



2020-21 New York State Budget Summary

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Overview

FY 2021 Budget Proposal Totals \$177 Billion

The 2020-21 New York State Budget totals \$177B and includes a significant fiscal provision authorizing the Director of the Division of Budget temporary authority to reduce budget expenditures by \$10B under certain circumstances up to three times per year. If the director of the Division of Budget proposes a reduction plan, the Legislature would have ten days to pass its own plan or if no action is taken the Division of Budget plan will go into effect automatically.

The FY21 state budget includes provisions allowing the State to borrow up to \$11B in debt which, may provide the spending flexibility required for the programs and capital plan.

Other significant enacted proposals enacted include: mandating prevailing wages on certain projects receiving state funds; paid sick leave; design-build authorization for certain agencies and authorities; \$3B environmental bond act; accelerated siting of renewable energy facilities; time off to vote; and others listed in this summary.

Despite the economic crisis caused by the corona virus pandemic, the Governor and Legislators managed to fund the state capital plan for one year, subject to the discretion of the Director of the Division of Budget. Capital spending will increase for the New York State Department of Transportation (NYSDOT); a new capital matching grant program for the State University of New York (SUNY) and City University of New York (CUNY); Metropolitan Transportation Authority (MTA), environmental infrastructure, and economic development projects.

The following summary provides a broad overview of capital funding and laws enacted in the 2020-21 New York State Budget. As additional information becomes available, AGC NYS will provide an updated FY 2021 New York State Budget Summary.

Table of Contents

1. Capital/Economic Development Programs
2. Proposed Article VII Legislation

Capital and Economic Development Programs

New York State Department of Transportation Capital Program

The Enacted Budget is a one-year NYSDOT capital program funded at \$6.112B (2020-21) which is a significant increase as compared to last year's \$4.504B (2019-20). The NYSDOT core capital program increases by about \$200M and by \$1.1B overall.

The 2020-2021 NYSDOT Capital Program includes:

- Core NYSDOT Highway Program \$2.701B
- PAVE-NY \$100M
- CHIPS and Marchiselli \$478M
- BRIDGE-NY \$100M
- Emergency Winter Recovery Restored \$65M

NYSDOT Capital Program	SFY Enacted 15-16	SFY Enacted 16-17	SFY Enacted 17-18	SFY Enacted 18-19	SFY Enacted 19-20	SFY Enacted 20-21
State/Local Construction	\$1,813	\$2,187.5	\$2,585.5	\$2,354	\$2,521	\$2,701
Van Wyck – Kew/Hunts Pt – Bruckner – I81	-	-	\$1,162	-	-	\$900
Engineering/Administration	\$617	\$731	\$773	\$778	\$582	\$994
Preventative Maintenance	\$365	\$371	\$373	\$356	\$360	\$360
Right of Way	\$62	\$67	\$67	\$45	\$67	\$37
Facilities/Equipment	\$18	\$18	\$18	\$32	\$32	\$32
Other Federal	\$25	\$25	\$25	\$25	\$25	\$25
Rail	\$64	\$76.5	\$72	\$72	\$72	\$72
Aviation	\$14	\$21.5	\$17	\$17	\$17	\$17
Non-MTA Transit	\$57	\$84.5	\$84.5	\$85	\$85	\$131
CHIPS/Marchiselli/EWR/Local PAVE NY	\$528	\$578	\$643	\$643	\$643	\$643
Airport Program	-	\$200	\$0	\$0	\$0	\$100
Local Bridge Program	\$100	\$100	\$150	\$100	\$100	\$100
Plan Total	\$3,663	\$4,460	\$5,970	\$4,507	\$4,504	\$6,112

Metropolitan Transportation Authority

The MTA will receive \$6.214B in operating aid, an increase of \$775M from 2019-20. This includes the Payroll Mobility Tax and other revenue received not directly through the state budget.

State University of New York

The FY 21 SUNY capital budget totals \$1,175B for state-operated facilities, \$46M for community colleges, and a new capital matching grants program.

State-operated/Statutory Colleges – Educational Facilities

- \$550.0M in critical maintenance funding for existing facilities. \$153.4M is allocated to each State-operated/statutory campus and \$396.6M is provided in a lump sum for priority critical maintenance projects.
- \$300.0M (\$200.0M State Share, \$100.0M Campus Share) is provided for a new Strategic Needs Capital Matching Program for the advancement of priority projects, including major renovations and new construction of academic facilities at the State-operated campuses and statutory colleges. Every \$1 of campus-raised funds would leverage \$2 of State support, and this level of match is required for every eligible project.
- \$100.0M for other campus supported capital projects which enables campuses to deposit funds with the State University Construction Fund to support various capital projects, either in whole or in part.
- \$187.3M in pay-as you-go funding for Facilities Maintenance and Operations. This funding is to support the operating expenses of facilities departments at the State-operated campuses.

State-operated – Residence Halls

- \$75.0M is provided for the pay-as-you-go portion of the residence hall program, with an additional \$75.0M planned over the next four years, for a five-year total of \$375.0M.

Hospitals

- \$150.0M in new capital support for projects at each of the three teaching hospitals - Downstate University Hospital, Upstate University Hospital, and Stony Brook University Hospital, \$50.0M for each hospital.

Community Colleges

- \$46.0M representing the State's 50 percent funding share.

City University of New York

The FY21 CUNY capital budget totals \$685M for critical maintenance projects and a new capital matching grants program.

- \$300.0M (\$200.0M State Share, \$100.0M Campus Share) is provided for a new Strategic Needs Capital Matching Program for the advancement of priority projects, including major renovations and new construction of academic facilities at CUNY. Every \$1 of campus-raised funds would leverage \$2 of State support, and this level of match is required for every eligible project.

Empire State Development Corporation

The FY21 ESDC capital budget totals \$380.4M. Additional details to follow.

Department of Environmental Conservation

The FY21 Department of Environmental Conservation capital budget totals \$7.3 billion.

- Modifies the Environmental Protection Fund (EPF) by restoring funding for zoos, botanic gardens, and aquaria, restoring funding for farmland protection, and increasing funding for municipal recycling projects.
- Modifies the \$3B Environmental Bond Act appropriation to include \$1B for restoration and flood risk reduction, \$700M for climate change mitigation, \$550M for open space land conservation and recreation, and \$550M for water quality improvement and resilient infrastructure.
- Includes \$500,000 in capital projects funding to conduct a comprehensive feasibility study that evaluates using New York City's water supply to provide Nassau County with an additional source of drinking water.

Office of General Services

The FY21 Office of General Services capital budget totals \$234M.

Department of Health

The FY21 Department of Health capital budget totals \$212.2M.

Division of Housing and Community Renewal

The FY21 Division of Housing and Community Renewal capital budget totals \$102.2M.

Olympic Regional Development Authority

The FY21 Olympic Regional Development Authority capital budget totals \$144.5M.

Parks, Recreation and Historic Preservation

The FY21 Parks, Recreation and Historic Preservation capital budget totals \$227M.

2020-21 NYS Budget - Article VII Legislation

Transportation, Economic Development and Environmental Conservation – S.7508-B/A.9508-B

PART A – CHIPS Bidding Threshold Increase. The Consolidated Local Street and Highway Improvement Program (CHIPS) competitively bid threshold is increased from \$250,000 to \$350,000. The increase in the minimum competitive bid threshold is intended to mitigate the inflationary impacts on materials, labor, equipment and other construction related costs. The existing threshold was last adjusted in 2011.

PART E – Tandem Truck Access Routes - Thruway Cashless Tolling (AET/ORT). Allows tandem trailers to operate on various routes proximate to the Thruway System in order to access Thruway tandem lots.

PART I – MTA Bond Cap Increase. Increases the MTA's statutory bonding capacity to \$90.1B and extends bonding authority until 2024.

PART DD – Infrastructure Investment Act Extended Two-Years – Expands List of Authorized Entities. Extends the Infrastructure Investment Act (the Act) for two years, expands design-build authorization to other alternative project delivery methods, and expands the current list of authorized entities that may utilize design-build contracts to include the Dormitory Authority of the State of New York (DASNY), the New York State Urban Development Corporation (UDC), New York State Office of General Services (OGS), the State University Construction Fund, the Battery Park City Authority, and the New York State Olympic Regional Development Authority (ORDA). Pursuant to this act, a report shall be submitted on or no later than June 30, 2021 and annually thereafter containing information on each authorized state entity that has entered into a design-build contract including the participation rate and total dollar value of minority- and women-owned business enterprises and service-disabled veteran-owned businesses, and whether a project labor agreement was used, and if applicable, the justification for using a project labor agreement. Such report shall also be posted on the website of the New York state office of general services for public review.

PART KK – Water Infrastructure Financing Assistance for Municipalities. Allows the Environmental Facilities Corporation (EFC) to offer municipalities 40-year financing through the Clean Water State Revolving Fund and/or Drinking Water State Revolving Fund for projects which qualify for zero-percent interest rates due to financial hardship.

PART QQ – Authorizes the \$3B Environmental Bond Act of 2020 "Restore Mother Nature" to be submitted for voter approval in November of 2020. The Environmental Bond Act of 2020 "Restore Mother Nature," authorizes the issuance of \$3B of bonds to finance environmental improvements that preserve, enhance, and restore New York's natural resources and reduce the impact of climate change. The Act authorizes the State to incur \$3B of debt in the form of tax-exempt general obligation bonds to be sold by the State Comptroller to finance capital projects to restore habitats and reduce flood risk; improve water quality; protect open space and invest in recreational infrastructure; expand the use of renewable energy to mitigate climate change; and other such projects that preserve, enhance, and restore the quality of the state's environment. However, that such act shall not be submitted to the people unless the Director of the Division of Budget certifies to the Secretary of State that such debt can be issued within the state's multi-year financial plan without adversely affecting the funding available for (a) capital projects currently authorized that are deemed essential to the health and safety of the public, or (b) essential governmental services.

PART RR – Implements the Environmental Bond Act of 2020 "Restore Mother Nature". Establishes the \$3B Environmental Bond Act of 2020 "Restore Mother Nature" to be submitted to voters in November 2020. If approved by the voters, this provision will allocate funding for approved projects to finance environmental improvements that preserve, enhance, and restore New York's natural resources and reduce the impact of climate change throughout the State.

PART WW – Fracking Ban. Permanently bans fracking in New York State.

PART EEE – New York Buy American Act. The New York Buy American Act is permanent.

PART FFF - Prevailing Wage to be Paid on Certain Private Construction Projects. Requires prevailing wage to be paid on certain construction projects, paid for in whole or in part, where the amount of all such public funds, when aggregated, is at least thirty percent of the total *construction project costs* and where such *project costs* are over five million dollars. The law does not clearly differentiate between *construction project costs* and *project costs* nor does it define *project costs*. The following construction projects are excluded: benefits under section four hundred twenty-one-a of the real property tax law; tax benefits provided for projects the length or value of which are not able to be calculated at the time the work is to be performed; brownfield remediation or brownfield redevelopment; charter schools, any other public monies, credits, savings or loans, determined by the public subsidy board; one or two family dwellings; not-for-profit charitable organizations; certain affordable housing; manufactured homes; work performed under a collective bargaining agreement or project labor agreement; certain urban development and downtown revitalization projects; renewable energy projects under five megawatts; certain supermarkets; New York City incubation program; schools under sixty thousand square feet, pursuant to a lease from a private owner to the New York city department of education and the school construction authority; and historic rehabilitation.

Under the law the following definitions apply:

(a) "Public entity" shall include, but shall not be limited to, the state, local development corporation, municipal corporation, industrial development agencies, industrial development authorities, and any state, local or interstate or international authorities and any trust created by any such entities.

(b) "Construction" means work which shall be as defined by the public subsidy board to require payment of prevailing wage, and which may involve the employment of laborers, workers, or mechanics.

(c) "Fiscal officer" shall be deemed to be the Commissioner of Labor.

The law establishes a stop work order complaint, hearing, and enforcement process. When a complaint is received pursuant to this article, or where the fiscal officer upon his or her own investigation, finds cause to believe that any person, in connection with the performance of any contract for public work has substantially and materially failed to comply with or intentionally evaded the provisions of this article, the fiscal officer may notify such person in writing of his or her intention to issue a stop-work order. The order shall remain in effect until the fiscal officer directs that the stop-work order be removed, upon a final determination on the complaint or where such failure to comply or evade has been deemed corrected. If the person against whom such order is issued shall within thirty days after issuance of the stop-work order makes an application in affidavit form for a redetermination review of such order the fiscal officer shall make a decision in writing on the issues raised in such application. The fiscal officer may direct a conditional release from a stop-work order upon a finding that such person has taken meaningful and good faith steps to comply with the provisions of this article.

The law establishes a thirteen member Public Subsidy Wage Board appointed by the governor as follows: one member upon the recommendation of the temporary president of the senate, one member upon the recommendation of the speaker of the assembly, Commissioner of Labor, the president of the empire state development corporation, the director of the division of the budget, two members representing employees in the construction industry, of whom one shall be a representative of the largest statewide trade labor association representing building and construction workers, and one shall be a representative of the largest trade labor association representing building and construction workers with membership in New York City, and two members representing employers in the construction industry, of whom one shall be a representative of the largest statewide organization representing building owners and developers, either for-profit or not-for-profit, and one shall be a representative of a statewide organization representing building owners and developers, either for-profit or not-for-profit, representing a region different than the region primarily represented by the initial employer representative. The board shall meet on an as needed basis and shall have the power to conduct public hearings.

The Public Subsidy Wage Board may examine and make recommendations regarding the following for covered projects:

- (a) Minimum threshold percentage of public funds;
- (b) Minimum dollar threshold of projects;

- (c) Construction work excluded as a covered project
- (d) Definition of construction; or
- (e) Particular instances of benefits, monies or credits as to whether or not they should constitute public funds.

Prior to making any recommendation intended to apply to all projects, the board shall hold a public hearing. At each hearing, the board may hear testimony and/or review written documents from any interested stakeholders related to the planned agenda of the meeting. The board shall make any such recommendations in writing. In making its recommendations, the board shall examine the impact of such thresholds and circumstances on private development in light of available public subsidies, existing labor market conditions, prevailing wage and supplement practices, and shall consider the extent to which adjustments to such thresholds and circumstances could ameliorate adverse impacts, if any, or expand opportunities for prevailing wage and supplement standards on publicly subsidized private construction projects in any region or regions of the state. The board shall be empowered to issue binding determinations to any public entity, or any private or not-for-profit owner or developer as to any particular matter related to an existing or potential covered project.

Part JJJ – Renewable Energy Siting. A new Office of Renewable Energy Siting, within the Department of State, will consolidate the environmental review and permitting process to accelerate the siting of renewable energy facilities. The new office has the authority to override any local law or ordinance if it finds it to be "unreasonably burdensome" given the state's energy goals.

Part LLL – MTA Debt. Empowers the MTA to borrow to offset revenue declines caused by the novel coronavirus, COVID-19 for a limited period of time.

Part MMM – Central Business District Lockbox Fund. Empowers the MTA to use the central business district lockbox funds to offset revenue declines caused by the novel coronavirus, COVID-19 for a limited period of time.

Part UUU – NYS & NYC MTA Capital Commitment. Commits the state of New York and the city of New York to fund, over a multi-year period, \$6B in capital costs related to projects contained in the MTA 2020-2024 capital program. The state share of \$3B and the city share of \$3B shall be provided to pay the capital costs of the capital program. The funds committed by the state and city shall be provided concurrently, and in proportion to the respective shares of each, in accordance with the funding needs of the capital program.

Part VVV – Penn Station Access. Empowers the MTA to use a new process for appraising land in the City of New York to use for purposes of assessing land value for potential acquisitions related to accessibility projects, electrical substations, and Penn Station Access.

Public Protection and General Government – S.7505-B/A.9505-B

Part AAA – Time Off to Vote. Employees shall be entitled to time off to vote on any voting day, including early voting days, provided that such employee does not have sufficient time to vote on any other voting day, including early voting days.

Education, Labor and Family Assistance – S.7506-B/A.9506-B

PART J – Paid Sick Leave. Requires all employers to provide sick leave to their employees each calendar year: employers with 0-4 employees to provide up to 40 hours of unpaid sick leave each calendar year; employers with 5-99 employees to provide up to 40 hours of paid sick leave each calendar year; and employers with 100 or more employees to provide up to 56 hours of paid sick leave each calendar year. Employees are eligible to begin using sick time January 1, 2021. AGC NYS will provide information about the eligible employee uses of sick leave in a separate document.

Part EEE – NYS Bridge Authority. Makes various changes to the Bridge Authority board and authorizes it to share additional services with the Thruway Authority.