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**Report on Governor Hochul's \$227 Billion Budget for FY 2024**

On Wednesday, February 1, 2023, Governor Hochul presented her \$227 billion executive budget for fiscal year 2024 under the theme noted in her State of the State to make New York “safer, more affordable, and more livable.” The budget includes major investments in education, health care, mental health, housing, public safety, and the environment. The \$227 billion budget (all funds) consists of \$125.2 billion of state operating funds, which reflects an increase of \$2.5 billion or 2 percent from the FY 2023 and includes historic investments in education and Medicaid. Education aid would increase by 10% to \$34.4 billion. The state Medicaid share would grow to \$27.8 billion, which is a 7.7% increase. The final budget is due on April 1.

The chart below from Division of Budget provides a further break down of the financial plan:

FY 2024 EXECUTIVE BUDGET SPENDING (billions of dollars)				
	FY 2023 Updated	FY 2024 Projected	\$ Change	% Change
<b>All Funds</b>	<b>221.6</b>	<b>227.0</b>	<b>5.4</b>	<b>2.4%</b>
<b>State Operating Funds</b>	<b>122.7</b>	<b>125.2</b>	<b>2.5</b>	<b>2.0%</b>
School Aid (School Year Basis)	31.3	34.4	3.1	10.0%
Medicaid	25.8	27.8	2.0	7.7%
Executive Agencies	12.3	12.6	0.3	2.4%
All Other	53.3	50.4	-2.9	-5.4%

Due to greater than expected tax receipts, the State has a surplus of \$8.7 billion. Despite the surplus, the Division of Budget (DOB) notes that federal COVID-19 dollars are waning and warns of a slowing economy. DOB also predicts that the surge in tax collections will peak by the end of FY 2023 (March 31). Therefore, the Governor's budget programs much of the surplus into the State's general reserves, the debt reduction reserve, and the Retiree Health Trust Fund, with the remainder used to manage future expenses and budget gaps. The financial plan also notes of significant out-year budget gaps: \$5.7 billion in FY 2025, \$9.0 billion in FY 2026, and \$7.5 billion in FY 2027 for a total of \$22 billion over the next three fiscal years. The budget briefing materials note the reason for the gaps “...are due principally to the downward revisions in projected tax receipts, which have been lowered by nearly \$21 billion (FY 2025 to FY 2027) in comparison to the enacted budget financial plan.” Of note, the gaps do not reflect use of funds that have been placed in the State's rainy-day fund, which total \$20 billion since 2020.

Below are initial Executive Budget highlights:

**I. OVERVIEW OF HEALTH AND MENTAL HYGIENE ARTICLE VII BILL PROVISIONS (BY PART, S4007/A3007)**

**Part A – Medicaid Global Spending Cap**

- Extends the Medicaid Global spending cap on total state Medicaid expenditures through 2025, using the same formula changes as adopted in the 2023 state budget.

## **Part B – Extend Various Provisions of Public Health, Education and Social Service Laws**

This bill would extend certain laws set to expire for various savings initiatives previously enacted. Examples include:

- Continue the Care at Home (CAH) waivers providing community-based services to physically disabled children who require hospital or skilled nursing level of care
- Extend the limit on payment of nursing home appeals to \$80M annually
- Extend the episodic payment methodology for CHHA's
- Make permanent the Statewide Health Information Network
- Extension of nursing home and home care Medicare Maximization programs
- Continue elimination of trend factors for hospitals and nursing homes
- Extend Medically Fragile Young Adult Program
- Extend provisions to allow for the use of funds of the Office of Professional Medical Conduct for activities related to health information and quality improvement, including the NYS Physician Profile
- Extend authorization for the State to negotiate supplemental rebates directly with manufacturers
- Extend authorization to establish a statewide formulary for certain classes of drugs

## **Part C – Reauthorize the Health Care Reform Act (HCRA) for Three Years**

- Extends provisions of the HCRA scheduled to expire on March 31, 2023. Among those extensions:
  - Extend the continuation of the Medicaid inpatient hospital reimbursement methodology and collection of HCRA surcharges and assessments through December 31, 2026.
  - Extend Area Health Education Centers through March 31, 2026
  - Extend authorization for Clinic Bad Debt and Charity Care through March 31, 2026.
  - Extend authorization for the collection of the Covered Lives Assessment and makes technical corrections to increase collections to \$1.085 billion through December 31, 2026, to align with the intent of S.5560A (Chapter 820 of 2021), which would increase collections to provides additional state funding to municipalities for Early Intervention services.
  - Extend various tobacco initiative allocations through March 31, 2026.
  - Extend the authorization for certain hospital billing requirements, historically extended with HCRA, through March 31, 2026.
  - Extend the Home Care Workforce Recruitment and Retention Program through March 31, 2026.
  - Extend the Personal Care Workforce Recruitment and Retention Program through March 31, 2026.

## **Part D – Medicaid Pharmacy**

- Bill language gives DOH authority to modify including removal of drugs on the approved list of over-the-counter drugs reimbursable under Medicaid by regulation “without prior notice or comment.”
- Eliminates a prescriber's final determination (i.e., prescriber prevails) under Medicaid Fee for Service (FFS) and transfers final determination to the Program (DOH) after the program's consideration of information and justifications provided. In addition, the prescriber prevails language under Medicaid Managed Care would be repealed as the pharmacy benefit is scheduled to move back under Fee-for-Service as of April 1, 2023.

## **Part E – Hospital Recommendations**

Provides for implementation of various reforms including:

- Three-year extension of Voluntary Indigent Care Pool (ICP)
- Increases hospital reimbursement rates by 5%
- Reduces ICP by \$42.7M state share to target dollars to high need facilities
- Authorizes designation of Rural Emergency Hospitals to allow smaller hospitals to change designation and gain access to additional federal funding.
- Expands VAPAP eligibility to providers formed as a Delivery System Reform Incentive Payment Performing Provider System and who collaborated with an independent practice association that received “VBP Innovator” status from DOH

## **Part F – Extend the Physicians Excess Medical Malpractice Program**

- Provides one year extension of the Physician Excess Medical Malpractice Program through June 30, 2024.

### **Part G – Private Pay**

- Amend the Elder Law to decrease the income threshold to access the Private Pay program, from 400% of the federal poverty level (FPL) to 250% of the federal poverty level
- Will increase the number of middle-income earners over the age of 60 who can access services necessary to meet their needs and help them remain safely at home and within their community
- No participant, regardless of income, shall be required to pay for any program or service that they are receiving at the time these protocols are implemented by the area agency of the State Office for Aging.
- Budget Implications: No fiscal impacts during FY 2024 or FY 2025. Any costs would be supported within existing resources

### **Part H – Essential Plan Program Changes**

- Will broaden the current criteria for eligibility to consumers
- Will allow pregnant individuals and their newborns to receive coverage for one-year post-partum regardless of any change to income during that period.
- Delays the implementation of the Medicaid coverage expansion for undocumented individuals over the age of 64 to align with the proposed 1332 State Innovation Program Fund waiver expansion incorporating federal funds
- Budget Implications: will provide fiscal savings of \$213 million in FY 2024 and \$165 million in FY 2025, subject to Federal approval and guarantee of Federal financial participation

### **Part I – Long Term Care Reform**

- Amends PHL to keep recipients needing more than 120 days of Community Based Long Term Care, enrolled in a MLTC Plan through April 1, 2027.
- Identifies criteria for eligibility for MLTC Plans Certificate of Authority
- Extends moratorium of approval of applications seeking a certificate of authority as a managed care plan through March 31, 2027.
- Establishes requirement that all MLTC Plans meet stated performance standards by October 1, 2024, including contracting with sufficient number of Licensed Home Care Agencies and Fiscal Intermediaries sufficient to meet service demands.
- Authorizes DOH to open a competitive bidding process in the event that there is not a sufficient number of MLTC Plans who meet the outlined criteria.
- Outlines competitive bidding process and evaluation if the bids are needed.
- FI procurement process repealed and now addressed through performance standards
- Provides a 5% rate increase for nursing homes and assisted living programs
- Eliminates wage parity for CDPAP program caregivers
- Establishes a State Funded Supplement Premium Fund for Consumer Directed personal assistants.

### **Section J – Managed Care**

This bill establishes processes and criteria for health plan claim review regarding hospital emergency services as well as the following:

- For emergency services or admission following an ED visit, when a plan's claim responsibility is clear, plan must pay claim and then request clinical documentation if desired. Hospital is responsible for any overpayment if determined during post payment review.
- Joint committee to be established with representatives from both sides to decide disputes with an independent third-party review if needed.
- Establishes timeline for payment.
- Prohibits plans from using claims audits to reverse medical necessity, level of care, and site of service determinations.
- Reinforces OMIG authority and audit discretion in relevant law and contracts

### **Part K – Waiver Eligibility Expansion**

- Amends Social Services Law to align with pending approval of federal 1115 New York Health Equity Reform waiver to expand eligibility for Medicaid services to incarcerated individuals and adults in institutions of mental

disease (IMD) so as long as federal financial participation is available. The waiver is pending CMS approval. The budget materials notes OMH plans to submit a waiver amendment for reimbursement for children in IMDs.

## **Part L – Site of Service Reviews**

- Amends Insurance Law to establish parameters around “site of service reviews,” which is defined as the application of criteria by insurers and health plans to determine whether a procedure will be covered when rendered by a network provider at a hospital-based outpatient clinic rather than a freestanding ambulatory surgical center (ASC).
- Site of service review is deemed utilization review and must comply with provisions governing such reviews under Insurance Law and Public Health Law and includes the right to internal and external appeal. The review is required to “prioritize patient health and safety, patient choice of health care provider, and access to care and shall not be based solely on cost.”
- Insurers and health plans are required to have adequate in-network ASC providers to meet the needs of policyholders and “provide an appropriate choice of providers sufficient to render the services covered under the policy or contract.”
- Starting January 1, 2024, insurers and health plans must provide notice disclosing and explaining the site of service review to policyholders, contract holders, insureds, enrollees, prospective policyholders, contract holders, and enrollees at the time of plan and policy selection. Disclosure must include:
  - Statement that such review may limit settings in which services may be provided and render a participating provider unable to perform service and “... any quality or cost differential, including differences in out-of-pocket costs, between the hospital-based outpatient clinic and the free-standing ambulatory surgical center when services at a hospital-based outpatient clinic are requested, or at any other time upon the insured's or enrollee's request.”
  - Notification to participating providers 90 days prior to implementation.
  - Notification to Superintendent of Department of Financial Services or Commissioner of Health at least 45 days prior to notifying policyholders and contract holders, which must include draft communications to be provided.
  - If an insurer or health plan has implemented a site of service review prior to January 1, 2024, the above outlined disclosures must be provided at time of open enrollment or January 1, 2024, whichever is earlier.
- Effective January 1, 2024 (if enacted), insurer and health plans must, at a minimum, approve a service covered under the policy and requested to be rendered at network hospital-based outpatient clinic under the following circumstances:
  - (A) the procedure cannot be safely performed in a free-standing ambulatory surgical center due to the insured's or enrollee's health condition or the health care services.
  - (B) there is not sufficient free-standing ambulatory surgical center capacity in the insured's or enrollee's geographic area; or
  - (C) the provision of health care services at a free-standing ambulatory surgical center would result in undue delay.
- Effective January 1, 2024 (if enacted), the site of service review criteria used by an insurer must take into account the following:
  - (A) the insured's or enrollee's in-network treating physician recommends that the service be provided at a hospital-based outpatient clinic;
  - (B) the insured's in-network treating physician is not credentialed or does not have privileges at a free-standing ambulatory surgical center; or
  - (C) the insured has an established relationship with an in-network treating physician who performs the requested service in a hospital-based outpatient clinic.

## **Part M – Reform Approval Processes for Healthcare Projects and Transactions**

- Reduces character & competence lookback review period from 10 to 7 years
- Allows DOH to promulgate regulations for applications for licensed home care services agency (LHCSA) directing whether they are subject to public need assessment; this would align LHCSA rules with those for certified home health agency applications, which are not subject to public need assessment.
- Sets forth 90-day notification requirement for home care and hospice provider transfer of ownership interest of less than ten percent. This aligns the rules for these providers with those for Art. 28-licensed providers.

- Establishes DOH oversight of “material transactions” involving health care entities, including physician practices or management services organization or similar entity premised on legislative intent that states in part, “...there has been a proliferation of large physician practices being managed by entities that are investor-backed” which are subject to far less regulation and oversight as compared to Article 28, Article 31, or Article 32 providers. The premise for this new section of law, to be known as Review and Oversight of Material Transactions, further states, “... transactions involving the change of control, by virtue of a sale, merger or acquisition of these providers, are not subject to any state change of ownership or control review, such that the state is not able to track or monitor the impact of these transactions on cost, quality, access, equity, and competition. This phenomenon may have a negative impact on patient care, health care costs, and ultimately access to services. ... In addition, the concentration of these investor-backed physician practices is a significant contributor to health care cost inflation...”
  - Key Definitions:
    - Health care entity is defined as “... a physician practice or management services organization or similar entity providing all or substantially all administrative or management services under contract with one or more physician practice, provider-sponsored organization, health insurance plan, or any other kind of health care facility, organization or plan providing health care services in this state...”
    - Material Transaction is not only a merger, acquisition or affiliation with health care entity but also “an affiliation or contract formed between a health care entity and another person...” and “the formation of a partnership, joint venture, accountable care organization, parent organization, or management services organization for the purpose of administering contracts with health plans, third-party administrators, pharmacy benefit managers, or health care providers as prescribed by the commissioner by regulation.” Of note, **not included** in this definition is a clinical affiliation of health care entities formed for collaborating on clinical trials or graduate medical education or transaction that is already subject to review under applicable law.
    - Regulatory review process:
      - Health care entities seeking to enter into a material transaction would be required to submit written notice and application to DOH with supporting documents at least 30 days prior to the desired closing date. If DOH does not act on the application within 30-days of receipt it shall be deemed approved.
      - Information to be submitted as part of notice and application includes: names of parties to the transaction, copies of agreements, identification of all locations where health care services are currently provided and revenue generated, any plans to reduce or eliminate services, description of the nature and purpose of transaction, anticipated impact on cost, quality, access, health equity and competition which can be supported by formal market analysis, and any commitments by health care entity to address impacts.
      - The proposed law enumerates that as part of its review DOH will consider whether “the potential positive impacts” of the transaction “...outweigh the potential negative impacts” along factors that includes patients’ costs, access to services, and health outcomes. DOH will also consider whether there is substantial likelihood of anticompetitive effects, financial condition of the parties, character and competence, source of funds, fairness of any exchange of shares, assets or cash and other information “...necessary to determine the impact of the material transaction.”
      - During the 30-day review period, DOH is authorized to seek public comment through process to be determined by regulation and also authorized to withhold approval “...if necessary to conduct a thorough examination and analysis of whether the transaction is consistent with criteria established.”
      - As a condition for approval, DOH can require parties to make contributions in impacted communities or contributions to state-controlled funds including health care transformation fund in order to “...preserve access or to otherwise mitigate the impact of the material transaction on the health care delivery system.”
      - Finally, if DOH approves the application with conditions or disapproves, DOH is authorized to notify Attorney General of its findings and analysis so that office “...may, if appropriate, conduct an investigation into whether the health care entities have engaged

in unfair competition or anticompetitive behavior and, if necessary, take steps to protect consumers in the health care services market.”

- Authorizes civil penalties of up to \$10,000 per day for any violation.
- DOH and DFS authorized to promulgate regulations for implementation if enacted.
- Increase the fee for CON applications for hospitals, nursing homes, and diagnostic and treatment centers requiring PHHPC approval to sixty hundredths of one percent of the total capital value of the application. For those not requiring approval of the full PHHPC, fee would increase to thirty-five hundredths of one percent of the total capital value of the application.
- Amends the Public Health Law to authorize local health departments and New York City to provide core public health services under Article 36 of the Public Health Law without requiring licensure so long as it does not exceed “minimal patient contact.” Patient contact will be considered more than minimal if it requires more than six patient visits. Core public health services that may be provided without a license includes immunizations; testing for tuberculosis and observation of tuberculosis self-directed therapy; verbal assessment, counseling and referral services; and such other services as may be determined by the department.”

#### **Part N – Expand the Medicaid Buy-In for Working People with Disabilities**

- Expands the Medicaid Buy-In program for working people with disabilities by removing the age limit, increasing the resource limit, increasing the income eligibility
- Will allow working people with disabilities to enter the workforce and obtain promotions without the fear of losing essential health benefits.
- Budget Implications: Cost to the State of \$60 million annually.
- Effective Date: January 1, 2025

#### **Part O – Lead the Way for a Tobacco-Free Generation**

- Ban the sale of harmful flavored tobacco and vapor products which are often targeted at children.
- Amend the definition of "flavored" to mean any vapor or tobacco product with a “taste, aroma, or sensation distinguishable by an ordinary consumer.”
- Budget Implications: Reduction of \$133 million in state tax revenue in FY 2024 and \$255 million in FY 2025
- Effective Date: September 1, 2023

#### **Part P – Provide Transformative Health Care Capital Funding V**

- Purpose: transforming, redesigning, and strengthening quality healthcare services in alignment with statewide & regional needs, and in the ongoing pandemic response.
- Eligible providers: hospitals, NHs, Assisted Living, home care, hospice, IPA’s, PCPs
- Up to \$500 million for capital projects
- Up to \$500 million for technological & telehealth transformation projects
- No reference to available funds to support Statewide III or IV unfunded projects

#### **Part Q – Expand Access to Primary Care**

- Amends Social Service Law to provide Medicaid reimbursement for community health workers for children under the age of 21 and for adults with health-related social needs when recommended by physician or other health care practitioner authorized under Title VIII of State Education Law, which is contingent on federal approval and federal financial participation.
- Amends Public Health Law to authorize licensed mental health counselors, licensed marriage and family therapists to be reimbursed for services in community health centers in addition to general hospital outpatient departments and diagnostic and treatment centers.
- If enacted, this provision would result in a cost to the State of \$8.7 million in FY 2024 and \$34.7 million in FY 2025.

#### **Part R – Expand Medicaid Coverage of Preventative Care Health Services**

- Amends Social Services Law to authorize Medicaid coverage for care and services of nutritionists and dietitians certified under Title VIII of State Education Law.

- Amends Social Services Law to authorize Medicaid coverage for arthritis self-management training services for individuals diagnosed with osteoarthritis when ordered by a physician, physician's assistant, registered nurse, nurse practitioner or licensed midwife, which must be provided a qualified educator as determined by Commissioner of Health.
- Contingent on federal approval and federal financial participation.

#### **Part S – Revitalize Emergency Medical Transportation**

- Modernize emergency medical response as follows:
  - Expand definition of emergency medical services, to include administering vaccinations and buprenorphine and establishing mobile integrated healthcare programs.
  - Streamline process for regional boards making recommendations to State Emergency Medical Services Council
  - DOH to create plan to improve access to high-quality emergency medical services and training programs for emergency medical services providers
  - Require emergency medical services agencies to adopt performance standards
  - DOH to develop initiative to promote recruitment and retention of emergency medical services providers.

#### **Part T – Address Childhood Lead Poisoning in High-Risk Areas Outside of New York City**

- Requires Department of Health to develop a registry for all residential dwellings (outside of New York City) with two or more rental units built prior to 1980 and located in communities of concern as identified by the Department.
- These dwellings would have to be certified as free of lead paint hazards based on inspections on a tri-annual basis. The certifications would have to be submitted to the local health department or designee.
- DOH is authorized to promulgate regulations to administer, coordinate and enforce this provision as well as establish fines for non-compliance.
- Minimum inspection requirements would be based on regulation and guidance from DOH.

#### **Part U – Safeguard Abortion Access through Data Privacy Protections**

- Amends the General Business Law to:
  - Prevent any person or entity headquartered or incorporated in New York State from sharing information with out-of-state law enforcement agencies, civil or criminal, of individuals seeking abortion care in New York. The provision provides limited exception when person or entity has been served with warrant and attestation.
  - Prevent the delivery of digital advertisements through the use of geofencing technology to individuals at health care facilities, which is inclusive of any governmental agency, department, institution, clinic, laboratory, hospital, physician's office, nursing care facility, HMO or similar entity that provides medical care or related services pursuant to Public Health Law or Mental Hygiene Law. Geofencing technology is defined as "... a technology that uses global positioning system coordinates, cell tower connectivity, cellular data, radio frequency identification, Wi-Fi data and/or any other form of location detection, to establish a virtual boundary or "geofence" around a particular location that allows a digital advertiser to track the location of an individual user and electronically deliver targeted digital advertisements directly to such user's mobile device upon such user's entry into the geofenced area."

#### **Part V – Implement Over the Counter Contraception Access**

- Amends State Education Law to permit pharmacists to prescribe and order self-administered hormonal contraceptives and emergency contraceptive drug therapy following standardized procedures or protocols developed by the State Board of Pharmacy in consultation with Department of Health. These protocols will require an individual to use a self-screening tool to identify risk factors based on current US Medical Eligibility Criteria for contraceptive use developed by Centers for Disease Control and Prevention. Prior to prescribing, pharmacists will be required to complete a training of at least one hour of continuing education. The pharmacist or their employers would be authorized to charge a \$10 administrative fee. Patients with insurance coverage covering the drug therapy would be not required to be pay the administrative fee but copay would apply based on terms of coverage.

## **Part W – Allows Certain Health Care Providers to Expand their Scopes of Practice**

- In an effort to “help alleviate the health care work force shortage,” the language makes statutory changes to allow pharmacists, physician assistants, and nurses to take on additional health care provider roles under their licenses, makes it easier for physicians and nurses licensed in other states to practice in New York through interstate compacts, either physically or virtually, by establishing licensure reciprocity with other states, allows physicians and nurse practitioners to issue non-patient specific standing order for HIV-preventive medication, commonly called PrEP.
- Among the proposals:
  - Authorize licensed pharmacists to prescribe and order medications used in treatment of nicotine dependence and prescribe and order opioid antagonists, including naloxone and medications approved by DOH. Pharmacists would also be authorized to order diabetes and asthma self-management education and support services and home-based asthma services for patients.
  - Authorizes physician assistants to practice independently when: (1) they have more than 8,000 hours of practice and are practicing in primary care, which is defined as non-surgical care including pediatrics, general adult medicine, general geriatric medicine, general internal medicine, OB/GYN, family medicine, or other areas as determined by the Commissioner of Health; or (2) are employed by a health system or hospital.
  - Authorizes certified medication aides to administer routine and prefilled medications in residential health care facilities under supervision of a registered nurse.
  - Authorize SED to issue temporary permits to practice for individuals licensed in another state while seeking licensure in New York State.

## **Part X – Nurse Agency Staffing Practice Recommendations**

- Requires temporary health care service agencies to register with the Department of Health and establish definitions, minimum requirements and standards, violations and penalties and mandate quarterly reporting from these agencies with data on charges and compensation, administrative charges, and schedule of rates of all compensation per category of employee.
- Agencies would be required to submit to DOH copies of all contracts between the nurse staffing agency and a health care entity where it is assigning or referring personnel.
- DOH is to make list of available agencies on its website the list of agencies that are registered with Department and publish a quarterly report. DOH, in consultation with Department of Labor, is to provide report to Governor and Legislature on or before March 31, 2024, summarizing key findings from data collected.
- DOH Commissioner is authorized to promulgate regulations for implementation.
- Effective Date: Immediately upon enactment

## **Part Y – Protect New Yorkers From Medical Debt and Other Burdensome Medical Costs**

- Amends the Consumer Credit Fairness Act to include medical debt and establishes a consumer education campaign.
- Creates the Prescription Drug Price and Supply Chain Transparency Act of 2023 recognizing the “...State has a compelling interest in providing transparency into the price of prescription drugs.” The act includes provision to require the registration of pharmacy services administrative organizations, pharmacy switch companies, rebate aggregators, and reporting and disclosure of drug price increases and pay for delay agreements.
- Requires hospitals to use a uniform application for financial assistance developed and provided by the Department of Health.
- Establishes a health guaranty fund coverage for insurers writing health insurance.
- Adds provision to Insurance Law that in the event an insurance company is deemed insolvent an insured covered under the policy or issued for delivery in New York will not be liable to any provider of health care services for any covered services of the insolvent insurance company.

## **Part Z – Ensure Access to Aging Services and High-Quality Long-Term Care**

- Requires assisted living facilities, as defined under Public Health Law including those licensed and certified as assisted living residences, special needs assisted living residences or enhanced assisted living residences, to report annually on quality measures established by DOH. First report would be due no later than January 31, 2024.



- Assisted living facilities would be required to post monthly service rate, staffing complements, approved admission or residency agreement, and a consumer-friendly summary of all service fees in a conspicuous location on facility's website.
- DOH will score quality reports and top scoring facilities will be "...granted the classification of advanced standing on their annual surveillance schedules." Facilities that receive this designation would have an extended surveillance schedule.
- DOH authorized to post result of quality reporting on its website.
- Authorizes assisted living facilities that have obtained accreditation from "nationally recognized accreditation organization approved by Department of Health" may at the discretion of the Commissioner be exempt from Department inspection for the duration that accreditation is maintained in good standing. DOH must list all accredited facilities on website.

**Part AA – End Preventable Epidemics. There are two subparts to Part AA.**

- Requires hospitals and diagnostic & treatment centers to offer hepatitis C virus (HCV) screening & subsequent treatment to all adults and pregnant persons receiving services.
- Requires physicians attending a pregnant person to screen for syphilis during their first visit and in their third trimester of pregnancy.

**Part BB – Combating Opioid Addictions by Banning Fentanyl Analogs**

- Expands definition of controlled substance under Public Health Law to include controlled substances that are represented to be other controlled substances. For example, this would include illicit fentanyl pressed into tablet form to appear as an FDA approved medication.
- Adds new stricter criminal penalties in the fifth, third, and first degree for the sale or possession of imitation controlled substances with the intent to sell.

**Part CC – Transfers Oversight for Licensed Healthcare Professions from the State Education Department to the Department of Health**

- The language contends that such a move would ensure "better oversight of the health care workforce and more consistent implementation of the State's health care policies."

**Part DD – Human Services Cost-of-Living Adjustment**

- Provides a 2.5% cost of living adjustment (COLA) for eligible human services programs within OMH, OPWDD, OASAS, OTDA, OCFS, NYSOFA from April 1, 2023 to March 31, 2024
- Will help to address providers' continued reports of increasing costs and staffing shortages and prevent program reductions.
- Local government units or direct contract providers receiving this COLA will be required to account for their use of the funds and would authorize agency commissioners to recoup funding if it is not used consistent with statute or appropriation
- Budget Implications: \$203.4 million
- Effective Date: April 1, 2023

**Part EE – OPWDD Managed Care Statute Extender**

- Extends laws related to implementing managed long term care plans for OPWDD through September 30, 2028.

**Part FF – OPWDD Flexibilities for Delegated Nursing Tasks**

- The language allows for flexibility for the performance of certain nursing tasks by unlicensed employees of providers certified by the Office for People with Developmental Disabilities (OPWDD) in community-based settings that are not certified by OPWDD.

**Part GG – Creation of a Qualified Mental Health Associate Credentialing**

- The language seeks to create a "Qualified Mental Health Associate" credential for paraprofessionals providing services for the Office of Mental Health. Amends the Mental Hygiene Law to add training requirements and establish the development of credentials to qualified mental health associates, citing the state's "mental health

system workforce crisis.” The Executive Budget recommends an appropriation of \$700,000 to support “design standards, training, feedback, and implement this new credential.”

### **Part HH – Establish Joint Licensure between OMH and OASAS for Certified Community Behavioral Health Clinics and to establish an Indigent Care Program**

Bill would allow for joint licensure of Behavioral Health Services (OMH) and substance use disorders (OASAS). Previously, these were two separate and distinct licenses.

- Allows Certified Community Behavioral Health Clinics to provide comprehensive behavioral health care including mental health, addiction services, primary care screening and case management.
- Outlines plan submission requirements for a proposed Certified Community Behavioral Health Clinic.
- Establishes an Indigent Care Program for service providers suffering losses due to uncompensated care for individuals in need of care but unable to pay.
- Outlines Indigent Care Program requirements and funding allocations.

### **Part II – Insurance Reforms Improving Access to Behavioral Health Services**

- Requires insurance coverage for mobile crisis intervention services and sub-acute care in medically-monitored residential facilities licensed by OMH
- Prohibit preauthorization or concurrent reviews for adults in the first 30 days of inpatient/residential MH treatment at in-network hospital or crisis residence licensed by OMH. Following up on the 2019 Behavioral Health Insurance Parity Reforms to require insurers to use clinical review criteria that is *designated* by OMH.
- Requires insurers to reimburse school-based MH services from satellite Article 31 clinics at least at the same rate that Medicaid pays
- Require payment parity for telehealth services provided by providers licensed by OMH, OASAS, and OPWDD without regard to location of provider or patient
- Establishes a private right of action for individuals to sue insurers and health plans for violations of parity laws and recover “actual damages”
- Clarify coverage of medications used to treat SUD and prohibit prior authorization for medication including opioid antagonists (Naloxone)
- Direct DFS and DOH to promulgate network adequacy regulations in consultation with OMH and OASAS. These standards would have to address:
  - Timely and proximate access to treatment for MH/SUD
  - Appointment availability including timeframes for initial provider visits following discharge from a hospital or Emergency Department
  - Time and distance standards, which shall consider reasonable “proximity to an insured’s resident, established service delivery patterns for the area, the graphic area, and the availability of telehealth services;”
  - and responsibility of insurer or health plan to provide out-of-network referral when in-network provider is not able to provide health care service “...within the timely and proximate access standards established by regulation...”

### **Part JJ – Penalties for Mental Hygiene Law Violations**

- Enhances authority of OMH Commissioner to impose penalties on providers for violating terms of operating certificate or applicable law.
- Revised the maximum sanction amount to \$2,000 per violation and further specifies penalties “...may be considered at the individual bed level for beds closed without authorization at inpatient settings.”

## **II. MENTAL HYGIENE**

The Mental Hygiene agencies consisting of Office for Persons with Developmental Disabilities, Office of Mental Health, Office of Addiction Services and Supports, Developmental Disabilities Planning Council and Justice Center support

services more for more than 1 million New Yorkers. Breakdown of all funds state spending as outlined in budget briefing materials:

Summary of All Funds Mental Hygiene State Spending				
CATEGORY	FY 2023 (MILLIONS OF DOLLARS)	FY 2024 (MILLIONS OF DOLLARS)	DOLLAR CHANGE (MILLIONS OF DOLLARS)	PERCENT CHANGE (%)
OPWDD	4,774.03	4,791.65	17.62	0.4
OMH	3,970.20	4,650.41	680.21	17.1
OASAS	1,020.65	1,031.82	11.18	1.1
Justice Center	48.68	48.76	0.08	0.2
DDPC	4.20	4.20	0.00	0
<b>SUBTOTAL</b>	<b>9,817.75</b>	<b>10,526.84</b>	<b>709.09</b>	<b>7.2</b>
Adjustments - OPWDD	(460.13)	513.90	974.03	N/A
<b>TOTAL</b>	<b>9,357.62</b>	<b>11,040.74</b>	<b>1,683.12</b>	<b>18</b>

\*OPWDD Adjustments reflect OPWDD-related local share expenses that will be funded outside of the DOH Global Cap through use of additional Financial Plan resources. This shift has no impact on OPWDD service delivery or operations.

### **\$1 Billion Mental Health Investment Plan**

Governor Hochul announced a \$1 billion investment in mental health as part of her Executive Budget proposal. The budget announcement refers to it as “a long-term investment to transform New York's continuum of mental health care.” This plan is made up of mostly capital investments in housing, but also includes some funding for services. The multi-year plan includes (taken directly from the announcement):

- **\$915 million** in capital to develop new residential units, plus **\$127 million** in annual operating costs.
- **\$18 million** in capital and **\$30 million** annually to increase operational capacity for inpatient psychiatric treatment.
- **\$60 million** in capital and **\$122 million** annually to expand outpatient services.
- **\$27.5 million** annually to improve post-discharge connections to services through the creation of 50 new Critical Time Intervention care coordination teams.
- **\$30 million** annually to expand mental health services in schools.

### **OMH Related Appropriations/Provisions of Note**

The Executive Budget recommends a total of \$4.7 billion in All Funds spending for OMH, which is a 17.1 % increase.

Appropriation highlights include:

- \$74 million in reinvestment dollars from the savings generated from the transition from Fee to Service to Medicaid Managed Care
- \$3,000,000 of this appropriation to the department of health for the purpose of making physician loan repayment awards to psychiatrists who are licensed to practice in New York state and who agree to work for a period of at least three years in one or more hospitals or outpatient programs that are operated by the office of mental health and deemed to be in one or more underserved areas, as determined by the commissioner of mental health
- \$14 million for recruitment and retention of psychiatrists, psychiatric nurse practitioners, and other licensed mental health professionals in programs with critical capacity shortages
- \$60 million for continued implementation of the 988-suicide prevention and behavioral health crisis hotline
- \$2.8 million for Intensive and Sustained Engagement Treatment (INSET)
- \$7.7 million for the Joseph P. Dwyer program
- \$49 million for new transitional housing beds and residences, safe option support and critical time intervention teams, and critical time intervention teams.
- Children: \$10 million for suicide prevention; \$5 million for high fidelity wrap around services; \$5 million for expenditures of residential treatment facilities and expansion of Healthy Steps program; \$167 million for non-residential programs.
- 3500 housing units supported by \$890 million investment:
  - 500 Community Residences/Single Room Occupancy Beds

- 900 Transitional Step-Down beds
- 600 Licensed Apartment Units
- 750 permanent supportive housing beds
- 750 scattered site supportive housing beds
- \$39 million to support existing community-based residential programs
- Expanding outpatient services:
  - 12 new Comprehensive Psychiatric Emergency Programs (CPEPS). CPEPS are hospital-based services that include emergency observation, evaluation, care and treatment
  - 42 New ACT Teams (22 in New York City and 20 in the rest of the State)
  - 8 new Safe Option Support Teams (SOS)—5 new teams in NYC and 3 around the rest of the State
  - Increasing number of Certified Community Behavioral Health Clinics
  - 42 new Health Home Plus Care Managers
- \$2,000,000 to expand access to eating disorder treatment including investments in Comprehensive Care Centers for Eating Disorders
- \$1,000,000 for services and expenses related to suicide prevention efforts for veterans, first responders, law enforcement and corrections officers

#### **OPWDD Related Appropriations/Provisions of Note**

- \$2 million to establish ombudsman program
- \$11.7 million to expand intensive treatment opportunity (ITO) capacity including additional ITO units at the former Finger Lakes Development Center campus
- \$15 million to develop additional independent living opportunities
- Continuing to evaluate transition to managed care

#### **OASAS Related Appropriations/Provisions of Note**

The Executive Budget recommends an All-Funds spending level of \$1.031 billion. This is a 1.1% increase. Appropriation highlights include:

- \$200 million from the Opioid Stewardship account to be invested in harm reduction efforts between OASAS and DOH through a public health approach. This includes providing outreach teams with fentanyl test kits, grant funding to establish 15 community-based harm reduction programs statewide, and development of a training program to help law enforcement and correctional facilities implement harm reduction strategies. The \$200 million was first appropriated in FY 2022-23. The entire \$200 million is reappropriated in FY 2023-24, indicating that it wasn't fully spent.
- \$124 million is made available for programming consistent with the terms of the opioid settlement agreements. The funding is broken down as follows:
  - \$20 million to municipalities
  - \$23 million for harm reduction
  - \$12.7 million for treatment
  - \$16.6 million in investments across the service continuum
  - \$15.1 million for priority populations
  - \$10 million for housing
  - \$10.3 million for recovery
  - \$7.5 million for prevention
  - \$5.4 million for transportation
  - \$1.7 million for public awareness
  - \$791,000 for research
- \$1.5 million for the office of the behavioral health ombudsman
- \$8.5 million to support parity implementation and enforcement, including the work of the ombudsman
- \$8.9 million for SUD treatment in jails, including Medication Assisted Treatment
- \$37 million in reinvestment dollars from the savings generated from the transition from Fee to Service to Medicaid Managed Care

### **III. EDUCATION**

- \$34.5 billion for school aid (reflecting a 10% or \$3.1 billion increase – “the largest in history”)
- \$2.7 billion in Foundation Aid, which fully funds the formula for the first time

- \$250 million of the Foundation Aid will be used to establish tutoring programs & recover from learning loss as a result of the pandemic, focused on assisting students in grades in 3-8 in reading and math
- \$125 million to expand full-day pre-kindergarten program supporting 17,500 additional slots
- \$20 million in grant funding to establish new Early College High School and Pathways in Technology Early College High School Programs (P-Tech)
- \$10 million in competitive funding for school districts, BOCES and community colleges for strategic workforce plans promoting job readiness
- \$20.1 million for capital improvements to three State-owned schools on Native American reservations (St. Regis Mohawk Nation School, Tuscarora Nation School, and Onondaga Nation Schools)
- \$7.9 million for foster youth initiative to expand post-secondary opportunities at SUNY and CUNY
- \$3 million in grants to school districts to increase use of alternative approaches to student discipline
- \$1.5 million for services and expenses of school mental health programs, including \$500,000 for School Mental Health Resource and Training Center
- \$24.3 million for extended day program and school violence prevention programs
- \$10,000,000 for student mental health support grants
- \$18,000,000 my brother's keeper initiative
- Eliminate regional cap on number of charter schools in New York City

#### IV. JUVENILE JUSTICE

- **Permanently Authorizes the Close to Home Initiative** (Part W of ELFA – S4006/A3006) Seeks to permanently authorize the Close to Home (CTH) initiative, originally enacted in 2012 and extended in 2018. The language removes the March 31, 2023, sunset date and further stipulates that “Under CTH, youth who are adjudicated to be juvenile delinquents in a jurisdiction with an approved CTH plan, who require non-secure or limited secure level of placement, can only be placed into the care and custody of the local department of social services (LDSS). In jurisdictions without an approved CTH plan, youth adjudicated to be juvenile delinquents and determined to require non-secure placement, may be placed into the care and custody of an LDSS or the Office of Children and Family Services (OCFS) and youth determined to require limited secure or secure placements must be placed in OCFS custody.”
- **Raise the Age (ATL) \$250,000,000** - For services and expenses related to raising the age of juvenile jurisdiction, including but not limited to, juvenile delinquency prevention services, law enforcement services, transportation services including transportation provided by sheriffs, court operational expenses and services, adolescent offender facilities, detention and specialized secure detention services, probation services, placement services, specialized housing services, aftercare services, program oversight and monitoring services, local presentment agency costs, costs of local governments within a county and the city of New York, and other applicable county and city of New York costs. New York City would have to claim financial hardship and it would have to be approved by Division of Budget.
- Juvenile Delinquency issue in the proposed bail changes:
  - Under the new proposal for bail reform, they separate out non-qualifying offenses and qualifying offenses in the bail section of the law.
  - The non-qualifying offenses still have the framing that a judge can assign conditions of release that are the least restrictive means to ensure a person's return to court.
  - The qualifying (bail-eligible) offenses, which make it so a person can be assigned bail or remanded, has a set of factors to be considered by a judge in setting what their pretrial release will be. One of these factors is a person's JD and youthful offender records. Under the previous bail law, the factors were supposed to be viewed through the lens of their history in terms of ensuring that a person will return to court. For example, if a person had previously been charged and failed to appear on bail, a judge may choose to set a higher bail or remand the person. The proposed language removes not just the “least restrictive” means standard, but also removes any reference to setting bail to ensure a person's return to court. Therefore, under the proposed language, when a person is before a court on a qualifying (bail-eligible), the judge is no longer viewing factors for pre-trial release, setting bail, or remanding a person through the lens of what will make them return to court, but rather viewing these factors to get a history of the person. Therefore, a person's JD or y/o history is now being utilized not to see if that person has a history of returning to court on previous offenses, but likely through a “dangerousness” standard simply by another name.

- As a side note, under the current bail law, the JD issue was already a factor in pre-trial release, however it was through the “return to court” lens.

## V. GUN VIOLENCE

- **Technical Amendments to the Concealed Carry Improvement Act (Part F of PPGG).** In July of 2022, in a special session, the legislature passed, and the Governor signed the Concealed Carry Improvement Act (CCIA) updating New York’s firearm licensing and possession laws. This initiative was in response to the United States Supreme Court’s decision overturning “proper cause” provisions in the case of the New York State Rifle & Pistol Association v. Bruen. Prior to the decision, New York had, in addition to requiring a license to carry a concealed handgun in public, also required an applicant demonstrate “proper cause” to obtain a concealed carry license. In Bruen, the Supreme Court invalidated said “proper cause” requirement, citing it was unsupported by historical tradition. However, the Bruen court did recognize the necessity and constitutionality of modern firearm regulations and allowed that states could indeed regulate and restrict firearms through licensing regimes, and certain locations known as “sensitive places” (where carrying arms could be prohibited consistent with the Second Amendment). The CCIA, removed the proper cause requirement and made several other changes to New York’s firearm licensing and possession laws - making more precise the longstanding requirement of “good moral character” for a firearm license, providing that applicants for licenses to carry concealed firearms in public shall meet in person with the licensing officer for an interview, complete training, and among other things, submit statutorily specified information. The CCIA also codified several “sensitive locations” in which carrying a firearm would not be allowed and separately bars possessing firearms in a so-called “restricted place” that is another person’s private property. The sensitive-place and private-property provisions included several exemptions, including for law-enforcement officers, military personnel, security guards, and persons lawfully hunting. This language would provide technical amendments to the CCIA and relevant provisions of the Penal Law to amend certain sections of the definition of sensitive location to include that persons responsible for security in places of worship may carry firearms and that holding an active license to sell alcohol renders an establishment a sensitive location. This bill would also amend certain sensitive location exemptions, among other things, by including that individuals who constitute law enforcement or retired law enforcement under federal law or revenue collection offices of the Metropolitan Transportation Authority are exempted from the prohibition against carrying firearms in such locations. This bill would also enumerate certain additional exceptions to the definition of sensitive location to include persons engaged in historical reenactments, motion pictures, theatrical productions, military ceremonies, funerals, and honor guards, as well as persons training or competing for the biathlon. This bill would make a technical change to the definition of “restricted location” and would add certain restricted location exemptions, including exempting individuals who constitute law enforcement or retired law enforcement under federal law from the prohibition against carrying firearms in such locations. Finally, this bill would amend relevant provisions of the Penal Law and would add the classes of individuals exempted from criminal liability under certain provisions related to the storage of firearms in vehicles and purchase and sale of body armor and semiautomatic rifles and distinguish the degree of the offense for the first and second violation.
- **Establishes a Statewide Repository of Criminal Shooting Incidents (Part E)** This language establishes a centralized repository of all criminal shooting incidents that involve the discharge of a firearm, shotgun or rifle. The Division of State Police (State Police) would be charged with maintaining this repository.
- **\$31,063,000 Appropriation in ATL** for services and expenses related to state and local crime reduction, youth justice and gang prevention programs, including but not limited to street outreach, crime analysis, research, and shooting/violence reduction programs, provided that up to \$2,500,000 shall be made available for the Office of Gun Violence Prevention. Funds shall be expended pursuant to a plan developed by the commissioner of criminal justice services and approved by the director of the budget.
- **\$17, 950,000 Appropriation in ATL** for services and expenses related to the operation of crime analysis centers, including but not limited to the establishment of crime gun intelligence centers.
- **\$20,000,000 Appropriated in ATL** For services and expenses related to partnerships and programs operated by and between government and community-based organizations to respond, repair and rebuild in the aftermath of violence, and serve the needs of communities and residents victimized by crimes involving guns.
- **\$50,000,000 appropriation in Capital Projects** budget for grants supporting capital investments related to innovative crime- reduction strategies in communities affected by gun violence. Recipients of such grants shall be entitled to use such funds to purchase commodities, services, and technology through centralized contracts established by the office of general services.

## Workforce/Gun Violence

- **\$18,000,000 appropriation in OCFS in Aid to Localities (ATL) (Pages 505-506)** for services and expenses of a youth employment program operating in localities in receipt of project GIVE funding, as provided by the division of criminal justice services. Such funds shall be provided for services to eligible individuals aged fourteen to twenty. Notwithstanding any other inconsistent law to the contrary, the commissioner of any local department of social services may assign all or a portion of moneys appropriated herein on behalf of such local department of social services to the workforce investment board designated by such commissioner and upon receipt of such monies, any such workforce investment board shall be obligated to utilize such funds consistent with the purposes of this appropriation. Funds appropriated herein shall be allocated to local social services districts in accordance with a methodology developed by the office of temporary and disability assistance and approved by the director of the budget.
- **\$36,380,000 appropriation in DCJS ATL (Page 82)** for or services and expenses of project GIVE as allocated pursuant to a plan prepared by the commissioner of criminal justice services and approved by the director of the budget which will include an evaluation of the effectiveness of such program.

## VI. Empire State Development Corporation

All funds for Empire State Development Corporation totals \$5.2 billion, 740 million in aid to localities and \$4.5 billion in capital projects funding. This includes \$1.3 billion in new proposed funding for ESD programs and initiatives.

### ALL FUNDS APPROPRIATIONS (dollars)

Category	Available FY 2023	Appropriations Recommended FY 2024	Change From FY 2023	Reappropriations Recommended FY 2024
Aid To Localities	740,119,000	271,108,000	(469,011,000)	979,769,000
Capital Projects	4,481,204,000	1,020,270,000	(3,460,934,000)	9,489,791,000
<b>Total</b>	<b>5,221,323,000</b>	<b>1,291,378,000</b>	<b>(3,929,945,000)</b>	<b>10,469,560,000</b>

Among the highlights:

- Workforce Development Initiatives – Supported by last year’s \$350 million workforce development initiative, funding is continued to, as reported in the budget briefing materials “... sustain ESD’s new Office of Workforce and Economic Development, workforce development local assistance and capital grants programs, and targeted workforce investments in teachers, healthcare workers, collegiate apprenticeships and internships, mental health professionals, and caregivers.”
- New York Works Economic Development Fund -- \$400 million for the New York Works Economic Development Fund as part of the New York Works initiative. This funding, as reported in the budget briefing materials, “... will provide capital grants to support projects that facilitate an employer’s ability to create new, or retain existing, jobs, or to fund infrastructure investments necessary to attract new businesses or expand existing businesses.”
- Regional Economic Development Councils -- \$150 million to support a new round of funding for the Regional Economic Development Councils initiative to further advance each region's long-term economic development strategies, including job growth, retention and recovery in industries disproportionately impacted by the COVID-19 pandemic.
- Economic Development Investments – \$40.5 million to support ongoing economic development initiatives including the New York State Economic Development Fund, the Minority- and Women-Owned Business Development and Lending Program, the Urban and Community Development Program, and the Entrepreneurial Assistance Program.

## Other Workforce Appropriations

- **\$10,000,000 appropriation in SED ATL (Page 192)** for New York state high school-college- workforce transformation grants, pursuant to a plan developed jointly by the commissioner of education, the commissioner

of labor, and the president of the New York state urban development corporation, and approved by the director of the budget, to local collaboratives consisting of (i) a school district or board of cooperative educational services or any combination of school districts and/or boards of cooperative educational services working together and (ii) a community college or community colleges, working in partnership with local industry to implement strategic workforce plans that promote job readiness in their local economies. Applications are to reviewed and scored by regional economic development councils.

## VII. HOUSING

In addition to the housing initiatives included under the \$1 billion mental health plan, the Governor made housing one of the center pieces of her budget proposal. The Governor plans to build 800,000 homes over the next 10 years through the New York Housing Compact. Specific appropriations include (taken directly from the announcement):

- **\$250 million** for infrastructure upgrades and improvements to support local housing growth and development.
- **\$20 million** for planning and technical assistance to support local rezoning efforts and other solutions to drive growth.
- **\$15 million** for a new statewide data collection effort.
- **\$4 million** to create a new Housing Planning Office within Homes and Community Renewal to support localities in meeting their housing goals and coordinate planning efforts across the state.
- **\$39.8 million** to reduce the risk of lead exposure in rental properties outside of New York City, including **\$20 million** in assistance to property owners for building remediation.
- **\$50 million** for the creation of a statewide Homeowner Stabilization Fund to provide critical home repairs in 10 key communities with a high concentration of low-income homeowners of color.

## VIII. CHILD WELFARE

The Executive Budget proposes an add of \$289,927,000 for Child Welfare services, bringing total funding for this program to \$900,000,000 from \$610,073,000 in the current fiscal year. The amount of the appropriation was increased to better reflect the actual claims made by counties, which have been spending more on child welfare preventative services. This appropriation is an attempt to right size with the federal fiscal year which starts in October (NY fiscal year starts in April).

Financing for child welfare preventative services remains at a 62/38 percent state/county share. The language also retains the minimum threshold of \$382,322,341 that local social services departments (LSSDs) must spend on child welfare services from federal Flexible Fund for Family Services (FFFS) funding in Temporary Assistance for Needy Families (TANF).

In other OCFS budget appropriations, the Governor does provide for:

- 2.5% COLA for three programs: Foster Care Block Grant, Adoption subsidies and NY/NY III Supportive Housing.
- \$7 million to the Post-Adoption services appropriation, bringing the total to \$29,800,000
- Maintains a current budget add for Runaway and Homeless Youth, raising the amount by \$100,000 to \$700,000.
- Relocates the Advantage Afterschool program from TANF to OCFS and maintains level funding of \$28,041,000.
- \$55 million for the Empire After School program, and relocates the program to OCFS from SED.
- Increased funding for the Summer Youth Employment Program by \$1 million, to \$47.1 million.
- \$18 million in new state funding in FY 2024, annualizing to \$37 million, for Year-Round Employment Opportunities for Youth. This will provide for year-round part-time employment opportunities for an estimated 2,500 youth in regions around New York.
  - The Executive Budget builds upon the success of the existing Summer Youth Employment Program (SYEP), which provides work opportunities for low-income youth during the summer months, by creating a new Youth Opportunities Program to provide these employment opportunities during the remaining months of the year.
- \$17 million for foster care congregate care programs that meet the definition of an Institution for Mental Disease (IMD) to support medical staffing needs, services provided to Medicaid-enrolled children placed in such foster care congregate facility, and other necessary investments.



- \$16 million in additional capital funding to renovate and maintain vital infrastructure at OCFS youth facilities.
- Direct Federal Resources to Child Welfare Services. New York State receives annual Federal Title XX funding that is allocated to counties, including \$26 million which counties can use at their discretion to fund certain services. The Budget directs this funding from the Social Services Block Grant towards expenses for child welfare services. This will help the State pay for vital protective and preventive services for children and families.

The kinship guardianship program remains in the Foster Care Block Grant.

#### **Increase Access to Education and Economic Stability for Public Assistance Recipients (Part X of ELFA)**

- Provides for increased access to education and training opportunities, and a one-time disregard of all earned income following job entry for six consecutive months provided that earned income does not exceed 200% of the Federal Poverty Level.
- This would help recipients of public assistance achieve economic stability by giving them time to build savings after obtaining employment before their household is no longer eligible for public assistance benefits. Current law requires a recipient of public assistance who is enrolled in post-secondary education beyond a 12-month period to also participate in no less than 20 hours weekly in paid employment, work activities, or community service. This amendment would remove that requirement and allow individuals to participate in educational/vocational training programs, including a two-year post-secondary degree program, where such enrollment is consistent with the individual's assessment and employability plan and is likely to lead to a degree/certification and sustained employment, without risking becoming ineligible for benefits.

#### **Pass-through of Federal Supplemental Security Income (SSI) cost of living adjustment (Part Z of ELFA)**

- Authorizes Federal Supplemental Security Income (SSI) benefits to be increased in 2024 to reflect federal SSI cost of living adjustments.
- This bill would increase the amounts in the statute to reflect the actual 2023 standard of need for eligibility and payment of additional State payments. It also authorizes those amounts to be automatically increased in 2024 by the percentage of any Federal SSI cost of living increase that becomes effective within the first half of the calendar year 2024.

### **IX. CHILD CARE**

The Executive Budget builds on the investments enacted in FY 2023, with a plan to make New York's child care system more affordable and easier to access, allocating \$2.7 billion in FY 2024. The Governor has put forth proposals to expand access, streamline and centralize the application process, and standardize eligibility. The proposals do not, however, include extending child care access to immigrant children.

#### **Expand and Improve New York State's Child Care Assistance Program (Part U of ELFA)**

- Expand income eligibility for childcare assistance from 300% of the federal poverty line up to 85% of the State median income.
- Allow for the State to standardize eligibility and benefits across all local social services districts, making childcare assistance more consistent, increasing and standardizing reimbursed absences, and reducing administrative burdens for families.
  - In the Federal **re-appropriation**, the Executive changes language to implement the change in eligibility for child care assistance to 85% of the State median income (SMI) from the current 300% of federal poverty. According to the Briefing Book, the SMI is \$93,200 a year for a family of four. The FY 2024 Budget also uses the federal re-appropriation to implement new provisions that would be applicable to subsidized child care statewide. These include limiting copays for families in receipt of child care subsidies to no more than 1% of a family's income that is above the federal poverty level, providing for costs associated with up to 80 absences per year per child, and increasing the market rate to the 80th percentile.

Business Navigator program (page 294 ATL, OCFS) - \$1 million

- For services and expenses of a business navigator program in each of the ten regional economic development council regions. Funds shall be used for, but may not be limited to, helping businesses identify different child care supports for their employees.

New Employer-Supported Child Care program (ESCC) (page 294 ATL, OCFS) - \$4.8 million (page 294 ATL, OCFS)

- Employers would contribute a third of the cost of care for families between 85% and 100% of the State median income, and the State would match it, reducing out-of-pocket costs for these families.

The Federal Day Care Account is up \$100 million over FY 2023. The proposed FY 2024 Budget uses the entire \$100 million for subsidies, for a total of \$550 million. This is an increase of \$100 million from the current fiscal year.

There is also an additional \$487 million available for subsidies in a **reappropriation** from the \$2.4 Billion Federal appropriation, enacted in 2021.

Total Available for Subsidies (estimated):

OCFS GF	\$ 451 M
OCFS FED	\$ 550 M
OCFS FED REAPPROP	\$ 487 M
TANF	<u>\$ 244 M</u>
<b>TOTAL</b>	<b>\$1.732 B</b>

Total new appropriations in OCFS for all Child Care related purposes:	\$1.2 B.
Total Reapprop. for Child Care related purposes from the original \$2.4 B. Federal approp.	\$1.3 B.
Total TANF	<u>\$0.2 B.</u>
<b>TOTAL</b>	<b>\$2.7 B.</b>

The FY 2024 Executive Budget further designates \$389 million of the federal **re-appropriation** for a third round of stabilization grants for workforce retention initiatives. Such stabilization funds shall be provided up-front to the extent allowable under federal law. Providers that receive grants under this program shall be required to maintain compensation or provide wage enhancements for employees for the duration of the grant period.

## **X. ENVIRONMENTAL CONSERVATION/ENERGY ARTICLE VII PROVISIONS**

### **Part WW – Making New York Buildings More Sustainable**

- Beginning December 31, 2025, this will prohibit using fossil fuel equipment and building systems in the construction of new one-family and multi-family residential buildings no more than three stories in height. The same prohibition would apply to new multi-family residential buildings more than three stories in height and new commercial buildings starting on December 31, 2028.
- Phase out the sale and installation of fossil fuel space and water heating equipment in existing buildings; related building systems when retrofitting existing residential and multi-family buildings no more than three stories in height beginning on January 1, 2030, and all multi-family and commercial buildings starting January 1, 2035.
- Requires the New York State Energy Research and Development Authority (NYSERDA) to establish rules, regulations, and exemption criteria for the administration and enforcement of building benchmarking.
- NYSERDA would award energy grades for benchmarked buildings through the measurement of building energy performance and water data.
- Establishes criteria for fines and compliance penalties
- Budget Implications: Fines authorized within this bill would be deposited into accounts to be utilized by NYSERDA to support investigations, enforcement activities, and administrative expenses
- Effective Date: Immediately

### **Part XX – Authorize NYPA to Build Renewable Energy Generating Projects**

- Allows the New York Power Authority (NYPA) to expand its renewable portfolio and provide a plan for the proposed phase out their "peaker" plants, while supporting communities and helping the State meet the requirements of the Climate Leadership and Community Protection Act (CLCPA)

- Provides NYPA with the authority to plan, design, develop, finance, construct, own, operate, maintain, and improve, either alone or jointly with other entities, renewable energy generating projects
- NYPA would also be authorized to maintain a reliable supply of electric power and energy, assist local governments in achieving local energy and environmental goals, and advance other important state energy and social policies.
- Directs NYPA to establish the "Renewable Energy Access and Community Help Program" (REACH), allowing customers in disadvantaged communities to benefit from renewables. REACH would enable customers in disadvantaged communities to receive bill credits that are provided by renewable energy generation projects that are owned, developed, or contracted by NYPA.
- Directs NYPA, within two years of the effective date, to propose a plan to phase out small natural gas power plants by December 31, 2035, unless these plants support emergency services or reliability.
- Gives NYPA the authority to fund training programs to help prepare workers for employment in the renewable energy field.
- Effective Date: Immediately; however, section 9 would take effect January 1, 2024, and section 10 would take effect December 31, 2029

#### **Part YY – Extend NYPA’s Authority to Procure and Sell Power**

- New York Power Authority’s (NYPA) authorization relating to, among other things: (1) the sale of market power; (2) the procurement and sale of power, energy, and related products from renewable energy sources; and (3) the financing of renewable energy projects
- Will allow NYPA to continue meeting the energy needs of entities, as well as meet the State’s ambitious climate goals
- Effective Date: Immediately

### Joint Legislative Budget Hearing Schedule

Date	Day	Time	Hearing
February 6	Monday	11:30 a.m.	Transportation
February 7	Tuesday	9:30 a.m.	Public Protection
February 8	Wednesday	9:30 a.m.	Elementary & Secondary Education
February 9	Thursday	9:30 a.m.	Economic Dev./Arts
		2:00 p.m.	Taxes
February 13	Monday	11:30 a.m.	Human Services
February 14	Tuesday	9:30 a.m.	Environmental Conservation
February 15	Wednesday	9:30 a.m.	Local/General Government
February 16	Thursday	9:30 a.m.	Mental Hygiene
February 27	Monday	11:30 a.m.	Higher Education
February 28	Tuesday	9:30 a.m.	Health
March 1	Wednesday	9:30 a.m.	Housing
		2:00 p.m.	Workforce Dev./Labor

### Resources

**Governor's Press Release:** <https://www.budget.ny.gov/pubs/press/2023/fy24-exec-budget.html>

**Budget Briefing Book:** <https://www.budget.ny.gov/pubs/archive/fy24/ex/book/index.html>

**DOB's FY 2024 Budget Information:** <https://www.budget.ny.gov>