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MEMORANDUM

2020-2021 New York State Executive Budget

Lawmakers approved a \$178 billion spending plan after a marathon day Thursday when the Assembly finished voting. The Budget also authorizes a reduction in spending by \$10 billion to account for the economic impact of the COVID-19 pandemic.

In order to address the uncertainty of revenue collections the legislation delineates three measurement periods: April 1, 2020 to April 30, 2020; May 1, 2020 to June 30, 2020 and July 1, 2020 to December 31, 2020. New York State is constitutionally required to maintain a balanced budget. The legislation provides that during any measurement period the budget will be deemed unbalanced if actual state operating funds tax receipts are less than 99 percent of the estimated State operating fund tax receipts; or actual state operating funds disbursement are greater than 101 percent of estimated State operating funds disbursements. In the event the budget is deemed unbalanced the Director of the Division of Budget may adjust appropriations or disbursements and is required to make such adjustments uniformly across the board to the extent practicable. Certain appropriations are exempt from such reductions including: public assistance and supplemental social security payments; reductions that would violate federal law; debt service payments; payments obligated by court orders. The director of the Division of the Budget is required to provide notice of such adjustments or reduction to the Chairs of the Senate Finance Committee and Assembly ways and Means Committee. The Legislature has 10 days to prepare an alternative plan or the Division of Budget plan will go into effect immediately.

The following are some items of interest from the budget that are important to note:

Establishing Paid Sick Leave for Working New Yorkers:

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.

Enact a Comprehensive Tobacco Control Policy:

Prohibits the sale or distribution of e-cigarettes or vapor products that have a characterizing flavor unless approved as part of an FDA pre-market approval; prohibits the sale of tobacco products, including e-cigarettes, in all pharmacies; restricts the delivery of e-liquid products only to NYS-licensed vapor retailers; restricts the public display of tobacco and vapor products near schools; requires manufacturers of vapor products to disclose to the DOH Commissioner and the public, information

regarding the ingredients, by-products, or contaminants in vapor products, whether intentional or unintentionally added; bans certain carrier oils if they are determined to be harmful; bans coupons and manufacturer discounts and displays in shops; and increases penalties for illegally selling tobacco products to minors.

Prescription Drugs:

Three-part plan to lower prescription drug costs for all New Yorkers. The Budget caps insulin co-payments at \$100 per month for insured patients to help address the rising cost of insulin that has resulted in diabetes patients rationing, skipping doses and not filling prescriptions. Also, establishes a commission of experts to study the feasibility and benefits of a Canadian drug importation program and submit a plan to the U.S. Department of Health and Human Services for review.

Redesigning Medicaid and Health Care:

Advances reforms to the Medicaid program that will ensure it remains financially viable for the future so it can continue to provide high-quality care. Medicaid spending will increase by 3%, or about \$500 million ensuring continuing high-quality care for the 30 percent of New Yorkers who rely on Medicaid for health care. Many of these reforms were developed and unanimously endorsed by the Medicaid Redesign Team II. The reforms included in the FY 2021 Enacted Budget include a transformation of the hospital reimbursement structure to better support services to the uninsured, increases investments in primary care to avoid more costly hospitalizations, and new requirements that enhance oversight of managed care and transportation. The reforms also address managed long-term care, by far the fastest growing sector of Medicaid. These include 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; capping statewide enrollment in managed long-term care to incentivize plans to assist in ensuring appropriate enrollment; and creating a statewide independent assessor to achieve efficiencies by removing duplicative efforts to determining eligibility and enrollment in the managed long-term care program.

Authorized the Creation of a \$3 Billion Restore Mother Nature Bond Act:

Authorizes the creation of a Bond Act to fund critical environmental restoration and climate mitigation projects to ensure New York is able to adapt to the impacts of climate change, and reduce emissions, while creating jobs and local economic development. The Bond Act will be a key source of funding for 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. It also aims to spend 35 percent of the funds on projects to benefit underserved areas of the state. 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.

Prevailing Wage:

Requires that workers on private projects receiving a significant public subsidy will 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, extending important worker protections to even more components of New York's largest-in-the-nation building program.

Making the "New York Buy American" Act Permanent:

Makes the Buy American Act, which is set to expire in April 2020, a permanent fixture in New York State. The Buy American Act requires State agencies to use high-quality American-made structural iron and steel, continuing to support the State's steel and iron industry.

Expanding Access to Safe and Affordable Banking Services, Credit and Financial Education:

Invests \$25 million in new funding over five years to support New York's Community Development Financial Institutions Fund (CDFI). CDFIs are often the sole providers of banking services in low-income areas and underserved communities across the state. CDFIs will leverage this funding to an aggregate \$30 million in targeted investment in these communities. Also creates a statewide Office of Financial Inclusion and Empowerment, based at the Department of Financial Services, to meet the financial services needs of low- and middle- income New Yorkers across the state.

Increasing and Modernizing Emergency Response Capacity:

Sustains \$12 million in capital funding to increase and update the State's emergency response capacity so our brave women and men have the right equipment to do their jobs.

Addressing Veteran and Law Enforcement Suicides:

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.

Accelerating Renewable Energy Projects and Driving Economic Growth:

Enacts the Accelerated Renewable Energy Growth and Community Benefit Act, which will speed up the permitting and construction of renewable energy projects. The State will also accelerate renewable transmission delivery. The Act will create a new Office of Renewable Energy Permitting to improve and streamline the process for environmentally responsible and cost-effective siting of large-scale renewable energy projects across New York while delivering significant benefits to local communities. "Build Ready" sites will be pre-approved, permitted and auctioned to developers to prioritize the re-use of abandoned commercial sites, brownfields, landfills and former industrial sites.

Enacting Comprehensive E-Bike and E-Scooter Legislation:

To get more people out of cars, the FY 2021 Enacted Budget includes comprehensive legislation to legalize and expand the e-bike and e-scooter network without compromising on public safety.

Green Economy Tax Credit:

Creates a new refundable, discretionary Green Jobs Tax Credit totaling up to 7.5 percent of wages for each net new job created fostering the expansion of green economy businesses. The State will also create a refundable, discretionary Green Investment Tax Credit totaling up to 5 percent of qualifying new capital investments in connection with qualifying green economy projects and increasing to up to 8 percent of eligible investment for research and development in qualifying green economy projects.

Investing in Roads and Bridges:

Supports \$6 billion for the Department of Transportation capital plan in FY 2021, including \$2.6 billion for Upstate roads and bridges.

Adjustments to 2019 Criminal Justice Reform Law:

Makes adjustments to the 2019 bail reform law that addressed inequities in the criminal justice system. The budget clarifies the 2019 law 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; and it adds several offenses that can be bail eligible, 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.

Banning high-risk sexual offenders from accessing the MTA subway, bus and rail systems: The Budget includes a new 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. The Governor proposed this measure in response to a number of recent MTA incidents involving repeat sex offenders.

Strengthening Disclosure Laws: In June 2016, amid an increased lack of transparency in politics, Governor Cuomo advanced ethics reform legislation to address the landmark Citizens United v. Federal Election Commission decision that resulted in strengthened campaign finance regulations. Upon passage of ethics reform bills by both the Senate and the Assembly, the Governor signed New York Executive Law § 172, requiring disclosures of political relationships and behaviors widely recognized to be influential but which operate without exposure. The FY 2021 Enacted Budget Governor Cuomo strengthens this law by streamlining the reporting process for 501(c)(3) and 501(c)(4) organizations.

Stopping Abusive and Deceptive Practices from Student Loan Debt Relief Companies: Governor Cuomo has championed financial assistance and debt relief for New York students, establishing the Get on Your Feet Loan Forgiveness Program—the nation's only state-sponsored need-based loan forgiveness program and enacting regulations prescribing standards of conduct for student loan servicing companies. However, additional protections are needed to protect New Yorkers from student debt relief companies that have had a poor record of serving their customers. These companies typically charge student loan borrowers substantial upfront fees and promise to assist them with consolidating multiple student loans into a single loan or alternative repayment arrangements. Borrowers, however, can often achieve the same results through free government programs. The Budget includes legislation setting standards for the student loan debt relief industry in New York.

Legalizing Gestational Surrogacy in New York State:

Legalizes gestational surrogacy in New York State, helping LGBTQ couples and couples struggling with infertility. The legislation will also establish criteria for surrogacy contracts that provide protections ensuring all parties provide informed consent at every step of the process, and will create a Surrogates' Bill of Rights, which would ensure the unfettered right of surrogates to make their own healthcare decisions. The legislation included in the Budget will also create a streamlined process for establishing parenthood when one of the individuals is a non-biological parent, a process known as "second parent adoption."

Passing the "New York Hate Crime Anti-Terrorism Act":

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.

Housing and Services for People who are Homeless, Including Those with Mental Illness:

Includes an aggressive strategy and additional support to provide housing and services to these vulnerable populations.

Banning the "Pink Tax":

Prohibits gender-based pricing discrimination for substantially similar or like kind goods and services. The legislation would require certain service providers to provide price lists for standard services upon request and notice that gender-based price discrimination is prohibited under state law. Businesses that violate the law would be subject to civil penalties.