

Legislative Update

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Syllabus

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SUPREME COURT OF THE UNITED STATES

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LINDKE *v.* FREEDCERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE SIXTH CIRCUIT

No. 22–611. Argued October 31, 2023—Decided March 15, 2024

James Freed, like countless other Americans, created a private Facebook profile sometime before 2008. He eventually converted his profile to a public “page,” meaning that *anyone* could see and comment on his posts. In 2014, Freed updated his Facebook page to reflect that he was appointed city manager of Port Huron, Michigan, describing himself as “Daddy to Lucy, Husband to Jessie and City Manager, Chief Administrative Officer for the citizens of Port Huron, MI.” Freed continued to operate his Facebook page himself and continued to post prolifically (and primarily) about his personal life. Freed also posted information related to his job, such as highlighting communications from other city officials and soliciting feedback from the public on issues of concern. Freed often responded to comments on his posts, including those left by city residents with inquiries about community matters. He occasionally deleted comments that he considered “derogatory” or “stupid.”

After the COVID–19 pandemic began, Freed posted about it. Some posts were personal, and some contained information related to his job. Facebook user Kevin Lindke commented on some of Freed’s posts, unequivocally expressing his displeasure with the city’s approach to the pandemic. Initially, Freed deleted Lindke’s comments; ultimately, he blocked him from commenting at all. Lindke sued Freed under 42 U. S. C. §1983, alleging that Freed had violated his First Amendment rights. As Lindke saw it, he had the right to comment on Freed’s Facebook page because it was a public forum. The District Court determined that because Freed managed his Facebook page in his private capacity, and because only state action can give rise to liability under §1983, Lindke’s claim failed. The Sixth Circuit affirmed.

Held: A public official who prevents someone from commenting on the official’s social-media page engages in state action under §1983 only if

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the official both (1) possessed actual authority to speak on the State’s behalf on a particular matter, and (2) purported to exercise that authority when speaking in the relevant social-media posts. Pp. 5–15.

(a) Section 1983 provides a cause of action against “[e]very person who, *under color of any statute, ordinance, regulation, custom, or usage, of any State*” deprives someone of a federal constitutional or statutory right. (Emphasis added.) Section 1983’s “under color of” text makes clear that it is a provision designed as a protection against acts attributable to a State, not those of a private person. In the run-of-the-mill case, state action is easy to spot. Courts do not ordinarily pause to consider whether §1983 applies to the actions of police officers, public schools, or prison officials. Sometimes, however, the line between private conduct and state action is difficult to draw. In *Griffin v. Maryland*, 378 U. S. 130, for example, it was the source of the power, not the identity of the employer, which controlled in the case of a deputized sheriff who was held to have engaged in state action while employed by a privately owned amusement park. Since *Griffin*, most state-action precedents have grappled with whether a nominally private person engaged in state action, but this case requires analyzing whether a *state official* engaged in state action or functioned as a private citizen.

Freed’s status as a state employee is not determinative. The distinction between private conduct and state action turns on substance, not labels: Private parties can act with the authority of the State, and state officials have private lives and their own constitutional rights—including the First Amendment right to speak about their jobs and exercise editorial control over speech and speakers on their personal platforms. Here, if Freed acted in his private capacity when he blocked Lindke and deleted his comments, he did not violate Lindke’s First Amendment rights—instead, he exercised his own. Pp. 5–8.

(b) In the case of a public official using social media, a close look is definitely necessary to categorize conduct. In cases analogous to this one, precedent articulates principles to distinguish between personal and official communication in the social-media context. A public official’s social-media activity constitutes state action under §1983 only if the official (1) possessed actual authority to speak on the State’s behalf, and (2) purported to exercise that authority when he spoke on social media. The appearance and function of the social-media activity are relevant at the second step, but they cannot make up for a lack of state authority at the first. Pp. 8–15.

(1) The test’s first prong is grounded in the bedrock requirement that “the conduct allegedly causing the deprivation of a federal right be *fairly attributable to the State*.” *Lugar v. Edmondson Oil Co.*, 457 U. S. 922, 937 (emphasis added). Lindke’s focus on appearance skips

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over this critical step. Unless Freed was “possessed of state authority” to post city updates and register citizen concerns, *Griffin*, 378 U. S., at 135, his conduct is not attributable to the State. Importantly, Lindke must show more than that Freed had *some* authority to communicate with residents on behalf of Port Huron. The alleged censorship must be connected to speech on a matter within Freed’s bailiwick. There must be a tie between the official’s authority and “the gravamen of the plaintiff’s complaint.” *Blum v. Yaretsky*, 457 U. S. 991, 1003.

To misuse power, one must possess it in the first place, and §1983 lists the potential sources: “statute, ordinance, regulation, custom, or usage.” Determining the scope of an official’s power requires careful attention to the relevant source of that power and what authority it reasonably encompasses. The threshold inquiry to establish state action is not whether making official announcements *could* fit within a job description but whether making such announcements is *actually* part of the job that the State entrusted the official to do. Pp. 9–12.

(2) For social-media activity to constitute state action, an official must not only have state authority, he must also purport to use it. If the official does not speak in furtherance of his official responsibilities, he speaks with his own voice. Here, if Freed’s account had carried a label—*e.g.*, “this is the personal page of James R. Freed”—he would be entitled to a heavy presumption that all of his posts were personal, but Freed’s page was not designated either “personal” or “official.” The ambiguity surrounding Freed’s page requires a fact-specific undertaking in which posts’ content and function are the most important considerations. A post that expressly invokes state authority to make an announcement not available elsewhere is official, while a post that merely repeats or shares otherwise available information is more likely personal. Lest any official lose the right to speak about public affairs in his personal capacity, the plaintiff must show that the official purports to exercise state authority in specific posts. The nature of the social-media technology matters to this analysis. For example, because Facebook’s blocking tool operates on a page-wide basis, a court would have to consider whether Freed had engaged in state action with respect to any post on which Lindke wished to comment. Pp. 12–15.

37 F. 4th 1199, vacated and remanded.

BARRETT, J., delivered the opinion for a unanimous Court.

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SUPREME COURT OF THE UNITED STATES

No. 22–611

KEVIN LINDKE, PETITIONER *v.* JAMES R. FREEDON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SIXTH CIRCUIT

[March 15, 2024]

JUSTICE BARRETT delivered the opinion of the Court.

Like millions of Americans, James Freed maintained a Facebook account on which he posted about a wide range of topics, including his family and his job. Like most of those Americans, Freed occasionally received unwelcome comments on his posts. In response, Freed took a step familiar to Facebook users: He deleted the comments and blocked those who made them.

For most people with a Facebook account, that would have been the end of it. But Kevin Lindke, one of the unwelcome commenters, sued Freed for violating his right to free speech. Because the First Amendment binds only the government, this claim is a nonstarter if Freed posted as a private citizen. Freed, however, is not only a private citizen but also the city manager of Port Huron, Michigan—and while Freed insists that his Facebook account was strictly personal, Lindke argues that Freed acted in his official capacity when he silenced Lindke’s speech.

When a government official posts about job-related topics on social media, it can be difficult to tell whether the speech is official or private. We hold that such speech is attributable to the State only if the official (1) possessed actual authority to speak on the State’s behalf, and (2) purported to

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exercise that authority when he spoke on social media.

I
A

Sometime before 2008, while he was a college student, James Freed created a private Facebook profile that he shared only with “friends.” In Facebook lingo, “friends” are not necessarily confidants or even real-life acquaintances. Users become “friends” when one accepts a “friend request” from another; after that, the two can generally see and comment on one another’s posts and photos. When Freed, an avid Facebook user, began nearing the platform’s 5,000-friend limit, he converted his profile to a public “page.” This meant that *anyone* could see and comment on his posts. Freed chose “public figure” for his page’s category, “James Freed” for its title, and “JamesRFreed1” as his username. Facebook did not require Freed to satisfy any special criteria either to convert his Facebook profile to a public page or to describe himself as a public figure.

In 2014, Freed was appointed city manager of Port Huron, Michigan, and he updated his Facebook page to reflect the new job. For his profile picture, Freed chose a photo of himself in a suit with a city lapel pin. In the “About” section, Freed added his title, a link to the city’s website, and the city’s general email address. He described himself as “Daddy to Lucy, Husband to Jessie and City Manager, Chief Administrative Officer for the citizens of Port Huron, MI.”

As before his appointment, Freed operated his Facebook page himself. And, as before his appointment, Freed posted prolifically (and primarily) about his personal life. He uploaded hundreds of photos of his daughter. He shared about outings like the Daddy Daughter Dance, dinner with his wife, and a family nature walk. He posted Bible verses, updates on home-improvement projects, and pictures of his dog, Winston.

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Freed also posted information related to his job. He described mundane activities, like visiting local high schools, as well as splashier ones, like starting reconstruction of the city’s boat launch. He shared news about the city’s efforts to streamline leaf pickup and stabilize water intake from a local river. He highlighted communications from other city officials, like a press release from the fire chief and an annual financial report from the finance department. On occasion, Freed solicited feedback from the public—for instance, he once posted a link to a city survey about housing and encouraged his audience to complete it.

Freed’s readers frequently commented on his posts, sometimes with reactions (for example, “Good job it takes skills” on a picture of his sleeping daughter) and sometimes with questions (for example, “Can you allow city residents to have chickens?”). Freed often replied to the comments, including by answering inquiries from city residents. (City residents can have chickens and should “call the Planning Dept for details.”) He occasionally deleted comments that he thought were “derogatory” or “stupid.”

After the COVID–19 pandemic began, Freed posted about that. Some posts were personal, like pictures of his family spending time at home and outdoors to “[s]tay safe” and “[s]ave lives.” Some contained general information, like case counts and weekly hospitalization numbers. Others related to Freed’s job, like a description of the city’s hiring freeze and a screenshot of a press release about a relief package that he helped prepare.

Enter Kevin Lindke. Unhappy with the city’s approach to the pandemic, Lindke visited Freed’s page and said so. For example, in response to one of Freed’s posts, Lindke commented that the city’s pandemic response was “abysmal” and that “the city deserves better.” When Freed posted a photo of himself and the mayor picking up takeout from a local restaurant, Lindke complained that while “residents [we]re suffering,” the city’s leaders were eating at an

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expensive restaurant “instead of out talking to the community.” Initially, Freed deleted Lindke’s comments; ultimately, he blocked him. Once blocked, Lindke could see Freed’s posts but could no longer comment on them.

B

Lindke sued Freed under 42 U. S. C. §1983, alleging that Freed had violated his First Amendment rights. As Lindke saw it, he had the right to comment on Freed’s Facebook page, which he characterized as a public forum. Freed, Lindke claimed, had engaged in impermissible viewpoint discrimination by deleting unfavorable comments and blocking the people who made them.

The District Court granted summary judgment to Freed. Because only state action can give rise to liability under §1983, Lindke’s claim depended on whether Freed acted in a “private” or “public” capacity. 563 F. Supp. 3d 704, 714 (ED Mich. 2021). The “prevailing personal quality of Freed’s post[s],” the absence of “government involvement” with his account, and the lack of posts conducting official business led the court to conclude that Freed managed his Facebook page in his private capacity, so Lindke’s claim failed. *Ibid.*

The Sixth Circuit affirmed. It noted that “the caselaw is murky as to when a state official acts personally and when he acts officially” for purposes of §1983. 37 F. 4th 1199, 1202 (2022). To sort the personal from the official, that court “asks whether the official is ‘performing an actual or apparent duty of his office,’ or if he could not have behaved as he did ‘without the authority of his office.’” *Id.*, at 1203 (quoting *Waters v. Morristown*, 242 F. 3d 353, 359 (CA6 2001)). Applying this precedent to the social-media context, the Sixth Circuit held that an official’s activity is state action if the “text of state law requires an officeholder to maintain a social-media account,” the official “use[s] . . . state resources” or “government staff” to run the account, or the

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“accoun[t] belong[s] to an office, rather than an individual officeholder.” 37 F. 4th, at 1203–1204. These situations, the Sixth Circuit explained, make an official’s social-media activity “‘fairly attributable’” to the State. *Id.*, at 1204 (quoting *Lugar v. Edmondson Oil Co.*, 457 U. S. 922, 937 (1982)). And it concluded that Freed’s activity was not.

The Sixth Circuit’s approach to state action in the social-media context differs from that of the Second and Ninth Circuits, which focus less on the connection between the official’s authority and the account and more on whether the account’s appearance and content look official. See, e.g., *Garnier v. O’Connor-Ratcliff*, 41 F. 4th 1158, 1170–1171 (CA9 2022); *Knight First Amdt. Inst. at Columbia Univ. v. Trump*, 928 F. 3d 226, 236 (CA2 2019), vacated as moot *sub nom. Biden v. Knight First Amdt. Inst. at Columbia Univ.*, 593 U. S. ____ (2021). We granted certiorari. 598 U. S. ____ (2023).

II

Section 1983 provides a cause of action against “[e]very person who, *under color of any statute, ordinance, regulation, custom, or usage, of any State*” deprives someone of a federal constitutional or statutory right. (Emphasis added.) As its text makes clear, this provision protects against acts attributable to a State, not those of a private person. This limit tracks that of the Fourteenth Amendment, which obligates *States* to honor the constitutional rights that §1983 protects. §1 (“No *State* shall . . . nor shall any *State* deprive . . . ” (emphasis added)); see also *Lugar*, 457 U. S., at 929 (“[T]he statutory requirement of action ‘under color of state law’ and the ‘state action’ requirement of the Fourteenth Amendment are identical”). The need for governmental action is also explicit in the Free Speech Clause, the guarantee that Lindke invokes in this case. Amdt. 1 (“*Congress* shall make no law . . . abridging the freedom of speech . . . ” (emphasis added)); see also *Manhattan Community Access*

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Corp. v. Halleck, 587 U. S. 802, 808 (2019) (“[T]he Free Speech Clause prohibits only *governmental* abridgment of speech,” not “*private* abridgment of speech”). In short, the state-action requirement is both well established and reinforced by multiple sources.¹

In the run-of-the-mill case, state action is easy to spot. Courts do not ordinarily pause to consider whether §1983 applies to the actions of police officers, public schools, or prison officials. See, e.g., *Graham v. Connor*, 490 U. S. 386, 388 (1989) (police officers); *Tinker v. Des Moines Independent Community School Dist.*, 393 U. S. 503, 504–505 (1969) (public schools); *Estelle v. Gamble*, 429 U. S. 97, 98 (1976) (prison officials). And, absent some very unusual facts, no one would credit a child’s assertion of free speech rights against a parent, or a plaintiff’s complaint that a nosy neighbor unlawfully searched his garage.

Sometimes, however, the line between private conduct and state action is difficult to draw. *Griffin v. Maryland* is a good example. 378 U. S. 130 (1964). There, we held that a security guard at a privately owned amusement park engaged in state action when he enforced the park’s policy of segregation against black protesters. *Id.*, at 132–135. Though employed by the park, the guard had been “deputized as a sheriff of Montgomery County” and possessed “‘the same power and authority’” as any other deputy sheriff. *Id.*, at 132, and n. 1. The State had therefore allowed its power to be exercised by someone in the private sector. And the source of the power, not the identity of the employer, controlled.

By and large, our state-action precedents have grappled

¹Because local governments are subdivisions of the State, actions taken under color of a local government’s law, custom, or usage count as “state” action for purposes of §1983. See *Monell v. New York City Dept. of Social Servs.*, 436 U. S. 658, 690–691 (1978). And when a state or municipal employee violates a federal right while acting “under color of law,” he can be sued in an individual capacity, as Freed was here.

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with variations of the question posed in *Griffin*: whether a nominally private person has engaged in state action for purposes of §1983. See, e.g., *Marsh v. Alabama*, 326 U. S. 501, 502–503 (1946) (company town); *Adickes v. S. H. Kress & Co.*, 398 U. S. 144, 146–147 (1970) (restaurant); *Flagg Bros., Inc. v. Brooks*, 436 U. S. 149, 151–152 (1978) (warehouse company). Today’s case, by contrast, requires us to analyze whether a *state official* engaged in state action or functioned as a private citizen. This Court has had little occasion to consider how the state-action requirement applies in this circumstance.

The question is difficult, especially in a case involving a state or local official who routinely interacts with the public. Such officials may look like they are always on the clock, making it tempting to characterize every encounter as part of the job. But the state-action doctrine avoids such broad-brush assumptions—for good reason. While public officials can act on behalf of the State, they are also private citizens with their own constitutional rights. By excluding from liability “acts of officers in the ambit of their personal pursuits,” *Screws v. United States*, 325 U. S. 91, 111 (1945) (plurality opinion), the state-action requirement “protects a robust sphere of individual liberty” for those who serve as public officials or employees, *Halleck*, 587 U. S., at 808.

The dispute between Lindke and Freed illustrates this dynamic. Freed did not relinquish his First Amendment rights when he became city manager. On the contrary, “the First Amendment protects a public employee’s right, in certain circumstances, to speak as a citizen addressing matters of public concern.” *Garcetti v. Ceballos*, 547 U. S. 410, 417 (2006). This right includes the ability to speak about “information related to or learned through public employment,” so long as the speech is not “itself ordinarily within the scope of [the] employee’s duties.” *Lane v. Franks*, 573 U. S. 228, 236, 240 (2014). Where the right exists, “editorial control over speech and speakers on [the public employee’s]

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properties or platforms” is part and parcel of it. *Halleck*, 587 U. S., at 816. Thus, if Freed acted in his private capacity when he blocked Lindke and deleted his comments, he did not violate Lindke’s First Amendment rights—instead, he exercised his own.

So Lindke cannot hang his hat on Freed’s status as a state employee. The distinction between private conduct and state action turns on substance, not labels: Private parties can act with the authority of the State, and state officials have private lives and their own constitutional rights. Categorizing conduct, therefore, can require a close look.

III

A close look is definitely necessary in the context of a public official using social media. There are approximately 20 million state and local government employees across the Nation, with an extraordinarily wide range of job descriptions—from Governors, mayors, and police chiefs to teachers, healthcare professionals, and transportation workers. Many use social media for personal communication, official communication, or both—and the line between the two is often blurred. Moreover, social media involves a variety of different and rapidly changing platforms, each with distinct features for speaking, viewing, and removing speech. The Court has frequently emphasized that the state-action doctrine demands a fact-intensive inquiry. See, e.g., *Reitman v. Mulkey*, 387 U. S. 369, 378 (1967); *Gilmore v. Montgomery*, 417 U. S. 556, 574 (1974). We repeat that caution here.

That said, our precedent articulates principles that govern cases analogous to this one. For the reasons we explain below, a public official’s social-media activity constitutes state action under §1983 only if the official (1) possessed actual authority to speak on the State’s behalf, and (2) purported to exercise that authority when he spoke on social media. The appearance and function of the social-media activity are relevant at the second step, but they cannot make

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up for a lack of state authority at the first.

A

The first prong of this test is grounded in the bedrock requirement that “the conduct allegedly causing the deprivation of a federal right be *fairly attributable to the State*.” *Lugar*, 457 U. S., at 937 (emphasis added). An act is not attributable to a State unless it is traceable to the State’s power or authority. Private action—no matter how “official” it looks—lacks the necessary lineage.

This rule runs through our cases. *Griffin* stresses that the security guard was “possessed of state authority” and “purport[ed] to act under that authority.” 378 U. S., at 135. *West v. Atkins* states that the “traditional definition” of state action “requires that the defendant . . . have exercised power ‘possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law.’” 487 U. S. 42, 49 (1988) (quoting *United States v. Classic*, 313 U. S. 299, 326 (1941)). *Lugar* emphasizes that state action exists only when “the claimed deprivation has resulted from the exercise of a right or privilege having its source in state authority.” 457 U. S., at 939; see also, e.g., *Edmonson v. Leesville Concrete Co.*, 500 U. S. 614, 620 (1991) (describing state action as the “exercise of a right or privilege having its source in state authority”); *Screws*, 325 U. S., at 111 (plurality opinion) (police-officer defendants “were authorized to make an arrest and to take such steps as were necessary to make the arrest effective”). By contrast, when the challenged conduct “entail[s] functions and obligations in no way dependent on state authority,” state action does not exist. *Polk County v. Dodson*, 454 U. S. 312, 318–319 (1981) (no state action because criminal defense “is essentially a private function . . . for which state office and authority are not needed”); see also *Jackson v. Metropolitan Edison Co.*, 419 U. S. 345, 358–359 (1974).

Lindke’s focus on appearance skips over this crucial step.

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He insists that Freed’s social-media activity constitutes state action because Freed’s Facebook page looks and functions like an outlet for city updates and citizen concerns. But Freed’s conduct is not attributable to the State unless he was “possessed of state authority” to post city updates and register citizen concerns. *Griffin*, 378 U. S., at 135. If the State did not entrust Freed with these responsibilities, it cannot “fairly be blamed” for the way he discharged them. *Lugar*, 457 U. S., at 936. Lindke imagines that Freed can conjure the power of the State through his own efforts. Yet the presence of state authority must be real, not a mirage.

Importantly, Lindke must show more than that Freed had *some* authority to communicate with residents on behalf of Port Huron. The alleged censorship must be connected to speech on a matter within Freed’s bailiwick. For example, imagine that Freed posted a list of local restaurants with health-code violations and deleted snarky comments made by other users. If public health is not within the portfolio of the city manager, then neither the post nor the deletions would be traceable to Freed’s state authority—because he had none. For state action to exist, the State must be “responsible for the specific conduct of which the plaintiff complains.” *Blum v. Yaretsky*, 457 U. S. 991, 1004 (1982) (emphasis deleted). There must be a tie between the official’s authority and “the gravamen of the plaintiff’s complaint.” *Id.*, at 1003.

To be clear, the “[m]isuse of power, possessed by virtue of state law,” constitutes state action. *Classic*, 313 U. S., at 326 (emphasis added); see also, *e.g.*, *Screws*, 325 U. S., at 110 (plurality opinion) (state action where “the power which [state officers] were authorized to exercise was misused”). While the state-action doctrine requires that the State have granted an official the type of authority that he used to violate rights—*e.g.*, the power to arrest—it encompasses cases where his “particular action”—*e.g.*, an arrest made with excessive force—violated state or federal law. *Griffin*,

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378 U. S., at 135; see also *Home Telephone & Telegraph Co. v. Los Angeles*, 227 U. S. 278, 287–288 (1913) (the Fourteenth Amendment encompasses “abuse by a state officer . . . of the powers possessed”). Every §1983 suit alleges a misuse of power, because no state actor has the authority to deprive someone of a federal right. To misuse power, however, one must possess it in the first place.

Where does the power come from? Section 1983 lists the potential sources: “statute, ordinance, regulation, custom, or usage.” Statutes, ordinances, and regulations refer to written law through which a State can authorize an official to speak on its behalf. “Custom” and “usage” encompass “persistent practices of state officials” that are “so permanent and well settled” that they carry “the force of law.” *Adickes*, 398 U. S., at 167–168. So a city manager like Freed would be authorized to speak for the city if written law like an ordinance empowered him to make official announcements. He would also have that authority even in the absence of written law if, for instance, prior city managers have purported to speak on its behalf and have been recognized to have that authority for so long that the manager’s power to do so has become “permanent and well settled.” *Id.*, at 168. And if an official has authority to speak for the State, he may have the authority to do so on social media even if the law does not make that explicit.

Determining the scope of an official’s power requires careful attention to the relevant statute, ordinance, regulation, custom, or usage. In some cases, a grant of authority over particular subject matter may reasonably encompass authority to speak about it officially. For example, state law might grant a high-ranking official like the director of the state department of transportation broad responsibility for the state highway system that, in context, includes authority to make official announcements on that subject. At the same time, courts must not rely on “‘excessively broad job descriptions’” to conclude that a government employee is

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authorized to speak for the State. *Kennedy v. Bremerton School Dist.*, 597 U. S. 507, 529 (2022) (quoting *Garcetti*, 547 U. S., at 424). The inquiry is not whether making official announcements *could* fit within the job description; it is whether making official announcements is *actually* part of the job that the State entrusted the official to do.

In sum, a defendant like Freed must have actual authority rooted in written law or longstanding custom to speak for the State. That authority must extend to speech of the sort that caused the alleged rights deprivation. If the plaintiff cannot make this threshold showing of authority, he cannot establish state action.

B

For social-media activity to constitute state action, an official must not only have state authority—he must also purport to use it. *Griffin*, 378 U. S., at 135. State officials have a choice about the capacity in which they choose to speak. “[G]enerally, a public employee” purports to speak on behalf of the State while speaking “in his official capacity or” when he uses his speech to fulfill “his responsibilities pursuant to state law.” *West*, 487 U. S., at 50. If the public employee does not use his speech in furtherance of his official responsibilities, he is speaking in his own voice.

Consider a hypothetical from the offline world. A school board president announces at a school board meeting that the board has lifted pandemic-era restrictions on public schools. The next evening, at a backyard barbecue with friends whose children attend public schools, he shares that the board has lifted the pandemic-era restrictions. The former is state action taken in his official capacity as school board president; the latter is private action taken in his personal capacity as a friend and neighbor. While the substance of the announcement is the same, the context—an official meeting versus a private event—differs. He invoked his official authority only when he acted as school board

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president.

The context of Freed’s speech is hazier than that of the hypothetical school board president. Had Freed’s account carried a label (*e.g.*, “this is the personal page of James R. Freed”) or a disclaimer (*e.g.*, “the views expressed are strictly my own”), he would be entitled to a heavy (though not irrebuttable) presumption that all of the posts on his page were personal. Markers like these give speech the benefit of clear context: Just as we can safely presume that speech at a backyard barbeque is personal, we can safely presume that speech on a “personal” page is personal (absent significant evidence indicating that a post is official).² Conversely, context can make clear that a social-media account purports to speak for the government—for instance, when an account belongs to a political subdivision (*e.g.*, a “City of Port Huron” Facebook page) or is passed down to whomever occupies a particular office (*e.g.*, an “@PHuronCityMgr” Instagram account). Freed’s page, however, was not designated either “personal” or “official,” raising the prospect that it was “mixed use”—a place where he made some posts in his personal capacity and others in his capacity as city manager.

Categorizing posts that appear on an ambiguous page like Freed’s is a fact-specific undertaking in which the post’s content and function are the most important considerations. In some circumstances, the post’s content and

² An official cannot insulate government business from scrutiny by conducting it on a personal page. The Solicitor General offers the particularly clear example of an official who designates space on his nominally personal page as the official channel for receiving comments on a proposed regulation. Because the power to conduct notice-and-comment rulemaking belongs exclusively to the State, its exercise is necessarily governmental. Similarly, a mayor would engage in state action if he hosted a city council meeting online by streaming it only on his personal Facebook page. By contrast, a post that is compatible with either a “personal capacity” or “official capacity” designation is “personal” if it appears on a personal page.

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function might make the plaintiff’s argument a slam dunk. Take a mayor who makes the following announcement exclusively on his Facebook page: “Pursuant to Municipal Ordinance 22.1, I am temporarily suspending enforcement of alternate-side parking rules.” The post’s express invocation of state authority, its immediate legal effect, and the fact that the order is not available elsewhere make clear that the mayor is purporting to discharge an official duty. If, by contrast, the mayor merely repeats or shares otherwise available information—for example, by linking to the parking announcement on the city’s webpage—it is far less likely that he is purporting to exercise the power of his office. Instead, it is much more likely that he is engaging in private speech “relate[d] to his public employment” or “concern[ing] information learned during that employment.” *Lane*, 573 U. S., at 238.

Hard-to-classify cases require awareness that an official does not necessarily purport to exercise his authority simply by posting about a matter within it. He might post job-related information for any number of personal reasons, from a desire to raise public awareness to promoting his prospects for reelection. Moreover, many public officials possess a broad portfolio of governmental authority that includes routine interaction with the public, and it may not be easy to discern a boundary between their public and private lives. Yet these officials too have the right to speak about public affairs in their personal capacities. See, *e.g.*, *id.*, at 235–236. Lest any official lose that right, it is crucial for the plaintiff to show that the official is purporting to exercise state authority in specific posts. And when there is doubt, additional factors might cast light—for example, an official who uses government staff to make a post will be hard pressed to deny that he was conducting government business.

One last point: The nature of the technology matters to the state-action analysis. Freed performed two actions to

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which Lindke objected: He deleted Lindke’s comments and blocked him from commenting again. So far as deletion goes, the only relevant posts are those from which Lindke’s comments were removed. Blocking, however, is a different story. Because blocking operated on a page-wide basis, a court would have to consider whether Freed had engaged in state action with respect to any post on which Lindke wished to comment. The bluntness of Facebook’s blocking tool highlights the cost of a “mixed use” social-media account: If page-wide blocking is the only option, a public official might be unable to prevent someone from commenting on his personal posts without risking liability for also preventing comments on his official posts.³ A public official who fails to keep personal posts in a clearly designated personal account therefore exposes himself to greater potential liability.

* * *

The state-action doctrine requires Lindke to show that Freed (1) had actual authority to speak on behalf of the State on a particular matter, and (2) purported to exercise that authority in the relevant posts. To the extent that this test differs from the one applied by the Sixth Circuit, we vacate its judgment and remand the case for further proceedings consistent with this opinion.

It is so ordered.

³On some platforms, a blocked user might be unable even to *see* the blocker’s posts. See, e.g., *Garnier v. O’Connor-Ratcliff*, 41 F. 4th, 1158, 1164 (CA9 2022) (noting that “on Twitter, once a user has been ‘blocked,’ the individual can neither interact with nor view the blocker’s Twitter feed”); *Knight First Amdt. Inst. at Columbia Univ. v. Trump*, 928 F. 3d 226, 231 (CA2 2019) (noting that a blocked user is unable to see, reply to, retweet, or like the blocker’s tweets).

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

ALICE STEELE, on behalf of herself and on
behalf of all others similarly situated,

██████████
Ballston Spa, NY ██████████

Plaintiff,

and

JENNIFER AHERN, on behalf of herself and
on behalf of all others similarly situated,

██████████
Graceville, FL ██████████

and

RODNEY GREEN, for himself and on behalf
of others similarly situated,

████████████████████
Martville, NY ██████████

and

DONNIE EMENO, on behalf of himself and
on behalf of others similarly situated,

c/o Adams Leclair LLP
1200 Bausch and Lomb Place
Rochester, NY 14604

and

DARREN WEST, on behalf of himself and
on behalf of others similarly situated,

████████████████████
Ticonderoga, NY ██████████

and

CAITLIN GAMBLE, on behalf of herself
both individually and as Trustee of the Caitlin
Gamble Family Trust, and on behalf of all
others similarly situated; and

DAVID GAMBLE on behalf of both himself
individually and as beneficiary of the Caitlin

Case No.: 1:23-cv-1615 (MAD/TWD)

**FIRST AMENDED CLASS ACTION
COMPLAINT WITH JURY DEMAND**

Gamble Family Trust, and on behalf of all
others similarly situated,

[REDACTED]
Jacksonville Florida [REDACTED]

and

BRUCE ARMER, on behalf of himself and
on behalf of all similarly situated,

c/o Adams Leclair LLP
1200 Bausch and Lomb Place
Rochester, NY 14604

and

CAROLYN BROWNELL, on behalf of
herself and on behalf of all others similarly
situated,

[REDACTED]
Cleveland, NY [REDACTED]

and

BRIDGET BRACKEN, on behalf of herself
and on behalf of all others similarly situated,

c/o Adams Leclair LLP
1200 Bausch and Lomb Place
Rochester, NY 14604

and

LARRY BARRY, on behalf of himself and
on behalf of all others similarly situated,

c/o Adams Leclair LLP
1200 Bausch and Lomb Place
Rochester, NY 14604

and

VERONICA CARPENTER, on behalf of
herself and on behalf of all others similarly
situated,

[REDACTED]
Bath, NC [REDACTED]

and

ROBERT ROSE, on behalf of himself and on
behalf of all others similarly situated,

██████████
Freeville, NY ██████████

and

SUSAN MAZZARELLI, on behalf of herself
and on behalf of all others similarly situated,
c/o Adams Leclair LLP
1200 Bausch and Lomb Place
Rochester, NY 14604

New Party Plaintiffs,

v.

SARATOGA COUNTY, NEW YORK,
40 McMaster Street
Ballston Spa, NY 12020

and

ANDREW JAROSH,
Commission of Finance of the Saratoga
County Department of Finance
40 McMaster Street
Ballston Spa, NY 12020

and

BROOME COUNTY, NEW YORK,
60 Hawley Street
Binghamton, NY 13902

and

MICHAEL T. DECKER
Director of Broome County Real Property
Tax Services
60 Hawley Street, 2nd Floor
Binghamton, NY 13902

and

CAYUGA COUNTY, NEW YORK
160 Genesee Street
Auburn, NY 13021

and

DAVID J. DEMPSEY
Treasurer of the County of Cayuga
160 Genesee Street, 5th Floor
Auburn, NY 13021

and

CORTLAND COUNTY, NEW YORK
60 Central Avenue
Cortland, NY 13045

and

JOHN T. BANEWICZ
Cortland County Treasurer
60 Central Avenue, Room 132
Cortland, NY 13045

and

ESSEX COUNTY, NEW YORK
7551 Court Street
Elizabethtown, NY 12932

and

MICHAEL G. DISKIN
Essex County Treasurer
7551 Court Street, P.O. Box 217
Elizabethtown, New York 12932

and

JEFFERSON COUNTY, NEW YORK
175 Arsenal Street
Watertown, NY 13601

and

DAVID J. PAULSEN
Jefferson County Attorney
175 Arsenal Street
Watertown, NY 13601

and

MONTGOMERY COUNTY, NEW YORK
County Annex Building
20 Park Street
Fonda, NY 12068-1500

and

SHAWN J. BOWERMAN
Montgomery County Treasurer
County Annex Building
PO Box 1500 - 20 Park Street
Fonda, NY 12068-1500

and

OSWEGO COUNTY, NEW YORK
46 E. Bridge St.
Oswego, NY 13126

and

KEVIN GARDNER
Treasurer of the County of Oswego
46 E. Bridge St.
Oswego, NY 13126

and

OTSEGO COUNTY, NEW YORK
197 Main Street
Cooperstown, NY 13326

and

ALLEN RUFFLES
Otsego County Treasurer
197 Main Street
Cooperstown, NY 13326

and

SCHENECTADY COUNTY, NEW YORK,
620 State Street
Schenectady, NY 12305

and

JACYLN FALOTICO
Schenectady County Commissioner of
Finance
620 State St.
Schenectady, NY 12305

and

ST. LAWRENCE COUNTY, NEW YORK
County Courthouse
48 Court Street
Canton, NY 13617-1169

and

RENEE COLE
St. Lawrence County Treasurer
48 Court Street
Canton, NY 13617-1169

and

TOMPKINS COUNTY, NEW YORK
Old Jail Building
125 East Court Street
Ithaca, NY 14850

and

LISA HOLMES
Tompkins County Administrator
Old Jail Building, 3rd Floor
125 East Court Street
Ithaca, NY 14850

and

ULSTER COUNTY, NEW YORK
Ulster County Office Building
244 Fair Street
Kingston, New York 12401

and

ROSEANN DAW
Commission of Finance of the County of
Ulster
Ulster County Office Building
244 Fair Street
PO Box 1800
Kingston, New York 12401

and

STATE OF NEW YORK,
NYS State Capitol Building
Albany, NY 12224

Defendants.

INTRODUCTION

The State of New York came up with an idea to make money for its political subdivisions and tax entities. For nothing. Foreclosing on delinquent taxes and other legitimate obligations is something the law allows. But then New York used this very frequent situation of foreclosures to enact a statute that ‘allowed’ the keeping of ALL the money from the foreclosure. Not just the amount owed, but everything. Even the homeowner’s excess equity. Admittedly, New York was not the only state that enacted this scheme. However, the U.S. Constitution prohibits the government from taking property from a citizen in excess of what is owed without just compensation.

This protection *long* pre-dates the federal constitution. “The principle that a government may not take more from a taxpayer than she owes can trace its origins at least as far back as

Runnymede in 1215, where King John swore in the Magna Carta that when his sheriff or bailiff came to collect any debts owed him from a dead man, they could remove property ‘until the debt which is evident shall be fully paid to us; and the residue shall be left to the executors to fulfil the will of the deceased.’ W. McKechnie, *Magna Carta, A Commentary on the Great of King John*, ch. 26, p.322 (rev. 2d ed. 1914) (footnote omitted).” *Tyler v. Hennepin County*, 598 U.S. 631, 639 (May 25, 2023).

This action is brought by the named Plaintiffs, for themselves and others similarly situated, to redress the constitutional violations practiced by Defendants in collecting from Plaintiffs and the putative class more than they owed the government, in violation of the Takings Clause of the U.S. Constitution, and in violation of other state and federal rights, as set forth below.

JURISDICTION AND VENUE

1. Subject matter jurisdiction over this action lies pursuant to 28 U.S.C. §1331 based on the federal claims in this Complaint that arise under the Fifth Amendment, Eighth Amendment, and Fourteenth Amendment to the United States Constitution. Further, this action seeks relief under 42 U.S.C. §1983, for deprivation of rights guaranteed by the federal constitution accomplished under color of state law, over which original jurisdiction lies in this court pursuant to 42 U.S.C. §1343.

2. This Court has supplemental jurisdiction over both legal and equitable claims in this Complaint arising under the laws of the state of New York law (“state law claims”) pursuant to 28 U.S.C § 1367 because the state law claims “arise out of a common nucleus of operative facts” with the federal claims over which this Court has original jurisdiction.

3. This action is properly venued in this federal District pursuant to 28 U.S.C. §§1391(b)(1) and (2) because the Defendants are located here; a substantial portion of the conduct

giving rise to this action occurred here; and the property that is the subject of this suit is located here.

PARTIES

4. Plaintiff Alice Steele¹ at all times relevant to this matter, was an owner of property located in Saratoga County, New York and was the owner of certain real property that is the subject of this action.

5. Plaintiff Jennifer Ahern² at all times relevant to this matter, was an owner of property located in Broome County, New York and was the owner of certain real property that is the subject of this action.

6. Plaintiff Rodney Green at all times relevant to this matter, was an owner of property located in Cayuga County, New York and was the owner of certain real property that is the subject of this action.

7. Plaintiff Donnie Emeno³ at all times relevant to this matter, was an owner of property located in Cortland County, New York and was the owner of certain real property that is the subject of this action.

8. Plaintiff Darren West⁴ at all times relevant to this matter, was an owner of property located in Essex County, New York and was the owner of certain real property that is the subject of this action.

¹ Lee Steele, spouse of Plaintiff Alice Steele, has assigned all his right, title, and interest in the claims brought in this complaint to Plaintiff Alice Steele.

² Plaintiff Jennifer Ahern proceeds in this matter as assignee of all right, title, and interest in the claims herein held, or claimed, by her ex-husband Steven Ahern.

³ Plaintiff Donnie Emeno is the son and successor in interest, by law, to the claims of now deceased Everett and Marjorie Emeno, who were in title to the Emeno Property at the time of the taking, as alleged herein.

⁴ Plaintiff Darren West proceeds in this matter as assignee of all right, title, and interest in the claims herein held, or claimed, by Renee LaPann, his ex-wife.

9. Plaintiff Caitlin Gamble, at all times relevant to this matter, was the Trustee of the Caitlin Gamble Family Trust, with Plaintiff David Gamble as beneficiary of said trust (hereinafter, collectively referred to as “Plaintiff Gamble” or similar), which trust held title to property located in Jefferson County, New York and held title to the real property that is the subject of this action.

10. Plaintiff Bruce Armer⁵ at all times relevant to this matter, was an owner of property located in Montgomery County, New York and was the owner of certain real property that is the subject of this action.

11. Plaintiff Carolyn Brownell at all times relevant to this matter, was an owner of property located in Oswego County, New York and was the owner of certain real property that is the subject of this action.

12. Plaintiff Larry Barry at all times relevant to this matter, was an owner of property located in Schenectady County, New York and was the owner of certain real property that is the subject of this action.

13. Plaintiff Veronica Carpenter⁶ at all times relevant to this matter, was an owner of property located in St. Lawrence County, New York and was the owner of certain real property that is the subject of this action.

14. Plaintiff Robert Rose⁷ at all times relevant to this matter, was an owner of property located in Tompkins County, New York and was the owner of certain real property that is the subject of this action.

⁵ Plaintiff Bruce Armer holds a power of attorney executed by Ralph Armer granting Plaintiff Bruce Armer full authority over “all... matters” including this claim.

⁶ Plaintiff Veronica Carpenter proceeds in this matter as assignee of all right, title, and interest in the claims herein held, or claimed, by Terry L. Weaver, her ex-husband.

⁷ Plaintiff Robert Rose proceeds in this matter as assignee of all right, title, and interest in the claims herein held, or claimed, by Lisa Rose, his ex-wife.

15. Plaintiff Susan Mazzearelli at all times relevant to this matter, was an owner of property located in Ulster County, New York and was the owner of certain real property that is the subject of this action.

16. Defendant Saratoga County is a political subdivision and body politic of the State of New York, sued in its official capacity. Defendant Saratoga County is one of the Tax Districts described and discussed in this Complaint.

17. Defendant Andrew Jarosh is the current Tax Enforcement Officer for the County of Saratoga and is sued in his official capacity as the County's enforcement officer, including for actions taken pursuant to New York Real Property Tax Law §1102 et seq.

18. Defendant Broome County is a political subdivision and body politic of the State of New York, sued in its official capacity. Defendant Broome County is one of the Tax Districts described and discussed in this Complaint.

19. Defendant Michael T. Decker, is the current Tax Enforcement Officer of the County of Broome, and is sued in his official capacity as the County's enforcement officer, including for actions taken pursuant to New York Real Property Tax Law §1102 et seq.

20. Defendant Cayuga County is a political subdivision and body politic of the State of New York, sued in its official capacity. Defendant Cayuga County is one of the Tax Districts described and discussed in this Complaint.

21. Defendant David J. Dempsey, is the current Tax Enforcement Officer of the County of Cayuga, and is sued in his official capacity as the County's enforcement officer, including for actions taken pursuant to New York Real Property Tax Law §1102 et seq.

22. Defendant Cortland County is a political subdivision and body politic of the State of New York, sued in its official capacity. Defendant Cortland County is one of the Tax Districts described and discussed in this Complaint.

23. Defendant John T. Banewicz, is the current Tax Enforcement Officer of the County of Cortland, and is sued in his official capacity as the County's enforcement officer, including for actions taken pursuant to New York Real Property Tax Law §1102 et seq.

24. Defendant Essex County is a political subdivision and body politic of the State of New York, sued in its official capacity. Defendant Essex County is one of the Tax Districts described and discussed in this Complaint.

25. Defendant Michael Diskin, is the current Tax Enforcement Officer of the County of Essex, and is sued in his official capacity as the County's enforcement officer, including for actions taken pursuant to New York Real Property Tax Law §1102 et seq.

26. Defendant Jefferson County is a political subdivision and body politic of the State of New York, sued in its official capacity. Defendant Jefferson County is one of the Tax Districts described and discussed in this Complaint.

27. Defendant David J. Paulsen, is the current Tax Enforcement Officer of the County of Jefferson, and is sued in his official capacity as the County's enforcement officer, including for actions taken pursuant to New York Real Property Tax Law §1102 et seq.

28. Defendant Montgomery County is a political subdivision and body politic of the State of New York, sued in its official capacity. Defendant Montgomery County is one of the Tax Districts described and discussed in this Complaint.

29. Defendant Shawn J. Bowerman, is the current Tax Enforcement Officer of the County of Montgomery, and is sued in his official capacity as the County's enforcement officer, including for actions taken pursuant to New York Real Property Tax Law §1102 et seq.

30. Defendant Oswego County is a political subdivision and body politic of the State of New York, sued in its official capacity. Defendant Oswego County is one of the Tax Districts described and discussed in this Complaint.

31. Defendant Kevin Gardner, is the current Treasurer and Tax Enforcement Officer of the County of Oswego, and is sued in his official capacity as the County's enforcement officer, including for actions taken pursuant to New York Real Property Tax Law §1102 et seq.

32. Defendant Otsego County is a political subdivision and body politic of the State of New York, sued in its official capacity. Defendant Otsego County is one of the Tax Districts described and discussed in this Complaint.

33. Defendant Allen Ruffles is the current Treasurer and Tax Enforcement Officer of the County of Otsego, and is sued in his official capacity as the County's enforcement officer, including for actions taken pursuant to New York Real Property Tax Law §1102 et seq.

34. Defendant Schenectady County is a political subdivision and body politic of the State of New York, sued in its official capacity. Defendant Schenectady County is one of the Tax Districts described and discussed in this Complaint.

35. Defendant Jaclyn Falotico, is the current Tax Enforcement Officer of the County of Schenectady, and is sued in her official capacity as the County's enforcement officer, including for actions taken pursuant to New York Real Property Tax Law §1102 et seq.

36. Defendant St. Lawrence County is a political subdivision and body politic of the State of New York, sued in its official capacity. Defendant St. Lawrence County is one of the Tax Districts described and discussed in this Complaint.

37. Defendant Renee Cole, is the current Tax Enforcement Officer of the County of St. Lawrence, and is sued in her official capacity as the County's enforcement officer, including for actions taken pursuant to New York Real Property Tax Law §1102 et seq.

38. Defendant Tompkins County is a political subdivision and body politic of the State of New York, sued in its official capacity. Defendant Tompkins County is one of the Tax Districts described and discussed in this Complaint.

39. Defendant Lisa Holmes, is the current Tax Enforcement Officer of the County of Tompkins and is sued in her official capacity as the County's enforcement officer, including for actions taken pursuant to New York Real Property Tax Law §1102 et seq.

40. Defendant Ulster County is a political subdivision and body politic of the State of New York, sued in its official capacity. Defendant Ulster County is one of the Tax Districts described and discussed in this Complaint.

41. Defendant Roseann Daw, successor to Burton Gulnick, Jr., is the current Commissioner of Finance of the County of Ulster and is sued in his official capacity as the County's enforcement officer, including for actions taken pursuant to New York Real Property Tax Law §1102 et seq.

42. Defendant, State of New York, is a sovereign state of the United States sued in its official capacity.

**METHOD FOR TAKING PROPERTY WITHOUT JUST COMPENSATION
PURSUANT TO NEW YORK LAW**

43. Plaintiff Steele was the owner of certain real property located in Saratoga County, New York, [REDACTED], Ballston Spa, New York, and known as LOC NO/APN/Parcel No. 414289 176.-2-4.4 (the “Steele Property”).

44. Taxes were owed to the Defendant Tax District, Saratoga County, on the Steele Property in the amount of approximately \$7,174.06, including fees, interest and penalties. See, Exhibit A, attached and incorporated herein.

45. Plaintiff Ahern was the owner of certain real property located in Broome County, New York, [REDACTED], Conklin, New York, and known as LOC NO/APN/Parcel No. 032800 210.02-2-42 (the “Ahern Property”).

46. Taxes were owed to the Defendant Tax District, Broome County, on the Ahern Property in the amount of approximately \$2,501.70 including fees, interest and penalties. See, Exhibit B, attached and incorporated herein.

47. Plaintiff Green was the owner of certain real property located in Cayuga County, New York, [REDACTED], Sterling, New York, and known as LOC NO/APN/Parcel No. 055689 20.00-1-51.2 (the “Green Property”).

48. Taxes were owed to the Defendant Tax District, Cayuga County, on the Green Property in the amount of approximately \$4,244.79, including fees, interest and penalties. See, Exhibit C, attached and incorporated herein.

49. Everett and Marjorie Emeno, the now-deceased parents of Plaintiff Emeno, were the owners of certain real property located in Cortland County, New York, [REDACTED], Cortland, New York and known as LOC NO/APN/Parcel No. 112289 94.00-01-01.000.

50. Taxes were owed to the Defendant Tax District, Cortland County, on the Emeno Property in the amount of approximately \$884.14, including fees, interest and penalties. See Exhibit D, attached and incorporated herein.

51. Plaintiff West was the owner of certain real property located in Essex County, New York, [REDACTED], Ticonderoga, New York and known as LOC NO/APN/Parcel No. 154800 150.34-9-14.002 (the “West Property”).

52. Taxes were owed to Defendant Tax District, Essex County, on the West Property in the amount of, upon information and belief, approximately \$2,988.72, including fees, interest and penalties. See Exhibit E, attached and incorporated herein.

53. Plaintiff Gamble was the owner of certain real property located in Jefferson County, New York, [REDACTED], Dexter, New York and known as LOC NO/APN/Parcel No. 222689 80.16-1-27.31 (the “Gamble Property”).

54. Taxes were owed to Defendant Tax District, Jefferson County, on the Gamble Property in the amount of approximately \$2,990.85, including fees, interest and penalties. See Exhibit F, attached and incorporated herein.

55. Plaintiff Armer was the owner of certain real property located in Montgomery County, New York, [REDACTED] Town of Florida, New York and known as LOC NO/APN/Parcel No. 272600 Tax Map ID No. 70.-1-11.111 (the “Armer Property”).

56. Taxes were owed to Defendant Tax District, Montgomery County, on the Armer Property in the amount of approximately \$4,132.92, including fees, interest and penalties. See Exhibit G, attached and incorporated herein.

57. Plaintiff Brownell was the owner of certain real property located in Oswego County, New York, [REDACTED], Town of Constantia, Village of Cleveland, New York and known as County Property Tax Map No. 313.06-01-11.01 (the “Brownell Property”).

58. Taxes were owed to the Defendant Tax District, Oswego County, on the Property in the amount of upon information and belief approximately \$10,330.79, including fees, interest and penalties. See, Exhibit H, attached and incorporated herein.

59. Plaintiff Bracken was the owner of certain real property located in Otsego County, New York, [REDACTED], Town of Worcester, New York, and known as LOC NO/APN/Parcel No. 366600 Tax Map No. 199.00-1-10.00 (the “Bracken Property”).

60. Taxes were owed to the Defendant Tax District, Otsego County, on the Property in the amount of, upon information and belief, approximately \$3,431.63, including fees, interest and penalties. See Exhibit I.

61. Plaintiff Barry was the owner of certain real property located in Schenectady County, New York, [REDACTED], Delanson, New York, and known as LOC NO/APN/Parcel No. 422089 65.00-2-3.52 (the “Barry Property”).

62. Taxes were owed to the Defendant Tax District, Schenectady County, on the Property in the amount of approximately \$102,869.73, including fees, interest and penalties. See, Exhibit J, attached and incorporated herein.

63. Plaintiff Carpenter was the owner of certain real property located in St. Lawrence County, New York, [REDACTED], Hermon, New York, and known as LOC NO/APN/Parcel: 407800 133.001-1-24.2 (the “Carpenter Property”).

64. Taxes were owed to the Defendant Tax District, St. Lawrence County, on the Carpenter Property, upon information and belief in the amount of approximately \$1,590.29, including fees, interest and penalties. See Exhibit K, attached and incorporated herein.

65. Plaintiff Rose was the owner of certain real property located in Tompkins County, New York, located on [REDACTED], Ithaca, New York, and known as LOC NO/APN/Parcel No. 4.-2-2.411 (the “Rose Property”).

66. Taxes were owed to the Defendant Tax District, Tompkins County, on the Rose Property in the amount of approximately \$1,121.59 including fees, interest and penalties. See, Exhibit L, attached and incorporated herein.

67. Plaintiff Mazzarelli was the owner of certain real property located in Ulster County, New York, located on [REDACTED], [REDACTED] Town of Wawarsing, New York and known as LOC NO/APN/Parcel No. 083.069-0002-021-000-0000 (the “Mazzarelli Property”).

68. Taxes were owed to the Defendant Tax District, Ulster County, on the Mazzarelli Property in the amount of approximately \$22,048 including fees, interest and penalties. See, Exhibit M, attached and incorporated herein.

69. The power of taxation of real property in New York only lies with the State of New York. As the highest court in New York confirmed: there is an “overarching constitutional principle that the power of taxation lies with the State...” *In Matter of Baldwin Union Free Sch. Dist. v County of Nassau*, 22 NY3d 606, 627 (2014).

70. Put another way, local governments (counties, cities, townships, villages, etc.) have no independent power to lay or collect property taxes. That power comes exclusively by delegation of the State’s power to do so. *Expedia, Inc. v. City of N.Y. Dept. of Fin.* 22 NY3d 121, 126–127 (2013):

In New York, local governments lack an independent power to tax. The State Constitution vests the taxing power in the state legislature and authorizes the legislature to delegate that power to local governments. The State Constitution places fundamental limitations on such delegations. The legislature must describe with specificity the taxes authorized by any enabling statute. As a general rule, tax statutes should be strictly construed and limited to their terms, which should not be extended by implication. Any ambiguity in a tax law should be resolved in favor of the taxpayer and against the taxing authority. (Internal citations omitted).

71. The process established by New York state law provides not just for the levying and collection of property taxes, but also for placing of liens and taking of property for unpaid or delinquent taxes.

72. New York law, RPTL 902, places an automatic lien on property when each property tax bill is issued. This lien attaches regardless of delinquency, automatically.

73. Specifically, RPTL 902 provides:

The amount of all taxes, special ad valorem levies and special assessments levied upon any parcel of real property by the board of supervisors shall, except as otherwise expressly provided by law, be and become a lien thereon as of the first day of January of the fiscal year for which levied and shall remain a lien until paid.

74. Failure to pay the amounts owed results in a delinquent tax under RPTL 1102[2].

75. “Delinquent tax” is defined by RPTL 1102[2] as “an unpaid tax, special ad valorem levy, special assessment or other charge imposed upon real property by or on behalf of a municipal corporation or special district, plus all applicable charges, relating to any parcel which is included in the return of unpaid delinquent taxes prepared pursuant to section nine hundred thirty-six [936] of this chapter or such other general, special, or local law as may be applicable.”

76. The aforementioned RPTL 936[2], as referenced in RPTL 1102[2], allows an additional percentage to the delinquency amount:

In making the return of unpaid taxes, the collecting officer shall add five per centum [5%] to the amount of each tax as levied. In the event that the collecting officer fails to do so, the county treasurer shall make such addition. In a county in which there is a local law in effect pursuant to section nine hundred twenty-eight-b [928(b)] or section nine hundred

seventy-two [972] of this chapter providing for the collection of taxes in installments, the five per centum [5%] provided by this subdivision shall not be added to the taxes which a real property owner has elected to pay in installments pursuant to section nine hundred twenty-eight-b [928(b)] or section nine hundred seventy-five [975] of this chapter. Such five per centum [5%] shall be added by the county treasurer to the amount of such taxes as shall have remained unpaid after the date upon which the last installment was due as provided in such local law. The amount of such added per centum shall thereafter be deemed part of the amount of the unpaid tax.

77. Further, the applicable additional “charges” as referenced in the definition of “delinquent tax” are, pursuant to RPTL 1102:

- (a) the cost of the mailing or service of notices required or authorized by this article; (b) the cost of publication of notices required or authorized by this title; (c) the amount of any interest and penalties imposed by law; (d) the cost of recording or filing legal documents required or authorized by this article; and (e) the reasonable and necessary cost of any search of the public record required or authorized to satisfy the notice requirements of this article, and the reasonable and necessary expenses for legal services of a tax district in connection with a proceeding to foreclose a tax lien; provided, that: (i) a charge of up to one hundred fifty dollars per parcel shall be deemed reasonable and necessary to cover the combined costs of such searches and legal expenses, and such an amount may be charged without substantiation, even if salaried employees of the tax district performed the search or legal services; and (ii) a tax district may charge a greater amount with respect to one or more parcels upon demonstration to the satisfaction of the court having jurisdiction that such greater amount was reasonable and necessary.

78. If delinquent taxes (as described above, being the principal and allowed additional charges and percentages) remain unpaid for ten (10) months from the lien date, the enforcing officer is authorized to file a list of delinquent properties with the County Clerk, per RPTL 1122.

79. Specifically, RPTL 1122 provides:

Ten months after lien date, or as soon thereafter as is practicable, but no sooner than one month after the receipt of the return of unpaid taxes, the enforcing officer of each tax district shall execute a list of all parcels of real property, except those excluded from such list in the manner provided by section eleven hundred thirty-eight [1138] of this article, affected by delinquent tax liens held and owned by such tax district.

80. Thereafter, when 11 additional months elapse without proper payment (that is, a total of 21 months after the lien date), the enforcing officer is authorized to bring a foreclosure action on the property pursuant to RPTL 1123.

81. Specifically, RPTL 1123 provides:

Twenty-one months after lien date, or as soon thereafter as is practicable, the enforcing officer shall execute a petition of foreclosure pertaining to those properties which remain subject to delinquent tax liens; provided, however, that in the case of property which is subject to a three or four year redemption period, such petition shall be executed thirty-three or forty-five months after lien date, respectively, or as soon thereafter as is practicable.

82. If the owner of the property does not pay all the delinquent taxes and charges and percentage, a judgment is entered pursuant to RPTL 1123 and 1136, authorizing the divestiture of title of the property from the owner, and authorizing the enforcing officer, acting under color of state law, to file a deed taking full and complete title to the property from the owner and transferring it to the Tax District, here Defendants Saratoga, Broome, Cayuga, Cortland, Essex, Jefferson, Montgomery, Oswego, Otsego, Schenectady, St. Lawrence, Tompkins, and Ulster Counties, as pertinent.

83. Specifically, RPTL 1123 and 1136 provide:

Twenty-one months after lien date, or as soon thereafter as is practicable, the enforcing officer shall execute a petition of foreclosure pertaining to those properties which remain subject to delinquent tax liens; provided, however, that in the case of property which is subject to a three or four year redemption period, such petition shall be executed thirty-three or forty-five months after lien date, respectively, or as soon thereafter as is practicable. §1123.

All persons . . . who may have had any right, title, interest, claim, lien or equity of redemption in or upon such parcel, shall be barred and forever foreclosed of all such right, title, interest, claim, lien or equity of redemption. §1136[3].

84. Upon taking of title of the property from the owner, the Tax District may keep the property for government use, or is authorized by RPTL 1166 to sell the property.

85. Specifically, RPTL 1166 provides:

Whenever any tax district shall become vested with the title to real property by virtue of a foreclosure proceeding brought pursuant to the provisions of this article, such tax district is hereby authorized to sell and convey the real property so acquired, which shall include any and all gas, oil or mineral rights associated with such real property, either with or without advertising for bids, notwithstanding the provisions of any general, special or local law.

**BACKGROUND FACTS ON DEFENDANTS' TAKING OF THE STEELE PROPERTY
WITHOUT JUST COMPENSATION**

86. Pursuant to and under color of the laws of the State of New York, to wit, N.Y. Real Prop. Tax § 1102 et seq., Defendant Saratoga County, New York moved for an Order and Judgment of Foreclosure in Supreme Court, Saratoga County (Index No. 20184144) with respect to several parcels of real property, including the Steele Property, which the Court granted on or about February 10, 2023, and entered on or about February 10, 2023. See, Exhibit N, attached hereto and incorporated herein.

87. Subsequent to the Court's grant and entry of the above order, on or about February 10, 2023, and pursuant to N.Y. Real Prop. Tax § 1102 et seq; §1132; and/or § 1194, inter alia, Andrew Jarosh, Tax Enforcement Officer for the County of Saratoga, and as "Enforcement Officer", conveyed and transferred title to the Steele Property to the County of Saratoga, New York itself. § N.Y. Real Prop. Tax § 1102 et seq; §1132; § 1194. This Deed was recorded on February 10, 2023 as Instrument # 2023004312, in the Saratoga County Clerk's Office. See, Exhibit O, attached hereto and incorporated herein.

88. That act constituted a 'taking' under the Fifth Amendment of the United States Constitution, and under Article I, Section 7 of the New York Constitution.

89. On approximately January 13, 2023 and January 20, 2023, the County published that it would sell the Steele Property at auction. See, Exhibit P, attached hereto and incorporated herein.

90. On approximately May 4, 2023, and pursuant to Section 1166, the Steele Property was sold pursuant to and under color of the laws of the State of New York for \$112,100. See, Exhibit Q, attached hereto and incorporated herein.

91. The sale produced surplus equity, being an excess above and beyond the amount lawfully owed by Plaintiff for delinquent taxes and charges.

92. Defendant Saratoga County retained all the proceeds of this sale despite Plaintiff Steele only owing approximately \$7,174.06 in past due taxes and charges.

93. Pursuant to and under color of New York state law, this excess was not returned to Plaintiff Steele, and Plaintiff Steele was not provided adequate procedure to seek just compensation for the taking of their surplus proceeds.

94. The members of the putative class are similarly situated, having property taken from them pursuant and under color of the laws of the State of New York, in excess of the amount they owed for taxes or other obligations, and having been denied just compensation.

**BACKGROUND FACTS ON DEFENDANTS' TAKING OF THE AHERN PROPERTY
WITHOUT JUST COMPENSATION**

95. Pursuant to and under color of the laws of the State of New York, to wit, N.Y. Real Prop. Tax § 1102 et seq., Defendant Broome County, New York moved for an Order and Judgment of Foreclosure in the Broome County Court (Index No. EFCA2020002521) with respect to several parcels of real property, including the Ahern Property, which the Court granted on or about October 19, 2022, and entered on or about October 21, 2022. See, Exhibit R, attached hereto and incorporated herein.

96. Subsequent to the Court's grant and entry of the above order, on or about October 21, 2022, and pursuant to N.Y. Real Prop. Tax § 1102 et seq; §1132; and/or § 1194, inter alia, Michael T. Decker, Director of Real Property Tax Service and as an Enforcement Officer for the County of Broome, and as "Enforcement Officer", conveyed and transferred title to the Ahern Property to the County of Broome, New York itself. § N.Y. Real Prop. Tax § 1102 et seq; §1132; § 1194. This Deed was recorded on October 28, 2022 as Instrument # 202200027539, in the Broome County Clerk's Office. See, Exhibit S, attached hereto and incorporated herein.

97. That act constituted a 'taking' under the Fifth Amendment of the United States Constitution, and under Article I, Section 7 of the New York Constitution.

98. On approximately January 13, 2023 and January 20, 2023, the County published that it would sell the Ahern Property at auction. See, Exhibit T, attached hereto and incorporated herein.

99. On approximately May 16, 2023, and pursuant to Section 1166, the Ahern Property was sold pursuant to and under color of the laws of the State of New York for \$33,000. See, Exhibit U, attached hereto and incorporated herein.

100. The sale produced surplus equity, being an excess above and beyond the amount lawfully owed by Plaintiff Ahern for delinquent taxes and charges.

101. Defendant Broome County retained all the proceeds of this sale despite Plaintiff Ahern only owing, upon information and belief, approximately \$2,501.70 in past due taxes and charges.

102. Pursuant to and under color of New York state law, this excess was not returned to Plaintiff Ahern, and Plaintiff Ahern was not provided adequate procedure to seek just compensation for the taking of their surplus proceeds.

103. The members of the putative class are similarly situated, having property taken from them pursuant and under color of the laws of the State of New York, in excess of the amount they owed for taxes or other obligations, and having been denied just compensation

**BACKGROUND FACTS ON DEFENDANTS' TAKING OF THE GREEN PROPERTY
WITHOUT JUST COMPENSATION**

104. Pursuant to and under color of the laws of the State of New York, to wit, N.Y. Real Prop. Tax § 1102 et seq., Defendant Cayuga County, New York moved for an Order and Judgment of Foreclosure in Supreme Court, Cayuga County (Index No. E2021-1144) with respect to several parcels of real property, including the Green Property, which the Court granted on or about April 21, 2022, and entered on or about April 21, 2022. See, Exhibit V, attached hereto and incorporated herein.

105. Subsequent to the Court's grant and entry of the above order, on or about April 22, 2022, and pursuant to N.Y. Real Prop. Tax § 1102 et seq; §1132; and/or § 1194, inter alia, David J. Dempsey, County Treasurer of the County of Cayuga, and as "Enforcement Officer", conveyed and transferred title to the Green Property to the County of Cayuga, New York itself. § N.Y. Real Prop. Tax § 1102 et seq; §1132; § 1194. This Deed was recorded on April 25, 2022 as Instrument # 2022-213349, Book No. 4214 at Page No. 124 in the Cayuga County Clerk's Office. See, Exhibit W, attached hereto and incorporated herein.

106. That act constituted a 'taking' under the Fifth Amendment of the United States Constitution, and under Article I, Section 7 of the New York Constitution.

107. On approximately June 27, 2022 and pursuant to Section 1166 and pursuant to and under the color of the laws of the State of New York, Cayuga County sold the Green Property to a third-party for \$54,600. See, Exhibit X, attached hereto and incorporated herein.

108. Then, on or about July 27, 2022, Defendant Cayuga County executed a Quit Claim Deed to the third-party purchaser conveying the Green Property. See Exhibit Y, attached hereto and incorporate herein.

109. The sale produced surplus equity, being an excess above and beyond the amount lawfully owed by Plaintiff Green for delinquent taxes and charges.

110. Defendant Cayuga County retained all the proceeds of this sale despite Plaintiff Green only owing approximately \$4,244.79 in past due taxes and charges.

111. Pursuant to and under color of New York state law, this excess was not returned to Plaintiff Green, and Plaintiff Green was not provided adequate procedure to seek just compensation for the taking of their surplus proceeds.

112. The members of the putative class are similarly situated, having property taken from them pursuant and under color of the laws of the State of New York, in excess of the amount they owed for taxes or other obligations, and having been denied just compensation.

**BACKGROUND FACTS ON DEFENDANTS' TAKING OF THE EMENO PROPERTY
WITHOUT JUST COMPENSATION**

113. On approximately February 15, 2023, pursuant to and under color of the laws of the State of New York, to wit, N.Y. Real Prop. Tax § 1102 et seq., Defendant Cortland County, New York moved for an Order and Judgment of Foreclosure in Supreme Court, Cortland County (Index No. 21-564) with respect to several parcels of real property, including the Emeno Property, which the Court granted on or about July 13, 2023, and entered on or about July 13, 2023. See, Exhibit Z, attached hereto and incorporated herein.

114. Subsequent to the Court's grant and entry of the above order, on or about August 9, 2023, and pursuant to N.Y. Real Prop. Tax § 1102 et seq; §1132; and/or § 1194, inter alia, John T. Banewicz, Treasurer of the County of Cortland, and as "Enforcement Officer", conveyed and

transferred title to the Emeno Property to the County of Cortland, New York itself. § N.Y. Real Prop. Tax § 1102 et seq; §1132; § 1194. This Deed was recorded on August 10, 2023 as Instrument #2023-04897 in the Cortland County Clerk's Office. See, Exhibit AA, attached hereto and incorporated herein.

115. That act constituted a 'taking' under the Fifth Amendment of the United States Constitution, and under Article I, Section 7 of the New York Constitution.

116. On approximately August 17, 2023, the County published that it would sell the Emeno Property at auction. See, Exhibit BB, attached hereto and incorporated herein.

117. On approximately August 31, 2023, and pursuant to Section 1166, the Emeno Property was sold pursuant to and under color of the laws of the State of New York for \$20,400. See Exhibit CC, attached hereto and incorporated herein.

118. The sale produced surplus equity, being an excess above and beyond the amount lawfully owed by Plaintiff Emeno for delinquent taxes and charges.

119. Defendant Cortland County retained all the proceeds of this sale despite Plaintiff Emeno only owing approximately \$884.14 in past due taxes and charges.

120. Pursuant to and under color of New York state law, this excess was not returned to Plaintiff Emeno, and Plaintiff Emeno was not provided adequate procedure to seek just compensation for the taking of their surplus proceeds.

121. The members of the putative class are similarly situated, having property taken from them pursuant and under color of the laws of the State of New York, in excess of the amount they owed for taxes or other obligations, and having been denied just compensation.

**BACKGROUND FACTS ON DEFENDANTS' TAKING OF THE WEST PROPERTY
WITHOUT JUST COMPENSATION**

122. Pursuant to and under color of the laws of the State of New York, to wit, N.Y. Real Prop. Tax § 1102 et seq., Defendant Essex County, New York moved for an Order and Judgment of Foreclosure in Supreme Court, Essex County (Index No. CV18-0605) with respect to several parcels of real property, including the West Property, which the Court granted on or about June 1, 2022, and entered on or about June 1, 2022. See, Exhibit DD, attached hereto and incorporated herein.

123. Subsequent to the Court's grant and entry of the above order, on or about June 1, 2022, and pursuant to N.Y. Real Prop. Tax § 1102 et seq; § 1132; and/or § 1194, inter alia, Michael G. Diskin, Treasurer of the County of Essex, and as "Enforcement Officer", conveyed and transferred title to the West Property to the County of Essex, New York itself. § N.Y. Real Prop. Tax § 1102 et seq; § 1132; § 1194. This Deed was recorded on June 3, 2022 as Instrument No. 2022-2647, Book No. 2085 at Page No.179 in the Essex County Clerk's Office. See, Exhibit EE, attached hereto and incorporated herein.

124. That act constituted a 'taking' under the Fifth Amendment of the United States Constitution, and under Article I, Section 7 of the New York Constitution.

125. On approximately September 9, 2022, and pursuant to Section 1166, the West Property was sold pursuant to and under color of the laws of the State of New York for \$35,000. The Deed reflecting this sale and conveyance from the County to a third-party was executed and recorded on September 9, 2022 and recorded as Instrument No. 2022-4145, Book No. 2096, Page No. 314 in the Essex County Clerk's Office. See Exhibit FF, attached hereto and incorporated herein.

126. The sale produced surplus equity, being an excess above and beyond the amount lawfully owed by Plaintiff West for delinquent taxes and charges.

127. Defendant Essex County retained all the proceeds of this sale despite Plaintiff West only owing, upon information and belief, approximately \$2,988.72 in past due taxes and charges.

128. Pursuant to and under color of New York state law, this excess was not returned to Plaintiff West, and Plaintiff West was not provided adequate procedure to seek just compensation for the taking of their surplus proceeds.

129. The members of the putative class are similarly situated, having property taken from them pursuant and under color of the laws of the State of New York, in excess of the amount they owed for taxes or other obligations, and having been denied just compensation.

BACKGROUND FACTS ON DEFENDANTS' TAKING OF THE GAMBLE PROPERTY WITHOUT JUST COMPENSATION

130. On approximately November 30, 2021 pursuant to and under color of the laws of the State of New York, to wit, N.Y. Real Prop. Tax § 1102 et seq., Defendant Jefferson County, New York moved for an Order and Judgment of Foreclosure in Supreme Court, Jefferson County (Index No. EF2019-00002723) with respect to several parcels of real property, including the Gamble Property, which the Court granted on or about June 17, 2022, and entered on or about June 17, 2022. See, Exhibit GG, attached hereto and incorporated herein.

131. Subsequent to the Court's grant and entry of the above order, on or about June 24, 2022, and pursuant to N.Y. Real Prop. Tax § 1102 et seq; §1132; and/or § 1194, inter alia, David J. Paulsen, County Attorney and Tax Enforcement Officer of Jefferson County, and as "Enforcement Officer", conveyed and transferred title to the Gamble Property to the County of Jefferson, New York itself. § N.Y. Real Prop. Tax § 1102 et seq; §1132; § 1194. This Deed was

recorded on June 24, 2022 as Instrument #2022-00011157 in the Jefferson County Clerk's Office. See, Exhibit HH, attached hereto and incorporated herein.

132. That act constituted a 'taking' under the Fifth Amendment of the United States Constitution, and under Article I, Section 7 of the New York Constitution.

133. On approximately July 26, 2022, and pursuant to Section 1166, the Gamble Property was sold and/or conveyed to a third party pursuant to and under color of the laws of the State of New York for \$92,000. See, Exhibit II, attached hereto and incorporated herein.

134. The Deed reflecting this sale transfer was executed on July 26, 2022 and recorded on July 26, 2022 at Instrument No. 2022-00013198 in the Jefferson County Clerk's Office. See Exhibit JJ, attached hereto and incorporated herein.

135. The sale produced surplus equity, being an excess above and beyond the amount lawfully owed by Plaintiff Gamble for delinquent taxes and charges.

136. Defendant Jefferson County retained all the proceeds of this sale despite Plaintiff Gamble only owing approximately \$2,990.85 in past due taxes and charges.

137. Pursuant to and under color of New York state law, this excess was not returned to Plaintiff Gamble, and Plaintiff Gamble was not provided adequate procedure to seek just compensation for the taking of their surplus proceeds.

138. The members of the putative class are similarly situated, having property taken from them pursuant and under color of the laws of the State of New York, in excess of the amount they owed for taxes or other obligations, and having been denied just compensation.

BACKGROUND FACTS ON DEFENDANTS' TAKING OF THE ARMER PROPERTY WITHOUT JUST COMPENSATION

139. On or about October 27, 2021, and pursuant to and under color of the laws of the State of New York, to wit, N.Y. Real Prop. Tax § 1102 et seq., Defendant Montgomery County,

New York moved for an Order and Judgment of Foreclosure in Supreme Court, Montgomery County (Index No. 2020-627) with respect to several parcels of real property, including the Armer Property, which the Court granted on or about June 16, 2023 and entered on or about June 20, 2023. See, Exhibit KK, attached hereto and incorporated herein.

140. Subsequent to the Court's grant and entry of the above order, on or about June 23, 2023 and pursuant to N.Y. Real Prop. Tax § 1102 et seq; §1132; and/or § 1194, inter alia, Shawn J. Bowerman, the County Treasurer of Montgomery County, and as "Enforcement Officer", conveyed and transferred title to the Armer Property to the County of Montgomery, New York itself. § N.Y. Real Prop. Tax § 1102 et seq; §1132; § 1194. This Deed was recorded on June 26, 2023 as Instrument No. 2023-2271 in the Montgomery County Clerk's Office. See, Exhibit LL, attached hereto and incorporated herein.

141. That act constituted a 'taking' under the Fifth Amendment of the United States Constitution, and under Article I, Section 7 of the New York Constitution.

142. On approximately September 22, 2023 and pursuant to Section 1166, the Armer Property was sold and/or conveyed to a third party pursuant to and under color of the laws of the State of New York for \$75,000. See Exhibit MM, attached hereto and incorporated herein.

143. This sale produced surplus equity, being an excess above and beyond the amount lawfully owed by Plaintiff Armer for delinquent taxes and charges.

144. Defendant Montgomery County retained all the proceeds of this sale despite Plaintiff Armer only owing approximately \$4,132.92 in past due taxes and charges.

145. Pursuant to and under color of New York state law, this excess was not returned to Plaintiff Armer, and Plaintiff Armer was not provided adequate procedure to seek just compensation for the taking of their surplus proceeds.

146. The members of the putative class are similarly situated, having property taken from them pursuant and under color of the laws of the State of New York, in excess of the amount they owed for taxes or other obligations, and having been denied just compensation.

**BACKGROUND FACTS ON DEFENDANTS' TAKING OF THE BROWNELL
PROPERTY WITHOUT JUST COMPENSATION**

147. On approximately October 4, 2021, pursuant to and under color of the laws of the State of New York, to wit, N.Y. Real Prop. Tax § 1102 et seq., Defendant Oswego County, New York moved for an Order and Judgment of Foreclosure in Supreme Court, Oswego County (Index No. C-2021-0686) with respect to several parcels of real property, including the Brownell Property, which the Court entered on or about March 21, 2022. See, Exhibit NN, attached hereto and incorporated herein.

148. The Tax Deed conveying several properties, including Plaintiff Brownell's Property, from Kevin Gardner, Treasurer of the County of Oswego to the County of Oswego and reflecting the above taking was executed on or about April 21, 2022 and recorded on or about April 25, 2022 as Instrument No. R-2022-004128 in the Oswego County Clerk's Office. See, Exhibit OO, attached hereto and incorporated herein.

149. On or about June 9, 2023 Kevin Gardner, as the Treasurer for the County of Oswego, executed a Deed selling and conveying the Brownell Property to a third-party in exchange for \$26,000. See, Exhibit PP, attached hereto and incorporated herein.

150. This sale and conveyance produced surplus equity, being an excess above and beyond the amount lawfully owed by Plaintiff Brownell for delinquent taxes and charges.

151. Defendant Oswego County retained all the proceeds of this sale despite Plaintiff Brownell only owing, upon information and belief, approximately \$8,500 in past due taxes and charges.

152. These acts constituted a ‘taking’ under the Fifth Amendment of the United States Constitution, and under Article I, Section 7 of the New York Constitution.

153. Pursuant to and under color of New York state law, that excess was not returned to Plaintiff Brownell, and Plaintiff Brownell was not provided adequate procedure to seek just compensation for the taking of their surplus proceeds.

154. The members of the putative class are similarly situated, having property taken from them pursuant and under color of the laws of the State of New York, in excess of the amount they owed for taxes or other obligations, and having been denied just compensation.

**BACKGROUND FACTS ON DEFENDANTS’ TAKING OF THE BRACKEN
PROPERTY WITHOUT JUST COMPENSATION**

155. On approximately March 11, 2022, pursuant to and under color of the laws of the State of New York, to wit, N.Y. Real Prop. Tax § 1102 et seq., Defendant Otsego County, New York moved for an Order and Judgment of Foreclosure in County Court, Otsego County (Index No. 2020-693) with respect to several parcels of real property, including the Bracken Property, which the Court ordered and entered on or about August 15, 2022. See, Exhibit QQ, attached hereto and incorporated herein.

156. The Tax Deed conveying several properties, including Plaintiff Bracken’s Property, from Allen Ruffles, Treasurer of the County of Otsego to the County of Otsego and reflecting the above taking was executed on or about August 16, 2022 and recorded on or about August 16, 2022 as Instrument No. 2022-4485 in the Otsego County Clerk’s Office. See, Exhibit RR, attached hereto and incorporated herein.

157. On or about August 17, 2022, the County of Otsego auctioned off and sold the Bracken Property to a third-party. See Exhibit SS, attached hereto and incorporated herein.

158. Subsequently, the County of Otsego executed a Deed conveying the Bracken Property to this third-party in exchange for \$46,000. See, Exhibit TT, attached hereto and incorporated herein.

159. This sale and conveyance produced surplus equity, being an excess above and beyond the amount lawfully owed by Plaintiff Bracken for delinquent taxes and charges.

160. Defendant Otsego County retained all the proceeds of this sale despite Plaintiff Bracken only owing, upon information and belief, approximately \$3,431.63 in past due taxes and charges.

161. These acts constituted a ‘taking’ under the Fifth Amendment of the United States Constitution, and under Article I, Section 7 of the New York Constitution.

162. Pursuant to and under color of New York state law, that excess was not returned to Plaintiff Bracken, and Plaintiff Bracken was not provided adequate procedure to seek just compensation for the taking of their surplus proceeds.

163. The members of the putative class are similarly situated, having property taken from them pursuant and under color of the laws of the State of New York, in excess of the amount they owed for taxes or other obligations, and having been denied just compensation.

**BACKGROUND FACTS ON DEFENDANTS’ TAKING OF THE BARRY PROPERTY
WITHOUT JUST COMPENSATION**

164. On approximately April 13, 2022 pursuant to and under color of the laws of the State of New York, to wit, N.Y. Real Prop. Tax § 1102 et seq., Defendant Schenectady County, New York moved for an Order and Judgment of Foreclosure in Supreme Court, Schenectady County (Index No. 2022-493) with respect to several parcels of real property, including the Barry Property, which the Court granted on or about October 17, 2022, and entered on or about October 17, 2022. See, Exhibit UU, attached hereto and incorporated herein.

165. On approximately, June 14, 2023 the County signed and executed a contract for purchase and sale of real estate whereby the County sold to purchaser (aka the County's "designee") the Barry Property in exchange for \$136,000. See, Exhibit VV, attached hereto and incorporated herein.

166. Contemporaneously on June 14, 2023, Jaclyn L. Falotico, the Commissioner of Finance and Enforcing Officer for the County of Schenectady, executed a quitclaim deed on behalf of Plaintiff Barry and pursuant to Judgment of October 17, 2022 to purchaser/Designee. See, Exhibit VV.

167. This Deed was recorded on June 22, 2023 as Instrument # 202336159, Book No. 2110 at Page No. 447 in the Schenectady County Clerk's Office. See, Exhibit VV.

168. This sale and conveyance produced surplus equity, being an excess above and beyond the amount lawfully owed by Plaintiff Barry for delinquent taxes and charges.

169. Defendant Schenectady County retained all the proceeds of this sale despite Plaintiff Barry only owing approximately \$102,869.73 in past due taxes and charges.

170. These acts constituted a 'taking' under the Fifth Amendment of the United States Constitution, and under Article I, Section 7 of the New York Constitution.

171. Pursuant to and under color of New York state law, that excess was not returned to Plaintiff Barry, and Plaintiff Barry was not provided adequate procedure to seek just compensation for the taking of their surplus proceeds.

172. The members of the putative class are similarly situated, having property taken from them pursuant and under color of the laws of the State of New York, in excess of the amount they owed for taxes or other obligations, and having been denied just compensation.

**BACKGROUND FACTS ON DEFENDANTS' TAKING OF THE CARPENTER
PROPERTY WITHOUT JUST COMPENSATION**

173. On approximately October 21, 2022 pursuant to and under color of the laws of the State of New York, to wit, N.Y. Real Prop. Tax § 1102 et seq., Defendant St. Lawrence County, New York moved for an Order and Judgment of Foreclosure in Supreme Court, St. Lawrence County (Index No. 160953) with respect to several parcels of real property, including the Carpenter Property, which the Court granted on or about June 30, 2023, and entered on or about June 30, 2023. See, Exhibit WW, attached hereto and incorporated herein.

174. Subsequent to the Court's grant and entry of the above order, on or about November 2, 2023, and pursuant to N.Y. Real Prop. Tax § 1102 et seq; §1132; and/or § 1194, inter alia, Renee Cole, Treasurer of the County of St. Lawrence, and as "Enforcement Officer", conveyed and transferred title to the Carpenter Property to the County of St. Lawrence, New York itself. § N.Y. Real Prop. Tax § 1102 et seq; §1132; § 1194. This Deed was recorded on November 2, 2023 as Instrument # 2023-00013843 in the St. Lawrence County Clerk's Office. See, Exhibit XX, attached hereto and incorporated herein.

175. That act constituted a 'taking' under the Fifth Amendment of the United States Constitution, and under Article I, Section 7 of the New York Constitution.

176. On approximately September 9, 2023, the County published that it would sell the Carpenter Property at auction. See, Exhibit YY, attached hereto and incorporated herein.

177. On approximately September 23, 2023, and pursuant to Section 1166, the Carpenter Property was sold to a third-party pursuant to and under color of the laws of the State of New York for \$35,100. See Exhibit YY.

178. The Deed reflecting this sale was executed on or about November 7, 2023 and recorded as Instrument No. R-2023-00014200 on November 9, 2023. See Exhibit ZZ, attached hereto and incorporated herein.

179. The sale produced surplus equity, being an excess above and beyond the amount lawfully owed by Plaintiff Carpenter for delinquent taxes and charges.

180. Defendant St. Lawrence County retained all the proceeds of this sale despite Plaintiff Carpenter only owing approximately \$1,590.29 in past due taxes and charges.

181. Pursuant to and under color of New York state law, this excess was not returned to Plaintiff Carpenter, and Plaintiff Carpenter was not provided adequate procedure to seek just compensation for the taking of their surplus proceeds.

182. The members of the putative class are similarly situated, having property taken from them pursuant and under color of the laws of the State of New York, in excess of the amount they owed for taxes or other obligations, and having been denied just compensation.

**BACKGROUND FACTS ON DEFENDANTS' TAKING OF THE ROSE PROPERTY
WITHOUT JUST COMPENSATION**

183. On approximately October 1, 2020 pursuant to and under color of the laws of the State of New York, to wit, N.Y. Real Prop. Tax § 1102 et seq., Defendant Tompkins County, New York moved for an Order and Judgment of Foreclosure in Tompkins County Court (Index No. EF2020-0519) with respect to several parcels of real property, including the Rose Property, which the Court granted on or about October 29, 2021, and entered on or about November 1, 2021. See, Exhibits L and AAA, attached hereto and incorporated herein.

184. Subsequent to the Court's grant and entry of the above order, on or about November 2, 2021, and pursuant to N.Y. Real Prop. Tax § 1102 et seq; §1132; and/or § 1194, inter alia, Lisa Holmes, Interim/Acting Tompkins County Administrator, and as "Enforcement Officer",

conveyed and transferred title to the Rose Property to the County of Tompkins, New York itself. § N.Y. Real Prop. Tax § 1102 et seq; §1132; § 1194. This Deed was recorded on November 2, 2021 as Instrument # 2021-13017 in the Tompkin County Clerk's Office. See, Exhibit AAA.

185. That act constituted a 'taking' under the Fifth Amendment of the United States Constitution, and under Article I, Section 7 of the New York Constitution.

186. On approximately October 25, 2021, and pursuant to Section 1166, the Rose Property was sold pursuant to and under color of the laws of the State of New York for \$5,100. See

187. The Deed reflecting this sale and transfer from Tompkins County to a third-party was executed on November 23, 2021 and recorded on November 24, 2021 as Instrument No. 2021-14071 in the Tompkins County Clerk's Office. See Exhibit BBB, attached hereto and incorporated herein.

188. Defendant Tompkins County retained all the proceeds of this sale despite Plaintiff Rose only owing approximately \$1,121.59 in past due taxes and charges.

189. The sale produced surplus equity, being an excess above and beyond the amount lawfully owed by Plaintiff Rose for delinquent taxes and charges.

190. Pursuant to and under color of New York state law, this excess was not returned to Plaintiff Rose, and Plaintiff Rose was not provided adequate procedure to seek just compensation for the taking of their surplus proceeds.

191. The members of the putative class are similarly situated, having property taken from them pursuant and under color of the laws of the State of New York, in excess of the amount they owed for taxes or other obligations, and having been denied just compensation.

**BACKGROUND FACTS ON DEFENDANTS' TAKING OF THE MAZZARELLI
PROPERTY WITHOUT JUST COMPENSATION**

192. Pursuant to and under color of the laws of the State of New York, to wit, N.Y. Real Prop. Tax § 1102 et seq., Defendant Ulster County, New York moved for an Order and Judgment of Foreclosure in Ulster County Court (Index No. 18-3980) with respect to several parcels of real property, including the Mazzarelli Property, which the Court granted on or about February 7, 2022, and entered on or about February 9, 2022. See, Exhibit CCC, attached hereto and incorporated herein.

193. Subsequent to the Court's grant and entry of the above order, on or about February 9, 2022, and pursuant to N.Y. Real Prop. Tax § 1102 et seq; §1132; and/or § 1194, inter alia, Burton Gulnick, Jr., Commission of Finance of the County of Ulster, and as "Enforcement Officer", conveyed and transferred title to the Mazzarelli Property to the County of Ulster, New York itself. § N.Y. Real Prop. Tax § 1102 et seq; §1132; § 1194. The Deeds reflecting this transfer were recorded on February 15, 2022 as Instrument # 2022-2865, in Book 7009 at Page 1; and recorded on March 2, 2022 as Instrument No. 2022-3812 in Volume 7017 at Page 188, both in the Ulster County Clerk's Office. See, Exhibit DDD, attached hereto and incorporated herein.

194. That act constituted a 'taking' under the Fifth Amendment of the United States Constitution, and under Article I, Section 7 of the New York Constitution.

195. On approximately July 14, 2022, and pursuant to Section 1166, the Mazzarelli Property was sold pursuant to and under color of the laws of the State of New York for \$131,400. See Exhibit EEE, attached hereto and incorporated herein.

196. The Deed reflecting this sale and transfer from Ulster County to a third-party was executed on July 14, 2022 and recorded on or about October 28, 2022 as Instrument No. 2022-17840, Book #7148 page 149 in the Ulster County Clerk's Office. See Exhibit EEE.

197. Defendant Ulster County retained all the proceeds of this sale despite Plaintiff Mazzarelli only owing approximately \$22,048 in past due taxes and charges.

198. The sale produced surplus equity, being an excess above and beyond the amount lawfully owed by Plaintiff Mazzarelli for delinquent taxes and charges.

199. Pursuant to and under color of New York state law, this excess was not returned to Plaintiff Mazzarelli, and Plaintiff Mazzarelli was not provided adequate procedure to seek just compensation for the taking of their surplus proceeds.

200. The members of the putative class are similarly situated, having property taken from them pursuant and under color of the laws of the State of New York, in excess of the amount they owed for taxes or other obligations, and having been denied just compensation.

GOVERNMENTAL ACTIONS AND COLOR OF LAW

201. The collection in New York of property taxes and certain other obligations is governed by New York state law.

202. Bodies politic, political subdivisions, and/or tax districts in New York receive their authority to make and levy taxes and other obligations, and to engage in collections of same and the disposition of the property taken in those collections and the proceeds derived therefrom, pursuant to the laws of the State of New York and do so under color of those laws.

203. New York law allows tax districts to foreclose on and take title to real property based on unpaid taxes or other obligations. N.Y. Real Prop. Tax § 1102 et seq.

204. This process provides that when real property taxes for an identified property have not been paid, the tax district can foreclose the owner's right and title to the property, take title to the subject property, and then sell the property or keep it. These actions are recorded as public records and can be verified by those records.

205. As stated above, this constitutes a taking of the subject property from the owner by the tax district.

206. That taking is a violation of the Fifth Amendment to the United States Constitution, and Article I, Section 7 of the New York Constitution, if just compensation is not paid.

207. However, subsequent to these takings conducted by Defendants, through their Enforcement Officers, and taken under the authority of the laws of the Defendant, State of New York and under color of those laws, Plaintiffs and the putative class members were not paid just compensation as required by the Fifth Amendment to the U.S. Constitution and the New York Constitution, Article I, Section 7.

208. Specifically, through the statutory scheme described above, the State of New York authorized not only the collection of taxes and other fees through the taking of the property, it authorized and perpetrated the taking of the equity in the property in excess of the amount owed by the property owner.

209. This New York State statutory authorization was exercised by the State of New York's bodies politic, political subdivisions, and tax districts, including the Defendants in this action.

210. Those powers were exercised in this case against the named Plaintiffs and against the members of the putative class, all under color of those laws.

211. The persons who undertake the ministerial steps to take and retain property, including the property of the named Plaintiffs, and the property of the putative class members, did so (and continue to do so today) solely and entirely through the 'authority' and under the color of the laws of the State of New York.

212. As it relates to the named Plaintiffs and members of the putative class, their property taken during the class period had a value in excess of the amount owed to the government for the taxes and/or other obligations for which the property was taken.

213. New York law and the actions alleged herein taken under color of that law, afforded the named Plaintiffs and the putative class members no opportunity to obtain that excess, and following sale (or retention of their property for government use) they did not receive that excess.

214. The takings that are challenged by this action occurred in two distinct ways. First, the citizen's property was taken under color of law for nonpayment of taxes or other obligations and sold, with proceeds in excess of the amount owed by the citizen, but, acting again under color of law, that excess was not returned to the citizen.

215. Second, and alternatively, the property was taken under color of law for nonpayment of taxes or other obligations and was not sold but was kept by the government; the property value was in excess of the amount owed by the citizen; and, acting again under color of law, Defendants failed to return this excess to these citizens.

216. The foregoing conduct and practice, accomplished solely under color of New York state law, of taking and keeping property or its proceeds in excess of monies owed is ongoing, and continues as current practice and is current 'law' in New York. This causes a persistent and continuing violation of both the United States and the New York constitutions, providing basis for declaratory and injunctive relief.

VIOLATIONS OF THE UNITED STATES CONSTITUTION

217. In *Tyler v. Hennepin County*, the United States Supreme Court, in a 9-0 decision, 1) declared unconstitutional state laws like New York's that authorize and result in the practice of taking and retaining excess proceeds of tax foreclosures and tax sales; and 2) declared a violation

of a citizen's constitutional rights where such takings occur. *Tyler v. Hennepin County* (2023), 598 U.S. 631, 143 S.Ct. 1369.

218. The reasoning of the *Tyler* decision is straightforward. The Constitution's Taking Clause prohibits the 'taking of property without just compensation.' U.S. Const., Amend 5. That prohibition applies to the federal government based on the Fifth Amendment, and state government through the Fourteenth Amendment. *Tyler* at 637-38.

219. The prohibition is not against states enacting laws to collect taxes and other obligations, which is permitted to satisfy the citizen's tax obligations; it is against taking more than is owed, as is happening in this case. The government has the

power to sell [plaintiff's] home to recover the unpaid property taxes. But it could not use the toehold of the tax debt to confiscate more property than was due. By doing so, it effected a "classic taking in which the government directly appropriates private property for its own use." *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*, 535 U. S. 302, 324 (2002) (internal quotation marks and alteration omitted). [Plaintiff] has stated a claim under the Takings Clause and is entitled to just compensation.

Tyler at 639.

NEW YORK STATUTES WHICH CREATED AND RESULTED IN THIS TAKING VIOLATION

220. The laws of the State of New York create the authority, and thereby the color of law, for retaining proceeds from foreclosed or seized property, in excess of the amount owed by the citizen.

221. Specifically, in violation of both the New York and U.S. Constitution, New York Real Property Tax Law, Chapter 50-a, Article 11 ("Article 11") provides that proceeds from the sale of foreclosed property may be kept, in excess of taxes (and concomitant fees) owed.

222. This violates the Takings Clause.

223. Further, New York Real Property Tax Law § 1136[3] provides for seizure of foreclosed property and thereupon grants title to the government in fee simple, so that “all persons . . . who may have had any right, title, interest, claim, lien or equity of redemption in or upon such parcel, shall be barred and forever foreclosed of all such right, title, interest, claim, lien or equity of redemption.”

224. This creates the constitutional violation here, because the citizen’s property is foreclosed on in a way that the citizen loses all right to the property, including any property value in excess of the taxes owed by the individual to the taxing entity. *Hoge v. Chautauqua Cnty.*, 173 A.D.3d 1731, 104 N.Y.S.3d 813 (N.Y. App. Div. 2019).

225. In addition to violating the Takings Clause of the United States Constitution, the conduct herein violates Article I, Section 7 of the New York Constitution, which identically states that, “[p]rivate property shall not be taken for public use without just compensation.”

226. The subject conduct in this action further violates both the United States and the New York constitutional ban against excessive fines. The Eighth Amendment of the United States Constitution provides: “Excessive bail shall not be required, nor excessive fines imposed.” Article I, Section 5 of the New York Constitution provides: “Excessive bail shall not be required nor excessive fines imposed...”

CLASS ACTION ALLEGATIONS

227. This action is brought on behalf of the Plaintiff and the following class:

All owners of property in Saratoga, Broome, Cayuga, Cortland, Essex, Jefferson, Montgomery, Oswego, Otsego, Schenectady, St. Lawrence, Tompkins, and Ulster Counties in the State of New York: 1) where such property was seized or otherwise subject to foreclosure for unpaid taxes and associated obligations; 2) the property was either a) sold in foreclosure, or b) retained by any governmental entity; 3) the amount received in the sale, or the value of the property taken, was more than the taxes owed, that is, was in excess of the amount of the owner’s debt for which the property was taken; and 4) the owner was not given the excess. The class excludes Plaintiff’s counsel and officers of the

court handling this matter. The class also excludes any owners of property where the property was encumbered by any lien other than the tax lien at the time the property was foreclosed by the County. The class period is the longest period allowed by law before the filing of this action, and thereafter.

228. Plaintiffs and the class reserve the right under Rule 23, F.R.C.P. to amend or modify the class to include greater specificity, by further division into subclasses, or by limitation to particular issues.

229. This action has been brought and may be properly maintained as a class action under the provisions of Rule 23 of the Civil Rules because there is a well-defined community of interest in the litigation and the proposed class is easily ascertainable.

A. Numerosity

230. Members of the proposed class are so numerous that joinder of all members is impracticable. While the precise number of proposed class members has not been determined at this time, Plaintiffs are informed and believes that there are hundreds of individuals in the Class.

B. Commonality

231. Common questions of law and fact exist as to all members of the proposed class. Such questions include, but are not limited to:

- a. Whether New York laws allowing retention of excess proceeds, or property value, beyond the amount owed in taxes or other obligation for which the property was foreclosed, violates the U.S. Constitution;
- b. Whether the practice against the named Plaintiffs and the putative class of retention of excess proceeds, or property value, beyond the amount owed in taxes or other obligation for which the property was foreclosed, violates the U.S. Constitution;
- c. Whether the conduct alleged in this suit caused injury in fact to the Plaintiffs and the putative class members;

- d. Whether Defendants, or any of them, should be restrained and thereafter enjoined from continuing to engage in the challenged practice;
- e. Whether New York law allowing retention of excess proceeds, or property value, beyond the amount owed in taxes or other obligation for which the property was foreclosed, violates the New York Constitution;
- f. Whether the practice against the named Plaintiffs and the putative class of retention of excess proceeds, or property value, beyond the amount owed in taxes or other obligation for which the property was foreclosed, violates the New York Constitution;
- g. What relief should be granted, if any, to the named Plaintiffs and the putative class;
- h. Whether Defendants or any of them were unjustly enriched by retaining an excess as a result of their taking of the properties;
- i. Whether the conduct alleged herein constitutes a taking of the property of Plaintiffs and the putative class in violation of the Fifth Amendment of the United States Constitution;
- j. Whether the conduct alleged herein constitutes a taking of property of Plaintiffs and the putative class in violation Article I, Section 7 of the New York Constitution;
- k. Whether the challenged provisions of New York state law enumerated in this Complaint violate the U.S. Constitution, and should be declared as unconstitutional;
- l. Whether the challenged provisions of New York state law enumerated in this Complaint violate the New York Constitution, and should be declared as unconstitutional;

- m. Whether Defendants, or any of them, are liable for inverse condemnation of the property of the named Plaintiffs and the putative class.

C. Typicality

232. The claims of the Plaintiff are typical of the claims of the proposed class. Plaintiff and all members of the class are similarly harmed by the wrongful conduct alleged here.

D. Adequacy of Representation

233. Plaintiffs will fairly and adequately represent and protect the interests of the members of the proposed class. Counsel who represent Plaintiffs are competent and experienced in class action and challenges to government taxes and fees litigation.

E. Superiority

234. A class action is superior to all other available means for the fair and efficient adjudication of this controversy. Individual joinder of all members of the proposed class is not practical, and common questions of law and fact exist to all class members.

235. Class action treatment will allow all similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of any difficulties likely to be encountered in the management of this action that would preclude its maintenance as a class action.

F. Rule 23 Further Requirements

236. Inconsistent or varying adjudications with respect to individual members of the class would establish incompatible standards of conduct for Defendants.

237. Adjudications with respect to individual class members would be dispositive of the interests of the other members not parties to the individual adjudications or would substantially impair or impede their ability to protect their interests.

238. Defendants have acted or refused to act on grounds generally applicable to the class, thereby making appropriate final relief with respect to the class as a whole.

239. Questions of law or fact common to the class members predominate over any questions affecting only individual members.

COUNT I
Violation of the Takings Clause of the
Fifth Amendment of the United States Constitution

240. Plaintiffs realleges all averments as if fully rewritten herein.

241. The conduct of Defendants and their respective Enforcement Officers as alleged herein, resulted in the taking of the property of Plaintiffs and the putative class, under color of state law.

242. By the conduct as alleged herein, Defendants took the property of Plaintiffs and the putative class without just compensation.

243. The property of Plaintiffs and the putative class was taken both physically, and under color of law, depriving Plaintiffs and the putative class their right, title, and interest to same.

244. Defendants are now in the possession of the property of the Plaintiffs and the putative class; or sold same and received the proceeds of such sale.

245. The value of the property, or the proceeds from the sale thereof, exceeded the amount owed for the taxes or other charges for which the property was seized and taken.

246. Defendants have not given to Plaintiffs or to the putative class those excess monies and/or property, or its value.

247. As a direct and proximate result of the foregoing, Plaintiffs and the putative class have not received just compensation for the property seized and taken from them.

248. Defendants have not provided Plaintiffs or the class members adequate procedure to seek just compensation for the taking of their surplus proceeds

249. Plaintiffs and the putative class members have been harmed and damaged by the foregoing, including but not limited to their loss of their surplus equity, for which they demand and are entitled to just compensation relief under law and equity.

COUNT II
Takings in violation of Article I, § 7, of the New York State Constitution

250. Plaintiffs realleges all averments as if fully rewritten herein.

251. Defendants, acting as political subdivisions, bodies politic, and/or Tax Districts in the State of New York, or acting as an authorized agent and officer thereof, seized and took the property of Plaintiffs and the putative class.

252. Said seizure and taking was for unpaid taxes and/or other obligations.

253. The foregoing actions were conducted pursuant to the authority of New York Real Property Law.

254. The seizure and taking of the property of the Plaintiffs and the putative class members was for a specific amount alleged to be owed by the property owner.

255. Either the value of the property (if not sold at foreclosure after the taking), or the proceeds of the sale of the property (as to property sold following the taking), was in excess of the specified total amount (principal, costs and percentage) alleged to be owed by the property owner.

256. Defendants did not return to the property owners – neither the Plaintiffs nor the putative class members – that excess, in violation of Article I, Section 7 of the New York Constitution which requires just compensation for the taking of private property.

257. As a direct and proximate result of the foregoing, Plaintiffs and the putative class suffered injury, harm and damage, including at minimum the loss of their surplus equity, for which they demand, and are entitled to, just compensation and/or relief in law and equity.

COUNT III
Imposition of excessive fines in violation of the
Eighth Amendment to the United States constitution

258. Plaintiffs realleges all averments as if fully rewritten herein.

259. The seizure and taking of the property of the Plaintiffs and the putative class was in response to the failure of Plaintiffs and the putative class members to pay taxes or other obligation owed to the government.

260. New York state law, including the provisions cited above, were enacted, at least in part, to deter the non-payment of taxes owed the government.

261. Defendants took their actions alleged herein in furtherance of that purpose.

262. The amounts collected from Plaintiffs and the putative class members, through the taking and keeping of the excess, had no correlation to the amount owed to the government.

263. The seizure and taking alleged herein was conducted under color of state law, as averred above.

264. The seizure and taking of the excess equity as alleged herein was a violation of the Eighth Amendment to the United States Constitution's prohibition against excessive fines.

265. As a direct and proximate result, Plaintiffs and the putative class suffered injury, harm and damage, including at minimum the loss of the excess equity, for which they demand, and are entitled to, relief in law and equity.

COUNT IV
Imposition of excessive fines in violation of Article I §5 of the New York constitution

266. Plaintiffs realleges all averments as if fully rewritten herein.

267. The provisions of Article I, Section 5 of the New York State Constitution prohibit the imposition of excessive fines in the same manner and using the same analysis as the Eighth Amendment to the United States Constitution. See, *Grinberg v. Safir*, 181 Misc. 2d 444, 694 N.Y.S.2d 316, 326-27 (Ny. Sup. Ct. 1999).

268. Defendants took these actions, as averred in paragraphs 273 - 276 above, for the same reasons and in the same manner as averred.

269. This imposition and taking of all of the property of the Plaintiffs and the putative class, and not limited to the amount actually owed, was an excessive fine in violation of Article I, Section 5 of the New York Constitution.

270. As a direct and proximate result, Plaintiffs and the putative class suffered injury, harm and damage, including at minimum the loss of the excess equity, for which they demand, and are entitled to, relief in law and equity.

COUNT V

Declaratory Judgment that N.Y. Real Property Tax Law as Described Herein, *inter alia*, Violates the Fifth, Eighth, and Fourteenth Amendments to the United States Constitution

271. Plaintiffs realleges all averments as if fully rewritten herein.

272. In material part, the Declaratory Judgments Act, 28 U.S.C. § 2201 (a), provides that “[i]n a case of actual controversy within its jurisdiction ... any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.”

273. The parties currently have a disagreement and controversy, *inter alia*, whether: the conduct alleged herein is a taking for purposes of the United State Constitution, Fifth Amendment,

and/or Article I, Section 7 of the New York Constitution; whether that taking was without just compensation; and, if so, whether Plaintiffs and the putative class members have rights to relief.

274. Plaintiffs therefore requests this Court, pursuant to 28 U.S.C. § 2201 et seq., to declare and find that on its face, and/or as applied, N.Y. Real Prop. Tax Law, as described herein, inter alia, violates the Fifth, Eighth, and Fourteenth Amendments to the United States Constitution.

275. Further, Plaintiffs requests this Court, pursuant to 28 U.S.C. § 2201 et seq., to declare and find that on its face, and/or as applied, N.Y. Real Prop. Tax Law, as described herein, inter alia, violates Article I, Section 7 of the New York Constitution and/or Article I, Section 5 of the New York Constitution.

COUNT VI Unjust Enrichment

276. Plaintiffs realleges all averments as if fully rewritten herein.

277. Defendants have been enriched at Plaintiffs' and the putative class members' expense.

278. Defendants have received money or value to which they are not entitled.

279. Defendants were enriched when they either retained Plaintiffs' property and the properties of the putative class members, or sold said properties and collected and retained the surplus proceeds of that sale.

280. Defendants are not entitled to the surplus proceeds or property because Plaintiffs and the putative class members are "entitled to the surplus in excess of the debt owed" to Defendants. *Tyler*, 598 U.S. at 642.

281. By taking the value of Plaintiffs' and each putative class members' excess, Defendants took more than was required to satisfy a tax debt, forcing Plaintiffs and the putative class members to make a greater contribution to Defendants than they owed.

282. It is against equity and good conscience to permit Defendants to retain these excess proceeds.

283. For the foregoing reasons, Plaintiffs and the putative class members are owed restitution in the amount of the excess proceeds collected by the Defendants.

COUNT VII
Money Had and Received

284. Plaintiffs realleges all averments as if fully rewritten herein.

285. Defendants received money belonging to Plaintiffs and each putative class member

286. Defendants benefitted from receipt of said money.

287. Under principles of equity and good conscience, Defendants should not be permitted to keep the excess.

288. Defendants received money belonging to Plaintiffs and the putative class members when they collected the surplus proceeds to which Plaintiffs and the putative class members were entitled. *See Tyler*, 598 U.S. at 642.

289. By taking the value of Plaintiffs' and each putative class members' excess, Defendants took more than was required to satisfy a tax debt, forcing Plaintiffs and the putative class members to make a greater contribution to Defendants than they owed.

290. Permitting Defendants to retain the excess proceeds and/or the properties themselves, in excess of the amount owed, would violate the principles of equity and good conscience.

291. For the foregoing reasons, Defendants owe Plaintiffs and the putative class members restitution in the amount of the excess proceeds they collected and/or retained.

COUNT VIII
Inverse Condemnation

292. Plaintiffs realleges all averments as if fully rewritten herein.

293. Defendants have intruded onto Plaintiffs' and each putative class member's property rights to such a degree that the conduct, as alleged herein, amounts to a compensable constitutional taking.

294. Plaintiffs and the putative class members have suffered harm and/or damages in an amount to be proven at trial for the failure of Defendants to provide just compensation.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment for themselves and the putative class(es), as follows:

- a) A determination that this action may proceed as a class action pursuant to Federal Rules of Civil Procedure 23(b) with Plaintiffs as class representatives, and the undersigned as Class Counsel;
- b) For judgment for Plaintiffs and the putative class, including but not limited to the amount of the excess (as referenced in this Complaint); interest thereon; costs; and attorney fees;
- c) For a declaration the New York Real Property Tax Law, as described herein, is unconstitutional on its face and/or as applied;
- d) For a declaration that the practice challenged herein, of taking real property in excess of the amount of the taxes or other obligations for which the property was seized, and retaining such excess, is unconstitutional;
- e) For disgorgement, restitution, and/or equitable relief as Plaintiffs and the putative class are entitled;

- f) For all other or further compensatory and any other damages as Plaintiffs and the putative class are entitled;
- g) For a preliminary and thereafter permanent injunction against Defendants, their officers, agents, servants, employees, and attorneys, and all persons in active concert or participation with any of them, who receive notice of the Order, from future use or enforcement the New York Real Property Tax Law, as described herein, or of any practice that takes, by seizure, foreclosure, process, mesne process or otherwise, private property for payment of taxes or other obligation, in an amount in excess of the amount owed by the owner for which the seizure was conducted, without returning that excess to the owner from whom the property was taken;
- h) For just compensation for inverse condemnation of the private property of Plaintiffs and the putative class;
- i) For prejudgment and post-judgment interest, as permitted by law;
- j) For a recovery of all costs, reasonable litigation expenses, and reasonable attorneys' fees, as permitted by law, including but not limited to as provided by 42 U.S.C. § 1988 and New York law; and/or
- k) For such other and further legal, declaratory, injunctive and equitable relief as the Court may deem just and proper.

Demand for Jury Trial

Plaintiffs and the putative class members demand trial by jury in the maximum number allowed by law.

/s/ Steven E. Cole

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Interim

SFY 2025 One-House Budgets County Impact Report



March 15, 2024

Hon. Daniel P. McCoy, NYSAC President
Hon. Steven Neuhaus, NYSCEA President
Stephen J. Acquario, Executive Director

**SFY 25 One-House Budget
County Impact Summary**

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SFY 25 One-House Budget County Impact Summary

Introduction

On January 16th, the Governor introduced her proposed SFY 2025 State Budget. On Monday, March 11th, the Senate released their rebuttal to the Governor's proposed budget. On Tuesday, March 12th, the Assembly released their one-house budget recommendation.

NYSAC's interim county impact report detailed areas of the Governor's proposed budget that will impact county functions, departments, services, and programs. This report has been updated to reflect the budget priorities of the Senate and Assembly.

Changes in Taxation & Finance Important to Counties

Modernize the State Tax Code to Include the Vacation Rental Industryⁱ

Similar to changes made several years ago to address the collection of sales tax on internet-based transactions, the Governor is proposing to modernize the state code to ensure sales tax is collected on short term rentals. This would be achieved by updating certain definitions to capture these rentals as if they are commensurate with accommodations at hotels and other places of temporary lodging for purposes of collecting sales tax.

The budget language reverses the "bungalow rule," which excluded from sales tax the rentals of furnished living units (e.g., bungalows, cabins, etc.) without typical hotel amenities (dining and housekeeping). Finally, this bill would include vacation rentals in the imposition of the \$1.50 NYC hotel unit fee.

Additionally, sales tax collection by the vacation rental marketplace provider would improve tax compliance by reducing the number of small vacation rental providers who handle sales tax payments before they are remitted to the Department. This would also help level the playing field for New York's hotel operators that compete with vacation rental marketplace providers that do not collect tax on vacation rentals in the state.

The bill does not require these platforms to collect local occupancy taxes as these are local tax laws and therefore not a state administered tax. The bill does not require platforms to share individual property listings activity but does require them to maintain appropriate information as a sales tax vendor for state sales tax administration purposes.

The state estimates the 57 counties would receive about \$6.5 million annually from this change, and New York City would generate about \$10 million in new revenue.

Senate Changes

The Senate modifies the Executive proposal to modernize the vacation rental industry by replacing the Executive's language with language that creates a statewide registry of short-term rentals, while allowing localities to maintain their own registries, and imposes the sales tax and hotel and motel occupancy taxes on short term rentals (S.885-B).

Assembly Changes

The Assembly modifies the Executive proposal to subject all vacation rentals to sales taxes, including the \$1.50 per unit NYC Convention Center fee, and to repeal the "bungalow rule,"

SFY 25 One-House Budget County Impact Summary

which allows rentals of furnished units to be exempt from sales tax, by creating statewide registration and verification for vacation rentals, preventing rent-regulated housing from being operated as vacation rentals, and subjecting them to local hotel taxes. This proposal is similar to S.885-B / A.4130-A.

State Sales Tax Growth Projections

The State Financial Plan is projecting conservative sales tax growth after the close of the SFY 2024 budget as follows:

- SFY 2024 – (+5.3 percent)
- SFY 2025 – (+2.3 percent)
- SFY 2026 – (+2.5 percent)
- SFY 2027 – (+2.7 percent)
- SFY 2028 – (+2.4 percent)

Sales Tax

Senate Changes

The Senate proposes new language (Part T) ending the sales and use tax exemption for the cost of a boat above \$230,000 (S.2557) and a new (Part U) ending the sales and use tax exemption for private aircraft (S.2556). The Senate also advances language (Part Z) to exempt the installation of residential energy storage systems from the sales and use tax (based on S.4547).

Assembly Changes

Exclude Certain Fire Prevention Equipment from Sales Tax in Octoberⁱⁱ

The Assembly includes language excluding fire extinguishers, fire alarms, smoke alarms, and carbon monoxide alarms from state sales taxes during the month of October.

Exclude School Supplies from Sales Tax for 15 Days prior to Labor Dayⁱⁱⁱ

The Assembly includes language to provide a sales tax exemption on school supplies with a value of \$110 or less per item for the 15 days prior to the first Monday in September (Labor Day).

Provide a Sales Tax Exemption for Oral Care Products^{iv}

The Assembly includes language to exempt toothbrushes, toothpaste, tooth powders, mouthwash, dental floss, and other similar products from the state sales tax.

Personal Income Tax

The Governor's Budget Recommendation proposed no changes to current personal income tax rates.

Senate Changes

Proposes a new Part DD to increase the personal income tax rates for filers making over \$5 million but not over \$25 million from 10.3 to 10.8 percent and for filers making over \$25 million from 10.9 to 11.4 percent for Tax Years 2024 through 2027. This proposal is estimated to increase state revenues by \$1.1 billion annually.

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Assembly Changes

The Assembly also proposes increases in income tax rates on high income earners that would generate about \$930 million according to their projections.^v

Business Taxes

Senate Changes

The Senate advances new language (Part II) increasing the *Corporate Franchise Tax* rate for companies with a net business income of \$5 million or above to 9 percent for Tax Years before 2027. The Senate will advocate for the use of additional revenue from the corporate franchise tax surcharge to provide significant relief to the state's Unemployment Insurance fund.

Simultaneous with that relief, the Senate supports restarting the scheduled increases to the maximum weekly benefit for unemployed workers. Maximum benefits should increase to eventually achieve half of the state median income over a reasonable period and should reach no less than 44% of average weekly wages by 2026. This proposal is estimated to increase state revenues by \$1.1 billion annually.

Assembly Changes

The Assembly also proposes an expansion of business tax surcharges estimated to generate \$1.4 billion in the coming year. This does not include billions in new fees proposed by the Assembly assessed against health insurance Managed Care Organizations.

These increases are partially offset by nearly \$1 billion in property tax rebates and \$324 million from a supplemental Empire State Child Credit.

General Support for County Governments^{vi}

Total state spending on behalf of counties outside of New York City through major local aid programs is expected to total over \$7.4 billion in SFY 2025 under the Executive Budget. This includes over \$3.3 billion attributable to the state takeover of local Medicaid growth.

Traditional local impacts result in a net positive impact of \$267 million in County Fiscal Year 2025, most of which is due to significant investments that include:

- \$85 million for a new partnership program with counties on public safety communications systems;
- \$50 million for a new partnership program with counties on infrastructure grants;
- \$50 million in new resources to support antipoverty initiatives in Rochester, Syracuse, and Buffalo;
- \$30 million in funding for district attorney offices and GIVE jurisdictions to prevent domestic violence;
- \$3.8 million for grants to counties to improve flood resiliency (\$15 million over two years);
- \$3.7 million in the upcoming local fiscal year (\$14.7 million over two years) to provide new e-poll books and a \$3.7 million increase annually in funding for postage for boards of elections; and

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- \$10 million annually for dedicated retail theft teams in district attorney offices, with a separate \$5 million annually for local law enforcement agencies to combat retail theft.

Local Government Assistance

The Executive Budget Recommendation flat-lined most local government assistance programs including AIM but did propose the elimination of the Shared Services program immediately including state matching grants. This included ending matching grants for 18 counties that submitted shared services plans in 2023 that were approved.

Senate Changes

The Senate adds \$210 million to the AIM program distributed across current AIM recipients with consideration on indexing AIM funding to inflation and reinstating AIM to New York City. The Senate also advances language to establish an AIM Redesign Task Force, similar to S.770.

Assembly Changes

The Assembly adds \$100 million to AIM.

Other actions with a positive local fiscal impact for counties include \$16.5 million to increase human services case management and wrap-around services, \$15.2 million in administrative efficiencies in the Early Intervention Program, as well as several revenue actions including repealing and replacing the cannabis potency tax and modernizing Tax Law to include the vacation rental industry (see above).

These positive impacts are partially offset by an increased TANF FFFS child welfare threshold (\$14.6 million impact) as well as a five percent in-person Early Intervention rate increase (\$2.4 million) and a four percent Early Intervention rate modification in rural counties (\$0.2 million).

Other Major Changes in Taxation

Repeal and Replace the Cannabis Potency Tax^{vii}

The Executive Budget proposes to simplify the tax collection obligations and burden for cultivators, processors, and distributors by repealing the wholesale THC potency tax and replacing it with a wholesale excise tax of 9 percent. New York State will maintain the State retail excise tax rate of 9 percent and the local retail excise tax rate of 4 percent.

After the slow start in the adult-use cannabis market the state is projecting dramatic growth in the coming years for its share of taxes generated from adult use cannabis production and sales, as follows:

- SFY 2023 – \$0
- SFY 2024 – \$70 million
- SFY 2025 – \$158 million (+126%)
- SFY 2026 – \$245 million (+87%)
- SFY 2027 – \$339 million (+38%)
- SFY 2028 – \$363 million (+7%)

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Senate Changes

The Senate modifies the Governor's proposal with language to phase in a permanent rate for the new wholesale tax over a multi-year period (S.4831-B).

Assembly Changes

The Assembly modifies the Executive proposal to replace the potency tax with a single wholesale excise tax of 9% by lowering the wholesale rate to 7%. Under the Assembly's proposal, the state retail excise tax rate would remain at 9%, and the local retail excise tax rate would remain at 4%.

In Rem Tax Foreclosure

See the [General Government](#) section.

Close the Telecommunications Property Tax Loophole^{viii}

The Executive Budget includes Article VII legislation to clarify that only property "primarily or exclusively" used in the transmission of radio, television, or cable television signals is excluded from the definition of real property. This closes a loophole that some providers have used to escape paying property taxes.

The Assembly and Senate reject the Governor's proposal.

Establish a Statewide Worker Opportunity Tax Credit^{ix}

The Assembly includes language to provide a tax credit for employers who hire individuals from targeted groups. The credit would be equal to 100 percent of the federal credit, not to exceed \$500 per employee and the total amount of tax credits provided over a three-year period would not exceed \$30 million.

State Financial Plan

The state financial plan has careened from a nearly \$70 billion 4-year deficit at the beginning of the pandemic in April 2020, to a \$40 billion surplus peak less than two years later in March 2022. Since this peak, projected balances in the financial plan have fallen to a \$36 billion deficit in July 2023, that improved to about a \$20 billion deficit in November 2023. Fortunately, during the period of surplus, the state did build reserves to \$19 billion.

Prior to the Governor's release of the SFY 2025 budget, the recent decline in state finances was largely attributed to falling income tax receipts, the end of COVID era federal aid, and higher spending in Medicaid than anticipated. While these factors are accurate, the state has also increased permanent spending aggressively over the last several years, often relying on temporary aid to fill the gap. According to budget documents, the growth in spending of about five percent per year over the multi-year financial plan outpaces revenue growth of four percent – adding to growing fiscal gaps. ^x

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The SFY 2025 budget is projecting a \$20.5 billion 4-year deficit in the financial plan, after a \$5.9 billion increase in spending and other cost containment actions proposed by the Governor in her SFY 2025 proposal.

The deficit picture improved slightly due to higher anticipated revenues over the next four years than projected in the mid-year update. Higher revenue accruing in SFY 2024, from the updated projections, will result in an estimated surplus of \$2.2 billion for the current budget year. Most of this surplus will be used to prepay SFY 2025 expenses, and the remainder (\$500 million) will go into state reserves. The SFY 2025 budget projects a general fund balance at the close of the year of \$44 billion, with about half of this amount being held in reserves and the remainder generally set aside for pending liabilities and cash flow.^{xi}

The chart below highlights the changes in the state's fiscal circumstances in recent years.

Changes in State Finances Since COVID Pandemic	
State Budget Monitoring Point	Projected 4-year (Deficit)/Surplus
April 2020 - SFY 2021 Enacted Budget	(\$69B)
March 2022 - SFY 2023 amended Budget	\$40B
July 2023 - Q1 SFY 2024 Financial Plan	(\$36.4B)*
October 2023 - Q2 Mid-year Update	(\$21.5B)*
January 2024 - SFY 2025 Introduced Budget	(\$20.5B)*

* Gaps do not reflect the use of any reserves to balance operations

State Spending

State Operating Funds adjusted spending will increase from \$130.2 billion to \$136.2 billion (4.5 percent) largely driven by increases in:

- School Aid - \$921 million (2.1 percent)
- Medicaid - \$3 billion (10.9 percent)
- State Agency Operations - \$1.9 billion (5.8 percent)
- Debt Service - \$405 million (6.4%)

Offset by the prepayment of some expenses and other items.

Outside of state operating funds, Capital Projects are slated for a \$3.1 billion increase, or 20 percent.^{xii}

The SFY 2025 Executive Budget assumes balance in the coming fiscal year (after proposed actions) with outyear gaps rising to just over \$20 billion, as follows:

- SFY 2025 - \$0;

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- SFY 2026 - \$5 billion;
- SFY 2027 - \$5.2 billion (Assumes the federal sunset of the SALT cap, which will provide a one-time increase in state receipts by \$3 billion to \$4 billion. If the SALT cap is extended or modified the fiscal gap for SFY 2027 will increase correspondingly); and
- SFY 2028 - \$9.9 billion (assumes New York’s current high-earner state income tax rates will sunset as scheduled, reducing receipts in the final quarter of SFY 2028 by about \$1 billion)

Per DOB, “The projected budget gaps do not reflect the use of any principal reserves to balance operations but do include the use of prior year surpluses carried forwarded into future years and the one-time use of a portion of the Reserve for Economic Uncertainties to fund additional assistance to the City of New York to alleviate fiscal pressures from asylum seekers in FY 2026.”^{xiii}

Assembly & Senate Changes

The Assembly proposes an All Funds budget of \$245.8 billion for SFY 2024-25, which is \$13.1 billion or 5.6 percent over the Executive proposal. This increase is largely attributed to \$10 billion in spending actions related to Medicaid; and commitments to School Aid, Higher Education, human services, Indigent legal representation, transportation, and various programs.

The Senate proposes significant spending increases in the State Financial Plan largely relying on increases in income taxes on the highest earners and corporations

Below is a table highlighting Assembly and Senate spending proposals compared to the Executive Budget Recommendation.

State Financial Plan Spending Comparison - FY 2025					
(\$ in billions)					
	Executive	Assembly		Senate	
	SFY 2025	SFY 2025	% Change	SFY 2025	% Change
General Fund	\$107.6	\$110.3	2.5%	\$116.3	8.1%
State Operating Fund	\$129.3	\$139.3	7.7%	\$137.9	6.7%
All Funds	\$232.8	\$245.8	5.6%	\$246.2	5.8%

Smart Schools Bond Act of 2024^{xiv}

The Assembly proposes a \$2 billion Smart Schools Bond Act to fund capital projects to provide learning technology equipment or facilities, enhanced internet connectivity for schools and communities, educational facilities to accommodate pre-kindergarten programs, and install or construct zero-emission school bus charging infrastructure. The bond act would be voted on during the November 2024 general election.

State Spending by Functional Areas

Below is an interim analysis of how the SFY 2025 Executive Budget impacts county programs, services, and operations, and includes comparisons with the one house bills enacted during the

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week of March 12th. NYSAC will continue to monitor negotiations as the Governor and State Legislature work toward a final spending plan.

Agriculture

Local Agriculture Assistance^{xv}

The Executive Budget includes \$48.9 million for local agriculture assistance, a decrease from the \$56.5 million included in the SFY 2024 Enacted Budget. The Budget also includes \$20 million for non-point source pollution control, farmland preservation, and other agricultural programs, consistent with past years.

Senate & Assembly Changes

The Senate adds \$13.1 million, for a total of \$62 million, and the Assembly adds \$12.4 million, for a total of \$61.3 million.

Expanding Dairy Processing Capacity^{xvi}

The Governor proposes to commit \$34 million over two years to expand dairy processing capacity. This includes a \$24 million appropriation in the Executive Budget for the dairy farm modernization grant program, which provides grants for on-farm milk storage technologies and processing infrastructure to mitigate transportation issues, improve dairy supply chain efficiency, and avoid raw milk dumping related to emergency events.

Senate & Assembly Changes

The Senate and Assembly accept the Executive's proposal.

Farm to School Program^{xvii}

The Senate advances new language to expand the eligibility of the Farm to School Reimbursement program (S.423) and ensure the program is compatible with schools attaining reimbursement through the Community Eligibility Provision (S.8378).

Support for Cannabis Farmers^{xviii}

The Senate advances language to assist cannabis farmers whose crops were impacted by the delayed implementation of the cannabis program and includes appropriations to support the new programs. The legislation would establish a rescue and relief fund (\$40 million), loan program (\$60 million), and refundable tax credit for cannabis farmers (\$28 million).

The Assembly includes \$80 million to establish the cannabis rescue and relief fund, which would make available resources to cultivators and processors that have experienced a substantial financial hardship, with priority given to cultivators.

Cider Sales^{xix}

The Senate advances language to allow for the direct intrastate and interstate shipment of cider (S.1999).

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Community Colleges & Higher Education Tuition Assistance

Maintaining the Community College Funding Floor^{xx}

The Executive Budget will maintain a funding floor for community colleges at 100 percent of prior year funding. Without a funding floor, community colleges would face a \$143 million (23 percent) loss in formula aid due to enrollment declines.

Total funding for community colleges will decline slightly in the budget due to one-time funding provided in SFY 2024. Overall funding for Community College operating aid is \$441 million for SFY 2025. The State Financial Plan assumes this appropriation level will continue with no increase through SFY 2028.

Assembly Changes

The Assembly proposes Article VII language that would require CUNY and SUNY to provide the Governor and Legislature with recommendations for a new community college funding formula that ensures predictable and reliable funding.^{xxi}

Tuition Assistance Program (TAP^{xxii})

The Assembly provides \$118.3 million for changes to TAP, including:

- Increasing the TAP income threshold:
 - from \$80,000 to \$125,000 for dependent students, certain independent students, and students who qualify as an orphan, foster child or ward of the court;
 - from \$40,000 to \$60,000 for independent married students who have no other tax dependents; and
 - from \$10,000 to \$30,000 for single independent students who have no tax dependents.
- Raising the minimum TAP award from \$500 to \$1,000;
- Allowing a fifth year of TAP awards; and
- Providing Part-Time TAP to Proprietary College students.

Early Childhood Development and Children with Special Needs

Special Education Tuition Rate-Setting Reform^{xxiii}

Funding for preschool and school-age special education providers is determined through a ratesetting methodology administered by SED. These providers serve approximately 80,000 preschool children year-round, 50,000 school-age students during the summer, and 14,000 school-age students during the school year. As requested by SED, the Executive Budget provides an additional \$1.4 million for SED to study and design a new special education tuition rate-setting methodology in order to streamline and improve the timeliness of tuition rates for providers, bringing total available project funding to \$3.9 million. The Executive Budget also extends the deadline for SED to present its recommendations from July 1, 2025, to July 1, 2027.

Senate Changes

The Senate does not mention this funding for rate setting methodology. However, the Senate does require interim rates to include the annual growth amount for such rates approved in the

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current school year and annually thereafter for Special Act School Districts, 853 schools, and 4410 schools.

The Senate also increases tuition rates for all Special Act School Districts, 853 schools, and 4410 schools commensurate with the state aid increases (amended version of S.6516-A of 2022).

NYSAC is working to understand the fiscal implications of the Senate proposal.

Increase Rates in Early Intervention^{xxiv}

The Executive Budget provides for a 5 percent rate increase for in-person services, as well as a 4 percent rate modifier for rural areas and underserved communities.

Assembly & Senate Changes

The Assembly provides \$7.3 million to increase, the Early Intervention (EI) reimbursement by a total of 11 percent.

The Senate also provides for an Early Intervention (EI) reimbursement rate increase of 11%.

NYSAC opposes these rate increases, not because they aren't needed, but because the state fails to include any funding to offset the additional costs borne by counties, which is estimated to be somewhere around \$40 million.

Modify Early Intervention Billing^{xxv}

The Budget makes various administrative changes to align billing requirements with federal regulations resulting in savings.

The Senate and Assembly do not note these reforms as they are administrative actions.

Removal of School Psychologists for Rendering Early Intervention Services^{xxvi}

This budget provision removes the temporary exemption school psychologists currently have that allows them to practice as Early Intervention (EI) providers but would extend their authorization to provide non-EI services for certain preschool programs.

Senate Changes

The Senate modifies the Executive proposal to remove the temporary allowance of certified school psychologists to practice as Early Intervention (EI) providers and to extend the authorization of Non-EI services for school psychologists for certain preschool programs for an additional two years by only accepting the extension and rejecting the rest of the proposal.

Economic Development

Accessing \$650 Million in REDC and Other Funds^{xxvii}

Multiple programs amounting to \$650 million to promote regional economic development and other programs have been available to local governments through a competitive application meant to bolster economic opportunities in designated regions. The Governor's SFY 2025 budget will now require that to receive priority in accessing these funds, a local community

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must be certified by the NYS Division of Homes and Community Renewal as a Pro-Housing Community. These programs include:

- *Downtown Revitalization Initiative*, administered by the Department of State;
- *NY Forward*, administered by the Department of State;
- *Regional Council Capital Fund*, administered by Empire State Development;
- *New York Main Street*, administered by NYS Homes and Community Renewal;
- *Market New York* capital grants, administered by Empire State Development;
- *Long Island Investment Fund*, administered by Empire State Development;
- *Mid-Hudson Momentum Fund*, administered by Empire State Development; and
- *Public Transportation Modernization Enhancement Program*, administered by the Department of Transportation

Regional Economic Development Councils (REDCs)^{xxviii}

The Executive Budget includes \$150 million in core REDC funding and \$75 million in new Excelsior tax credits. To qualify for this funding, municipalities must be certified by HCR as a Pro-Housing Community.

Senate & Assembly Changes

The Senate advances language to establish a requirement that Regional Economic Development Council awardees certify that they maintain internship programs for young people between the ages of 18 and 24.

The Assembly proposes language that would define pro-housing funding eligibility, provide a variety of options for a municipality to be designated a Pro-Housing Community, and require an annual report on the Pro-Housing Community program.^{xxix}

Downtown Revitalization^{xxx}

The Executive Budget provides \$100 million for the Downtown Revitalization Initiative (DRI) and \$100 million for New York Forward, which is focused on the revitalization of downtowns in rural and smaller communities. To qualify for this funding, municipalities must be certified by HCR as a Pro-Housing Community.

The Senate and Assembly accept this proposal.

Local Tourism Promotion^{xxxi}

The Executive Budget includes \$15 million in competitive funding through the Market NY Program to support tourism marketing plans and other projects that demonstrate regional collaboration among counties to promote regional attractions. This includes \$2.45 million in matching grants for local tourism promotion, which is a decrease from the \$3.45 million in last year's enacted budget.

The Senate and Assembly restore funding for local tourism promotion grants to \$3.45 million.

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Empire Artificial Intelligence (AI) Initiative^{xxxii}

The Executive Budget includes \$250 million in appropriations for the Empire AI initiative, which aims to position New York at the forefront of AI research and innovation.

Senate & Assembly Changes

The Senate eliminates the Governor's appropriation and replaces it with a new \$930 million lump-sum appropriation for various programs, noting their desire to obtain adequate details and implement requisite financial guardrails and agency transparency requirements.

The Assembly includes \$250 million in funding for Launch NY AI consortium and amends the appropriation language to explicitly include SUNY and CUNY, as well as reporting requirements and other program parameters.

One Network for Regional Advanced Manufacturing Partnerships (ON-RAMP) Program^{xxxiii}

The Executive Budget includes an \$80 million appropriation to launch the ON-RAMP program, which will establish four new workforce development centers in strategic, high-impact locations along the I-90 corridor, with a flagship facility in Syracuse.

Senate & Assembly Changes

The Senate eliminates the Governor's appropriation and replaces it with a new \$930 million lump-sum appropriation for various programs, noting their desire to obtain adequate details and implement requisite financial guardrails and agency transparency requirements.

The Assembly provides \$93 million and amends the legislation establishing the program to explicitly make community colleges eligible and allow the Legislature to approve any plans submitted.

Restore New York Communities Program^{xxxiv}

The Executive Budget includes \$50 million for the Restore New York Communities Program to support municipal efforts to demolish, deconstruct, rehabilitate, or reconstruct vacant, abandoned, condemned, or surplus properties

Senate Changes

The Senate modifies the proposal by adding language excluding funding from being used for demolition projects.

FAST NY Shovel-Ready Grant Program^{xxxv}

The Executive Budget includes \$100 million to prepare and develop sites to jumpstart New York's shovel-readiness and increase its attractiveness to large employers.

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Senate Changes

The Senate replaces it with a new \$930 million lump-sum appropriation for various programs, noting their desire to obtain adequate details and implement requisite financial guardrails and agency transparency requirements.

Increase Transparency for Local Economic Development Entities^{xxxvi}

The Senate advances language to increase transparency and accountability for local economic development entities by:

- Creating a searchable database of subsidy and economic development benefits provided by local authorities (S.1737).
- Extending the applicability of Open Meetings and Freedom of Information Laws to public or quasi-public not-for-profit corporations (S.2727A).
- Authorizing county comptrollers to examine Industrial Development Agencies and local development corporations (S.2297).
- Granting the Authorities Budget Office additional enforcement powers to prevent unauthorized activity and willful submission of false financial reports (S.6746).

Economic and Workforce Development Reporting^{xxxvii}

The Assembly advances legislation to require comprehensive annual reporting for the state's economic development programs, including the direct and indirect return on the state's investment and overall economic impact of such awards.

Education

The Executive Budget Recommendation proposed a minor increase in school aid of about \$800 million, but the net increase also includes changes to the current hold harmless aid provisions for school districts that experience a decline in student census causing many school districts to receive a cut in that portion of their state aid.

Senate Changes

Adds \$1.2 billion in new school aid for a total of \$46.1 billion for the State Education Department with school aid changes as follows:

- Restores \$65 million in Legislative adds
- \$747 million for school aid, providing a minimum 3 percent increase for all school districts
- \$150 million for universal pre-K
- \$125 million for universal school meals
- \$105 million for community school funding formula, and
- \$110 million in other various additions

Assembly Changes

Adds \$5.1 billion above the Governor's recommendation for a total of \$50.9 billion for the State Education Department. Major school aid changes include:

- \$1.1 billion above the Governor's request and restores the Foundation Aid Hold Harmless Provision, return the inflation factor to a one-year calculation and provides a three percent minimum increase to Foundation Aid

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- \$125 million for universal pre-K
- \$120 million for universal school meals, and
- \$2 billion Smart School Bond Act, among other items

Elections

Local BOE State Aid for Pre-Paid Return Postage Envelopes^{xxxviii}

The Executive Budget includes \$7.7 million for local BOE's to receive reimbursement of costs related to providing pre-paid return postage and outgoing postage on absentee ballots.

E-Poll Book State Aid^{xxxix}

The Executive Budget includes \$14.7 million for local BOE's to procure new electronic poll books.

Senate & Assembly Changes

The Senate adds \$10 million for local Boards of Elections for staff, training, and informational campaigns.

The Assembly provides \$10 million for local Boards of Elections for increased costs related to a Presidential election year.

Environment

Clean Water Infrastructure^{xl}

The Executive Budget provides an additional \$250 million in clean water infrastructure funding, bringing the State's total investment to \$5.25 billion since 2017. Previous state budgets have allocated \$500 million annually for clean water infrastructure.

Senate & Assembly Changes

The Senate and Assembly both restore funding to \$500 million.

The Senate provides \$100 million in additional funding for the Safe Water Infrastructure Action Program and \$12.5 million for the Harmful Algal Bloom Grant Program. The Safe Water Infrastructure Action Program would fund replacement and rehabilitation of local public drinking water, stormwater, and sanitary sewer system, similar to S.4350-A.

The Assembly rejects the Governor's lump-sum appropriation and allocates the funding as follows:

- \$220 million for the Water Infrastructure Improvement Act (WIIA) and
- \$30 million for Intermunicipal Water Infrastructure Grant program;
- \$100 million for replacement of lead drinking water service lines;
- \$70 million for water quality improvement projects, including \$12.5 million for projects to combat harmful algal blooms and \$10 million for the proper management of road salt;

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- \$50 million for projects to protect the New York City watershed; and
- \$30 million for septic systems and cesspools.

Environmental Protection Fund (EPF)^{xli}

The Executive Budget includes \$400 million for the EPF to support projects that work to mitigate the effects of climate change, improve agricultural resources, protect water sources, advance conservation efforts, and provide recreational opportunities.

Senate & Assembly Changes

The Senate and Assembly both maintain funding for the EPF and reject the Executive's proposal to include \$25 million in miscellaneous funding.

Additionally, the Senate advances language to direct revenue from penalties for environmental violations currently deposited in the general fund to a new environmental enforcement account, and to increase penalties for environmental violations by 50%, resulting in increased revenue for the Environmental Protection Fund and for enforcement of environmental laws, similar to S.7086.

Tree Planting^{xlii}

The Executive Budget commits \$47 million to the planting of 25 million trees by 2033. This includes capital investments in the Saratoga Tree Nursery and multi-year annual grants to municipalities to plant trees in support of resilient reforestation and urban forests.

Senate & Assembly Changes

The Senate increases this appropriation to \$50 million.

The Assembly decreases it to \$46 million.

New York Statewide Investment in More Swimming (NY SWIMS)^{xliii}

The Executive Budget includes \$150 million in funding for grant programs to enhance and expand municipal swimming opportunities across the state. This includes \$60 million to build 10 new swimming pools in underserved communities, \$60 million to develop and install floating pools in natural waterways, and \$30 million for pop-up swimming pools that can be deployed to communities that would otherwise not have access to outdoor pools.

Senate & Assembly Changes

The Senate expands the allowance purposes of the program to provide funding for natural swimming areas. The Assembly modifies the appropriation to ensure that not less than \$60 million is for grants to municipalities for pools in underserved communities.

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Energy Affordability Guarantee^{xliv}

The Executive Budget includes \$50 million for NYSERDA's EmPower+ Program. This includes funding for the energy affordability guarantee, which will ensure customers who fully electrify their homes do not spend more than 6% of their income on electricity.

Assembly Changes

The Assembly modifies the appropriation language to establish program parameters.^{xlv} The Assembly also restores \$200 million for the Energy Affordability Program to ensure that enrollment in the program can continue to grow and to reduce costs for ratepayers.

Extend the Build-Ready Program^{xlvi}

The Budget extends NYSERDA's Build-Ready Program, which identifies abandoned or underutilized sites in New York State that may be suitable for development as large-scale renewable energy projects, for six years until 2030.

Senate & Assembly Changes

The Assembly modifies the Governor's proposal by restricting the use of agricultural land and prioritizing dormant electric generation sites. The Senate also modifies the proposal by extending the program until 2027 and adding language to preserve viable agricultural land (S.1416).

Renewable Action Through Project Interconnection and Deployment (RAPID) Act^{xlvii}

The Executive Budget includes the RAPID Act, which would create a one-stop shop for the environmental review and permitting of major renewable energy generation and electric transmission facilities within the Office of Renewable Energy Siting and Electric Transmission (ORES). Under the legislation, ORES is relocated from DOS to DPS and required to establish comprehensive regulations and uniform permit terms and conditions for major electric transmission facilities.

If enacted, developers would be required to submit proof of consultation with the municipality where the project is proposed to be located prior to submitting an application to ORES. The municipality—with support from the applicant's application fee—would be required to indicate to ORES whether the project complies with applicable local laws and regulations concerning the environment or public health and safety. ORES could elect not to apply local laws or ordinances that are unreasonably burdensome in the view of the CLCPA targets, the environmental benefits, or the public need for the proposed project. If a permit is granted, the permittee would be required to provide a host community benefit or other such project as determined by ORES or as agreed to between the applicant and host community.

Senate & Assembly Changes

The Senate amends the Governor's proposal by adding language on additional reporting and oversight, mitigation of negative impact on prime agricultural land and other protected areas, and to include stand-alone commercial scale battery storage siting. The Senate also adds a new

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requirement for regional public hearings to be held on any new uniform standards and conditions to solicit input from local governments and the public.

Amendments proposed by the Senate to protect agricultural land include new requirements for ORES to give preference to sites for solar development that minimize disturbance to local ecosystems (e.g. brownfields, landfills, parking lots, and rooftops) and ensure that solar development will not greatly hinder the amount of farmland within the region/state or be a potential threat to New York's food security. To this end, their proposal requires applicants to:

1. submit a report detailing the impacts of the proposed project to agricultural lands and prime soils;
2. submit a cumulative impact study as to how the use of farmland for solar siting will impact the region's food economy and farmland protection plan;
3. ensure that a critical mass of farmland within the region is not threatened; and
4. in the event that a facility is sited on prime soils or farmlands, provide a decommissioning plan that ensures soils will be capable of agricultural production and pay a farmland conservation fee.

The Assembly modifies the Governor's proposal to clarify and further differentiate between transmission and renewable generation and increase transparency and municipal involvement. This includes creating a new requirement for applicants to meet with the host municipalities' chief executive officers before submitting a permit application and provide presentation materials and transcripts to ORES as part of their application.

Affordable Gas Transition Act^{xlvi}

The Executive Budget includes legislation to eliminate provisions of law that restrict PSC from ensuring utilities meet the Climate Leadership and Community Protection Act (CLCPA)'s greenhouse gas (GHG) emission reduction requirements. This includes eliminating the "100-foot" rule, which requires natural gas companies to extend gas service to new customers and to charge the costs to all ratepayers for the first 100 feet of infrastructure between a natural gas main and a building proposed to be served by natural gas.

Senate & Assembly Changes

The Senate rejects the Governor's proposal and replaces it with the New York Home Energy Affordable Transition (NY HEAT) Act (S.2016-B). The Assembly also rejects the Governor's proposal but is exploring the removal of the 100-foot rule.

Increase the Maximum Grant Award for the Climate Smart Communities Program^{xli}

State assistance payments under the Climate Smart Communities program are currently capped at 50% or \$2 million. The Executive Budget includes legislation to authorize DEC to provide up to 80% or \$2 million in grants to municipalities that meet the criteria for financial hardship or for being a disadvantaged community.

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Assembly Changes

The Assembly amends the proposal to stipulate that “financial hardship” include, at a minimum, low resident income, high unemployment, high commercial vacancy, and depressed property values.

Expands DASNY’s Authority to Provide Services to Municipalitiesⁱ

The Executive Budget authorizes DASNY to provide its planning, design, procurement, and construction management services to state agencies, counties, and municipalities receiving grants or loans under the following programs: New York State Environmental Bond Act of 2022; American Rescue Plan Act of 2021; Infrastructure Investment and Jobs Act of 2021, Inflation Reduction Act of 2022, Downtown Revitalization Initiative, and NY Forward.

The Senate and Assembly reject this proposal.

Safety Standards for Lithium-Ion Batteries^{li}

The Executive Budget establishes safety standards for the sale of lithium-ion batteries, prohibits the sale of uncertified batteries, and establishes fines for violations.

Senate & Assembly Changes

The Senate rejects this proposal, as S.154-E addresses this issue. The Assembly also rejects this proposal.

Clean Air Compliance and Pollution Reduction^{lii}

The Executive Budget amends the fee structure for DEC’s State Air Quality Program to provide sufficient funds to cover DEC’s pollution control activities.

Senate & Assembly Changes

The Senate modifies the Executive’s proposal by omitting the fee increases on air facility registrations in consideration of the cost impacts on small businesses and by focusing DEC’s rulemaking authority expansion on new air pollution fee programs to address severe nonattainment zones in the New York Metropolitan Area.

The Assembly modifies the Executive’s proposal to ensure that the biggest emitters pay the highest fees and reject blanket department authority to establish new fees.

Office of Flood Control^{liii}

The Senate adds \$600,000 to establish a new Office of Flood Control within DEC, similar to S.1413.

Climate Change Cost Recovery Program^{liv}

The Senate advances language to establish a climate change cost recovery program to require fossil fuel companies that have contributed significantly to the buildup of greenhouse gases in the atmosphere to remit payments to the State based on their contributions. Proceeds would be used for climate change adaptation expenditures, similar to S.1219-A.

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Harmful Algal Bloom Monitoring Program^{lv}

The Senate advances language to require DEC to establish a harmful algal bloom monitoring program; promulgate regulations for harmful algal bloom monitoring, prevention, and mitigation; and establish a grant program to fund projects to combat harmful algal blooms, similar to S.8356.

Private Water Utility Audits^{lvi}

The Senate advances new language to require PSC and DEC to conduct regular audits of regulated private water utilities (S.1791).

Sales Tax Exemption for Energy Storage Systems^{lvii}

The Assembly includes language to provide a sales tax exemption for the purchase and installation of residential and commercial energy storage systems used to provide heating, cooling, hot water, and electricity.

Municipal Stormwater Grant Program^{lviii}

The Assembly modifies the Governor's proposal to provide \$30.6 million in State Operations funding for costs associated with the administration of the Environmental Bond Act by including appropriation language for the implementation of the municipal stormwater grant program.

Municipal Park Funding^{lix}

The Assembly provides \$100 million for grants for municipal parks, including \$50 million for projects in underserved communities.

Gaming

Commercial Gaming Payment Reduction Offsets (CGPR)

The Executive Budget proposal maintains the CGPR at \$17 million, the same appropriation as the SFY 24 Enacted Budget.

VLT & Other Host Community Aid

Aid to localities with video lottery terminals is funded at \$10.5 million, a slight increase from \$9.3 million appropriated in the prior year. State aid to Madison County for hosting a Native American gaming facility is level funded.

Commercial and Tribal Compacts

Total commercial gaming revenues for local aid are level funded at \$62 million. Tribal compact gaming revenues have increased slightly from \$175 million to \$200 million. The increase in appropriation does not guarantee an increased distribution. These funding levels often include additional room if funds become available. Currently the Seneca compact is up for renewal and renegotiation, while a portion of payments from the Akwesasne Mohawk compact have been withheld.

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General Government

Expand and Improve the Local Government Efficiency Grant Program^{lx}

The Local Government Efficiency Program provides technical assistance and grants for intermunicipal projects targeting shared opportunities, cost savings, and delivery of efficient, quality services. The Executive Budget increases the number of awards possible each year and the maximum award amounts.

Currently, planning grants may be a maximum of \$12,500 per municipality and \$100,000 total per grant. Beginning in FY 2025, the new maximum would be \$20,000 per municipality and \$120,000 total per grant. Implementation grant maximums would increase from \$200,000 per municipality and \$1 million total per grant to \$250,000 per municipality and \$1.25 million total per grant. Total annual funding to support planning and efficiency grants will double from \$4 million to \$8 million.

Warren County Contribution to CDTA^{lxi}

The Executive Budget allows the Capital District Transportation Authority (CDTA) to receive State assistance for transit services in Warren County, which requires a local match component.

This proposal would add Warren County to the list of counties required to contribute to CDTA. The local match percentage (2.21%) is based on services provided by Greater Glens Falls Transit in the current fiscal year.

Extend Videoconference Participation in Public Meetings^{lxii}

The Executive Budget would extend for two years authorization for public bodies to conduct public meetings with some members and the public joining by videoconference.

The Executive Budget would remove the current sunset of July 1, 2024, and extend for an additional two years the current law authorizing public bodies to hold public meetings at which some members may join by videoconference from locations not accessible to the public in extraordinary circumstances, and for the public to view and, where applicable, participate in such meetings by videoconference.

Senate & Assembly Changes

The Assembly accepts the Governor's proposal to extend the authorization for public bodies to conduct meetings remotely until July 1, 2026. The Senate modifies the Governor's proposal by including language to lower the in-person requirements for all advisory boards.

Reforming the In-Rem Tax Foreclosure Process^{lxiii}

The Executive Budget reforms the State's property tax enforcement laws to bring them into compliance with a recent decision of the United States Supreme Court, *Tyler v. Hennepin County, Minnesota*, 598 U.S. 631 (2023), by providing that when tax-delinquent property is sold, any excess proceeds be returned to the former owner or owners, and where appropriate, to lienors.

This bill would require any surplus resulting from tax foreclosure sales to be distributed to the former owners and lienors to whom the surplus rightfully belongs. Local governments would

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still be made whole for the taxes they are owed, as well as interest and related expenses. Any third parties who have liens on the property would also be paid in the same order and to the same extent as they would in a mortgage foreclosure action, with any remaining proceeds from the sale then being returned to the former property owner.

The bill would take effect immediately. Tax districts would have six months from the effective date of the act to pay over any surplus attributable to sales of tax-foreclosed property that occurred between May 25, 2023, and the effective date of the act. For sales prior to May 25, 2023, the tax district would only be liable to pay surplus where an Article 78 proceeding to compel the payment of the surplus had been commenced within four months of the sale.

NYSAC worked closely with the executive throughout the summer and fall to more clearly define this process. A sincere thank you is owed to representatives from our counties who have participated in hundreds of hours of phone calls and meetings as well as drafting legislation.

Senate & Assembly Changes

The Assembly rejects this proposal.

The Senate modifies the Governor's proposal as follows:

- Requires expanded exemption notice provisions under § 1198 – notice all taxpayers of possible exemptions they may be eligible for,
- Requires Repayment Plans under § 1199 for delinquencies exceeding \$500 but less than \$30,000,
- Requires pre-foreclosure settlement conferences – could be done in group settings or batches, possibly even virtual, but in-person option must be offered as well,
- Adds a new § 989 on tax liens sales procedures,
- Adds a new § 1185 (Homeowner Bill of Rights) – includes 10 mandatory items such as,
 - “...real property tax lien-related foreclosures to be judicial proceedings...” ,
 - Exemptions cannot be removed for nonpayment of property taxes,
 - Installment arrangements for the purpose of paying taxes and delinquent taxes,
- Adds new § 1185-a, pre-foreclosure notices – direct to HOPP, counseling, payment plan options, tax contact information, notices in multiple languages, etc.,
- Adds new § 1157 – Assistance to vulnerable populations (as listed) – each notice sent must include information about housing counseling agencies (and more),
- Sets new penalty interest rate minimums and maximums linked to the federal prime rate, with a floor 2% and ceiling of 16%, rates are set for three years and only are adjusted if the rate moves by more than 2% up or down, -- NOTE: in a normal economy this would generally range between 3%-6%.
- Amends § 972, adding a new subdivision 6, “...all local taxing jurisdictions shall offer an option for taxpayers to enter into installment plans which shall permit collection of taxes on at least a quarterly basis.”

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Sunset State Matching Funds for the County-Wide Shared Services Initiative^{lxiv}

The FY 2018 Budget enacted the County-Wide Shared Services Initiative (CWSSI) to provide a process whereby each county was mandated to develop, approve, and submit to the state a plan for new shared services that, once implemented, achieves demonstrable taxpayer savings. The Executive Budget ensures that matching fund applications for projects already implemented will be supported. After that, the ability to receive matching funds will sunset. This is expected to save New York State \$11 million FY 2025 and \$20 million annually thereafter.

Senate & Assembly Changes

The Senate modifies this proposal to ensure that projects implemented before March 31, 2025 remain eligible for matching funds. The Assembly also includes language that ensures State matching funds are made available for plans approved and submitted as of January 31, 2024.

County Partnership Grants Program^{lxv}

The Executive Budget proposes to create a \$250 million grant program to fund shared expenses and promote collaboration between New York State and counties. Grant funding totaling \$135 million will be available to counties outside of New York City for public safety communication infrastructure upgrades and enhancements (\$85 million), however, \$10 million has been reallocated from the statewide public safety communications account, where the Governor reduced a \$20 million allocation to \$10 million. The second half of the county partnership grants program includes \$50 million for site development and related costs for county infrastructure projects.

Investments in Cybersecurity^{lxvi}

The Executive Budget adds \$32.9 million in funding to address the state's Cyber Risk Remediation Program, which is being carried out by the Office of Information Technology Services, the Division of Homeland Security and Emergency Services, and the State Police. This year's funding proposal will support the continued build-out of the New York Security Operations Center (NYSOC), expanding shared service cyber efforts to the two largest municipalities within each county, and expanding state-funded cyber protection tools to include Attack Surface Management (ASM). ASM tools help identify internet-facing computers and analyze their vulnerability to being breached. The state currently funds an end-point detection and response tool for more than 50 participating counties.

Allow Movie Theatres to Sell Liquor^{lxvii}

The Senate advances language to allow movie theaters to be licensed to sell liquor (S.7389).

ConnectALL Program Amendment^{lxviii}

The Assembly amends the ConnectALL municipal assistance program to stipulate that grant funding for broadband infrastructure projects be provided only to unserved and underserved locations.

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Housing Assistance

Increase the Housing Supply^{lxix}

The FY 2025 Executive Budget takes the next steps to add housing, remove barriers to development, and encourage local governments to pursue smart, sustainable growth strategies.

- Develop Housing on State Property
- Prioritize State Funding to Pro-Housing Certified Communities
- Provide NYC with Tools like 421-a Extension

Redevelopment of Underutilized Sites for Housing (NY RUSH) Initiative^{lxx}

The Executive Budget includes \$250 million in capital funding for the implementation of NY RUSH, which will provide \$500 million over two years to assist state agencies in repurposing existing State sites and properties for use as housing.

Senate & Assembly Changes

The Senate eliminates this appropriation to use the funding to support an alternative housing proposal. The Assembly modifies the Governor's proposal to require that projects be approved by the Legislature.

Combat Housing Discrimination^{lxxi}

The Executive Budget would prohibit insurance companies from increasing rates or denying coverage to a policy holder due to their ownership of affordable housing.

The Senate rejects this proposal.

Authorize NYC to Allow for Denser Residential Development^{lxxii}

The Executive Budget would authorize the City of New York and the New York State Urban Development Corporation to allow denser residential development, which would allow for more housing to be built.

Senate & Assembly Changes

The Senate modifies the Executive's proposal to remove the 12.0 Floor Area Ratio requirement from the Multiple Dwelling Law for developments in New York City subject to Mandatory Inclusionary Housing or equivalent affordability requirements and that are constructed outside of historic districts.

The Assembly rejects this proposal.

Authorize Tax Incentives for Affordable Housing in NYC^{lxxiii}

The Executive Budget proposes to establish the Affordable Housing from Commercial Conversion Tax Incentive Benefits program in New York City to incentivize the inclusion of affordable rental units in multiple dwellings converted from commercial, manufacturing, or other non-residential buildings.

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Senate & Assembly Changes

The Senate modifies the Executive's proposal to require a greater number of affordable units per project and to specify the benefit amount and duration. The Assembly intentionally omits this proposal.

Enable NYC to Legalize Pre-Existing Basement and Cellar Dwelling Units^{lxxiv}

The Executive Budget includes legislation to provide the City of New York with the authority to enact a local law allowing for the conversion of inhabited and other currently existing basement or cellar dwelling units to legal dwelling units.

The Senate and Assembly reject this proposal.

Extend the Deadline for Vested Projects in Real Property Tax Law 421-a^{lxxv}

The Executive Budget proposes to extend the deadline to complete a vested Real Property Tax Law 421-a project in New York City, which would help to ensure the completion of thousands of units of housing that are currently at risk of not being built.

The Senate and Assembly reject this proposal.

New Tax Abatement for Rental Housing Construction in NYC^{lxxvi}

The Executive Budget includes legislation to create the Affordable Neighborhoods for New Yorkers Tax Incentive program to incentivize the development of housing that includes affordable units in New York City. Recipients would receive a full property tax exemption during the construction for up to three years, and homeownership developments would then receive 40 years of full exemption. Rental units would receive 25 years of full exemption after the construction period, followed by 10 more years with the exemption percentage pegged to the percentage of units in the building that are affordable units.

Senate & Assembly Changes

The Senate rejects this proposal with an intention to address projects as part of a comprehensive housing package that includes tenant protections. The Assembly also rejects this proposal.

Additional Senate Changes

The Senate increases funding by \$1.6 billion for a variety of housing initiatives that includes adding \$345.3 million for programs and \$1.3 billion in capital as follows:

- Restores \$50 million for Land Banks and Land Trusts
- Restores \$40 million for the Homeowner Protection Program (HOPP)
- Restores \$1 million for Senate Legislative Priorities and adds \$1 million for a total of \$2 million
- \$250 million for the Housing Access Voucher Program (HAVP)

Capital programs:

- \$185 million for New York City based program (\$135M for NYC Housing Authority, \$50 million for Mitchell-Llama)
- \$140 million for Public Housing Authorities outside the City of New York

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- \$40 million for the construction of one-to-two family small infill homes in Albany, Binghamton, Buffalo, Syracuse, and Rochester (a version of S.8585-A)
- \$40 million to provide grants for owners of less than five units to bring dilapidated apartments up to code as affordable rentals throughout the State outside of New York City (a version of S.8591)
- \$40 million to offer grants to repair vacant rent-stabilized apartments in New York City, as well as Nassau, Westchester, and Rockland counties
- \$25 million for USDA 515 Rental Properties Preservation
- \$15 million for Farm Worker Housing Revolving Loan Program

Additional Assembly Changes

The Assembly includes legislation to create a Housing Access Voucher Program (HAVP), funded at \$250 million, for eligible individuals and families who are homeless or at risk of homelessness.^{lxxvii} They also propose language to require the Commissioner of the Division of Housing and Community Renewal to develop and administer a new statewide limited equity cooperative program to provide affordable homeownership opportunities to low- and middle-income families.^{lxxviii}

Capital programs:

- The Assembly provides \$250 million for the Housing Access Voucher Program (HAVP)
- The Assembly restores \$40 million for the Homeowner Protection Program (HOPP)
- The Assembly restores \$25 million for the First Time Homeowner Assistance Program
- The Assembly restores \$10 million for Land Banks.

Human Services

Addressing The Asylum Seeker Crisis^{lxxix}

The FY 2024 Financial Plan included \$1.9 billion to support the migrant crisis, including the cost of shelter, social services, and resettlement.

As the migrant crisis continues, the FY 2025 Executive Budget extends an additional \$2.4 billion to support efforts in New York City and elsewhere in the State to safely manage the influx with the appropriate humanitarian response.

Office for Children Services

Senate Changes

The Senate modifies the Executive All Funds recommendation of \$4.9 billion by adding \$297 million for a total of \$5.3 billion for a variety of programs including:

- \$44 million for targeted increases for youth programs including Youth Sports Grant Program, Child Advocacy Centers, Youth Development Program and Runaway and Homeless Youth Act and Fostering Youth Success Alliance;
- \$33 million for a variety of legislative adds;
- \$220 million for childcare to establish a permanent Workforce Retention Grant program

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- Increases the state match for child welfare services from 62 percent to 65 percent, but does not increase the total appropriation presented in the Governor's budget.

The Senate amends Article VII bills to:

- NEW PART FF – establish differential payment rates from ten to fifteen percent for childcare providers who provide care to children experiencing homelessness, who provide care during nontraditional hours, or who provide care in circumstances deemed appropriate by the local district (amended version of S.4079).
- NEW PART DD -- amends the requirements related to the eligibility of childcare assistance to provide that applicants who meet the eligibility criteria for childcare assistance via the block grant for childcare shall be eligible for a full-time childcare slot regardless of the hours the child's caretaker is working or the reason the caretaker requires childcare (S.8152).

Assembly Changes

The Assembly includes \$43.1 million to restore the State's child welfare reimbursement from 62 percent to 65 percent.

Adds \$220 million for over the Executive proposal, for Child Care Provider Wage Enhancements.

Restores \$28.6 million to reject the Executive proposal to eliminate the state share for Committee on Special Education placements outside of New York City.

The Assembly proposes new administrative requirement for local social services districts to

- Require local social services districts to provide child care assistance for additional or different hours than a parent or caretaker spends at work, training, or educational activity.
- Require local social services districts to establish differential payment rates for child care services at fifteen percent higher than the actual cost of care or the market rate, whichever is less, when care is provided during non-traditional hours or for children experiencing homelessness.

Office for Temporary Disability Assistance

Senate Changes

The Senate modifies the Executive All Funds recommendation of \$9.5 billion, and adds \$260.3 million for a total of \$9.6 billion as follows:

- Restores \$18 million, mainly for Refugee Resettlement Program and TANF for ATTAIN
- Adds \$192 million for:
 - \$50 million in TANF for increased public assistance access and support for individuals at risk of eviction
 - \$50 million to establish the NYS SNAP Minimum-Benefits program, ensuring families receive a minimum benefit of \$50 per month
 - \$32 million in additional support for STEPH/NYSSHP/OSAH programs to increase reimbursement rates, for a total of \$85.9 million

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- \$20 million for Legal Service Representation for Evictions in New York City
- \$12 million for the Mothers and Infants Lasting Change Allowance
- \$10 million for Legal Services NYC's Eviction Prevention and Housing Stability Program
- \$10 million in additional support to consolidate the Summer Youth Employment Program (SYEP), for a total of \$60.4 million
- \$8.9 million for Legal Services of the Hudson Valley Eviction Prevention
- \$5 million in additional support for Legal Service Representation for Evictions outside NYC, for a total of \$40 million
- \$20 million for a statewide thirty percent cap on rent contributions for HIV-positive individuals, for part CC of ELFA
- \$11.5 million for an allowance for the cost of diapers for part BB of ELFA
- \$8.6 million to support legislative initiatives

Other Senate initiatives include:

- advancing language to require all local social services districts in New York State to provide a 30 percent rental contribution cap for all individuals that are HIV-positive and living on public assistance (S.183).
- language to increase the income threshold to 400 percent of the Federal Poverty Level for the one-time, six-month earned income disregard for public assistance recipients who enter a job after completing an employment training program (amended version of S.8374).
- requiring temporary housing facilities offer high speed broadband internet and WiFi access to all residents (S.4561-A).

Assembly Changes

- Adds \$145 million to establish a new Supplemental Basic Grant allowance for basic needs, for families and individuals receiving public assistance. This would include covering the local shares of Safety Net costs for this increase through County Fiscal Year 2024.^{lxxx}
- Advances Article VII I legislation and a \$200 million appropriation to establish the Increasing Nutrition Support for Prenatal and Infant Residency (INSPIRE) program, to provide cash assistance to low-income households during the last three months of pregnancy and through the first years of a child's life.^{lxxxi}
- Establishes differential payment rates for child care services provided by licensed, registered, or enrolled child care providers.^{lxxxii}
- Provides \$250,000 for a Child Care Cost of Estimate Model Study to determine the actual cost of providing child care;

Judiciary and Court Related Matters

Provide a Market Rate of Interest on Court Judgments^{lxxxiii}

The Executive Budget proposes a variable market-based interest rate on court judgments paid by public and private entities, which will provide relief for local governments and lower state taxpayer costs. The market-based interest would be the weekly average one-year constant maturity treasury yield, which is the same rate utilized by the Federal court system.

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Currently, the interest rate on judgments is established at a fixed rate of as much as 9 percent annually. A prevailing market rate will help ensure that neither side in a lawsuit will be disadvantaged by an interest rate that is above or below what otherwise could be earned while cases are being adjudicated.

The Assembly rejects this proposal.

Constitutional Amendment to Remove Maximum Number of Supreme Court Justices^{lxxxiv}

The Executive Budget proposes to amend the New York State Constitution to remove the existing provision providing for a maximum number of supreme court justices in each judicial district.

This concurrent resolution would remove the language in Article VI, Section 6, paragraph D of the New York State Constitution limiting the maximum number of Supreme Court justices in each judicial district to one per 50,000 residents or fraction over 30,000 residents. This proposal would grant the State Legislature the authority to expand the number of Supreme Court justices in each county.

Because this proposal is seeking to change the State Constitution, it must be passed by the Legislature over two successive legislative sessions and approved in a statewide referendum. The earliest this amendment could be on the ballot would be in the General Election in 2025.

If passed, this proposal may lead to significant capital cost increases for counties, as we are required under state law to provide justice chambers and court facility improvements.

Judicial Protection ¹

The Executive Budget proposes to protect judges and court personnel from the public disclosure of personal information. This would establish a process for New York State judges and federal judges in in the state, as well as certain court personnel and their immediate families to request the removal of their personal information from public disclosure, including but not limited access to public records with such information and/or internet postings. Recipients of such requests would be required to comply and be subject to a civil fine if they fail to do so.

"Personal information" shall include the following for an eligible individual:

(i) home address, including primary residence and secondary residences; (ii) unlisted telephone number; (iii) personal cell phone number; (iv) personal email address; (v) social security number; (vi) driver license number; (vii) license plate number; (viii) marital status and identity of any present and former spouse; (ix) identity of children under the age of twenty-six; (x) name and address of a school or day care facility attended by an immediate family member;

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(xi) bank account number; (xii) credit or debit card number; (xiii) personal identification number (PIN); (xiv) automated or electronic signature; (xv) unique biometric data; and (xvi) account passwords.

Additionally, the bill would enhance criminal liability for assaulting, stalking or harassing a judge.

Office of Indigent Legal Services & Legal Defense

The Executive Budget includes \$451.47 million in Local Aid appropriations for ILS Distributions and Grants, implementation of the *Hurrell-Harring* settlement, extension of *Hurrell-Harring* reforms statewide, improved quality 18-B Family Court representation, and reimbursement to counties for increased statutory assigned counsel rates that would be allocated as follows:

- ***ILS Distributions and Grants:***^{lxxxv} \$81 million to finance ILS distributions and grants. This funding amount will continue current funding levels for ILS programs, but does not include the 3 percent cost-of-living adjustment (COLA) that ILS sought in its FY 2024-25 budget request. The Senate and Assembly accept this proposal.
- ***Implementation of Hurrell-Harring Settlement:***^{lxxxvi} \$23.97 million to finance implementation of the *Hurrell-Harring* settlement programs (counsel at arraignment, caseload relief, and quality improvement). This funding is an increase of \$160,000 above FY 2023-24 funding levels, reflecting additional costs agreed to by the *Hurrell-Harring* parties for Schuyler County. This appropriation does not include the 3 percent COLA that ILS sought in its FY 2024-25 budget request. The Senate and Assembly accept this proposal.
- ***Extension of Hurrell-Harring Reforms Statewide:***^{lxxxvii} \$250 million to fully fund statewide implementation of *Hurrell-Harring* settlement reforms pursuant to plans filed by ILS on December 1, 2017. The appropriation language includes the same annual reporting requirement that was in previous years' final budgets, as well as the same authorization to transfer a portion of these funds to support ILS' State Operations budget and/or suballocate funding to other state agencies. This appropriation does not include the 3% COLA that ILS sought in its FY 2024-25 budget request. The Senate and Assembly accept this proposal.
- ***Article 18-B Family Court Representation – Parental Defense:***^{lxxxviii} \$4.5 million is allocated to improve the quality of representation to persons who, under County Law Article 18-B, are entitled to assigned counsel in Family Court matters. This funding is a \$10 million reduction compared to the enacted FY 2023-24 budget, and is less than the \$50 million ILS sought in its FY 2024-25 budget request. The Assembly accepts this proposal, and the Senate appropriates \$50 million for the same purpose.
- ***ACP Rate Increase:***^{lxxxix} \$92 million is allocated to reimburse 50 percent of eligible expenditures that counties and NYC incur as a result of the increased statutory rate for County Law Article 18-B assigned counsel. This funding will continue FY 2023-24 levels and is to be disbursed upon submission of a certification submitted to ILS on a quarterly basis. The Assembly accepts this proposal. The Senate appropriates \$98 million for the same purpose, with the funding appropriated from the Indigent Legal Services Fund, and introduces Article VII legislation to increase statutory the assigned counsel rate to

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\$164/hour for all cases other than misdemeanors. The Article VII legislation also establishes an annual automatic rate adjustment and takes effect April 1, 2025.^{xc}

Senate & Assembly Changes

Challenging Wrongful Convictions Act^{xci}

The Senate advances language to expand the grounds under which a motion to vacate judgment may be filed (S.7548).

Camera in Courtrooms^{xcii}

The Senate advances language to lift the ban on cameras in courtrooms but does not mandate that cameras be installed in every OCA, town, and village courtroom.

Eliminating Court Surcharges for Misdemeanors & Violations^{xciii}

The Senate amends § 60.35 of the Criminal Procedure Law to prohibit mandatory surcharges from being levied upon a conviction for a misdemeanor or violation. The legislation also provides courts with discretion to reduce or waive any fine or fee imposed upon a person entitled to representation under Article 18-B of the County Law or in the interest of justice. Additionally, it eliminates mandatory surcharges in several sections of the Vehicle & Traffic Law.

Office of Civil Representation^{xciv}

The Assembly includes a \$10 million appropriation to establish a new Office of Civil Representation. The office would be established January 1, 2025 and provide eviction prevention legal services statewide for legal assistance in eviction proceedings, including supplementing the New York City program.

Loan Forgiveness Program^{xcv}

The Assembly proposes a loan forgiveness program for district attorneys and indigent legal services attorneys, supported by a \$4 million appropriation.

Medicaid & Health Care

Medicaid

New York has long been recognized as having one of the most generous and expensive Medicaid programs in the country, in terms of covered service and eligibility. New York is first in per capita spending at nearly twice the national average, with 7.6 million covered by Medicaid – 39 percent of the state’s population. When combined with other public health insurance programs such as Child Health Plus (CHP) and the Essential Plan, New York covers a greater percent of its population with publicly funded programs than any other state in the nation.^{xcvi}

All funds spending, including local shares, for Medicaid will exceed \$100 billion in SFY 2025. State share funding will increase to \$30.9 billion (10.9 percent) which includes savings of \$1.2 billion that will need to be realized during the coming year. From SFY 2022 through the end of SFY 2025 state share funding for Medicaid will have increased by nearly 60 percent, based on updated projections by DOB.

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Projected State Share Medicaid Growth Trends						
(\$ in Billions)						
Program	SFY 2021	SFY 2022	SFY 2023	SFY 2024	SFY 2025	Total Change
DOH-Medicaid	\$19.6	\$22.0	\$25.3	\$26.3	\$27.1	\$7.5
<i>Jan. 2023 est.</i>		12.0%	15.1%	3.9%	3.1%	38.1%
DOH-Medicaid	\$19.6	\$22.0	\$25.3	\$27.4	\$30.9	\$11.3
<i>Jan. 2024 est.</i>		12.0%	15.1%	8.2%	12.8%	57.3%

As noted, Medicaid state share costs will grow by nearly 60 percent in the four years ending with SFY 2025 based on the introduced budget. Growth projections from last year assumed much lower trends, and the latest projections show that last year's annual growth estimates more than doubled for SFY 2024 and will quadruple for SFY 2025.

The recent federal approval of New York's New York Health Equity Reform (NYHER): Medicaid Redesign Team 1115 Waiver, requires the state to spend an additional \$1.7 billion in state share over the three years of the waiver to leverage \$6 billion in temporary federal aid to support expanded Medicaid program costs.

With the growth trends already above recent projections and federal waiver aid designed to be temporary, more pressure will be placed on state share spending when this waiver expires in a few years. The Budget Director noted in his press availability that current spending trends in Medicaid are unsustainable and more needs to be done to control costs.

The Executive Budget baseline assumes a \$735 million deficit in Medicaid for SFY 2025 as its starting point and adds new spending (through the approved federal waiver and other initiatives proposed by the Governor) of \$495 million. To reach balance for the fiscal year, the Executive budget proposes to reduce Medicaid costs by \$1.2 billion (\$400 million of these savings have yet to be identified). The cost savings measures grow to \$1.8 billion in SFY 2026, but still leaves a deficit of \$1 billion in SFY 2026.

Below is a summary chart that highlights the major items impacting Medicaid costs and savings in SFY 2025 and SFY 2026 based on estimates provided in budget materials.

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Summary - FY 2025 Executive Budget Medicaid Scorecard				
State Share - \$ in Millions	Eff. Date	Type of Change	SFY 2025	SFY 2026
Global Cap Forecast (Surplus) / Deficit			\$590.7	\$2,039.8
Signed Legislation			\$5.6	\$25.7
S1466 - Ambulance Bill	1/1/2025	Art VII	\$2.5	\$10.0
S1196A - Biomarker Coverage	1/1/2025	Art VII	\$3.1	\$15.7
Base Revisions			(\$698.0)	\$356.0
Medicaid Enrollment Above Financial Plan Projections	1/1/2024	Admin.	\$402.0	\$356.0
Delayed Recoupment of Distressed Provider Advances	1/1/2024	Admin.	(\$1,100.0)	\$0.0
Financial Plan Support	1/1/2024	Admin.	\$1,100.0	\$0.0
Global Cap Index Update	1/1/2024	Admin.	(\$263.1)	(\$157.8)
Executive Budget Base (Surplus) / Deficit			\$735.2	\$2,263.7
Budget Actions			(\$1,230.5)	(\$1,808.7)
Hospitals - Reduce capital rate add-on		Various	(\$21.3)	(\$42.5)
Nursing Homes - Reduce capital add-on by 10%, VAPAP Reduction		Various	(\$103.5)	(\$103.5)
Other Long Term Care Actions - Eliminate wage parity (\$400M), undisclosed (\$200M)		Various	(\$455.2)	(\$682.6)
Managed Care Actions - Remove 1% ATB Increase (\$200M), End MMC Quality Pool (\$60M)		Various	(\$271.9)	(\$426.9)
Pharmacy - Reduce coverage of OTC meds (\$32M), end prescriber prevails (\$20M)		Various	(\$37.4)	(\$87.0)
Other Actions - Unallocated (\$200M), Increase Audit Targets (\$100M), OHIP reductions (\$25M)		Various	(\$341.2)	(\$466.2)
Total Global Cap (Surplus) / Deficit			(\$495.3)	\$455.0

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1115 Waiver / State of the State Investments		\$495.3	\$547.7
1115 Waiver - Hospital Aid (\$550M gross), patient centered medical homes (\$74M), add'l state match (\$117M)		\$451.1	\$473.8
SOTS Additions		\$44.2	\$73.9
Increase Children's Access to Healthcare	Various	\$13.7	\$21.8
Expand Access to Primary Care	Various	\$19.9	\$38.3
Other SOTS	Various	\$2.6	\$5.8
Other Mental Health SOTS (Medicaid Impacts)	Various	\$8.0	\$8.0
TOTAL (Surplus) / Deficit		\$0.0	\$1,002.7

Senate Changes

The Senate reverses many of the Governor's proposed cost containment actions and adds \$5.3 billion in additional spending above the Governor's proposal including \$3.5 billion in new Medicaid spending for programs and to restore proposed cuts, and \$1.8 billion in capital funding:

- The Senate adds \$1.6 billion for Article VII Proposal, providing Medicaid Reimbursement Rate Increases, including;
 - Three percent Across-The-Board (ATB) rate increase,
 - An additional 6.5 percent for Nursing Homes and Assisted Living Providers (ALP), and Hospice services,
 - 10 percent rate increase for Inpatient & Outpatient Hospital services, and
 - 9.5 percent rate increase for Nursing Homes and Assisted Living Providers (ALP), and Hospice services.
- \$600 million for funding for Financially Distressed Hospitals
- \$753 million to support budget reductions in the Medicaid assistance program. This includes the restoration of Managed Long-Term Care and Mainstream Managed care Quality pools, Nursing Home Vital Access Provider, Health Homes, Dual-Eligible Special Needs Plans and Office of Health Insurance Programs administrative cuts
- adds \$212 million to support intentionally omitting Article VII HMM Part H, Medicaid Managed Care reforms.
- adds \$200.4 million to support intentionally omitting Article VII HMM Part G, wage parity for personal assistants in the Consumer Directed Personal Assistance Program (CDPAP)
- \$1.5 billion in capital funding for a Statewide Health Care Facility Transformation Program
- \$300 million to support SUNY Downstate transition

The Senate also proposes to repeal the Global Medicaid Cap.

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Assembly Changes

The Assembly establishes a tax on Managed Care Organizations (MCOs) to generate additional revenue that could be used for investments in the Medicaid program.

- The MCO tax generates \$4 billion in receipts from Managed Care plans. This revenue is be used by the State to repay the tax obligation for each plan through their capitated rates. This repayment generates an additional \$4 billion in federal funding to then be used by the State as the non-federal share of investments in the Medicaid program (requires federal approval).
 - The Assembly reinvests \$3.1 billion into Medicaid programs, including:
 - \$930 million to increase Medicaid rates across the board by three percent;
 - \$407 million to increase hospital rates by 7.5 percent;
 - \$500 million to create a new Hospital Directed Payment Template (DPT) program;
 - \$205 million to increase nursing home rates by 7.5 percent;
 - \$13.5 million to increase Assisted Living Program rates by 7.5 percent;
 - \$30 million for Certified Home Health Agencies;
 - \$28.5 million to alleviate State Office for the Aging (SOFA) waitlists; and
 - \$949 million to restore unallocated Medicaid reductions, as well as other reductions outlined in the Executive Budget. \$938 million in unallocated funding derived from the MCO tax would be reserved for future investments in the Medicaid program.

Other Medicaid initiatives include:

- The Assembly provides \$200.4 million to restore CDPAP wage parity.
- The Assembly rejects the Executive proposed unallocated long term care savings and CDPAP rate reduction with \$200 million in savings achieved by alleviating State Office for Aging waitlists.

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Mental Health

Crisis Intervention Team (CIT) Training^{xcvii}

The Executive Budget includes \$187,000 to expand CIT Training, which promotes better outcomes when law enforcement responds to individuals with acute mental health needs.

Senate & Assembly Changes

The Senate accepts this proposal. The Assembly provides \$2 million for Crisis Intervention Teams.

Increase Penalties for Insurers^{xcviii}

The Executive Budget includes legislation to increase penalties on insurers that fail to ensure equal access to mental health and substance use disorder services.

Stop Addictive Feeds Exploitation (SAFE) for Kids Act^{xcix}

The Executive Budget includes legislation to prohibit social media platforms from providing an addictive feed to children younger than age 18 and require such platforms to obtain parental consent before permitting notifications to children between 12am and 6am. Additionally, platforms would be required to provide options for parents to limit their child's access to addictive social media to a length of time per day.

Senate & Assembly Changes

The Senate rejects this proposal without prejudice and asserts that it strongly supports the need to add greater protections for minors against addictive social media platforms and intends to address this issue outside of the budget process.

The Assembly also rejects this proposal.

Youth Telehealth Mental Health Services Program^c

The Senate advances new language to create a youth telehealth mental health services program (S.8146).

First Responder Peer Support Program^{ci}

The Assembly includes the First Responder Peer Support Program Act. This legislation would require OMH to establish a statewide grant program to develop peer-to-peer mental health programs for first responders, including firefighters, police officers, 911 operators, emergency dispatchers, and emergency medical services personnel.

Daniel's Law Task Force Pilot Program^{cii}

The Assembly advances legislation to direct OMH to convene the Daniel's Law Task Force to implement mental health crisis response and diversion for mental health, alcohol use, and substance use crises. They also include \$2 million for the task force to establish one or more pilot programs to support community-led and public health responses for individuals experiencing a behavioral health crisis.

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Personnel, Labor, Civil Service & Public Pensions

Establish Paid Prenatal Leave^{ciii}

The Executive Budget proposes to allow eligible pregnant employees to take up to 40 additional hours of leave for prenatal medical appointments in addition to New York's current 12 weeks of Paid Family Leave. Leave for prenatal visits could be taken in hourly increments.

Senate Changes

The Senate modifies the Executive proposal to change the leave provided from paid family leave to personal leave due.

Additional Senate & Assembly Changes

Tier 6 Pension Reforms

The Senate proposes to:

- reduce the final average salary calculation window for Tier 6 members from five to three years (S.8490)
- extend the provision to exclude overtime from Tier 6 pension contribution calculations to March 31, 2026. This provision is scheduled to sunset on March 31, 2024
- allow Tier 6 peace and court officers employed by the court system to retire after thirty years of service at age fifty-five without seeing a reduction in benefits, and to reduce the normal retirement age for this class of employees from sixty-three to sixty-two and lessen the reductions in benefits for those who retire prior to normal retirement age (S.5653 - 2023)
- Add \$57 million in General State Charges to cover increased state costs for the proposed Tier 6 changes.
- Increase the retiree earnings limit from \$35,000 to \$50,000.^{civ}

The Assembly also notes its commitment to improving benefits provided under tier 6, such as those in A.9133 (Pheffer Amato) which would change the final average salary calculation for tier 6 members from the final 5 years to the final 3 years.

Other Assembly proposed pension-related changes include:

- Allowing members of the Voluntary Defined Contribution Program (VDC) to terminate their membership in such program and enroll in the New York State and Local Employees' Retirement System or the New York State Teachers' Retirement System, and receive credit in the retirement system for their service while a member of the VDC.^{cv}

Public Health & Nursing Homes

Core Public Health Funding^{evi}

The Executive Budget includes \$230 million in Article Six funding for local health departments to provide core public health services, consistent with the total appropriation in last year's enacted budget. However, the Governor proposes to cut funding in several key areas, including rabies services (cut from \$1.46 million in SFY 2023-24 to \$0 in SFY 2024-25) and tobacco use prevention and control (cut from \$40.64 million to \$33.14 million).

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Senate & Assembly Changes

The Senate adds \$14.4 million to support the restoration of non-core public health programs eliminated by the Governor.

The Assembly provides \$13 million to restore various public health programs, including restoring funding for rabies services to \$1.46 million. The Assembly also provides \$7.5 million to restore funding for the tobacco control program.

Opioid Settlement Fund Investments^{cvi}

By the end of SFY 2025, over \$480 million in opioid settlement agreement payments will be deposited in the State's Opioid Settlement Fund to support addiction programming and services. The state and municipalities expect to receive more than \$2 billion through these agreements by 2040. The Executive Budget includes \$63.7 million in the Opioid Settlement Fund Account for SFY 2025, with \$17 million reserved for municipalities.

Senate & Assembly Changes

The Senate adds \$45 million to support the Opioid Settlement Fund with appropriation language to support programs recommended by the Opioid Advisory Board. The Assembly accepts the Governor's appropriation.

Opioids and Overdose Prevention^{cvi}

The Executive Budget would increase Prescription Monitoring Program (PMP) data retention periods and allow enhanced data sharing to combat the opioid crisis. It also makes statutory changes necessary to update the state schedule of controlled substances and permits healthcare providers in emergency rooms to dispense up to a three-day supply of buprenorphine.

Senate & Assembly Changes

The Senate modifies the Executive's by accepting the provision exempting practitioners from verifying certain registries before prescribing or ordering a controlled substance for use at certain facilities; allowing disclosure of patient identifying information to certain programs within the DOH and local health departments for public health research, surveillance, or education and retaining such information for a number of years; allowing providers to initiate maintenance treatment by dispensing a certain supply of Buprenorphine in accordance with federal law while arranging a referral to an authorized maintenance program; repealing the requirement for a practitioner to submit a confidential report to DOH regarding a patient's potential drug or alcohol use; and rejecting the inclusion of several controlled substances to the State's Controlled Substances Schedule.

The Assembly rejects the Governor's proposal.

Insulin Cost Sharing^{cix}

The Executive Budget includes legislation to ensure that insulin drugs are not subject to a deductible, copayment, coinsurance, or any other cost sharing requirement.

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Expand the Scope of Practice for Certain Medical Professionals^{cx}

The Executive Budget proposes to allow licensed physicians, nurse practitioners, and physician assistants to assign and supervise medical assistants' tasks related to immunizations. It would also expand the scope of practice for dentists, allowing them to administer specified vaccines and tests for COVID- 19, influenza, HPV, or others as related to a declared public health emergency.

The Senate and Assembly reject this proposal.

Joint Interstate Compacts for Medical Professionals^{cx}

The Executive Budget would allow New York State to enter into two separate interstate licensure compacts for medical professionals to make New York more attractive for physicians, RNs, and LPNs and add mobility to the professions in order to attract and retain workers.

The Senate and Assembly reject this proposal.

End Preventable Epidemics^{cxii}

The Executive Budget amends several sections of law to reduce the spread of human immunodeficiency virus (HIV), hepatitis C virus (HCV), hepatitis B virus (HBV) and Syphilis. This includes allowing pharmacists to administer vaccines and preventive medications and authorizing registered nurses to collect specimens for testing based on a standing order.

Senate & Assembly Changes

The Senate modifies the Executive proposal to end preventable epidemics by accepting the clarification of Human Immunodeficiency Virus (HIV) notice of testing requirements, requiring clinical laboratories to report to DOH both positive and negative results for HIV, Hepatitis B and C, and Syphilis, allowing licensed pharmacists to dispense HIV Pre-exposure Prophylaxis through a non-patient specific order, allowing licensed pharmacists to administer the Monkeypox vaccine through a non-patient specific order, accepting the repeal of the criminalization of sexual activity by an individual who knowingly has a sexually transmitted infection and has sexual intercourse with another person, and advancing certain provisions found within S.3467-A regarding authorizing pharmacists to perform HIV tests.

The Assembly rejects the Executive proposal to require every physician to submit negative HIV, Hepatitis B, Hepatitis C, and syphilis tests to DOH; rejects the Executive proposal to allow notice of HIV tests orally, electronically, or by prominent signage; rejects the Executive proposal to allow pharmacists to dispense HIV Pre-exposure prophylaxis (PrEP) and administer mpox vaccinations; and rejects the Executive proposal to repeal misdemeanor charges related to venereal disease.

Emergency Medical Services Reforms^{cxiii}

The Budget makes a series of investments to strengthen and stabilize the state's healthcare delivery system. These include:

- Streamlining the certificate of need (CON) process,
- Creation of five "Emergency Medical Service (EMS) zones" across the state, overseen by the newly established EMS statewide Task Force to augment the EMS workforce,

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- Establishing a Paramedic Telemedicine Urgent Care program, to expand care in rural areas and reduce preventable emergency department visits, and
- Allowing general hospitals to provide care in a patient's home without obtaining a license as a home care agency, and allowing emergency medical technicians (EMTs) to provide non-emergent care in the community. Participating hospitals would be required to submit operating cost data to the Department of Health annually.

Senate & Assembly Changes

The Senate rejects the Governor's proposal, and instead advances S.4020-C, to declare general ambulance services as an essential service, establish special districts for the financing and operation of general ambulance services, and provide for a statewide comprehensive emergency medical system plan.

The Assembly rejects the Governor's proposal.

Make the Opioid Stewardship Fund Permanent^{cxiv}

This Executive Budget would make the Opioid Stewardship Fund permanent in the State Finance Law. The law authorizing the establishment of the Opioid Stewardship Fund is set to expire on June 30, 2024.

Senate & Assembly Changes

The Senate proposes to make the Opioid Stewardship Fund extender permanent. The Assembly rejects the Governor's proposal.

Sunset the State's COVID-19 Sick Leave Law^{cxv}

The Executive Budget proposes to sunset the COVID-19 Sick Leave Law, which required employers to provide sick leave benefits, paid family leave, and disability benefits to employees subject to a mandatory or precautionary order of quarantine or isolation for COVID-19. The law would sunset on July 31, 2024.

Senate & Assembly Changes

The Senate modifies the Executive proposal to sunset the State's COVID-19 Sick Leave Law on July 31, 2024, by continuing such benefits for employees that work in facilities licensed under Article 28 of the Public Health Law.

The Assembly rejects the Governor's proposal.

Combat Unlicensed Sales of Cannabis.^{cxvi}

The Executive Budget includes Article VII legislation to strengthen the authority of the Office of Cannabis Management (OCM) to expedite the closure of unlicensed businesses selling cannabis illegally. The legislation also authorizes localities to adopt their own laws to establish a process for the locality to execute closure orders, seize and destroy illicit cannabis, and to establish their own civil penalties against the illicit operators. Localities that adopt a local law or ordinance would be required to establish a local registry with all licensees in their municipality. Localities could receive penalty revenue from any legal actions they take related to unlicensed activity.

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Senate & Assembly Changes

The Senate adds language that would strengthen the ability of enforcement agencies to take actions against property owners allowing illicit cannabis stores on their property, make it easier for local governments to use the process to seek closing orders against illicit stores in courts, expand the hours administrative inspections can happen, and give localities the ability to create their own administrative cannabis enforcement local laws. They also add \$5 million to Aid to Localities for cannabis youth education programs and services.

The Assembly does not include the Executive proposal to provide the Office of Cannabis Management with new enforcement authority, noting that they will continue to explore avenues to achieve an equitable and competitive legal adult use cannabis market that protects consumers.

Expand Telehealth Services^{cxvii}

The Assembly includes a proposal that would guarantee full Medicaid reimbursement for telehealth services delivered by federally qualified health centers (FQHCs) regardless of the location of the professional or patient, or the modality of the service.

Public Safety

Combat Retail Theft^{cxviii[OBJ]}

The Executive Budget includes \$10 million in funding for DAs to prosecute property crime cases and \$5 million in additional state funding to build the capacity of local law enforcement efforts to combat retail theft.

Senate & Assembly Changes

The Senate's budget consolidates the Executive's prosecutorial services grants into a \$150 million lump-sum appropriation for district attorneys to support discovery related costs, retail theft, and general prosecutorial services. They also consolidate \$40 million in state and local law enforcement grants to support extreme risk protection orders, retail theft, and other public safety programs.

Additionally, the Senate advances language to establish a retail crime task force. The task force would be authorized to support and assist localities with retail theft incidents, if requested, create a centralized information sharing system to share real-time intelligence/data on retail crime, and investigate large scale organized retail theft occurring between two or more counties.^{cxix}

State Correctional Facility Closures^{cxx}

The Executive Budget authorizes the closure of up to five state correctional facilities with 90-day notice. The Department of Corrections and Community Supervision's (DOCCS) incarcerated individual population continues to decline and is currently at approximately 32,500 incarcerated individuals, down from a high of approximately 72,000 in 1999.

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Senate & Assembly Changes

The Senate modifies the proposal to require a 180-day notice of closure. The Assembly rejects the Governor's proposal.

Raise the Age^{cxxi}

The Executive Budget includes another new appropriation of \$250 million in SFY 25 to provide counties with funding to comply with the Raise the Age law. In addition, the budget reappropriates another \$842 million in unspent funds dating back to the SFY 18 Enacted Budget.

Assembly Changes

The Assembly modifies the Raise the Age appropriation to ensure all localities can receive state reimbursement under this program and carves out \$50 million of the total appropriated funds to be used for community based prevention, early intervention, and alternatives to detention.

Expanding RTA Funding to NYC^{cxxii}

The Senate advances language to amend the state finance law regarding access to funding for RTA programming to NYC.

Restructuring Prosecutorial Services Grants for DA's

The Senate repurposes \$150 million in various Prosecutorial Services grants for District Attorneys. The Senate consolidates these grants into one appropriation to improve the grant contract process, ensuring funding is allocated appropriately and provided in a more timely manner.

This includes the following:

- \$150 million for Prosecutorial Services grants for District Attorneys to support Discovery related costs, Retail Theft, and general prosecutorial services.
- Funding awards will be developed in consultation with local District Attorneys.
- The Division of Criminal Justice Services will be required to submit an annual spending report to the Legislature and public regarding the use of funding and effectiveness of these grants.

Transportation

Local Highways and Bridges^{cxxiii}

The Executive Budget continues funding local highway and bridge projects. Funding for the Consolidated Highway Improvement Program (CHIPS) and the Marchiselli program is maintained at the planned level of \$577.8 million. The budget provides the third year of an annual \$100 million for the local Pave Our Potholes program, \$150 million in highway aid through the PAVE NY program, and \$200 million to fund local projects from the BRIDGE NY program. The Extreme Winter Recovery and State Touring Route programs are funded at \$100 million each.

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Senate & Assembly Changes

The Senate increases road funding by providing:

- \$160 million in additional support for the Consolidated Local Highway Improvement Program (CHIPS), for a total of \$698.1 million
- \$90 million in additional support for State Touring Routes (STR), for a total of \$190 million.
- \$50 million in additional support for Extreme Winter Recovery (EWR), for a total of \$150 million.
- \$27.5 million in additional support for the Aviation Capital Grant Program, for a total of \$40 million.

The Assembly provides \$1.5 billion for local capital aid, an increase of \$250 million over the Executive proposal, including:

- \$598.1 million for the Consolidated Highway Improvement Program (CHIPs), a restoration of \$60 million;
- \$210 million for the Pave NY program, an increase of \$60 million over the Executive proposal;
- \$150 million for Extreme Winter Recovery, an increase of \$50 million over the Executive proposal; and
- \$180 million for the State Touring Route program, an increase of \$80 million over the Executive proposal, including a restoration of \$40 million.

MTA Fare-Free Bus Pilot Program^{cxxiv}

The Assembly advances legislation to direct the MTA to implement a fare-free bus pilot program in the City of New York.

Veterans

Joseph P. Dwyer Funds^{cxxv}

The Executive Budget includes \$8.023 million for Joseph P. Dwyer funds, an increase from \$7.715 million in the SFY 24 Enacted Budget.

Joseph P. Dwyer Grant Allocations (SFY 24)	
Albany County	\$109,200
Allegany County	\$104,000
Broome County	\$192,400
Cattaraugus County	\$192,400
Cayuga County	\$104,000
Chautauqua County	\$192,400
Chemung County	\$104,000
Chenango County	\$104,000
Clinton County	\$54,600
Columbia County	\$104,000

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Cortland County	\$104,000
Delaware County	\$104,000
Dutchess County	\$192,400
Erie County	\$192,400
Essex County	\$104,000
Fulton County	\$104,000
Genesee County	\$83,200
Greene County	\$104,000
Hamilton County	\$104,000
Herkimer County	\$104,000
Jefferson County	\$192,400
Lewis County	\$104,000
Livingston County	\$104,000
Madison County	\$104,000
Monroe County	\$192,400
Montgomery County	\$104,000
Nassau County	\$192,400
Niagara County	\$192,400
Oneida County	\$109,200
Onondaga County	\$192,400
Ontario County	\$104,000
Orange County	\$192,400
Orleans County	\$54,600
Oswego County	\$104,000
Otsego County	\$104,000
Putnam County	\$192,400
Rensselaer County	\$192,400
Rockland County	\$192,400
Saratoga County	\$192,400
Schenectady County	\$109,200
Schoharie County	\$104,000
Schuyler County	\$104,000
Seneca County	\$104,000
St. Lawrence County	\$104,000
Steuben County	\$104,000
Suffolk County	\$192,400
Sullivan County	\$192,400
Tioga County	\$104,000
Tompkins County	\$104,000
Ulster County	\$192,400
Warren and Washington Counties	\$192,400

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Wayne County	\$104,000
Westchester County	\$192,400
Wyoming County	\$54,600
Yates County	\$104,000
University at Albany School of Social Welfare	\$218,400
NYC	\$416,000

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Budget References

- ⁱ Part K, REV Article VII
- ⁱⁱ REV, Part Y
- ⁱⁱⁱ REV, Part Z
- ^{iv} REV, Part AA
- ^v REV, Part T
- ^{vi} Budget Briefing Book, Pg. 96
- ^{vii} Briefing Book, page 36; REV, Part L
- ^{viii} REV, Part M
- ^{ix} REV, Part CC
- ^x Budget Briefing Book, p 16.
- ^{xi} Budget Briefing Book, p 17.
- ^{xii} Budget Briefing Book p 20.
- ^{xiii} Budget Briefing Book, p 21.
- ^{xiv} ELFA, Part FF
- ^{xv} Aid to Localities, Ag & Markets (11498)
- ^{xvi} Briefing Book, page 61; Capital Projects, Ag & Markets (60BD2409)
- ^{xvii} TED, Part UU
- ^{xviii} TED, Part HHH; Aid to Localities (11498)
- ^{xix} PPGG, Part EE
- ^{xx} Budget Briefing Book, pp. 78 & 81.
- ^{xxi} ELFA, Part V
- ^{xxii} ELFA, Part X
- ^{xxiii} Budget Briefing Book, Pg. 55
- ^{xxiv} Budget Briefing Book, Pg. 75
- ^{xxv} Budget Briefing Book, Pg. 75
- ^{xxvi} Part C, HMM Article VII
- ^{xxvii} Governor Hochul's SOTS
- ^{xxviii} Briefing Book, page 49; Capital Projects, UDC (47009)
- ^{xxix} ELFA, Part II
- ^{xxx} Briefing Book, page 49; Capital Projects, DOS (51275)
- ^{xxxi} Briefing Book, page 49; Aid to Localities, ESD (21417)
- ^{xxxii} Briefing Book, page 49; Capital Projects (91442409)

- ^{xxxiii} Briefing Book, page 49; Capital Projects, ESD (91172409)
- ^{xxxiv} Briefing Book, page 49; Capital Projects, UDC (85513)
- ^{xxxv} Capital Projects, UDC (91162409)
- ^{xxxvi} TED, Part PP
- ^{xxxvii} TED, Part PP
- ^{xxxviii} Aid to Localities, Pg. 292
- ^{xxxix} Capital Projects, pg. 123
- ^{xl} Briefing Book, page 61; Capital Projects, DEC (25722)
- ^{xli} Briefing Book, page 61; Capital Projects, DEC, ENVIRONMENT AND RECREATION (CCP) (30455)
- ^{xlii} Briefing book, page 61; Capital Projects, DEC (24702)
- ^{xliii} Briefing Book, page 61; Capital Projects, Parks
- ^{xliv} Briefing Book, page 61; Aid to Localities, DPS
- ^{xlv} TED, Part QQ
- ^{xlvi} TED, Part M
- ^{xlvi} TED, Part O
- ^{xlvi} TED, Part P

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xlix TED, Part S
l TED, Part U
li TED, Part GG
lii TED, Part T
liii State Ops
liv TED, Part SS
lv TED, Part XX
lvi TED, Part CCC
lvii REV, Part BB
lviii State Ops, DEC
lix Capital Projects
lx Budget Briefing Book, Pg. 97 + Part W, PPGG Article VII
lxi Part E, TEDE Article VII
lxii Part KK, TEDE Article VII
lxiii Part N, REV Article VII
lxivlxiv Budget Briefing Book, Pg. 98 + Part U, PPGG Article VII
lxv Briefing Book, page 98 + Capital Projects Pg. 908 + Aid to Localities pg. 767
lxvi Budget Briefing Book, Pg. 122
lxvii PPGG, Part DD
lxviii PPGG, Part FF
lxix Budget Briefing Book, Pg. 86
lxx Briefing Book, page 49
lxxi TED, Part FF
lxxii ELFA, Part Q
lxxiii ELFA, Part R
lxxiv ELFA, Part S
lxxv ELFA, Part T
lxxvi ELFA, Part U
lxxvii ELFA, Part DD
lxxviii ELFA, Part BB
lxxix Budget Briefing Book, Pg. 85
lxxx ELFA, Part YY
lxxxi ELFA, Part JJ
lxxxii ELFA, Part CC
lxxxiii Budget Briefing Book, Pg. 119 + Part R, PPGG Article VII
lxxxiv Const. Amendment Proposal 1/1
lxxxv Pg. 803, Aid to Localities
lxxxvi Pg. 802, Aid to Localities
lxxxvii Pg. 802, Aid to Localities
lxxxviii Pg. 801, Aid to Localities
lxxxix Pg. 801, Aid to Localities
xc PPGG, Part EEE
xci PPGG, Part BBB
xcii PPGG, Part CCC
xciii PPGG, Part HHH
xciv ELFA, Part LL
xcv ELFA, Part OO
xcvi Budget Briefing Book, p 18.
xcvii Briefing Book, page 104; Aid to Localities, OMH (36941)
xcviii TED, Part HH

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- xcix PPGG, Part O
- c HMH, Part SS
- ci HMH, Part LL
- cii HMH, Part MM
- ciii PPGG, Part M
- civ Part PP, S.8305-B
- cv PPGG, Part EE
- cvi Aid to Localities, DOH (26815), rabies (29973), tobacco (29549)
- cvi Briefing Book, page 106; Aid to Localities, DOH (11809)
- cvi Briefing Book, page 69; HMM Part U
- cix TED, Part EE
- cx HMM, Part Q
- cx HMM, Part R
- cxii HMM, Part T
- cxiii Budget Briefing Book, Pg. 73 + Part V, HMM Article VII
- cxiv HMM, Part X
- cxv Part M, S.8306-B (HMM)
- cxvi PPGG, Part G
- cxvii HMM, Part JJ
- cxviii Budget Briefing Book, Pg. 111
- cxix PPGG, Part XX
- cx Part D, PPGG Article VII
- cxix Page 1044, Aid to Localities
- cxix Part UU, S.8306-B
- cxix Budget Briefing Book, Pg. 128 + Capital Projects Pg. 677, 678
- cxix TED, Part OO
- cxix Page 861, Aid to Localities