



DEMOCRATIC CONFERENCE / COUNSEL AND FINANCE

Date: March 31, 2017
To: Senate Democratic Conference Members
From: Counsel and Finance Staff
Re: TEDE Agreed-Upon Budget Bill Super-Highlights

The following analysis describes the items included in the agreed-upon budget bill for Transportation, Economic Development, and Environmental Conservation.

Transportation and Corporations/Public Authorities

Design-Build- Part P

The agreed-upon TED Article VII language **excludes** the legislation permanently extending design-build and best value procurement and expanding to state agencies and authorities, and local governments exclusive of New York City. This legislation will likely be included in a subsequent Article VII bill instead, but it had originally been included in Part P of the TED Article VII bill.

Ridehailing/Ridesharing- Part G

The agreed-upon TED Article VII language **excludes** legislation providing special authorization for transportation network companies (TNCs) to operate ridehailing/ridesharing programs outside of New York City. It is likely that this legislation will be included in a subsequent Article VII bill, but the Executive Budget included its TNC bill in Part G of the TED Article VII bill.

DMV Fees- Parts J, K

The agreed-upon TED Article VII language **excludes** legislation increasing title application and duplicate title fees, as well as the authorization for DMV to assess a \$5 additional fee to provide Federal Real ID-compliant licenses and non-driver identification documents. It is possible that this legislation will be included in a subsequent Article VII bill, but the Executive Budget had included these proposals in Parts J and K of the TED Article VII bill.

Miscellaneous

- The agreed-upon TED Article VII language includes legislation permanently extending the distribution of Transportation and Transmission Tax revenues between upstate and downstate transit operating systems. This revenue sharing was established in 2013 and would otherwise expire in 2018. [Part A]

- The agreed-upon TED Article VII language increases the number of divisible load permits for overweight vehicles requiring special permit from 25,000 to 27,000, effective for January 1, 2018. The Executive Budget proposed to increase the cap by 10,000 on a graduated scale through 2025. The DOT expects to hit the current cap this year. [Part B]
- The agreed-upon TED Article VII language **excludes** language empowering the Public Transportation Safety Board (PTSB) to withhold transit operating assistance funds from public transportation systems that fail to comply with a PTSB order. The Executive proposed this legislation in an effort to comply with federal law requiring transportation safety boards' safety oversight programs to adopt and enforce relevant state and Federal laws. [Part C]
- The agreed-upon TED Article VII language makes a variety of adjustments to the dimensions for trucks and carriers generally operating on highways, including expanding the permissible length of “stinger” automobile transporters in conformance with Federal changes. It also exempts tow trucks from various weight limits based on tire and axle type. [Part D]
- The agreed-upon TED Article VII legislation authorizes DMV to enter into reciprocity agreements with other states and jurisdictions to facilitate registration sanctions against out-of-state motorists who refuse to pay tolls. It varies from the Executive proposal in that it requires the reciprocity agreements to include notice, due process, appeal, and remote pleadings before they can take effect. It also requires DMV and the tolling authorities to report on reciprocity agreements entered into, though timeline or regularity for the report are unclear. The agreed-on legislation also excludes the Executive's language that enhanced license plate concealment penalties and added unpaid use of toll highways, parkways, roads, bridges, or tunnels in the Penal Code under the “theft of services” statute. The Executive has proposed toll scofflaw legislation for the past several years, and been unable to achieve three-way agreement. [Part E]
- The agreed-upon TED Article VII legislation **excludes** the Executive's \$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 have been deposited in the State General Fund, ostensibly to offset DMV's IT expenses related to the program. This legislation may be included in a subsequent Article VII bill. [Part F]
- The agreed-upon TED Article VII legislation permits the DMV to waive the replacement fee for a duplicate non-driver identification card for a victim whose card was lost or destroyed as a result of a crime. The fee is currently \$3 plus photographic costs. Drivers already have this option for licenses. [Part H]
- The agreed-upon TED Article VII legislation increases the fee for non-residents whose licenses were revoked due to DUI-related convictions or mandatory revocation from \$25 to \$100. This is the same rate that state residents already pay. [Part I]

- The agreed-upon TED Article VII legislation **excludes** the Executive’s proposal increasing the fee for filing a certificate of title application by 50% from \$50 to \$75 and increasing the fee for filing a duplicate title certificate application by 100%, from \$20 to \$40. These revenues were anticipated to generate up to \$81 million in revenue per year for the Highway and Bridge Trust Fund (DHBTF). [Part J]
- The agreed-upon TED Article VII legislation **excludes** the Executive’s proposal assessing an additional \$5 fee for driver licenses and non-driver identification cards that would comply with Federal REAL ID requirements. It is anticipated that the State will potentially no longer receive Real ID compliance waivers after October 2020; DMV identification is used by many as their primary form of identification to board domestic airplane trips. New York already charges enhanced license and non-driver applicants an additional \$30 fee, on top of the roughly \$65 base fee for a conventional license or the \$9-13 for a non-driver identification card. [Part K]
- The agreed-upon TED Article VII legislation **excludes** the Executive’s omnibus motorist safety legislation, which included: mandatory education on bicyclists and pedestrians in driver licensing, expanded the definition of “drug” for purposes of vehicle-related impairment and intoxication, increased the revocation length for chemical test refusals, clarified that drivers cannot use electronic devices while stopped at traffic control devices, prohibited all electronic device use (including with headsets) by probationary drivers, and expanded backseat seat belt requirements. [Part L]
- The agreed-upon TED Article VII legislation authorizes the New York Power Authority (NYPA) to enter into shared services agreements with DOT for purposes of emergency or extreme weather response. A 10-day limit on work is also included. The Executive’s proposal would have permitted the entities to enter into agreements with DOT to maintain the canal system. [Part LL]

Corporations/Public Authorities

- The agreed-upon TED Article VII legislation extends the Dormitory Authority’s authorization to enter into design and construction management agreements with DEC and ORPHP for two years. Enacted in 2012, this authorization was intended to expedite implementation of the New York Works capital investments program for these two agencies. The agreed-upon language also adds a requirement that DASNY report on projects delivered using this authority within 90 days of taking effect. [Part W]
- The agreed-upon TED Article VII legislation amends the definition of “transportation purpose” that was added in the 2016 Enacted Budget to narrow the MTA’s permission to focus on transportation facility-derived revenue that directly supports transportation purposes. The 2016 language was interpreted as a mechanism allowing the MTA to preempt local zoning authority, prompting both houses of the Legislature to include repealers in their one-house bills. A repealer bill was supported by the City of New York and many local parks groups and community advocates in 2016, but was vetoed by the

Governor. [Part PP]

Environment and Agriculture

DERA Extension- Part UU

This Part UU extends the Diesel Emission Reduction Act compliance deadline from December 31, 2017 to December 31, 2018. This proposal also extends the waiver period for soon-to-be retired vehicles by one year until 2019; and pushes back a required DEC report on the status of DERA compliance by one year until 2019. The Senate One-House included a 2 year extension of compliance, four year extension for waivers, and a two year extension on reporting requirements in Part HHH. DERA was initially passed in 2006 with a compliance deadline of 2010. It has been extended each year for one year beginning in 2010. The SDC has opposed this extension.

Clean Water Infrastructure Act of 2017- Part II

Intentionally Omitted. This Part II set forth various programs that a proposed \$2 billion water infrastructure appropriation may be expended on. This Part is likely to be included in a forthcoming Article VII budget bill.

Extends Pesticide Registration Fees- Part SS

This Part SS extends certain pesticide registration fees and application review provisions from July 1, 2017 to July 1, 2020. This statute has been extended every three years since it was established in 1992.

Technical Change to Oil Spill Account- Part HH

The agreed-upon budget Part HH of TEDE 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.

Increases Pilot Programs for Industrial Hemp- Part OO

This Part OO eliminates the ten farm cap on the number of licensed operations that may partner with the Department of Agriculture and Markets or an institution of higher learning (Cornell and SUNY Morrisville are current participants) to establish industrial hemp growing pilot programs. The federal government has recently relaxed various restrictions on industrial hemp operations, and the State has made conforming amendments to foster this industry -most recently Chapter 256 of 2016 (O'Mara 6960-A), which passed the Senate unanimously, allowed greater flexibility in the sale, distribution, transportation and processing of industrial hemp in accordance with new federal regulations. The Governor has also committed to hold a first ever Hemp Summit this year to further grow the industry.

Technical Clarification to Bottle Bill Deposits- Part JJ

This final budget bill's Part JJ includes clarifying language that enumerates the climate change mitigation and adaptation account within the EPF and increases bottle bill deposits into the EPF. It increases the level of deposits to \$23 million (from \$15 million) plus all revenues in excess of \$122.2 million. The Executive and the Assembly proposed the same with minor technical and clarifying differences.

Food Waste and Scraps Donation and Recycling- Part KK

Intentionally Omitted. This Part KK would require high volume food waste generators, that generate over 2 tons per week, to donate or recycle food waste if they're within a certain distance from an organics recycler (the Executive's proposal set this distance at 50 miles, while the Assembly set it at 15 miles). The SDC had supported this proposal.

Increases State Matching Funds for Waterfront Revitalization- Part T

This section increases the State's share of matching funds for Local Waterfront Revitalization Program Funding from 50% to 75%, and for Environmental Justice Communities to 85%.

Energy

Department of Public Service Assessments- Part V

The three-way agreement modifies the Executive by adding language that states that any expense deemed to be expenses of the Department of Public Service in this act should not be recovered through assessments imposed on telephone corporations.

This section authorizes certain state agencies to finance public health campaigns and utility oversight related costs from assessments on cable television companies and public utilities, respectively. The total annual cost to the ratepayers of this bill would be \$3.4 million. Only the Department of Health provision was included in the SFY 2016-17 Enacted Budget, which raised \$454,000 annually. This provision would increase the 18-a Utility Assessment by adding the following agencies along with their annual amounts they would receive: Department of Agriculture and Markets, \$435,000; Department of Environmental Conservation, \$1.7 million; Department of State, \$808,000; and the Office of Parks, Recreation and Historic Preservation, \$97,000. The SDC supported only keeping assessments for the Department of Health.

NYSERDA Financing- Part MM

The three-way agreement accepts the Executive proposal to 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 the Department of Environmental Conservation's climate change program

and the Department of Agriculture and Markets' Fuel NY program, from an assessment on gas and electric corporations. The bill would authorize the collection of assessments in an amount not to exceed \$19.7 million. The Senate Democratic Conference agreed with this proposal.

Funding to Local Government Entities with Shuttered Power Plants – Part QQ

The agreed-upon budget bill includes a new proposal championed by the Assembly that proposed creating a maximum potential award schedule for funding available to local government entities where an electric generating facility closed after 6/25/15, causing a reduction in property taxes or PILOTs of at least 20% owed by the facility. The fund was created in 2015 and was capped at \$30 million over five years. The Senate had proposed increasing the cap to \$60 million over 10 years. This provision extends the program to seven years and raises the cap to \$45 million. Local governments could recapture up to 80% of lost revenues in the first award year, which would gradually decrease to 20% of lost revenues in the seventh award year. The bill also allows NYSERDA to transfer up to \$15 million into the fund in 2020 from proceeds collected from the auction or sale of carbon dioxide emission allowances (RGGI).

The funding could be available for Tonowanda, where NRG's Huntley power plant closed, and Westchester when Indian Point closes.

This section was included in both of the one house budget bills; Assembly (Part SS of TED) & Senate (Part RR of PPGG).

Indian Point Closure Task Force – Part RR

The 3-Way Agreement includes a new proposal to codify Governor Cuomo's Indian Point Nuclear Power Plant Closure Task Force created by the Governor on February 28, 2017 and to provide guidance and support to affected local municipalities and employees pertaining to membership, purpose, and duties of the task force. It provides for the appointment of members, requiring task force members from various agencies and representatives from the village of Buchanan, Hendrick Hudson School district, the town of Cortlandt, legislative appointments, and labor representatives. The task force should assess the impacts of the Indian Point closure on the state and local municipalities and evaluate ways of addressing and mitigating anticipated impacts, including but not limited to property tax collections. The task force must also hold hearings on the future of Indian Point and produce a study on future reuse and reutilization options by 4/30/2018. It would also have to submit further annual reports through 2023.

The Senate Majority proposed requiring Westchester County, in consultation with the town of Cortlandt, village of Buchanan, and the Hendrick Hudson school district, to study and recommend solutions for the reutilization of Indian Point. The study would have been due to the Governor and legislative leaders by 12/1/17.

One House Positions: Related Senate Proposal (Part QQ of PPGG)

Economic Development

EDF Extender – Part M

The final budget agreement includes 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.

UDC Extender – Part N

The final budget agreement includes 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.

MWBE Extender – Part O

The MWBE extender language was intentionally omitted in this version of TED.

Life Sciences – Part TT

This agreed-upon section creates a new life sciences initiatives program for the purpose of “attracting new life sciences technologies, to promote critical public and private sector investment in emerging life sciences files in NYS, and to create and expand life sciences related businesses and employment.”

Under this proposal, the NYS Urban Development Corporation is authorized to provide financial support, through an application and approval process on a rolling basis, and such funds may be used for the “advancement and economic growth of life sciences programs, employment of staff, development and facilities or other working capital that are aligned with the life sciences program strategy and approved by the corporation.” Life sciences is defined broadly and includes but is not limited to advanced and applied sciences that expand the understanding of human physiology and have the potential to lead to medical advances or therapeutic applications.

UDC will be required starting on or before October 1, 2018 and every year thereafter, to submit to the Governor, Senate and the Assembly an annual report on the operations and accomplishments of the life sciences program, which shall include, but not be limited to the economic impact of the activities undertaken with state funds, the number and amount of federal funds procured after program approval, and include jobs created and maintained, the average salary of the jobs created and the average salary of the jobs retained.

Miscellaneous

This agreement excludes two provisions that the Senate Majority had proposed: a requirement that funds appropriated to NYC be matched on a one to one basis by the institution receiving the funds; and a requirement that no more than 1/3 of all funds appropriated be awarded to NYC.

General Government

Service of Process on Business Entities – Part R

The final bill omits the Governor’s proposal to shift responsibility for service of process on business entities from the Secretary of State to individual plaintiffs.

Under current law, businesses must register the Secretary of State as an agent designated to receive process. The plaintiff sends process to the Secretary and the Secretary then notifies the business. Under the Governor’s proposal, the Secretary would have merely maintained a database of business addresses, and the plaintiff would have had to find the proper address and ensure proper service on the business and the Secretary at the same time.

One House Positions: Senate, Assembly, and Senate Democratic Conference rejected.

Consumer Protections for Reverse Mortgages - Part FF

The agreed-upon bill includes the Governor’s proposal to expand consumer protections afforded to users of traditional mortgage products to include reverse mortgages for purposes of mortgage foreclosures. Currently the borrower and the lender must engage in a settlement conference before a foreclosure proceeding can advance to trial, except for reverse mortgage borrowers. This provision requires that settlement conferences be conducted for foreclosure proceedings on reverse mortgages as well. The settlement conference would not be necessary if the default on the reverse mortgage is triggered by the death of the last surviving borrower, unless the last surviving borrower’s spouse or successor is a resident of the property at the time of death. The provision also provides the Superintendent of Financial Services to promulgate rules and regulations to implement the provisions.

The executive budget provided an exemption for the borrower’s spouse, but not other successors, and did not provide authority for the Superintendent of Financial Services to make rules and regulations to implement the provisions.

One House Positions: Assembly & SDC accepted; Senate rejected.

Department of Financial Services Regulatory Power- Parts X, Y, Z, AA, BB, CC, EE, GG

The final budget rejects various banking proposals put forward by the Executive, including: providing the Superintendent of DFS authorization to order failing insurers into administrative supervision proceedings; increasing enforcement powers of the Superintendent in relation to illegal and unlicensed activity; allowing DFS to license and regulate student loan servicers; permitting banking institutions to hold transactions on the accounts of vulnerable adults based on reasonable belief of financial exploitation; allowing DFS to disqualify bad actors from continued involvement in the industry; requiring nonprofit organizations that facilitate lending circles to register with DFS and providing DFS with regulatory authority over any online lender doing

business within New York State.

Extends Continuation Assistance Demonstration Project- Part NN

The agreed-upon bill extends the New York State Health Insurance Continuation Assistance Demonstration Project, which authorizes the State to subsidize eligible entertainment industry employees COBRA health insurance premiums during episodic employment, until July 1, 2018.

Fee for Production of Real Estate License ID Card – Part S

The bill includes the Governor’s proposal to assess a \$5 fee on real estate professionals to cover the cost of production for real estate professional ID cards. Under current law, the Department of Motor Vehicles produces the card and the Department of State covered the production costs. Under this provision, the cost of a license for a real estate broker will rise from \$150 to \$155 and the cost of a license for a real estate salesman will rise from \$50 to \$55, thereby allowing the Department of State to recoup the costs of production. The licenses are renewed every two years.

The Executive Budget had assessed the \$5 fee at the time the ID card was delivered to the broker or salesman, whereas the current bill incorporates the fee into the biennial licensing fee. The Executive Budget assumes this provision will create \$460,000 in recurring revenue.

One House Positions: Assembly accepted, Senate rejected.

Removes State Athletic Commission Chairperson Required Salary- Part U

The agreed-upon budget bill removes the Governor’s proposal that would have removed the chair of the State Athletic Commission from receiving a statutory salary of \$101,600.