


REVENUE ACTIONS



The FY 2024 Executive Budget continues to build on the accomplishments of the FY 2023 Budget by expanding tax credits for farmers, continuing the State's support for the arts and tourism by expanding the current tax credit for Broadway productions, as well as enabling tax simplification and other taxpayer-friendly measures.

ECONOMIC BACKGROUND AND OUTLOOK

New York State and the nation faced mounting inflationary pressures in 2022. Pandemic-related fiscal stimulus, supply chain disruptions, and price spikes in energy and agricultural products due to the war in Ukraine pushed consumer price inflation to its highest levels in over 40 years. As a result, year-over-year Consumer Price Index (CPI) inflation surged throughout 2022, peaking at 9.1 percent in June before falling to 6.5 percent in December. Meanwhile, U.S. Gross Domestic Product (GDP) fell for two consecutive quarters in the first half of 2022, triggering concerns that the U.S. economy might already be in a recession. However, this contraction followed a strong rebound in 2021 from the pandemic.

U.S. real GDP rebounded strongly by 3.2 percent in the third quarter of 2022. Recession fears continue to loom over the national economy as the Federal Reserve tightens monetary policy at the fastest pace on record to curb inflation. The U.S. economy is expected to enter a mild downturn in 2023, with an estimated annual average GDP growth of 0.5 percent.

In 2022, New York State's labor market continued its recovery from the global pandemic. As of December 2022, the State had regained 86.5 percent of its pandemic-related job losses. However, the nation had already recovered all its pandemic-related job losses by August 2022. Following an estimated growth of 5.0 percent in 2022, the State's labor market outlook remains weak. The State's employment is projected to grow by only 0.7 percent in 2023, with private sector employment growing by 0.8 percent. This outlook is due to the slowing global economy, the stock market's volatile performance, and an impending national recession following the Federal Reserve's rapid, albeit lagged, rate hikes to bring inflation under control. As a result of the projected weaker growth,

the State is not expected to return to pre-pandemic employment levels until 2027.

New York State's wages increased by 12.4 percent in FY 2022 due to the significant number of jobs recovered, high inflation, and strong equity market growth. However, wages are estimated to increase by a more modest 2.4 percent in FY 2023 due to a slowdown in hiring and a substantial decline in bonuses. The State's total wages are projected to grow by 2.3 percent in FY 2024 due to a substantial slowdown in job growth and a small decline in bonuses. The State's finance and insurance sector bonuses are estimated to fall by 25.2 percent in FY 2023 due to weaker bank profits in 2022, stemming from the stock market's weak performance, record low dealmaking activity, and the lapse of pandemic-related fiscal stimulus. As the outlook of the financial markets improves, the finance and insurance sector bonuses are projected to experience a smaller decline of 5.1 percent in FY 2024.

BRIEFING BOOK REVENUE ACTIONS

(millions of dollars)

	General Fund		All Funds	
	FY 2024	FY 2025	FY 2024	FY 2025
Providing Tax Relief to New York	-	(42)	-	(42)
Extend and Enhance the Film Tax Credit	-	-	-	-
Extend the Empire State Commercial Production Tax Credit for Five Years	-	-	-	-
Modify the Investment Tax Credit for Farmers	-	(7)	-	(7)
Extend the New York City Musical and Theatrical Production Tax Credit for Two Years	-	-	-	-
Create a Tax Credit for Child Care Creation and Expansion	-	(25)	-	(25)
Extend the Lower Manhattan Sales and Use Tax Exemption	-	(10)	-	(10)
Extend the Tax Credit for the Phase Out of a Certain Grade of Fuel Oil for Six Months	-	-	-	-
Reform, Simplification, and Other Actions	(58)	712	(127)	581
Lead the Way for A Tobacco-Free Generation - Increase the State Excise Tax on Cigarettes from \$4.35 to \$5.35	(7)	(14)	(13)	(25)
Lead the Way for A Tobacco-Free Generation - Prohibit the Sale of All Flavored Tobacco Products	(51)	(100)	(116)	(222)
Make Local Sales Tax Rate Authorizations Permanent	-	-	-	-
Return Foreclosure Excess to Property Owners	-	-	-	-
Simplify and Modernize the Local Senior Citizens Exemption Income Definition	-	-	-	-
Allow DTF the Right to Appeal DTA Tribunal Decisions	-	-	-	-
Provide Authority to Abate Interest for Taxpayers Impacted by Declared Disasters	-	-	-	-
Extend and Limit the Vending Machine Sales Tax Exemption to Business Enterprise Program Vendors for One Year	-	-	-	-
Extend the Tax Credit for the Rehabilitation of Historic Properties for Five Years	-	-	-	-
Amend Motor Fuel Reporting Designation	1	1	2	4
Eliminate the Congestion Surcharge Registration Requirements	-	-	-	-
Extend the Temporary Article 9-A Tax Rates for Three Years	-	810	-	810
Create the Extended Prosperity and Innovation Campuses ("EPIC") Initiative	-	(1)	-	(1)
Require S-Corporation Conformity with Federal Returns	-	15	-	15
Make Technical Changes to Tax Law	-	-	-	-
Revoke Cigarette and Tobacco Taxes Certificate of Registration for Inspection Refusal	-	-	-	-
Abatement of Penalties for Underpayment of Estimated Tax by a Corporation	-	-	-	-
Clarification of the Wind and Solar Valuation Model	-	-	-	-
Technical Correction to the Deposit Timeframe	-	-	-	-
Extend the Application Date for COVID-19 Capital Costs Tax Credit	-	-	-	-
Extend Reduced Real Estate Transfer Tax Rates for Qualifying REITs for Three Years	-	-	-	-
Gaming Initiatives	-	-	11	22
Authorize a Franchise Corporation's Payment Structure to Fund the Belmont Redevelopment Project	-	-	-	-
Extend Pari-Mutuel Tax Rates and Simulcast Provisions for One Year	-	-	-	-
Enact Procedures For An Off-Track Betting Corporation To Terminate Operations	-	-	-	-
Extend Capital Acquisition Fund Flexibility for Capital OTB for One Year	-	-	-	-
Eliminate Quick Draw Restrictions	-	-	11	22
Fee Actions	-	-	-	-
Extend the Oil and Gas Fee	-	-	-	-
TOTAL REVENUE ACTIONS	(58)	670	(116)	561

PROVIDING TAX RELIEF TO NEW YORK

With a mild downturn projected for 2023, the Executive Budget's tax revenue actions are measured and targeted to maximize the benefit to taxpayers and incentivize the recovery of key sectors of the New York State economy. These include:

Extend and Enhance the Film Tax Credit. The Budget would extend the production and post-production credits an additional five years through 2034 and would make the following additional changes:

- Increase the annual funding cap of the credits to \$700 million starting in tax year 2024; including \$45 million of this being allocated to the post-production credit;
- Increase the credit base rate from 25 to 30 percent;
- Provide an additional 5 percentage points credit for eligible relocating television series;
- Include a capped credit for "above the line" salaries like those for writers and directors; and
- Reduce the number of seasons that a relocated television series must be filmed outside New York prior to its first relocated season in New York to be eligible for the credits.

Modify the Investment Tax Credit for Farmers. Many farms are in a position where their tax liabilities do not allow them to benefit from nonrefundable tax credits, rendering the financial incentive provided by the Investment Tax Credit (ITC) moot. This Budget stimulates farm investment by:

- Converting the ITC into a refundable tax credit for five years.
- Providing over 130 farmers and farm businesses with the ability to utilize \$7 million additional ITC credits annually.

Extend the New York City Musical and Theatrical Production Tax Credit. To continue the State's support of an industry greatly affected by the pandemic, the Executive Budget makes the following changes:

- Extends the initial application deadline from June 30, 2023 to June 30, 2025; and
- Increases the overall cap on the program from \$200 million to \$300 million.

OTHER KEY TAX CUTS AND CREDITS

Extend the Tax Credit for the Phase Out of a Certain Grade of Fuel Oil for Six Months. The FY 2023 Enacted Budget established a tax credit equal to 50 percent of conversion costs to assist affected entities outside of New York City to convert to cleaner energy sources. The Executive Budget extends the application deadline from before July 1, 2023 to before January 1, 2024.

Create a Tax Credit for Child Care Creation and Expansion. There is a critical shortage of child care available and accessible to working parents. The Executive Budget proposes to establish a new tax credit for the creation and expansion of child care to incentivize and assist the creation of new child care opportunities. Businesses that create new child care seats or expand existing child care would receive a refundable tax credit.

REFORM, SIMPLIFICATION AND OTHER ACTIONS

Lead the Way for A Tobacco-Free Generation. To achieve this important initiative the Executive Budget takes two actions:

- Increases the excise tax on cigarettes from \$4.35 to \$5.35.
- Prohibits the sale of all flavored tobacco products.

Make Local Sales Tax Rate Authorizations Permanent. In an effort to shore up local government finances and to ensure revenue stability and certainty

for local governments going forward, the Executive Budget:

- Grants permanent local sales tax authority for all counties and cities at their existing rates or up to 4 percent.
- As such, local governments would no longer need to seek and receive the State’s approval as long as they want to extend their existing rates or increase their rate to no more than 4 percent.
- All local governments will still be required to seek and receive temporary approval by a majority vote of the local government’s governing body in order to impose additional sales tax above the current statutory 3 percent threshold.

Return Foreclosure Excess to Property Owners.

When a delinquent property taxpayer experiences a loss of their property through a foreclosure proceeding, any equity that has been accumulated during their ownership is forfeited. To rectify this injustice, the Executive Budget provides that when a tax delinquent property is foreclosed upon by the county and sold, any money the county receives that exceeds the liability amount (e.g., overdue taxes, penalties, interest, mortgage liens, etc.) will be returned to the property owner, minus applicable administrative costs to the local government.

Simplify and Modernize the Local Senior Citizens Exemption Income Definition. Local governments and school districts can opt to grant a reduction on the amount of property taxes paid by qualifying senior citizens. This is accomplished by reducing the taxable assessment of the senior’s home by as much as 50 percent – dependent on age, income, and other local requirements and thresholds.

The definition of income for this exemption is long, cumbersome, and often difficult to understand. To simplify the income definition used by local governments, the Executive Budget amends the statute to match the income definition that is used to qualify for the School Tax Relief Program. This change would eliminate the need for seniors to bring multiple documents to their assessor to verify their income, and reduce the burden on the State’s senior homeowners, as well as assessors.

Allow DTF the Right to Appeal DTA Tribunal Decisions. The New York State Division of Tax Appeals Tribunal (DTA) is an independent body with the ability to cancel assessments, invalidate regulations, and reverse prior Tribunal decisions (and its predecessor, the State Tax Commission). While a taxpayer may appeal an adverse decision of the Tribunal to a court, the Tax Commissioner may not. This presents a significant flaw in the statute; it denies New York State Department of Taxation and Finance (DTF) the right to seek judicial review of an adverse decision that it believes is contrary to the interests of the people of this state.

Clarification of the Treatment of Limited Partners for the Metropolitan Commuter Transportation Mobility Tax. The Executive Budget amends the definition of “net earnings from self-employment” to clarify the definition of a limited partner for the purposes of the Metropolitan Commuter Transportation Mobility Tax (MCTMT), thereby eliminating an ambiguity that some individuals have exploited to avoid paying the MCTMT.

Extend and Limit the Vending Machine Sales Tax Exemption to Business Enterprise Program Vendors for One Year. To support the continued efforts of the New York State Commission for the Blind Business Enterprise Program (BEP), the Executive Budget extends for one year, the existing sales tax exemption for certain food and drink purchased from vending machines (\$1.50 or less for items purchased from vending machines that only accept coin or currency and \$2.00 or less from vending machines that can accept cashless payments) to vending machines operated by vendors in the BEP. The current exemption is scheduled to expire May 31, 2023.

Extend the Temporary Article 9-A Tax Rates for Three Years. The FY 2022 Enacted Budget established temporary tax rates on the business income base for Article 9-A filers with business income tax bases over \$5 million, as well as reinstated the capital base tax rate for certain taxpayers. The Executive Budget extends these temporary Article 9-A rates for three years, through Tax Year 2026.

Extend the Tax Credit for the Rehabilitation of Historic Properties for Five Years. Taxpayers may claim a tax credit for the rehabilitation of historic properties located in New York State. Historic properties are buildings and the structural components that are listed in the National Register of Historic Places or are located in a registered historic district and that are certified to be of historic significance to the district. This tax credit is currently available through Tax Year 2024, but the Executive Budget extends this tax credit through Tax Year 2029.

Require S-Corporation Conformity with Federal Returns. The Executive Budget requires all Federal S Corporations be treated as such for state tax purposes unless the corporation is a qualified New York manufacturer and chooses New York C corporation status. Currently, Federal S corporations with investment income above 50 percent of Federal gross income are treated as NYS S corporations. This change addresses tax avoidance in cases where shareholders change residence to avoid tax on dividends.

GAMING INITIATIVES

Authorize a Franchise Corporation's Payment Structure to Fund the Belmont Redevelopment Project. The Executive Budget provides for a financing structure for the New York Racing Association (NYRA) to redevelop Belmont Racetrack. This will include winterizing the track, opening the infield, and constructing a new redesigned grandstand. At the time of completion, Aqueduct racing will consolidate with Belmont and Aqueduct property will return to the State.

Eliminate Quick Draw Restrictions. The Executive Budget removes certain antiquated restrictions on vendor locations selling Quick Draw tickets in order to increase revenue for education.

Revenue Spotlight: Mobile Sports Wagering. The one-year anniversary of mobile sports wagering in New York State was Sunday, January 8, 2023. Through January 7, the total mobile sports wagering handle reached \$16.6 billion and generated a total net revenue to education of \$709.2 million. An

additional \$200 million in licensing fees has also been collected, generating a total of more than \$909 million in revenue.

For Fiscal Year 2023 and annually thereafter, revenues from mobile sports wagering are distributed as follows: \$5 million to fund sports programs for underserved youths, \$6 million to fund problem gambling education and treatment, with the remaining majority to fund education aid.