enter into lease terms of up to 15 years. This authority was initially granted in 2000 and has been extended every five years since. The last time it was extended was in legislation in 2015, which subsequently expires this year. The Executive states that in certain circumstances 15-year leases can be financially beneficial to the state.

The proposal also grants permanent authority to enter into agreements for a payment-in-lieu-of-taxes (PILOT) when State buildings or other facilities are acquired by a lease or lease-purchase in instances where bonds and notes are issued. The Executive states that this authority is necessary to ensure that local tax revenues being used to back certain bonds or notes won't be threatened by a State takeover of a property during the terms of the lease.

- **Requires Sexual Harassment Disclosure from State Contractors (PPGG Part BB):** The Executive Budget proposes legislation that would require bidders on state contracts supply reports on sexual harassment. Specifically, bidders would be required to submit (i) the number of adverse judgments or rulings related to allegations of sexual harassment in the preceding year, (ii) whether equitable relief was ordered against the bidder, (iii) the total number of settlements entered into that occurred in the workplace of the bidder, and (iv) the total number of settlements entered into relating to any act of sexual harassment committed by a corporate executive, regardless of whether the conduct occurred. These reports must also be provided to the State Comptroller and the Division of Human Rights for inclusion in an annual report summarizing the data.

Contractors bidding on state contracts are currently required to submit an affirmation demonstrating that they have implemented a written sexual harassment policy and are providing annual training to employees. This bill furthers the efforts to target sexual harassment in the workplace and ensure accountability with entities that do business with the state.

### **Office of Information Technology Services**

The SFY 2020-21 Executive budget proposes \$1.01 billion in All Funds support, reflecting an increase of \$150 million or 17.4 percent over SFY 2019-20 levels. This level of funding would support 3,451 FTEs, which is consistent with FY 2020 staffing levels.

The SFY2021 Executive Budget includes \$245.7 million in Capital funding, which reflects an increase of \$150 million over the SFY 2019-20 Enacted Budget. This increase in Capital funding would support a new Federal appropriation for the development costs related to the integrated eligibility system.

### **Article VII**

- **Enabling Comprehensive Technology Service Contracts (PPGG Part X):** The Executive proposes authorizing the Office of Information Technology Services (ITS) to award comprehensive technology service contracts, thereby allowing a single entity, or multiple entities acting as one, to both design and implement IT systems. Current law prevents such contracts. The proposal also limits change orders in such contracts to a cost increase of no more than ten percent of the original order.

## **Office of the Inspector General**

The SFY 2020-21 Executive Budget proposes \$7.2 million in All Funds support, which is consistent with SFY 2019-20 Enacted levels. This level of funding maintains support for 92 FTEs, which is also consistent with SFY 2019-20 Enacted levels.

## **Office of the Lieutenant Governor**

The SFY 2020-21 Executive Budget proposes \$630,000 in All Funds support, which is consistent with SFY 2019-20 Enacted Levels. This level of funding maintains support for seven FTEs, which is consistent with SFY 2019-20 Enacted levels.

## **Department of State**

The SFY 2020-21 Executive Budget provides over \$255 million in All Funds support, which is a decrease of \$10.6 million or four percent from SFY 2019-20 levels. This level of funding would support 577 FTEs, which is an increase of 12 FTEs over SFY 2019-20 Enacted levels.

The SFY 2020-21 Executive Budget decrease of \$10.6 million is attributed to a State Operations increase of \$2.2 million to establish the Code Enforcement Program. These funds would provide support for 12 FTEs in order to implement the provisions of Chapter 468 of 2017, which would provide the Department of State with a process to revoke a code enforcement officer's certification for misconduct.

The SFY 2020-21 Executive Budget also eliminates \$12.8 million in funding for local assistance grants as follows:

- \$11 million for the Liberty Defense Fund
- \$900,000 for the Public Utility Law Project
- \$150,000 for the New York Immigration Coalition
- \$200,000 for the Doe Fund
- \$250,000 for the Independent Redistricting Coalition<sup>[1]</sup>
- \$250,000 for the Student Loan Consumer Assistance Program

## **Article VII**

- **Shifting Burden of Serving Process on Business Entities from Department of State to Plaintiffs (TED Part Q)**: The Executive proposes shifting the burden of serving legal process on corporations, cooperative corporations, redevelopment companies, condominium boards, associations, limited partnerships, limited liability partnerships, limited liability companies, real estate brokers, and not-for-profit corporations from the Secretary of State to the plaintiff. Current law allows the plaintiff to serve the Secretary of State as an agent of the entity, and the Secretary then mails the process to the business. Under the Executive proposal, the plaintiff must mail the process on the entity and deliver the process personally to the Department of State. The Executive proposal also requires the Department of State to maintain records of and issue certificates as to the receipt of process for ten years and then requires the Department to destroy the process after ten years.

- **Department of State Expedited Handling Fees (TED Part R)**: The Executive Budget extends for one year the authority of the Secretary of State to charge additional fees for expedited special handling of documents.
- **“Pink Tax” (TED Part S)**: The Executive proposal amends the General Business Law to prohibit persons, entities and businesses from selling substantially similar goods or services at a different price on the basis of gender. The proposal further permits the Department of State (DOS) to promulgate rules and regulations which govern this section. The Attorney General would be empowered to enjoin any action in violation of the section. Finally, the proposal creates a private right of action.
- **Adding “E Pluribus Unum” to the State’s Seal (TED Part U)**: The Executive proposes adding “E Pluribus Unum” (Out of Many, One) to the Arms of the State. This phrase will appear in an additional line underneath “Excelsior.” The proposal allows for continued use of the existing arms until the useful life of the object depicting it ends.
- **Removing Unnecessary Barriers to Obtaining Occupational Licensing (TED Part V)**: The Executive proposes removing the requirement that applicants for certain occupational licenses be a citizen or lawful permanent resident of the United States. This proposal amends the Executive Law, Real Property Law, and General Business law to include the following occupational licenses: notaries public, real estate brokers, private investigators, bail enforcement agents, and watch, guard or patrol agencies.
- **Eliminating Fees and Amending Requirements for Corporations’ Biennial Statements (TED Part X)**: The Executive proposes legislation to eliminate any fees associated with the biennial and five-year statements for domestic and foreign corporations, limited liability companies (LLCs) and limited liability partnerships (LLPs). Under current law there is a nine-dollar fee for such statements. This proposal also eliminates the option for these entities to submit biennial statement information as part of their tax filings. Additionally, the proposal requires the Department of State to provide an explanation for rejecting any form, and allow thirty days for the filer to resubmit a corrected form. Lastly, this legislation amends the biennial statements to require ownership and management information for LLCs.

### **Statewide Financial System**

The SFY 2020-21 Executive Budget proposes \$31.16 million in All Funds support, reflecting an increase of \$655,000. This increase of \$655,000 is attributed to General Fund-personal service increases. This level of fund would also support 142 FTEs, which is consistent with FY 2020 Enacted levels.

## Article VII

- **Updating the Definition of “Technology” (PPGG Part Y):** The Executive proposes changing the definition of “technology” in the State Technology Law and State Financial Law, to reflect usage of the term more narrowly in the context of computer or electronic information applications. The proposed definition provides a more specific definition for the term. The proposal also expands usage of the term to include any technology-related consulting, management, and training.
- **Statewide Financial System Procurement and Contracting Authority (PPGG Part Z):** The Executive proposes language authorizing the Statewide Financial System (SFS) to internally issue and award procurements and contracts to support their business operations. Currently, the existing statute does not provide SFS with the appropriate procurement and contracting authority, requiring SFS to utilize outside agencies to award procurements and contracts. All procurements and contracts would be subject to the approval of the Division of the Budget and the Office of the State Comptroller.

## Joint Commission on Public Ethics (JCOPE)

The Executive Budget for SFY 2020-21 recommends an all funds appropriation of \$5.6 million, the same amount as SFY 2019-20. This level of funding will support 52 FTEs. In addition, the State Operations appropriation includes new language, which would grant JCOPE the ability to sub-allocate funding across agencies.

## Article VII

- **Nothing to Hide Act - Disclosure of Tax Returns (PPGG Part TT):** The Executive proposes that the oath of office of a statewide elected official, member of the Legislature, head of a state agency, or elected local official who is paid in excess of \$100,000 be filed with a certification that they will annually file their state income tax return with JCOPE.

Such certification will also constitute authorization for the Department of Taxation and Finance to disclose to JCOPE any income tax return *not* filed with JCOPE as required by this proposal. This certification is subject to the same laws applicable to the oath of office, such as requiring submission before or within 30 days after the commencement of the term of office.

The officer or body making an appointment or certificate of election of any of the above listed officials must also give written notice to JCOPE about the appointment or election. Each of the above listed officials must file a copy of his or her New York State income tax return, including any schedules and attachments, for the preceding year. Under this proposal, members of the legislature and elected local officials submit their tax returns to the Legislative Ethics Commission, who in turn submits the returns to JCOPE, under the same conditions as financial disclosure statements. JCOPE, as with financial statements, can rule on requests for exemptions or deletions.

JCOPE is responsible for redacting information or requesting redactions in consultation with the Commissioner of Taxation and Finance. Tax returns would be posted on JCOPE’s website

for public review for five years. Finally, the proposal requires the State Board of Elections to notify each candidate for elective office no later than ten days after nomination or designation of these requirements.

- **Disclosure Requirements for Charitable Nonprofit Entities (PPGG Part UU):** The Executive proposes legislation requiring charitable nonprofit organizations that already are required to file annual financial reports or funding disclosure reports to the Office of the Attorney General to also file annual financial reports to the Department of Taxation and Finance.

In addition, funding disclosure reports must cover any in-kind donation in excess of \$10,000 from a covered entity to a recipient entity. Current law requires this disclosure for in-kind donations in excess of \$2,500. The proposal also requires the disclosure contain a detailed description of the in-kind donation, including the charitable purpose advanced by the donation, and any restrictions on the use of the donation by the recipient entity.

Finally, the proposal amends disclosures of expenditures for covered communications. Specifically, disclosures must contain detailed descriptions of the covered communications, including the name and address of any individual or entity that made a donation and the amount of the donation, for any restricted donation received. Under current law, the name and address of the individual or entity that made a donation of \$1,000, without reference to whether the donation was restricted or unrestricted, is covered.

If the charitable entity receives certain qualifying contributions, under this proposal the entity will also be required to file with the Department of Taxation and Finance a complete Internal Revenue Service (IRS) Form 990 Schedule B, regardless of whether such form is required to be submitted to the IRS.

# Local Government



STAFF ANALYSIS OF  
THE 2020-21 EXECUTIVE BUDGET



## Local Government Highlights

### Appropriations

**Aid and Incentives for Municipalities:** Under the Executive budget proposal, program support will remain flat at \$655.6 million.

**Miscellaneous Financial Assistance:** The Executive reduces funding by \$11.9 million.

### Article VII

**Eliminate VLT Aid to All Municipalities Outside of Yonkers (PPGG Part KK):** The Executive Budget proposes to eliminate Video Lottery Terminal Aid (VLT Aid) for all municipalities outside of the City of Yonkers. The proposal preserves VLT aid to Yonkers because, unlike the other recipients of the aid, Yonkers is required to use the funding to support its school district.

**Enhance Flexibility within the County-Wide Shared Services Initiative (PPGG Part LL):** The Executive Budget proposes to expand opportunities for local government shared services plans, actions, and State matching funds under the County-Wide Shared Services Initiative. Under current law, a project included in a previous plan cannot be included in a future plan and is not eligible for State matching funds. This proposal permits unimplemented projects included in previous plans to be eligible for State funds. Additionally, current law provides that net savings for each project are only eligible for State matching funds for net savings achieved between January 1 and December 31 of the ensuing year. This change allows local governments to decide whether to implement projects, beginning either January 1 or July 1 of the ensuing year, in order to be eligible for State matching funds.

## Local Government Assistance Details

### Overview

The Executive Budget for SFY 2020-21 provides local governments with \$44 billion in State support through major local aid programs and savings initiatives. The Executive Budget proposes a positive net local impact of over \$1 billion for municipalities and school districts for their fiscal years ending in 2021. The net local benefit is primarily the result of a statewide school aid increase of \$825.6 million and \$55.3 million in Health-related proposals.

Executive Budget Comparison Local Fiscal Year Ending in 2020 and 2021			
Major Local Aid Programs, in Millions	LFY 2020	LFY 2021	\$ Change
School Aid	\$27,504.70	\$28,330.40	\$825.70
Other Education	\$219.10	\$219.10	\$0.00
Special Education	\$1,331.70	\$1,357.20	\$25.50
STAR	\$2,176.00	\$2,000.00	(\$176.00)
Medicaid	\$4,114.70	\$4,467.30	\$352.60
Human Services	\$4,395.50	\$4,381.30	(\$14.20)
Health	\$490.90	\$464.70	(\$26.20)
Mental Hygiene	\$71.50	\$71.50	\$0.00
Transportation	\$906.50	\$860.50	(\$46.00)
Municipal Aid	\$762.90	\$769.60	\$6.70
Public Protection	\$278.80	\$325.80	\$47.00
Environment	\$360.00	\$405.00	\$45.00
Economic Development	\$0.00	\$0.00	\$0.00
All Other Impacts	\$459.00	\$478.00	\$19.00
Revenue Impacts	(\$0.10)	\$8.00	\$8.10
<b>Total Executive Budget Impact</b>	<b>\$43,071.20</b>	<b>\$44,138.40</b>	<b>\$1,067.20</b>

Note: Amounts for NYC and counties include a “to be determined” (TBD) reduction as part of the local Medicaid Cap Benefit. This risk sharing arrangement to limit growth of the local share of the Medicaid program to three percent and to keep local government within the two percent property tax cap would require New York City to apply a two percent cap calculation for the purposes of the Executive’s proposal.

*Source: New York State Division of the Budget, FY 2021 Executive Budget Financial Plan, p. T103 and T-104.*

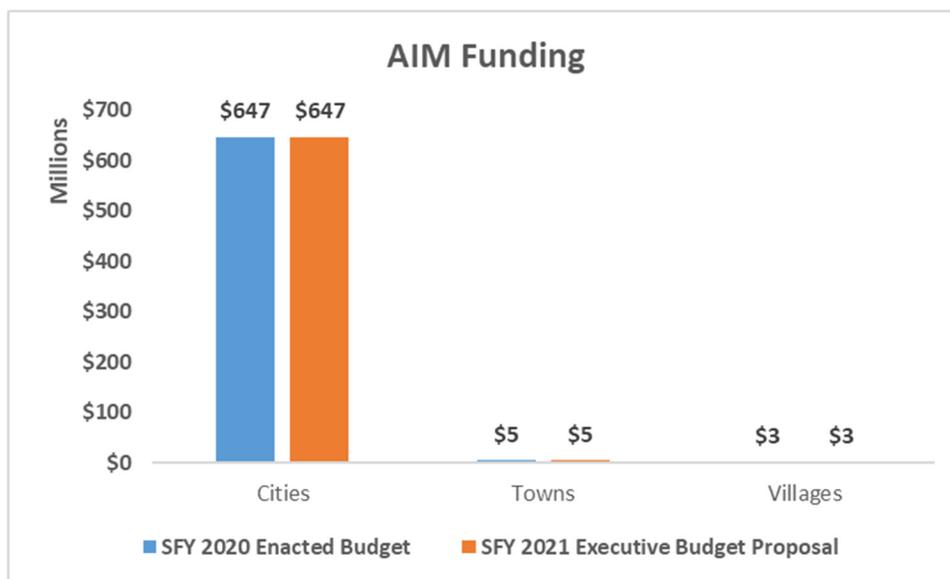
The Executive Budget proposal will benefit school districts outside of New York City by \$478.8 million in SFY 2020-21. The Executive budget proposes a negative impact of \$22.9 million on counties and \$3.0 million negative impact on other cities. Towns and villages will also be negatively impacted by the Executive budget proposal by \$4.1 million. This is mostly due to negative adjustments to the municipal aid portion of the budget.

The Executive Budget recommends \$718.5 million in Aid to Localities funds for local government assistance programs. This includes \$718.6 million in General Fund support to Local Governments and \$30 million in Fiduciary Funds to cover contingency appropriations requirements.

Aid to Localities Executive Recommendation for SFY 2020-2021				
Funding Source	Available SFY 2019- 2020	Executive Recommendation SFY 2020- 2021	\$ Change	% Change
General Fund	\$736,100,613	\$718,567,300	-\$17,533,313	-2.38%
Fiduciary Funds	\$30,000,000	\$30,000,000	\$0	0.00%
<b>All Funds</b>	<b>\$766,100,613</b>	<b>\$748,567,300</b>	<b>-\$17,533,313</b>	<b>-2.29%</b>

### Local Government Detail Information

**Local Government Assistance.** The Executive Budget proposes \$655.6 million in spending the AIM program. AIM payments are paid out through varying installments depending on the municipal type.



**Citizens Empowerment Tax Credit and Grants.** This program provides aid to reorganized local governments equal to 15% of the combined amount of real property taxes levied by all of the municipalities involved in the consolidation or dissolution. The grant cannot exceed \$1.0 million. The Executive Budget maintains appropriation authority of \$35 million in SFY 2020-21. In terms of reappropriation authority for SFY 2019-20, the Executive proposal reflects actual spending of \$5.9 million for this program.

**County-Wide Shared Services Initiative.** The County-Wide Shared Service Initiative created a service panel in each county, chaired by the Chief Executive Officer of the County. The panels will work to help develop and ultimately approve a County-Wide Shared Service Property Tax Savings Plan through intergovernmental cooperation to find new opportunities for sharing and coordinate services. The Enacted Budget for SFY 2017-18 appropriated \$225 million in funding

for this program. Approximately \$13 million has been provided to local governments a reimbursement for county-wide shared services. Counties that implemented shared service plans in SFY 2019-20 are eligible to receive matching funds from the State in SFY 2020-21.

### Aid to Municipalities with Video Lottery Terminals

VLT Facility	Municipality	SFY 2020 Amount (in Thousands)	SFY 2021 Proposed (in Thousands)
Yonkers	City of Yonkers	\$19,600	\$19,600
Batavia Downs	City of Batavia	\$441	\$0
	Town of Batavia	\$160	
	Genesee County	\$200	
Fairgrounds (Buffalo)	Town of Hamburg	\$866	\$0
	Erie County	\$289	
Finger Lakes	Town of Farmington	\$1,778	\$0
	Ontario County	\$591	
Monticello	Village of Monticello	\$291	\$0
	Town of Thompson	\$635	
	Sullivan County	\$309	
Saratoga Springs	City of Saratoga Springs	\$2,326	\$0
	Saratoga County	\$775	
Vernon Downs	Village of Vernon	\$137	\$0
	Town of Vernon	\$232	
	Oneida County	\$257	
<b>Total</b>		<b>\$28,886</b>	<b>\$19,600</b>

The Executive Budget proposal cuts VLT aid by \$9.3 million for eligible municipalities in which a video lottery gaming facility is located. The Executive maintains funding for the City of Yonkers at the SFY 2019-20 level of \$19.6 million.

### Miscellaneous Financial Assistance

The Executive reduces funding for the Miscellaneous Financial Assistance Program by a net \$11.99 million in SFY 2020-21 to reflect the elimination of legislative adds. The Executive eliminates funding for the following programs:

- \$7 million in financial assistance for the City of Albany
- \$2 million for the development of a school discipline pilot project in the Syracuse City School District
- \$200,000 for the Village of New Paltz associated with expenses related to police and fire services associated with institutions of higher education
- \$200,000 for the Village of Delhi associated with expenses related to police and fire services associated with institutions of higher education

- \$200,000 for the payment of interim financial assistance for Franklin County
- \$100,000 for an origin and destination study of truck traffic in the City of Hudson
- \$67,000 for several villages not included in the regular AIM schedule including Woodbury, South Blooming Grove, and Sagaponack

The Executive Budget increases funding for the County of Madison by \$1.5 million from \$2.25 million in SFY 2019-20 to \$3.75 million in SFY 2020-21. This funding is associated with net drop from gaming devices the State receives pursuant to a compact.

## **PPGG – Article VII**

- **Eliminate VLT Aid to All Municipalities Outside of Yonkers (PPGG Part KK):** The Executive Budget proposes to eliminate Video Lottery Terminal Aid (VLT Aid) for all municipalities outside of the City of Yonkers. In SFY 2019-20, the State provided around \$28.9 million in annual aid to the municipalities that host VLT facilities across the state, \$19.6 million of which was distributed to the City of Yonkers. The additional \$9.23 million was split among 15 municipalities. The proposal preserves VLT aid to Yonkers because, unlike the other recipients of the aid, Yonkers is required to use the funding to support its school district.  
*State Fiscal Impact: This proposal will result in \$9.3 million in annual savings to the state financial plan.*
- **Enhance Flexibility within the County-Wide Shared Services Initiative (PPGG Part LL):** The Executive Budget proposes to expand opportunities for local government shared services plans, actions, and State matching funds. The FY 2018-19 budget introduced the County-Wide Shared Services Initiative to provide a process whereby each county could create a plan to submit to the State detailing shared services actions that, once implemented, achieve demonstrable taxpayer savings. The State provides matching funds pursuant to the savings realized by the plans.

Under current law, a project included in a previous plan cannot be included in a future plan and is not eligible for State matching funds. This proposal encourages the realization of shared services initiatives by permitting unimplemented projects included in previous plans to be eligible for State funds. For example, if the City of Albany proposed sharing plow services in a prior plan, but ultimately did not implement that sharing plan with another municipality, such a sharing arrangement would not be eligible for State matching funds if it were included in a future shared services plan. Under this proposal, since the plan was not implemented, it will remain eligible.

Additionally, current law provides that net savings for each project are only eligible for State matching funds for net savings achieved between January 1 to December 31 of the ensuing year. This proposal would allow local governments to decide whether to implement projects, beginning either January 1 or July 1 of the ensuing year, in order to be eligible for State matching funds. All projects in a plan must be implemented during the same 12-month period. Effectively, this allows plans to begin either in January or in July. It may also facilitate school districts taking advantage of this initiative, as the new timeline would run concurrently with the school year.

*State Fiscal Impact: The FY 2020-21 Executive Budget re-appropriates over \$200 million for the County-Wide Shared Services Initiative.*

- **Modify Voting Requirements for the Financial Restructuring Board for Local Governments (PPGG Part MM)**: The Financial Restructuring Board for Local Governments is a ten-member panel created to offer assistance to eligible municipalities. Any county, city (except New York City), town, or village deemed a Fiscally Eligible Municipality may request through its governing board a comprehensive review from the Board. If the Board engages in such a review, it can make recommendations to the municipality to improve its fiscal stability, management, and delivery of public services. It can also offer grants and/or loans of up to \$5 million through the Local Government Performance and Efficiency Program in order to effectuate these recommendations. The Board can also act as an arbitrator for municipalities that are in disputes with municipal unions.

The Executive Budget proposes to make the Board's operations more efficient by authorizing the Board to act by an affirmative vote of a majority of the total number of members present at a proceeding, meeting, or hearing. Currently, the Board may only act by an affirmative vote of a majority of the total number of members. This has caused problems with the Board's decision-making capacity in the past, as certain seats on the Board may not be filled at any given time, or certain members of the Board have recused themselves or abstained on certain issues.

*State Fiscal Impact: The SFY 2020-21 Executive Budget re-appropriates over \$60 million for grants and awards of the Financial Restructuring Board for Local Governments.*

- **Clarify AIM-Related Sales Tax Payments Process for Nassau and Erie Counties (PPGG Part NN)**: The Executive Budget proposes to clarify the process by which Aid and Incentives to Municipalities (AIM)-related sales tax payments are made with Nassau and Erie Counties. The SFY 2019-20 enacted budget replaced AIM to certain towns and villages with additional local sales tax revenue and directed the State Comptroller to make the AIM-related payments directly to the affected towns and villages.

However, the existence of local control boards in Erie and Nassau Counties that are statutorily required to receive sales tax complicates the administration of the new law. The Executive Budget proposal would direct the local control boards to remit necessary funds back to the State in order to allow AIM-related payments to be made to affected towns and villages in Erie and Nassau County.

In 2019, the State coordinated with the affected counties to come to an administrative agreement that facilitated similar action in order to ensure that the relevant municipalities would receive the payments. This proposal would obviate the necessity to continue to engage in administrative workarounds to address this oversight in the existing structure of the AIM-related payments.

*State Fiscal Impact: This proposal is necessary to implement the SFY 2020-21 Executive Budget because the Budget assumes that these payments will be made to the affected towns and villages.*