



## DEMOCRATIC CONFERENCE / COUNSEL AND FINANCE

---

Date: April 3, 2017  
To: Senate Democratic Conference Members  
From: Counsel and Finance Staff  
Re: Article VII Budget Extender Superhighlights

---

The following provides brief analysis on the proposals in the Governor's Article VII Extender bill put before the Legislature for enactment.

### Part A

#### Subpart A- Medicaid Drug Cap

The Extender authorizes the creation of a Medicaid Drug Cap within the Medicaid Global Cap that would limit increases in Medicaid prescription drug spending. The price increase limit for 2017-18 would be the 10-year rolling average of the Medical CPI plus 5% and the Medical CPI plus 4% for 2018-19. If price increases are above the Cap limit, the drug utilization review board may review the drug and require the manufacturer to supply a rebate. In addition, the Extender reduces the threshold for the implementation of a CPI Penalty for generic drugs price increases from 300% to 75%.

#### Subpart A- Pharmacy Provisions

The Extender also contains several pharmacy provisions including:

- Aligns pharmacy reimbursement costs with Federal regulations;
- Makes the inappropriate prescribing of opiates an unacceptable provider practice that may result in kicking a provider out of the Medicaid program;
- Aligns prescription refills with NY controlled substance law (can't refill if have more than 7 day supply left); and
- Aligns pharmacy co-pays with Federal law and decreases from \$3 to \$2.50, the co-pay for brand name prescription drugs.

#### Subpart B- Fiscal Intermediary Services

The Extender requires fiscal intermediaries operating in the consumer directed personal assistance program ("CDPAP") to be certified with New York State.

#### Subpart B- Eliminates Bed Hold Payments For Nursing Homes

The Extender eliminates bed hold payments for nursing homes and adds a per-diem adjustment

to nursing homes (while maintaining \$18 million in savings) to make up for bed-hold payments.

#### Subparts C-F Extenders (Part A, Subparts C, D, E, F)

The Extender extends various programs and funding accounts as follows:

- Extends the Medicaid Global Cap for a Year;
- Extends HCRA and HCRA funding streams and accounts for 3 years;
- Extends various programs and funding authorizations until 2019; and
- Extend rates for behavioral health services, except inpatient rates, through March 31, 2020 and adds a value based payment requirement.

#### Subpart G- Human Services COLA Deferral

The Extender defers the scheduled COLA for human services workers for one year (Until March 31, 2018), and defers the COLA for human services workers under OPWDD, OMH, and OASAS for two years (until March 31, 2019).

#### Subpart G- Raises For Direct Care Worker

The Extender includes language implementing the direct care workers salary increases of 3.25% as appropriated for OPWDD, OMH, and OASAS workers effective January 1, 2018.

#### Subpart H- Miscellaneous Provisions

The Extender adds the following provisions:

- Sets a new benchmark reimbursement rate for Nursing Homes;
- Requires Medicaid coverage for medically necessary donor breast milk for infants;
- Requires Medicaid coverage for services associated with improved birth outcomes for women in the process of ovulation enhancing drugs;
- Adds personal assistants in the consumer directed personal assistance services to requirements for home care worker wage parity laws.

### **Part B**

#### Subpart A- Sweeps and Transfers

The agreed-upon language allows for various sweeps and transfers, stipulates various bond caps, establishes a new OBEB Benefit Trust, and amends the existing debt reduction reserve fund by setting the maximum amount at \$500 million. This includes the following items of particular significance:

- The Dormitory Authority may issue new bonds to pay for capital projects including the state fair, the empire state trail, the Moynihan Station Development Project, the Kingsbridge Armory Project, strategic economic development projects, cultural/arts/public spaces fund, an LGBT memorial, water infrastructure in Auburn and Owasco, and a life sciences laboratory public health initiative. Total additional bonding authority is increased for such projects by \$1.9 billion.

- Includes, among the “sweeps and transfers,” the \$65 million reduction of General Fund assistance to the Metropolitan Transportation Authority to offset Payroll Mobility Tax revenues related to the 2011 statutory changes, as well as the \$121.5 million transfer from the downstate transit assistance fund (MMTOA). The \$65 million reduction has been opposed by transit advocates and the Conference.
- Sweeps \$23 million from RGGI to the General Fund.
- Adds capital costs of clean water infrastructure projects to the types of service contracts that the Environmental Facilities Corporation (EFC) may enter into, and increases the maximum bonding amount that EFC may issue for environmental infrastructure projects by \$2,343,000 from \$2,108,760 to \$4,451,760.

#### Subpart B- \$3 million New York City Traffic Adjudication Sweep

Subpart B of Part B of the Budget Extender Article VII language provides for a \$3 million annual transfer of fines collected in New York City under its traffic adjudication program, which is administered by the State DMV. This revenue would be deposited in the State’s General Fund, ostensibly to offset DMV’s IT expenses related to the program. This legislation was originally included in Part F of the TED bill, and then included in Part GG of the PPGG Article VII Counsel’s Office received. It has been amended to add a sunset on April 1, 2019. New York City opposed this sweep in its budget letter.

### **Part C**

#### Subpart A- PTOA-MTOA Revenue Extension

Subpart A of Part C of the Budget Extender Article VII language permanently extends the PTOA-MMTOA distribution of transit revenues. This was not a controversial portion of the Executive Budget.

#### Subpart B - EDF Extender

This was an extension of the Urban Development Corporation language to allow the Urban Development Corporation to make grants from the Economic Development Fund from July 1, 2017 until July 1, 2018.

#### Subpart C – UDC Extender

This was an extension of the Urban Development Corporation language to allow the Urban Development Corporation to make loans, and extend the authority to do so from April 1, 2017 until July 1, 2018.

#### Subpart D- Extension of Expedited Service Authority To The Department of State

This subpart extends the authorization for the Division of Corporations to provide expedited service for additional fees from 3/31/17 to 3/31/18. The Division is authorized to provide

24-hour weekday service for \$25, same day service for \$75, and two-hour priority service for \$150. All other service must be completed within seven business days. If this was not extended, the Division would only be able to provide 24-hour weekday service for \$25, and there would be no deadline for non-expedited service. Services include: serving legal process on the Secretary of State as an agent of a third-party, searching department records, providing copies of records, filing business formation and dissolution documents, and other certificates.

#### Subpart E- Oil Spill Account Technical Change

This section is the agreed-upon budget Part HH of TEDE, which creates a companion account to the State Oil Spill Fund to cover capital costs associated with DEC program administration similar to the administrative process of the State Superfund program. This is accomplished by converting a state operations account that funds contractual services to a capital account. This is an accounting change that will have no practical impact on the administration of the fund.

### **Part D**

#### Subpart A --New York City Personal Income Tax Rate Reduction Benefit

This section converts the New York City Personal Income Tax Rate Reduction Benefit into a tax credit comprised of a “fixed amount” that applies to all taxpayers with income that does not exceed \$250,000, and a “rate reduction” that applies to all taxpayers, but is determined by income bracket. This proposal by the Executive was accepted by both the Senate and the Assembly.

#### Subpart B- Warrantless Wage Garnishment

Extends the authority for warrantless wage garnishments against individual tax debtors from April 1, 2017 to April 1, 2020.

#### Subpart C- State and Local Sales Tax Corrections

Amends the State and local sales statute for a technical amendment. This measure clarifies existing law that sales tax is imposed on the transmission of gas or electricity only in instances where the delivery and the commodity are provided by the same vendor.

#### Subpart D- Real Estate Investment Trusts and Regulated Investment Companies

Clarifies language established in Chapter 60 of the Laws of 2016 that enacted NYC Corporate Tax Reform that allowed Real Estate Investment Trusts and Regulated Investment Companies to elect to select either a fixed dollar minimum tax payment schedule or an 8% fixed method for the apportionment of all income, gains, or losses.