

**FY 2023 NEW YORK STATE EXECUTIVE BUDGET**

**EDUCATION, LABOR AND FAMILY ASSISTANCE  
ARTICLE VII LEGISLATION**

**MEMORANDUM IN SUPPORT**

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MEMORANDUM IN SUPPORT

A BUDGET BILL submitted by the Governor in  
Accordance with Article VII of the Constitution

AN ACT to amend the education law, in relation to school contracts for excellence; to amend the education law, in relation to foundation aid; to amend the education law, in relation to maintenance of equity aid; to amend the education law, in relation to building aid and the New York state energy research and development authority P-12 schools clean green schools initiative; to amend the education law, in relation to modifying the length of school sessions; to amend the education law, in relation to supplemental public excess cost aid; to amend the education law, in relation to academic enhancement aid; to amend the education law, in relation to high tax aid; to amend chapter 91 of the laws of 2002 amending the education law and other laws relating to reorganization of the New York city school construction authority, board of education and community boards, in relation to the effectiveness thereof; to amend chapter 345 of the laws of 2009 amending the education law and other laws relating to the New York city board of education, chancellor, community councils, and community superintendents, in relation to the effectiveness thereof; to amend the education law, in relation to extending the statewide universal full-day pre-kindergarten program; to amend the education law, in relation to state aid adjustments; to amend chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, in relation to reimbursement

for the 2022-2023 school year, withholding a portion of employment preparation education aid and in relation to the effectiveness thereof; to amend chapter 169 of the laws of 1994, relating to certain provisions related to the 1994-95 state operations, aid to localities, capital projects and debt service budgets, in relation to the effectiveness thereof; to amend chapter 147 of the laws of 2001, amending the education law relating to conditional appointment of school district, charter school or BOCES employees, in relation to the effectiveness thereof; to amend chapter 425 of the laws of 2002, amending the education law relating to the provision of supplemental educational services, attendance at a safe public school and the suspension of pupils who bring a firearm to or possess a firearm at a school, in relation to making certain provisions thereof permanent; to amend the No Child Left Behind Act of 2001, in relation to making the provisions thereof permanent; to amend chapter 552 of the laws of 1995, amending the education law relating to contracts for the transportation of school children, in relation to the effectiveness thereof; providing for school bus driver training grants; providing for special apportionment for salary expenses; providing for special apportionment for public pension accruals; to amend the education law, in relation to permitting the city school district of the city of Rochester to make certain purchases from the board of cooperative educational services of the supervisory district serving its geographic region; providing for set-asides from the state funds which certain districts are receiving from the total foundation aid; providing for support of public libraries; and providing for the repeal of certain provisions upon expiration thereof

(Part A); to amend the education law and the local finance law, in relation to zero-emission school buses (Part B); to amend the education law, in relation to creating a temporary professional permit for employment in a public school; and providing for the repeal of certain provisions upon expiration thereof (Part C); to amend the education law, in relation to state appropriations for reimbursement of tuition credits (Part D); to amend the education law, in relation to the expansion of the part-time tuition assistance program (Part E); to amend the education law, in relation to eligibility requirements and conditions for tuition assistance program awards; and to repeal certain provisions of the education law relating to the ban on incarcerated individuals to be eligible to receive state aid (Part F); to amend the education law, in relation to establishing the amount awarded for the excelsior scholarship (Part G); to amend the education law, in relation to including certain apprenticeships in the definition of "eligible educational institution" for the New York state college choice tuition savings program (Part H); to amend the education law, in relation to prohibiting certain practices in the collection of education debt (Part I); to amend the education law, in relation to registration of a new curriculum or program of study offered by a not-for-profit college or university (Part J); to amend the business corporation law, the partnership law and the limited liability company law, in relation to certified public accountants (Part K); to amend the social services law, in relation to child care assistance; and providing for the repeal of certain provisions upon expiration thereof (Part L); to amend part N of chapter 56 of the laws of 2020, amending the social

services law relating to restructuring financing for residential school placements, in relation to the effectiveness thereof (Part M); to amend part C of chapter 83 of the laws of 2002, amending the executive law and other laws relating to funding for children and family services, in relation to extending the effectiveness thereof (Part N); to amend the social services law, in relation to reimbursement for a portion of the costs of social services districts for care provided to foster children in institutions, group residences, group homes, and agency operated boarding homes (Part O); to amend the public health law, in relation to consent for medical services (Part P); to amend the executive law and the criminal procedure law, in relation to the detention of juveniles (Part Q); to amend the executive law, in relation to increasing the amount of reimbursement the division of veterans' affairs shall provide to local veterans' service agencies for the cost of maintenance of such agencies (Part R); to amend the social services law, in relation to increasing the standards of monthly need for aged, blind and disabled persons living in the community (Part S); to amend part W of chapter 54 of the laws of 2016 amending the social services law relating to the powers and duties of the commissioner of social services relating to the appointment of a temporary operator, in relation to the effectiveness thereof (Part T); to amend the social services law, in relation to the public benefits and requirements; and to repeal certain provisions of such law relating thereto (Part U); to amend the labor law and the general business law, in relation to restrictions on employment (Part V); to amend the labor law, in relation to increasing penalties for certain violations

of the labor law (Part W); to amend the executive law, in relation to prohibiting discrimination based on status as a victim of domestic violence (Part X); to amend the executive law, in relation to prohibiting discrimination based on citizenship or immigration status (Part Y); to utilize reserves in the mortgage insurance fund for various housing purposes (Part Z); to amend the real property law, in relation to providing for the creation of accessory dwelling units (Part AA); to amend the executive law, in relation to making it unlawful for an individual who has been convicted of one or more criminal offenses to be discriminated against in housing (Part BB); to amend the multiple dwelling law, in relation to the floor area ratio (FAR) in the city of New York (Part CC); to amend the multiple dwelling law, in relation to hotel and commercial conversion (Part DD); to amend the general city law, the town law, and the village law, in relation to transit-oriented development (Part EE); to amend the real property law, in relation to tenant selection screening guidelines (Part FF); to amend the executive law, in relation to the state's language access policy (Part GG); to amend the retirement and social security law, in relation to waiving approval and income limitations on retirees employed in public schools; and providing for the repeal of such provisions upon expiration thereof (Part HH); and to amend the real property tax law, in relation to enacting the affordable neighborhoods for New Yorkers tax incentive (Part II)



## **PURPOSE:**

This bill contains provisions needed to implement the Education, Labor and Family Assistance portions of the FY 2023 Executive Budget.

This memorandum describes Parts A through II of the bill which are described wholly within the parts listed below.

## **PART A – School aid**

### **Purpose:**

This bill contains various provisions necessary for implementation of the education portion of the FY 2023 Executive Budget.

### **Summary of Provisions and Statement in Support:**

Education in New York represents a significant investment of State and local resources. This bill includes measures to authorize School Aid along with other changes necessary to implement education-related programs in the Executive Budget. Significant provisions include:

- **\$31.3 Billion in Support to School Districts.** The FY 2023 Executive Budget proposes a historic investment in public education by providing \$31.3 billion in total School Aid for the 2022-23 school year, the highest level of State aid to date. This investment represents a year-to-year increase of \$2.1 billion (7.1 percent), including a \$1.6 billion Foundation Aid increase and a \$471 million increase in expense-based programs such as Transportation Aid and Boards of Cooperative Education Services (BOCES) Aid.
- **Phase-In Full Funding of Foundation Aid.** The FY 2023 Executive Budget adheres to the Governor's commitment to provide full funding of the Foundation Aid formula for all school districts by the 2023-24 school year. For the 2022-23 school year, the Executive Budget provides a \$1.6 billion (8.1 percent) increase in Foundation Aid, closing 50 percent of the remaining gap between each district's full funding amount and current Foundation Aid levels. Further, the Budget ensures that each district receives at least a 3 percent annual increase in its Foundation Aid.
- **Support Clean Energy Infrastructure in Schools.** The FY 2023 Executive Budget incentivizes school districts to invest in clean energy and energy efficient projects that will improve indoor air quality and reduce emissions by eliminating the reduction in Building Aid that districts would otherwise face for any such projects receiving a grant through NYSERDA's Clean Green Schools program.

- **Building Aid and Transportation Aid Penalty Forgiveness.** The FY 2023 Executive Budget addresses Building and Transportation Aid penalties once and for all by authorizing SED to forgive all such penalties that the Department deems to be a result of inadvertent clerical errors. The Budget also allows for the submission of transportation contracts with electronic signatures to facilitate districts' submission of claims going forward.
- **Mayoral Control of New York City Schools.** The Executive Budget advances legislation to extend the existing governance structure for New York City schools for an additional four years, until June 30, 2026.
- **Other Miscellaneous Provisions.** The FY 2023 Executive Budget also recommends a number of other provisions, including extensions of existing provisions of State law.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget.

Effective Date:

This bill would take effect April 1, 2022, except that selected provisions take effect immediately or on other specified dates.

**PART B – Achieve 100% Electric School Buses by 2035**

Purpose:

To require the purchase and use of zero-emission school buses, to make electric school bus charging stations or hydrogen refueling stations aidable capital expenses under Transportation Aid, and to lengthen the number of years school districts may finance or lease zero-emission school buses.

Summary of Provisions and Statement in Support:

This bill would support the State's greenhouse emissions reduction targets by requiring that by 2027 all newly purchased school buses be powered by zero-emission technology and by 2035 all school buses on the road be zero-emission. To assist districts in this transition, this bill would amend Education Law to make the purchase of electric school bus charging stations and hydrogen refueling stations aidable capital expenses under Transportation Aid. The bill would also authorize the electricity and hydrogen used for charging or fueling zero-emission buses as an aidable operating expense. Lastly, this bill would allow school districts to lease or finance zero-emission school buses over a period of 10 years, rather than the current five years allowed for diesel buses.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget.

Effective Date:

This bill would take effect immediately.

**PART C – Allows Provisional Certification of School Professionals**

Purpose:

This bill would create a temporary professional certification allowing teachers and other school professionals to be employed while the status of their certification is pending approval from the State Education Department.

Summary of Provisions and Statement in Support:

This bill would allow individuals who have submitted the necessary documentation to obtain a teacher certification or other school profession certification to be issued a temporary permit. Upon submission of the necessary documentation and a written attestation by the applicant, the State Education Department would be required to issue a temporary permit validating the individual's employment at a school within five business days. The temporary professional permit would be valid for one year or until SED makes a determination regarding the applicant's submission. Those issued a temporary professional permit would be permitted to work under the supervision of a professional holding a permanent certificate in the same profession.

This bill would also allow, until June 30, 2024, an otherwise qualified individual with an expired professional certificate to continue working in a school, provided the individual remained otherwise qualified.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget.

Effective Date:

This bill would take effect 60 days after it becomes law.

**PART D – Provide State Support to CUNY and SUNY in FY 2023 to Fully Fund TAP Tuition Credits**

Purpose:

This bill would authorize General Fund operating support to CUNY and SUNY in FY 2023 to fully fund tuition credits provided to Tuition Assistance Program (TAP) recipients.

Summary of Provisions and Statement in Support:

The FY 2022 Enacted Budget included a four-year plan for the State to fund the cost of tuition credits CUNY senior colleges and SUNY State-operated campuses provide to TAP recipients whose tuition charges exceed their TAP award. The phase-in plan gradually increases State support for TAP tuition credits by funding one-third of the cost in FY 2023, two-thirds in FY 2024 and the full amount in FY 2025 and thereafter.

To provide additional operating support to CUNY and SUNY, this bill would fully fund TAP tuition credits beginning in FY 2023.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget.

Effective Date:

This bill would take effect immediately.

**PART E – Expand the Part-Time Tuition Assistance Program**

Purpose:

This bill would expand access to the Tuition Assistance Program (TAP) for part-time students who are enrolled in degree programs and part-time students enrolled in high-demand workforce credential programs at community colleges.

Summary of Provisions and Statement in Support:

Currently, TAP is largely unavailable for students studying part time. To be eligible for TAP, part-time students are required to have attended school full time for a year prior to receiving awards, earning 12 credits or more in each of two consecutive semesters — for a minimum of 24 credits earned in a previous year.

This bill would expand access to TAP for part-time students by eliminating the 24-credit prior-year eligibility requirement, and instead making prorated awards available to any individual enrolled in six or more credits of study at a SUNY, CUNY, or not-for-profit independent college.

In addition, the bill would expand TAP to cover part-time students enrolled in workforce credential programs at community colleges in high-demand fields as determined by the

Empire State Development Corporation and the Regional Economic Development Councils based on an analysis of regional industry trends, workforce needs, and existing program offerings.

Expanding access to part-time TAP would make it possible for students with work or family responsibilities to attend school. It would also help revitalize community colleges by building enrollment with a new population of students. Non-degree workforce credential programs provide critical skills to New Yorkers seeking jobs in an ever-changing economy, and help employers find workers to meet their needs.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget.

Effective Date:

This bill would take effect immediately.

**PART F – Restore the Tuition Assistance Program for Incarcerated Individuals**

Purpose:

This bill would restore the Tuition Assistance Program (TAP) for incarcerated individuals.

Summary of Provisions and Statement in Support:

In 1995, a New York State law prohibited incarcerated individuals from being eligible to receive State financial aid for higher education. This bill would reverse the ban and restore TAP eligibility for incarcerated individuals.

Expansion of higher education opportunities for incarcerated individuals would help to reduce recidivism and increase post-release employment opportunities for individuals as well as positively contribute to the overall economic wellbeing of the state.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget.

Effective Date:

This bill would take effect immediately.

**PART G – Accelerate the Reset of Excelsior Scholarship Tuition Support Levels**

Purpose:

This bill would accelerate the reset of Excelsior Scholarship tuition support levels from the academic year 2024 to academic year 2023.

Summary of Provisions and Statement in Support:

The Excelsior Scholarship enacting legislation froze the tuition rates for the State University of New York and the City University of New York can charge scholarship recipients at AY 2017 levels and reset those rates to current tuition levels beginning in AY 2022 and every four years thereafter. The FY 2022 Enacted Budget extended the Excelsior Scholarship tuition rates at AY 2017 levels for two additional years and established a reset to current tuition levels beginning in AY 2024 and every year thereafter.

To provide additional operating support to New York's public colleges, this proposal would accelerate the Excelsior Scholarship tuition reset by one year to begin in AY 2023 instead of AY 2024.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget.

Effective Date:

This bill would take effect immediately.

**PART H – Allow Use of College Savings (529) Accounts for Apprenticeship Programs.**

Purpose:

This bill would make qualified apprenticeship expenses eligible for spending out of college savings (529) accounts.

Summary of Provisions and Statement in Support:

As an initiative to expand access to apprenticeship programs, this bill would make apprenticeships a qualified use of college (529) savings accounts under New York State law as allowable under the Internal Revenue Code.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget.

Effective Date:

This bill would take effect immediately.

## **PART I – Stop Transcript Withholding at Institutions of Higher Education Due to Unpaid Student Bills**

### Purpose:

This bill would direct higher education institutions to stop withholding transcripts due to unpaid student bills.

### Summary of Provisions and Statement in Support:

Some colleges currently withhold student academic transcripts as a debt-collection mechanism for students or graduates with outstanding tuition or other account balances. As a result, thousands of New Yorkers are unable to obtain their transcripts from higher education institutions across the state because they owe small amounts of money, such as tuition fees, library fines, or parking tickets. Transcript withholding is a harmful debt-collection practice that prevents students — particularly low-income students — from being able to transfer credits, finish their degrees, or obtain jobs that could help them pay their balances.

The Executive Budget contains new statutory language that will prohibit higher education institutions from withholding a transcript or other record of credit attainment from a current or former student on the grounds that the student owes a debt. Any college found to be in violation of this law will be required to pay \$500 for each violation, and will be subject to a private right of action. Additionally, the president of the higher education services corporation may suspend, limit or terminate an institution's participation in state higher education financial aid programs for violating this prohibition.

### Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget.

### Effective Date:

This bill would take effect on the thirtieth day after it becomes a law.

## **PART J – Streamline new higher education program approval to meet workforce needs**

### Purpose:

This bill would streamline the approval process for new curriculum or programs of study at institutions of higher education in New York.

### Summary of Provisions and Statement in Support:

This bill would add a new section of Education Law to stipulate that any new curriculum or program of study that does not require Board of Regents approval of a master plan amendment and is approved by the governing body of a public or not-for-profit college or university chartered by the Board of Regents with longstanding accreditation by the Middle States Commission on Higher Education will be deemed authorized for temporary operation pending program approval by the State Education Department.

In today's constantly evolving economy, the skills required and sought by employers change continuously. This bill would allow New York's colleges and universities to respond quickly to these ever-changing employer demands, thus allowing these institutions to adapt curriculum and degree programs to meet the needs of New York State employers. The current process surrounding the creation of new programs of study is cumbersome and time-consuming; these delays have slowed New York's ability to compete in the global economy. As such, it is crucial that the State streamline the current process.

### Budget Implications:

Enactment of this bill is necessary to implement the 2022-23 Executive Budget.

### Effective Date:

This bill would take effect July 1, 2022

## **PART K – Allow Public Accounting Firms to Have Minority Ownership by Individuals Who Are Not Certified Public Accountants**

### Purpose:

This bill would permit public accounting firms to incorporate in New York State with minority ownership by individuals who are not Certified Public Accountants.

### Summary of Provisions and Statement in Support:

This bill would allow public accounting firms to incorporate in New York State with minority ownership by individuals who are not Certified Public Accountants, provided the words "Certified Public Accountant" or the abbreviation "CPA" is excluded from the firm's name.

In today's rapidly evolving economy, accounting firms endeavor to provide a variety of services to their clients and to do so often requires the skills of individuals who are not Certified Public Accountants such as actuaries, industry experts, information technology professionals and valuation specialists. By allowing non-CPA professionals to become minority owners of public accounting firms, this bill would modernize New York's



incorporation laws and better enable accounting firms in the State to provide the services their clients have come to expect.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget.

Effective Date:

This bill would take effect immediately.

**PART L – Expand income eligibility for child care subsidies**

Purpose:

This bill would expand access to child care subsidies by raising the maximum income for eligibility from 200 percent to 300 percent of the Federal Poverty Level (FPL), statewide, phased in over three years.

Summary of Provisions and Statement in Support:

Currently, local social service districts (LSSDs) are authorized to provide a subsidy to families with incomes up to 200 percent of the FPL (or \$53,000 for a family of four) as the basis to be eligible to receive a child care subsidy through the New York State Child Care Block Grant (NYSCCBG). This bill would amend Social Services Law to authorize LSSDs to provide child care assistance to families with incomes up to 300 percent of the FPL (or \$79,500 for a family of four) for each category of eligible families. Currently the following categories of families are eligible to receive a subsidy:

- Families receiving public assistance;
- Families with incomes up to 200 percent of the state standard (which equates to 200 percent of the FPL);
- Families with incomes up to 200 percent of the state income standard who are determined to be at risk of becoming dependent of family assistance;
- Families with incomes up to 200 percent of the state income standard who are attending a post-secondary educational program and working at least 17.5 hours per week; and
- Families with incomes up to 200 percent of the state income standard who LSSD deem eligible as stated in their consolidated services plan.

This bill would amend the items lined out above in existing law to increase the maximum income for eligibility from 200 percent to 300 percent of the FPL in order for a family to be eligible for child care subsidy. This increase will be phased in over three years: FY

2023 – 225% FPL; FY 2024 – 260% FPL; FY 2025 – 300% FPL, provided such persons are at or below eighty-five percent of the state median income.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget because the expansion of subsidies authorized by this bill are assumed in the Financial Plan.

Effective Date:

This bill would take effect October 16, 2022

**PART M – Continue the Current Financing Structure for Residential Placements of Children with Special Needs Outside of New York City**

Purpose:

This bill enacts into law provisions to extend and make permanent the current structure of financing Committee on Special Education (CSE) residential placements outside of New York City.

Summary of Provisions and Statement in Support:

This bill would amend section 3 of Part I of Chapter 56 of the Laws of 2021 to remove the April 1, 2022 sunset and make these provisions permanent.

Part I of Chapter 56 of 2021 eliminated the 18.424 percent State share for residential placements made by a school district CSE outside of New York City and increased the school district's share by an equal amount, from 38.424 percent to 56.848 percent. This Chapter also shifted the 50 percent State share for certain placements to the NYS School for the Blind or the NYS School for the Deaf to the school district. These changes better aligned fiscal responsibilities with the entity that makes the placement decisions and provided parity with New York City's funding structure for CSE placements

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget because it achieves Financial Plan savings associated with restructuring the funding for CSE placement outside of New York City.

Effective Date:

This bill would take effect immediately.

**PART N – Extend the Current Structure of Child Welfare Financing**

Purpose:

This bill enacts into law provisions to extend the current structure of financing of child welfare services.

Summary of Provisions and Statement in Support:

This bill would amend section 1 of subpart A of part K of chapter 57 of the laws of 2017 to extend the child welfare financing structure through June 30, 2027. The current child welfare financing structure is scheduled to expire on June 30, 2022.

Child Welfare Financing Reform, enacted in 2002, established a financing system that strengthens and incentivizes preventive services in order to keep youth out of more expensive, institutional settings and to reduce expenses and to provide improved outcomes. Under the current system, the state provides 62 percent of open-ended reimbursement to local social service districts (LSSDs) for preventive services that offer a greater chance of keeping families intact. These services include child protective and preventive services, as well as after care, independent living and adoption administration costs. Furthermore, under the current system more expensive Foster Care placements are supported through state allocations to LSSDs from the State Foster Care Block Grant (FCBG) and such funds support those costs related to the maintenance, supervision, and tuition of children in foster care.

Enactment of this bill is required to continue the current funding structure that provides open ended funding for preventive services that offer a greater chance of keeping families intact, and block grant funding for more expensive foster care placements. Since the enactment of child welfare financing reform in 2002 the number of children in foster care has declined from 37,000 to 15,000 in 2020.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget which assumes that the current funding structure for child welfare services is continued.

Effective Date:

This bill would take effect immediately.

**PART O – Modernize Maximum State Aid Rates for Voluntary Agencies**

Purpose:

This bill enacts into law provisions to modernize requirements for foster care maintenance payments.

### Summary of Provisions and Statement in Support:

This bill would add subdivision 2-c to Section 398-a of the Social Services Law to update requirements for foster care maintenance and adoption subsidy payments from local social services districts to voluntary agencies and families with adopted children.

The Office of Children and Families Services (OCFS) establishes MSAR rates which create reimbursement limits for local social services districts that contract with authorized foster care providers (voluntary agencies). Local districts may pay up to 100 percent of the established rates, but are not required to. The MSAR also impact adoption subsidy payments to parents who adopt children with specials needs.

Enactment of this bill will require social services districts that were paying 100 percent of applicable MSAR for the rate year 2022-23 (July 2022 – June 2023) to pay at least 100 percent of the rates for each subsequent rate year. The bill also requires that social services districts currently paying less than 100 percent of the established rates must increase their rate payments by half the difference between the current percentage and the full 100 percent for rate year 2022-23. Those districts are then required to pay the full 100 percent of the established rates in subsequent rate years.

The State's share of foster care maintenance payments is capped through the Foster Care Block Grant (FCBG). Adoption subsidy payments are an open-ended entitlement program with the costs split between the Federal government, the State, and local districts. The Federal government pays for 50 percent of all eligible expenses while all remaining costs are split between the State and local districts at 62 percent and 38 percent, respectively.

In 2021, the State agreed to establish a new rate setting methodology to increase rates for voluntary agencies and for payments for adoption subsidies because of a lawsuit alleging that New York's foster care reimbursement rates did not adequately reimburse foster care payments for the costs of raising a foster child. A statutory change is necessary to require that localities reimburse foster parents at 100 percent of the rates that are established by OCFS. The State must enact this bill in order to comply with this change.

### Budget Implications:

This bill is necessary to remedy issues raised in a recent lawsuit against the State. The fiscal impact to the State is \$32.6 million in FY 2023 and \$43.5 million in FY 2024 and the out years. The cost to the State is due to an increase in the cost of adoption subsidies provided to parents, which are linked to the MSAR rates.

### Effective Date:

This bill would take effect immediately.

## **PART P – Homeless Youth Health Care Consent**

### Purpose:

This bill would authorize homeless youth to consent to their own medical, dental, health and hospital services. Currently, a minor, including a minor who is homeless, needs the consent of a legal guardian to obtain most health care services.

### Summary of Provisions and Statement in Support:

This bill would amend Public Health Law § 2504(1) to allow homeless youth as defined by subdivision two of section 532-a of the Executive Law, to consent to medical, dental, health and hospital services.

Existing law requires any person who is eighteen years of age or older or is the parent or legal guardian of a minor to consent to most health care services on behalf of the minor. However, unaccompanied homeless youth often do not have a parent or legal guardian available to consent to health care services.

With this requirement, homeless youth are forced to go without necessary treatment, are unable to obtain prescriptions and are ultimately required to rely on emergency care after untreated health conditions become more severe. Providing homeless youth with the ability to consent to health care services allows them to make informed decisions regarding their wellbeing and reduces the reliance on emergency care.

### Budget Implications:

There is no fiscal associated with this bill.

### Effective Date:

This bill would take effect immediately.

## **PART Q – Juvenile Justice Delinquency Prevention Act Compliance**

### Purpose:

This bill would put into statute the requirements of the Juvenile Justice Delinquency Prevention Act (JJJPA) that are already in effect under federal requirements and would prohibit the use of New York State's current administrative process for approving alternate jail placement for youth under the age of 21 in detention and transfers of Juvenile Offenders (JO) and Adolescent Offenders (AO) to DOCCS prior to age 21.

The provisions within this bill would require that any youth younger than the maximum age at which that individual can be held in a juvenile facility under State law and who is

committed to the custody or supervision of a juvenile agency may not be transferred to an adult facility without a court hearing where the judge finds that such transfer is in the interest of justice.

Summary of Provisions and Statement in Support:

This bill and the establishment of a hearing process would allow the State to use temporary jail placements as an alternative to detention when sufficient bed space is not available provided the State obtains judicial consent. Implementing this change would alleviate strains on local government entities and detention facilities administering and operating agencies while promoting the safety and security of youth and staff. Additionally, this would address the danger of youth over the age of 18 within OCFS facilities who have acted extraordinarily violent by granting the State the ability to transfer these youth to DOCCS.

Budget Implications:

Failure to implement such changes and comply with the federal law poses the risk of losing \$2 million in federal grant funding from the Office of Juvenile Justice and Delinquency Prevention.

Effective Date:

This bill would take effect immediately.

**PART R – Investments for Veterans Services**

Purpose:

This bill will increase the minimum allocations that are provided to Veteran’s Service Agencies (VSAs) from \$10,000 to \$25,000 in order to further enable VSAs to connect Veterans with their federal benefits.

Summary of Provisions and Statement in Support:

As outlined within Executive Law Section 359, county and city VSAs receive minimum funding allocations from the State based on census data. County and city VSAs with a population of not more than 100,000 currently receive a \$10,000 allocation. VSAs assist in connecting Veterans to their eligible benefits as a result of their time in service. Increasing the allocations that are provided to VSAs will allow for additional services and outreach as it pertains to connecting Veterans to these benefits.

Budget Implications:

The fiscal impact of this proposal is \$1 million and would bring the total investments to VSAs to \$2.3 million.

Effective Date:

This bill would take effect immediately.

**PART S – Authorize the pass-through of any Federal Supplemental Security Income Cost of Living Adjustment**

Purpose:

This bill would authorize Federal Supplemental Security Income (SSI) benefits to be increased in 2023 by the percentage of any SSI Cost of Living Adjustment (COLA).

Summary of Provisions and Statement in Support:

Section 131-o and 209 of the Social Services Law establish specific amounts for the monthly Personal Needs Allowance (PNA) and the monthly SSI standard of need (the maximum combined Federal and State benefit) for recipients in various living arrangements. This bill would amend those sections of law to set forth the actual 2022 PNA amounts and the standard of need for eligibility and payment of additional State payments. It also authorizes those amounts to be automatically increased in 2023 by the percentage of any Federal SSI COLA that becomes effective within the first half of the calendar year 2023.

Budget Implications:

If the pass-through of the Federal SSI COLA is not enacted in the FY 2023 budget, there will be no statutory authority to provide SSI recipients with the full amount of any Federal increase plus a State supplement at the current level. The State supplements would be automatically reduced to reflect the current standards of need set forth in the SSL.

Effective Date:

This bill would take effect December 31, 2022.

**PART T – Extend Temporary Operator Authorization for Shelters**

Purpose:

This bill would extend the authority of the Office of Temporary and Disability Assistance (OTDA) and the Office of Children and Family Services (OCFS) to appoint a temporary shelter operator for emergency shelters.

Summary of Provisions and Statement in Support:

The Social Services Law grants OTDA and OCFS the authority to appoint a temporary operator whenever the commissioner or the commissioner's designee has determined an emergency shelter has failed to comply with the requirements of State or local laws or regulations applicable to the operation of such emergency shelter. This authority expires on March 31, 2022.

This bill would extend such authority through March 31, 2025.

Budget Implications:

This bill would ensure the State has the authority to take the necessary action, appointment of a temporary operator, to address concerns regarding the health and safety of emergency shelters supported with state funding.

Effective Date:

This bill would take effect immediately.

**PART U – Make Changes to Public Assistance to Address Poverty**

Purpose:

This bill would help address poverty by making changes to the Public Assistance (PA) program to enhance the ability of low-income applicants and recipients to receive benefits sooner and increase the amount that they can earn and save while receiving cash assistance to encourage work and better meet their ongoing needs.

Summary of Provisions and Statement in Support:

This bill would make changes to the law that governs the two components of New York State's Public Assistance program. The first is Family Assistance (FA), funded primarily through the Federal Temporary Assistance for Needy Families (TANF) block grant, for low-income families that include a minor child. The second is Safety Net Assistance, funded with State and Local dollars, for low-income single adults and families who are not eligible to receive TANF-funded benefits due to Federal restrictions.

Sections one and two of the bill would amend §153 and §158 of the Social Services Law (SSL) to require local social services officials to determine eligibility for Safety Net Assistance (SNA) within 30 days of application receipt and eliminate the 45-day waiting period to begin receipt of benefits once an eligibility determination is made. These changes will align SNA requirements with those of FA.

Current law allows PA applicants to retain (or disregard) a portion of their earned income while still qualifying for assistance. However, there are three tests that are applied when determining how much can be retained and how much a household subsequently receives in assistance, depending on household type (families or singles)



and whether the household is applying for assistance or already in receipt of program benefits.

Sections three and four of this bill would amend §131-a of the SSL to eliminate two of the three tests for applicants, allowing PA eligibility to be based solely upon the household's net income (after applicable deductions). In addition, the disregard of a portion of a PA recipient's earned income would be standardized across all PA household types—families and singles—and the disregard will be limited to the first 50% of the total monthly earned income plus an additional \$150. This change would allow recipients to be eligible for benefits for a longer period of time as their income increases, alleviating the "benefits cliff" and thereby encouraging recipients to work and maintain employment.

Section five of the bill would amend §131-n of the SSL to increase the liquid resource limits for purposes of determining PA eligibility. Increasing the PA resource limits by aligning applicant limits with the limits for the Supplemental Nutrition Assistance Program (SNAP) and permitting PA recipients to save up to \$10,000 before becoming ineligible for PA, would allow recipients to save more money over time before losing eligibility and would allow PA applicants to be eligible for PA with a higher amount in liquid resources. Such funds will improve households' financial security and address unexpected costs.

#### Budget Implications:

This bill would have an estimated annualized gross cost of \$61.6 million (\$22.1 million State/\$39.5 million local).

#### Effective Date:

This bill would take effect on October 1, 2022.

### **PART V – Ban Non-Compete and No-Poach Agreements**

#### Purpose:

This bill would ban certain non-compete and no-poach agreements and provides for civil remedies for violations of such prohibitions.

#### Summary of Provisions and Statement in Support:

Non-compete agreements between employers and employees may impede economic mobility by eliminating competition and reducing workers' upward and outward job mobility. In addition, workers may be prevented from seeking raises by getting a job through a competitor under formal or informal no-poach agreements between two employers.

This bill would add a new section 202-m, Restrictions on Employment, to the Labor Law which would prohibit non-compete agreements for any employee or prospective employee earning less than the median wage in New York State. It will also prohibit employers from seeking, requiring, demanding, or accepting a non-compete agreement from any employee earning above the median wage unless the agreement can meet certain requirements limiting its application and ensuring protections for the employee.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget because the Department of Labor is responsible for enforcement of worker protections.

Effective Date:

This bill would take effect 180 days after enactment.

**PART W – Increase Criminal Penalties for Wage Theft**

Purpose:

This bill would increase the criminal penalties for egregious wage theft and violations of other labor laws to align with other comparable criminal offenses.

Summary of Provisions and Statement in Support:

Criminal penalties for wage theft in New York State are currently incongruous with other comparable crimes. Prosecutions are limited as District Attorneys are less likely to prioritize misdemeanors, leaving millions of dollars of stolen wages uncollected and workers vulnerable to unscrupulous employers.

This bill would amend section 198-a and section 213 of the Labor Law to increase criminal penalties for employers who knowingly engage in wage theft. The severity of the criminal penalty would correspond to the specified amounts of wage theft per employee. The bill would also require payment of lost wages to employees as restitution.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget because these measures will deter employers from committing wage theft and enhance the recovery of wages owed to workers.

Effective Date:

This bill would take effect immediately.

## **PART X – Prohibit Discrimination Against Domestic Violence Victims in All Jurisdictional Areas**

### Purpose:

This bill would expand protections for victims of domestic violence, as defined by Social Service Law §459-a. Currently, the Human Rights Law prohibits discrimination against domestic violence victims in employment. This bill would add “status as a victim of domestic violence” as a protected class in the remaining jurisdictional areas including public accommodations, private and publicly assisted housing, education, and credit.

### Summary of Provisions and Statement in Support:

All New Yorkers should be able to attend school and obtain housing, employment, and credit without the fear of discrimination or harassment. Currently, domestic violence victims are protected from discrimination in employment. This bill would expand this protection by amending the Human Rights Law to add status as a victim of domestic violence as a protected class in the remaining jurisdictional areas including public accommodations, private and publicly assisted housing, education, and credit.

### Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget as agency operations for the Division of Human Rights are dependent upon a clear definition of jurisdiction.

### Effective Date:

This bill will take effect immediately.

## **PART Y – Make Explicit that Discrimination on the Basis of Citizenship and Immigration Status is Unlawful**

### Purpose:

This bill will make explicit that discrimination on the basis of citizenship and immigration status is unlawful.

### Summary of Provisions and Statement in Support:

All New Yorkers must be able to attend school and obtain housing, employment, and credit without the fear of discrimination or harassment. Currently, national origin is a protected class under the Human Rights Law and is defined as including ancestry. The

Division of Human Rights currently investigates cases in which individuals have been discriminated against because of their immigration status or citizenship as this is considered to be unlawful national origin discrimination under the existing law. This bill would codify this practice and clarify to employers, housing providers, places of public accommodation and others that discrimination because of immigration status or citizenship is unlawful.

The bill will add the term citizenship and immigration status as a protected class throughout the Human Rights Law. It will define citizenship or immigration status to mean the citizenship of any person or the immigration status of any person who is not a citizen of the United States. It would further add that nothing shall preclude verification of citizenship or immigration status where required by law, nor shall any adverse action based on verification of citizenship or immigration status be prohibited where such adverse action is required by law.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget as agency operations for the Division of Human Rights are dependent upon a clear definition of jurisdiction.

Effective Date:

This bill will take effect immediately.

**PART Z – Authorize Mortgage Insurance Fund Utilization**

Purpose:

This bill would provide utilization of \$39.8 million projected to be available in the Mortgage Insurance Fund (MIF) excess balance and/or reserves.

Summary of Provisions and Statement in Support:

The MIF, a fund of the State of New York Mortgage Agency (SONYMA), was created in 1978 to insure mortgage loans for projects that would not otherwise be able to obtain mortgage insurance, thereby encouraging the commercial and public investment of mortgage capital and increasing the supply of affordable housing in New York State.

The SONYMA statute requires excess revenues from the MIF, after expenses and the required reserves, be returned to the State following SONYMA Board approval. The MIF has been previously used to support new housing development and to provide relief for budgetary deficits; in the FY 2022 Budget, excess revenues were used for community development and programs for the homeless.

The MIF is currently projected to have \$39.8 million comprised of (i) excess revenues through FY2021 and (ii) reserves that can be accessed without negatively impacting the MIF's credit rating. As set forth in sections 1 through 3 of the bill, these funds would be used to support the following programs:

- Neighborhood and Rural Preservation Programs (\$18.2 million), which support community-based housing corporations across the State that provide various housing related services for low- and moderate-income populations; and
- The Rural Rental Assistance Program (\$21.6 million), which supports rental subsidies for low-income and elderly and family tenants residing in federally-funded multifamily projects in rural areas of the State.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget because it assumes MIF revenues and HFA's available resources for the aforementioned programs.

Effective Date:

This bill would take effect immediate.

**PART AA – Permit the Creation of Accessory Dwelling Units**

Purpose:

This bill would require local governments to provide for the creation of accessory dwelling units.

Summary of Provisions and Statement in Support:

Housing in the state of New York is among the most expensive in the nation and housing insecurity remains a problem for many low- and moderate-income families, The lack of affordable housing is especially pronounced in well-resourced neighborhoods with access to jobs, educational resources, and health infrastructure that allows for social and economic mobility.

In addition, New York's elderly population are at risk of losing their homes due to not being able to pay mortgages, taxes or other rising costs. Further, many families in New York want to live in multi-generational housing to facilitate the care of both elderly and minor household members.

Accessory dwelling units (ADUs) are attached or detached residential units that provide complete independent living facilities that are on the same lot as a primary residence. Accessory dwelling units can easily be integrated into lots that already contain housing.

The creation of ADUs would provide a benefit to our aging population by affording them with the economic means to remain in their homes and by encouraging multi-generational housing. The creation of ADUs would also provide much needed affordable housing in well-resourced neighborhoods

However, current land use requirements and other restrictions prevent homeowners from building ADUs and there is no viable pathway to legalize a current ADU. This has resulted in the reduction of affordable housing, especially in well-resourced areas, and has allowed substandard housing to exist.

To remove impediments to the creation of ADUs and promote the creation of affordable and multi-generational housing, this bill would require local governments to:

- authorize the creation of at least 1 ADU per residential lot and
- provide reasonable standards for structural requirements for ADUs

Other requirements would include a prohibition on the ADU being sold separately from the main residence or used as a short-term rental, and restrictions on the local government from regulating the size of the ADU.

Property owners who are denied a permit in violation of the requirements of this Article could file an Article 78 proceeding with the Supreme Court.

The bill would require a city with a population of a million or more to create a program to address ADUs that existed prior to the passage of this article. This program may provide amnesty for such owners.

Finally, the bill would establish a lending program to assist low- and moderate-income homeowners to secure financing and technical assistance to create accessory dwelling units.

#### Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget, as the lending program established in the bill is funded through proposed appropriations and would result in an increase the supply of housing.

#### Effective Date:

This bill would take effect 180 days after becoming law.

## **PART BB – Improve Access to Housing for People with Prior Conviction Records**

#### Purpose:

This bill will modify the New York Human Rights Law to prohibit housing providers from automatically rejecting individuals with one or more prior criminal convictions. Instead,

housing providers will only be permitted to consider convictions resulting from offenses that involved a threat to the health or safety of persons or property. This change in the law will increase access to housing for individuals with prior convictions.

Summary of Provisions and Statement in Support:

A history of criminal justice involvement too often results in lasting stigma for New Yorkers who have committed an offense and served their time. It often jeopardizes their ability to find permanent housing, a critical factor in reducing recidivism. This bill amends Section 296 of the Human Rights Law to make it unlawful for housing providers to automatically reject applicants to housing on the basis of an individual's prior criminal convictions.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget as agency operations for the Division of Human Rights and the Division of Housing and Community Renewal depend on clear definition of discrimination in housing.

Effective Date:

This bill would become effective the sixtieth day after enactment.

**PART CC – Amend New York City's Floor-Area Ratio Limit on Residential Density**

Purpose:

This bill would amend state law to return to New York City authority with respect to the floor-area ratio limit on residential density.

Summary of Provisions and Statement in Support:

Existing State law limits the maximum density of residential floor area ratio (FAR) in New York City to 12.0, even though it does not limit the overall allowable floor area that may comprise other uses.

This bill would amend this limitation, returning to the City the autonomy to allow for denser residential development where appropriate, and allowing for the creation of more dwelling units.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget because the budget supports an increase in the supply of housing to combat rising housing costs and homelessness.

Effective Date:

This bill would take effect 180 days after becoming law.

**PART DD – Facilitate the Conversion of Hotel and Commercial Space into Residential Housing**

Purpose:

This bill would increase housing supply by facilitating the conversion of hotels and commercial office space in New York City into residential housing.

Summary of Provisions and Statement in Support:

The ongoing shortage of housing in New York City, combined with the post-pandemic increase in remote work that has reduced demand for offices and hotels, has given rise to the need for an amendment to the multiple dwelling law and a change to make zoning laws more flexible to allow for buildings to convert commercial spaces into residential ones as needs change over time.

This bill would authorize Class B hotels in or near a residentially-zoned district in New York City to convert their units into permanent residences without the need to change their certificates of occupancy, and authorize certain commercial office buildings in New York City to be converted into Class A multiple dwellings.

The converted units would need to be under a regulatory agreement with the Department of Housing and Community Renewal (DHCR) or another agency, and the residential units in hotels would be subject to Rent Stabilization.

Owners of properties where hotel workers are represented by a collective bargaining agreement (CBA) would be required to notify the CBA representative in writing of the proposed conversion, and would be required to certify to the agency administering the regulatory agreement that the CBA representative had mutually agreed to the conversion.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget because the budget supports an increase in the supply of housing to combat rising housing costs and homelessness.

Effective Date:

This bill would take effect 180 days after becoming law



## **PART EE – Encourage Transit-Oriented Development of Housing**

### Purpose:

This bill would encourage the development of multi-family housing within close proximity to public transportation.

### Summary of Provisions and Statement in Support:

New York State enacted the Climate Leadership and Community Protection Act to limit greenhouse gas emissions. Encouraging and facilitating the use of mass transit is a valuable method for reducing greenhouse gas emissions.

Housing in New York is among the most expensive in the nation and housing insecurity remains a problem for many low- and moderate- income families. The excessive cost of the state's housing supply is partially caused by a lack of housing near public transportation access points. This lack of affordable housing is especially pronounced in well-resourced neighborhoods with access to jobs, educational resources, and health infrastructure that allows for social and economic mobility.

This bill would prohibit cities, towns, and villages from taking action that prohibits housing with density of at least 25 units per acre on any land where residential construction and occupation is already permitted, or effectively prohibiting such housing through excessive restrictions on height, setbacks, floor-area ratio, and other requirements.

These provisions would apply to any city, town, or village with residential zoning within a half mile of a bus transportation center or Metro North, Long Island Railroad, Port Authority, or New Jersey Transit station within 60 miles of New York City

The bill would require comprehensive plans devised by such cities, towns, and villages to reflect the goal of increasing multi-family housing in close proximity to transit hubs.

### Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget because the budget supports an increase in the supply of multi-family housing to promote housing affordability, reduce housing insecurity, drive economic growth, social and economic mobility and reduce greenhouse gas emissions.

### Effective Date:

This bill would take effect two years after the date it was signed into law.

## **PART FF – Reform the Use of Credit Checks in Tenant Screenings for Housing.**

### Purpose:

This bill modifies the Real Property Law to prohibit landlords from automatically refusing to rent or lease a property to an applicant due solely to the applicant's credit score or credit history.

Summary of Provisions and Statement in Support:

Currently, there is no Statewide law limiting the manner in which housing providers treat low credit scores or negative credit history in assessing applications for rental housing. Housing providers often run a credit check on an applicant and reject those whose scores fall below a certain threshold, without regard to the circumstances of the credit score or history, or whether the applicant has demonstrated an ability to make timely rent payments.

This bill will add a new subdivision to Section 227 of the Real Property Law and would prohibit housing providers from automatically rejecting applicants based on negative credit history or poor credit in certain situations. It would require housing providers to assess if an applicant is able to show that they have paid their rent on time, that they receive rental subsidies, that the applicant's negative credit history or poor credit score is solely the result of outstanding student loans or medical debt, or that it is a direct result of domestic, dating violence, sexual assault or stalking.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget as agency operations depend on clear guidelines for the permissible use of credit scores and history in rental housing.

Effective Date:

This bill would become effective sixty days after enactment.

**PART GG – Codify language access policy**

Purpose:

This bill would codify the state language access policy, which requires state agencies that interact with the public to provide interpretation and translation services for vital documents in the ten most spoken non-English languages in New York based on the United States Census Data.

Summary of Provisions and Statement in Support:

This bill would add a new section, 202-a to the Executive Law to codify New York's statewide language access policy. The bill would require all state agencies that interact with the public to provide interpretation services and to translate vital documents into the ten most spoken non-English languages in the state, based on United States Census Data.

To build on and improve language access services for limited English proficient New Yorkers, this bill would also permit agencies, in their discretion, and in coordination with the Office of General Services, to provide interpretation services and to translate vital documents into two or more additional languages. Every state agency would also be required to submit a language access plan and designate a language access coordinator.

The Office of General Services would be charged with coordinating and overseeing implementation of the statewide language access policy. The Office would be required to publicly post an annual report on progress and compliance with this program.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget.

Effective Date:

This bill would take effect on July 1, 2022.

**Part HH - Waive the Income Cap for Retired Teachers and School Workers**

Purpose:

This bill will incentivize retired teachers and other school workers to rejoin the workforce by temporarily waiving the \$35,000 income limit for retirees. Thousands of educational professionals have left the work force during the pandemic, and the temporary elimination of this cap would allow retirees to return to work in schools.

Summary of Provisions and Statement in Support:

This bill will assist the State's public education system by removing obstacles for retired teachers and other school workers to return to work and fill staffing shortages by allowing them to earn beyond the statutory \$35,000 earnings limitation without any effect on pension status as retired, without suspension or diminution of the retirement allowance and without prior approval required by law. This bill would be in effect through June 30, 2024.

This purpose of this bill is accomplished by adding a new subdivision 9 to section 211 of the Retirement and Social Security Law (RSSL) authorizing the provision of compensation in excess of the statutory earnings limitation, regardless of any law, regulation, rule or charter to the contrary.

Budget Implications:

Enactment of this bill is necessary to implement the Governor's State of the State proposal in the FY 2023 Executive Budget. Passage of this bill will not have any material impact on state finances.

Effective Date:

This bill would take effect immediately and shall expire and be deemed repealed on June 30, 2024.

**Part II - Enact the Affordable Neighborhoods for New Yorkers Tax Incentive**

Purpose:

This bill would reform the affordable housing tax incentives in New York City.

Summary of Provisions and Statement in Support:

The Affordable New York property tax program enacted under section 421-a of the Real Property Tax Law is set to expire in June of 2022. This bill would add a new section 485-w of the Real Property Tax law establishing the Affordable Neighborhoods for New Yorkers Tax Incentive program (ANNY), replacing and updating aspects of the expiring program as follows.

Affordability Options:

- The current 421-a program provides seven affordability options for rental buildings ranging from requiring a certain percentage of units to be affordable to households with incomes from 40 percent of Area Median Income (AMI) to 130 percent of AMI.
- The new ANNY program would provide deeper affordability through two options for rental buildings depending on the size of the building. Rental buildings with 30 units or more would be required to have at least 10 percent of units to be affordable to households with incomes at 40 percent of AMI, 10 percent affordable at 60 percent of AMI, and 5 percent at 80 percent of AMI. Rental buildings with less than 30 units would be required to have at least 20 percent of units affordable to those with household incomes at 90 percent of AMI.
- Relative to homeownership (i.e., co-ops and condos), the new program would require 100 percent of units to be affordable at 130 percent AMI, replacing the current 421-a program's use of property assessment.

Affordability Period:

- The current 421-a program requires affordability options (i.e., the restricted period) to be in place for 35 years after construction completion, or for 40 years for projects receiving an Enhanced Benefit. Additionally, all units, including those

rented at market-rate, are subject to Rent Stabilization for the entire restricted period.

- The new ANNY program would set restricted periods based on the size and type of the project. Large rental projects with 30 units or more would be required to maintain affordability restrictions permanently. Small rental projects with less than 30 units would be required to maintain affordability restrictions for 35 years after construction completion. Additionally, all affordable rental units would remain subject to Rent Stabilization, permanently. Homeownership projects would maintain affordability for 40 years after construction completion, subject to regulatory agreements.

#### Tax Benefit:

- The current 421-a program provides a 20-year tax benefit period for co-ops and condominiums, with a full tax exemption for 14 years and a 25 percent exemption for 6 years. It provides rental projects with less than 300 units a full tax exemption for 25 years, and a partial exemption set at the rate that matches the percentage of affordable units for 10 years. For rental projects with 300 units or more, the program provides a full tax exemption for 35 years.
- The new ANNY program would provide co-ops and condominiums a full tax exemption for up to three years during construction and for 40 years after construction is complete. All rental projects under the program would be provided a full tax exemption for up to three years during construction and for 25 years after construction is complete, followed by a partial tax exemption for 10 years thereafter set at a rate matching the percentage of affordable units.

#### Geography:

- The current program outlines Enhanced Affordability Areas (EEAs) in Manhattan, Brooklyn, and Queens, where enhanced affordability is required, extended benefits are available, and construction workers are required to be paid minimum wages established in law.

The new program would not change the geographic coverage of the three EEAs, but renames them to Prime Development Areas (PDAs). Buildings in the PDAs are required to pay established rates for construction workers and building service workers.

#### Labor Requirements:

- Under the current program, prevailing wage requirements—enforced by the New York City Comptroller—require the minimum construction worker wage to be \$60 per hour in Manhattan and \$45 per hour in Brooklyn/Queens, plus a 5 percent escalator every 3 years. Projects with 50 percent of units affordable at 125 percent of AMI or a Project Labor Agreement (PLA) are exempt from both wage requirements.

- Under the new program, construction wages for projects with 300 units or more in the PDAs would be set at a minimum of \$63 per hour in Manhattan and \$47.25 per hour in Brooklyn/Queens, increasing 5 percent after one year and every three years thereafter. These wages would remain in place until the Department of Labor establishes an alternative construction wage standard.
- Under the new program, construction wage requirements would not be applicable to co-ops/condominiums, projects where 50 percent of the units are affordable up to 80 percent of AMI, and those with a PLA. Building service employee wage requirements would not be required for buildings with less than 300 units or where at least 50 percent of units are affordable up to 90 percent of AMI.

#### Expiration

- The new program would be set for five years after the expiration of 421-a.

#### Budget Implications:

Enactment of this bill is necessary to implement the FY 2023 Executive Budget, in order to create a new tax incentive program to provide for the development of much needed affordable housing in New York City.

#### Effective Date:

This bill would take effect immediately.

The provisions of this act shall take effect immediately, provided, however, that the applicable effective date of each part of this act shall be as specifically set forth in the last section of such part.