



In the News – State



New York’s 2020-2021 Budget

Early this morning, the State Assembly approved the final pieces of New York’s 2020-2021 budget, completing passage of a plan that the leaders hope will guide the State through the crisis created by the COVID-19 pandemic.

“Today as we pass the budget. Not the budget we wanted to pass – but the budget we needed to pass to keep New York moving, to secure our foundation, and to help lead the state through this crisis,” Senate Majority Leader Andrea Stewart-Cousins said.

Under the budget, all funds spending is estimated to total approximately \$177 billion and state operating spending is authorized up to \$105.8 billion. However, in the absence of additional federal assistance or a faster than anticipated economic recovery, spending will initially total \$95.8 billion, according to Governor Andrew Cuomo.

Due to the ongoing COVID-19 pandemic and its negative impact on the global economy, the Enacted Budget authorizes a reduction in spending by \$10 billion and empowers the State Budget Director to develop a plan for across the board reductions and implement that plan as necessary over the course of the year.

The budget also puts in place mechanisms to control spending through the year if revenues fall even further, and raise spending if either revenues come in higher than expected or the federal government delivers support that offsets the State's revenue losses.

Highlights of the budget include:

Criminal Justice/Public Safety

Bail Reform Law: The budget amends the 2019 bail reform law to add several offenses for which the accused may be required to post cash bail, including sex trafficking offenses, money laundering in support of terrorism in the 3rd and 4th degree, child pornography offenses, repeat offenders, and those who commit crimes resulting in death.

According to Governor Cuomo's press release, the enacted budget makes amendments "to make sure judges know all the options available to them with respect to non-monetary conditions for release; enhances the options upon which a judge can condition release, including mental health referrals and requirements to attend counseling."

Discovery Reform: The budget includes \$40 million, from the Manhattan District Attorney's office, to aid prosecutors and local law enforcement officials with the discovery mandates. Reforms to the 2019 law include: extending the time for prosecutors to provide initial discovery to 20 days when the defendant is in custody and 35 days when the defendant is not in custody; making 9-1-1 calls and certain witness and victim information presumptively confidential, to be released only after a motion by the defendant and a showing of need; and, restoring alleged traffic infractions and violations of local ordinances and codes to the prior law discovery practices. In addition, the changes recognize that body camera and surveillance footage is sometimes voluminous, and gives law enforcement more time to assemble and disclose it.

Passing the "New York Hate Crime Anti-Terrorism Act": The FY 2020 Budget establishes a "domestic act of terrorism motivated by hate" crime as a new A-1 class felony punishable by up to life in prison without parole.

Gun Control: The FY 2021 Enacted Budget includes legislation to: 1) prohibit individuals from obtaining a gun license who commit serious offenses out-of-state that would disqualify them from obtaining a gun license if committed in New York; 2) require all state and local law enforcement agencies in the state to opt in to the ATF's crime gun trace data sharing program and submit crime guns recovered through the ATF's eTrace system; 3) allow New York to share reports of individuals who are a danger to themselves or others with other states; and, 4) authorize law enforcement to remove guns from the scene of a domestic violence incident.

Banning High-Risk Sexual Offenders From Accessing the MTA Subway, Bus and Rail Systems: The Budget includes a measure authorizing a judge to prohibit individuals who engage in unlawful sexual conduct against an MTA passenger or employee or a crime involving assault against an MTA employee from using MTA transportation services for up to three years, or as long as on probation, if less. Anyone who violates that condition can have contempt sanctions brought against them.

Environment

Authorized the Creation of a \$3 Billion Restore Mother Nature Bond Act: The Budget authorizes the creation of a Bond Act to fund environmental restoration and climate mitigation projects across the State. As part of the larger Restore Mother Nature Initiative, the Bond Act will fund projects focused on reducing flood risk, investing in resilient infrastructure, restoring freshwater and tidal wetlands, preserving open space, conserving forest areas, and reducing pollution from agricultural and storm water runoff.

It will also fund up to \$700 million in projects to fight climate change, including green buildings. The Budget Director will assess the state's finances and the economic outlook later this year and make a determination as to whether to move forward with the Bond Act.

Green Economy Tax Credit: The budget creates a new refundable, discretionary Green Jobs Tax Credit totaling up to 7.5 percent of wages for each net new job created. The State will also create a refundable, discretionary Green Investment Tax Credit totaling up to 5 percent of qualifying new capital investments and increasing to up to 8 percent of eligible investment for research and development in qualifying green economy projects.

Banning the Distribution and Use of Styrofoam: The Enacted Budget prohibits the distribution and use of expanded polystyrene (Styrofoam) single-use food containers. It also bans the sale of expanded polystyrene packaging materials (packing peanuts). It will go into effect by January 1, 2022.

Permanently Banning Hydrofracking: The Enacted Budget codifies Governor Cuomo's ban on hydrofracking. Specifically, the Department of Environmental Conservation cannot approve permits that would authorize an applicant to drill, deepen, plug back or convert wells that use high-volume hydraulic fracturing as a means to complete or recomplete a well. In addition, it places a moratorium on future gelled propane hydrofracking applications until the Department can conduct an analysis of the impacts of this completion method.

Health/Mental Health

Medicaid and Health Care: The FY 2021 Enacted Budget advances reforms to the Medicaid program. According to Governor Cuomo, the reforms include a transformation of the hospital reimbursement structure to better support services to the uninsured, increases investments in primary care, and new requirements that enhance oversight of managed care and transportation.

The reforms also address managed long-term care by aligning New York State's eligibility requirements with those of other states for new applicants for Consumer Directed Personal Assistance Program and Personal Care Services and enhancing reporting requirements for both programs. Also, the reforms cap statewide enrollment in managed long-term care and create a statewide independent assessor to achieve efficiencies by removing duplicative efforts to determining eligibility and enrollment in the managed long-term care program.

Medical Transparency Website Increasing Transparency in Healthcare Costs: The FY 2021 Enacted Budget supports the creation of a website, NYHealthcareCompare, where New Yorkers can compare the cost and quality of healthcare procedures at hospitals around the state. The website will be created by the Department of Health, the Department of Financial Services, and the New York State Digital and Media Services Center.

Addressing Veteran and Law Enforcement Suicides: The FY 2021 Enacted Budget invests \$1 million to partner with organizations to help veterans, law enforcement and first responders with suicide prevention efforts. The Budget also directs state agencies to expand suicide prevention strategies for veterans, law enforcement, correctional officers and first responders, including a new campaign by the Office of Mental Health to reduce the stigma of mental illness. Additionally, the State will convene a panel of stakeholders and experts at its annual Suicide Prevention Conference to develop and implement strategies for preventing suicide among these special populations.

Student Mental Health Program: The Budget provides \$10 million in funding for grants to school districts to address student mental health in light of recent school closures. This program will be administered by the Office of Mental Health, and developed in consultation with the State Education Department.

Labor

Establishing Paid Sick Leave for Working New Yorkers: The FY 2021 Enacted Budget enacts a paid sick leave program for working New Yorkers. Businesses with five to 99 employees will provide their employees at least five days of job-protected paid sick leave per year and businesses with 100 employees or more will provide at least seven days of paid sick leave per year. Smaller businesses, with four or fewer employees, will guarantee five days of job-protected unpaid sick leave to their employees every year. Small businesses already providing paid sick leave will be able to so.

Prevailing Wage: The Enacted Budget requires that workers on private projects receiving a significant public subsidy be paid a prevailing wage. Private projects larger than \$5 million where at least 30 percent of construction expenses are supported by public grants, tax credits, or certain other incentives will be required to pay prevailing wage.

Labor Protections (based upon Janus v AFSME): The Enacted Budget included provisions to further strengthen labor unions following the Janus v. AFMSE decision. Provisions include: 1) confirming that public employers can provide the personal information of new hires, and of employees who have been transferred or promoted to an employee organization without such action being classified as an improper practice; 2) requiring public employers to provide employee organizations access to new employee orientations if the public employer conducts such orientations; and 3) making a technical correction to the indemnification of public employers, employee organizations and the Comptroller from liability for deducting, receiving or retaining dues or agency shop fees prior to the Janus decision (prior to June 27, 2018).

Taxes

Continuing Middle Class Tax Cuts: This year's Enacted Budget continues to lower Personal Income Tax rates for middle-class New Yorkers. In 2020, the third year of the multi-year tax cuts enacted in 2016, income tax rates have been lowered from 6.85 percent to 6.09 percent for taxpayers in the \$43,000-\$161,550 income bracket, and to 6.41 percent in the \$161,550-\$323,200 income bracket. These cuts are expected to save 4.7 million New Yorkers over \$1.8 billion this year. Income tax rates will continue to drop to 5.5 percent for taxpayers in the \$27,900-\$161,550 tax bracket and 6 percent in the \$161,550-\$323,200 bracket.

Financial
Services



State DFS to Issue Regulations Requiring Health Insurers to Defer Premium Payments Through June 1st for Consumers and Businesses Experiencing COVID-19 Financial Hardship

Governor Andrew Cuomo yesterday announced that, through June 1, 2020, consumers and businesses experiencing financial hardship due to COVID-19 may defer paying premiums under individual and small group commercial health insurance plans. Following the Governor's announcement, the New York State Department of Financial Services (DFS) will issue emergency regulations to implement the order.

Through June 1, 2020, individual and small group commercial health insurance plans will be required to continue to pay claims for consumers and businesses who are suffering financial hardship because of the pandemic and cannot pay their premiums. During this period, health plans will not report late payments to credit rating agencies, and will work with individuals to help them transition to new coverage, if appropriate. In addition, health plans are reminded that under existing law they cannot impose late payment fees. DFS will consider any liquidity or solvency concerns of the health plans in giving effect to this directive. Individuals who buy coverage through NY State of Health and receive subsidies will have additional flexibility.

Governor Cuomo thanked Connecticut Governor Ned Lamont for his collaboration on this initiative. DFS also worked closely with Connecticut Insurance Department Commissioner Andrew N. Mais.

Following Governor Cuomo's announcement, DFS will issue an emergency regulation to suspend commercial health insurance premiums collection through June 1st for individuals and small groups demonstrating financial hardship due to COVID-19.

Yesterday's announcement follows DFS' recent adoption of an [emergency regulation](#) mandating deferrals of premium payments for life insurance for 90 days and for property and casualty insurance for 60 days.

The NY State of Health and the DFS also announced a one-month extension of the special enrollment period through May 15, 2020 to allow uninsured New Yorkers to [apply for coverage through NY State of Health](#) by phone at 855-355-5777, or directly to insurers. Individuals that lost employer coverage must apply within 60 days of losing coverage. Because of a loss of income, New Yorkers may also be eligible for Medicaid, the Essential Plan, subsidized Qualified Health Plans or Child Health Plus.

In the News – City



New York City Urges Residents to Cover their Faces in Public

Mayor Bill de Blasio announced that New York is now urging all New Yorkers to wear homemade masks when they go out in the public to help control the spread of COVID-19. Mayor de Blasio asked New Yorkers not to seek out professional-grade masks, such as N-95 masks which are in short supply for the city's healthcare workers, and instead fashion their own coverings for the nose and mouth out of scarfs or bandanas. The Trump administration is considering a similar guidance.

The *New York Times* published a [tutorial](#) on how to make your own fabric face mask from common household materials. In addition, *Popular Science* has an [article](#) on how make your own face mask—no sewing machine required. Videos are available from [Hobby Lobby](#) and [The Oregonian](#) (no sewing required).

Briefs

Paycheck Protection Program

The United States Department of Treasury issued guidance for the recently enacted Paycheck Protection Program ("PPP"). Under the PPP, the federal government will guarantee 100% of loans for up to \$10 million. Eligible borrowers include small businesses with 500 or fewer employees, including sole proprietors, independent contractors, and other self-employed individuals; and 501(c)(3) and 501(c)(19) nonprofits. The covered loan period is from February 15, 2020 through June 30, 2020. Borrowed funds can be used to pay (i) employee salaries, paid sick or medical leave, and health insurance premiums; and (ii) mortgage, rent, and utility payments.

The loans made under the Paycheck Protection Program are potentially 100% forgivable – effectively becoming a non- taxable grant to the borrowing employer. The following link provides guidance for PPP. <https://home.treasury.gov/policy-issues/top-priorities/cares-act/assistance-for-small-businesses>.

NY Real Estate Agents, Home Inspectors, Appraisers Deemed Essential

Real Estate Agents Can Do Virtual Showings

New York's real estate agents, home inspectors and residential appraisers are now considered "essential employees," according to a determination made Wednesday by Empire State Development (ESD). The determination was clarified on Thursday, limiting real estate agents to virtual showings.

According to an [article](#) in the *The Real Deal*, ESD issued the following clarification:

“Being an ‘essential’ industry does not mean business as usual — business can only be conducted if social distancing and other public health protocols are followed and all must be doing everything they can to help stop the spread,” Matthew Gorton of Empire State Development said in a statement. “For real estate, that means brokers can only transact business in their offices or show properties virtually, and anything else is off limits.”

Under the ESD guidance, brokers can visit properties to conduct virtual showings, and they can oversee transactions or signings at their offices as long as they follow social distancing protocols. Appraisers and inspectors can also visit properties for inspections.

Mayor De Blasio Appoints Jennifer Jones Austin as Chair of the Board of Correction

Mayor de Blasio this week announced the appointment of Jennifer Jones Austin as Chair of the Board of Correction. The Board provides oversight for the City’s jail system. The Board of Correction is tasked with establishing and ensuring compliance with minimum standards which regulate conditions of confinement, correctional health and mental health care, and sexual violence prevention in all City correctional facilities.

Ms. Jones Austin is currently the Chief Executive Officer and Executive Director of the Federation of Protestant Welfare Agencies (FPWA), a social policy and advocacy organization with 200 member human services agencies operating throughout New York City. Prior to joining FPWA, Ms. Jones Austin served as Senior Vice President of United Way of New York City, the City of New York’s first Family Services Coordinator appointed by Mayor Bloomberg, Deputy Commissioner for the City’s Administration for Children’s Services, Civil Rights Deputy Bureau Chief for New York State Attorney General Eliot Spitzer, and Vice President for LearnNow/Edison Schools Inc.

Former NYPD Commissioner James O’Neill Joins City’s COVID-19 Team

Mayor de Blasio this week announced that former Police Commissioner James O’Neill will be returning to the City to serve as COVID-19 Senior Advisor. In this role, O’Neill will oversee the supply and distribution of personal protective and medical equipment within New York City hospitals as demand continues to surge due to the COVID-19 crisis.

O’Neill will create, operationalize and manage a supply inspection regime within the hospitals to ensure the rapid turnaround of new supplies and verify each hospital is pushing needed equipment to frontline health care workers. He will take on this volunteer role while continuing to serve as Senior Vice President and Head of Global Security at Visa Inc.

Javits Convention Center Will Treat COVID-19 Patients

Governor Andrew Cuomo's request to turn the Javits Center's 2,500-bed emergency medical facility, currently run by the US Army, into a COVID-19 facility has been approved by the federal government.

The original plan was to use the Javits Center as a non-COVID facility, taking non-COVID patients from hospitals to open up hospital beds. However, according to the Governor, the number of COVID positive patients has increased so dramatically that it would be beneficial to the state if Javits could accept COVID positive patients.

"I asked President Trump this morning to consider the request and the urgency of the matter, and the President has just informed me that he granted New York's request. I thank the President for his cooperation in this pressing matter and his expeditious decision making," Governor Cuomo said.

Coming Up

New York State

Senate at the Call of the Majority Leader

Assembly at the Call of the Speaker

New York City

Meetings have been suspended subject to [Executive Order 100](#)

Our Thoughts are With You

*We wish a speedy and full recovery for those fighting COVID-19.
We offer our deepest condolences to the families and friends of those who have died.*

*Thank you to everyone who is putting their lives on the line for us
every day and night.*

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