



# **THE NEW YORK STATE PUBLIC EMPLOYEES FEDERATION TESTIMONY**

Workforce Development Joint Legislative Budget Hearing

2022-23 Executive Budget Proposal

January 31, 2022

Wayne Spence, President

Good afternoon Chairpersons Krueger, Weinstein, Jackson, Abbate and other committee members. My name is Wayne Spence and I am the President of the Public Employees Federation (PEF). I want to thank you for the opportunity to speak to you on behalf of our 50,000 members about the positive steps forward that Governor Hochul's Executive Budget proposal represents and ways to improve on this proposal to address the everyday needs of thousands of New Yorkers.

Our union is made up of professional, scientific and technical experts who provide critical services to the residents and taxpayers of New York State. Serving as the state's frontline essential workers during the COVID-19 pandemic, my members have risked their lives and those of their families to maintain the continuity and quality of care to New York's most vulnerable citizens. Our members care for the elderly, the sick and the infirm; they work to ensure the state's roads and bridges are safe and secure; they help to rehabilitate those who have violated the law and provide safety net services for our most vulnerable, at-risk New Yorkers. Our members take a great deal of pride in their work because they are dedicated professionals and they care.

PEF is very pleased with Governor Hochul's Executive Budget Proposal and her efforts to increase staff at many of the state agencies. Rebuilding the state workforce and reinvesting in publicly-operated services should be a top priority for this year's budget as we work collectively to reduce the incarcerated population and ensure their success back in their communities; to provide accessible, quality services to individuals suffering from mental illness and/or addiction issues; and to ensure that all New Yorkers with developmental disabilities have

appropriate placement in suitable programs and services and limit unnecessary disruptions in service or physical displacements.

## **FUND OUR FUTURE**

The current over-reliance on private providers to render safety net services neither adequately addresses the continuum of care for this population nor the need to integrate services for those who have multiple needs – i.e., mental health, health and wellness, job training, housing, etc.

This year's budget surplus, combined with the savings achieved from deinstitutionalizing the state's criminal justice system, provides the state a unique opportunity to address the real and growing public safety concerns around mental illness and addictions. PEF has initiated a campaign with its national affiliates, other unions and other community groups to encourage you, our legislators, to reverse a decade of service cuts and make needed investments in state agencies so that our experienced professional workforce can provide quality, accessible services to all New Yorkers regardless of income, insurance, immigration status, or other factors that serve to limit the availability of services from the private provider network.

New Yorkers are watching crime, especially violent crime, increase across the state and nation. We need to recognize this reality and invest in the government-operated programs and services needed to help at-risk individuals access mental health, wellness, substance abuse and other treatment before they interact with criminal justice system or as they work to successfully re-integrate back into their communities. Absent significant investments in these public programs and services, New Yorkers cannot be secure in knowing that every action is being taken to keep them safe.

The following outlines some of the concerns that we have with the Executive Budget and the areas where we think the state needs to go further to build upon Governor Hochul's vision for a thriving New York.

I. **DISINVESTMENT IN STATE SERVICES IS HURTING AT-RISK NEW YORKERS AND HARMING COMMUNITIES**

PEF has been raising concerns about agency budget cuts, short staffing and privatization of critical public services for over a decade. In many ways, the COVID-19 pandemic exposed the impact of short-sighted staffing plans operational in many of the state agencies, especially those that are constitutionally obligated with caring for the state's most vulnerable residents like the SUNY Hospitals, the OPWDD, OMH and OCFS. We are thankful for Governor Hochul's focus on the staffing crisis at our depleted state agencies and are pleased she is developing additional programming to help New York's most vulnerable citizens. While our members are dedicated professionals who love their jobs and care deeply about providing quality services, they are suffering from fatigue and low morale in virtually all agencies and all fields. We believe this is a result of the state's continued reduction of staffing, which led to unreasonable demands for overtime, an over-reliance on private providers for state safety net services, the use of expensive consultants in lieu of our highly trained and competent staff and the continued erosion of the civil service system under which the state is legally required to operate.

A decade's worth of austerity budgets, staffing cuts and program closures can be felt with the ongoing mental health and addictions crises, the closure of homes for the developmentally disabled, longer waits for the processing of unemployment insurance claims, scarce resources to help formerly incarcerated individuals on the path to a seamless reintegration back into their communities and fewer inspectors to ensure the safety and quality of the state's roads and bridges.

## A. SHORT STAFFING COSTS HURTS THE STATE

The erosion of the state workforce has had a negative impact on work culture, increased attrition and resignations, and has severely limited the ability of the state to attract talent. This erosion has had a negative impact on the cost-effective delivery of vital services. It is important to note that while we have seen a significant decline in state employees and a significant increase in overtime, we have also seen a significant increase in the number of managers overseeing staff at the state agencies. In fact, the ratio of managers to employees has increased from 1:17 in 2011 to 15:1 in 2021. With limited resources, we need fewer managers and more staff to serve New Yorkers appropriately.

**Table 1**  
**Total State Workforce 2011 Versus 2021**

<b>Year</b>	<b>2011</b>	<b>2021</b>	<b>Difference</b>	<b>Percent Change</b>
State Employees	159,161	147,224	-15,063	-9%
Managers	9,420	9,917	+497	20%
Overtime Hours	14 million	19 million	5 million	26%
Overtime Cost <sup>1</sup>	\$747million	\$850 million	+\$373 million	44%

Source: 2011 State Workforce Report, NYS Department of Civil Service; <https://www.cs.ny.gov/businesssuite/docs/workforceplans/2011.pdf>  
Source: 2021 State Workforce Report, NYS Department of Civil Service; <https://www.cs.ny.gov/businesssuite/docs/workforceplans/2021.pdf>

PEF is thankful that the Governor is prioritizing hiring as the state's pandemic response has required the imposition of significant overtime on various agencies, especially those that deal directly with service delivery to clients. While there will always be a need for some overtime, over-reliance on it burns out staff, increases attrition, and unnecessarily impairs the quality of services delivered.

## B. EFFECT OF SHORT STAFFING ON PROGRAMS AND MORALE

The state of New York is the safety net provider of services to the most at-risk New Yorkers. Unlike private providers, the state cannot deny services. While the overall negative effects of staff reductions and program cuts on availability and effectiveness cannot be measured by individual client outcomes or service delivery, reductions in workforce certainly impact the availability and quality of services over time. State employees provide real value-added services to the most vulnerable populations through program development and oversight, direct treatment and monitoring and the maintenance of long-term treatment plans. How many staff vacancies could be filled with \$850 million? How much more effective would service delivery be if we used those resources to increase staff and reducing overtime?

**TABLE 2**  
**Staffing Reductions in Service Agencies**

	<b>2011</b>	<b>2021</b>	<b>Difference</b>	<b>Percent Change</b>
OMH	17,192	14,157	-3,035	-17%
OPWDD	23,624	19,484	-4,140	-18%
Labor	3,983	2,657	-1,326	-33%
Civil Service	458	341	-117	-25%
DOCCS	30,600	27,751	2,849	-9%
OCFS	3,713	3,009	-704	-19%
<b>Total</b>	<b>159,161</b>	<b>147,224</b>	<b>-15,063</b>	<b>-9%</b>

Source: 2011 State Workforce Report, NYS Department of Civil Service; <https://www.cs.ny.gov/businesssuite/docs/workforceplans/2011.pdf>  
Source: 2021 State Workforce Report, NYS Department of Civil Service; <https://www.cs.ny.gov/businesssuite/docs/workforceplans/2021.pdf>

## C. SHORT STAFFING COSTS TAXPAYERS MORE

The chronic understaffing of state agencies, especially during a global pandemic, required the state to increase its reliance on overtime to get the job done.

**TABLE 3**  
**Growth of Overtime to Address Systemic Staffing Shortages at State Agencies**

	2011 OT Hours Worked	2020 OT Hours Worked	Difference	Percent Change	Taxpayer Cost
OMH	2,476,752	3,164,252	687,500	28%	\$129M
OPWDD	3,378,317	4,685,852	1,521,600	45%	\$157M
Labor	83,324	599,709	516,385	620%	\$22M
DOCCS	2,888,396	4,180,930	1,292,534	45%	\$224M
OCFS	321,519	210,627	-110,892	- 34%	\$8.4M
<b>Total All Agencies</b>	<b>13.7 Million</b>	<b>19 Million</b>	<b>5.4 Million</b>	<b>39%</b>	<b>\$850M</b>

Source: "New York State Use of Overtime in 2020," Comptroller Thomas DiNapoli, <https://www.osc.state.ny.us/files/reports/special-topics/2021/pdf/overtime-2021.pdf>

## II. EXECUTIVE BUDGET ADDRESSES MAJOR PROBLEMS

PEF is very supportive of the following initiatives by Governor Hochul and will work to expand these important programs:

A. **Healthcare Worker Retention Bonus:** (Health and Mental Health Article VII:

S.8007/A.9007 – PART D) PEF supports this long-overdue program. Our heroes have served our state valiantly and have earned this important benefit. Additionally, this program will help retain nurses as we work our way through this public health calamity. While we very much appreciate and support this benefit, our health care workers are not the only “essential” workers who risked their lives and the lives of their families in service to the residents of this state. Parole officers have worked to keep communities safe and parolees on the path to success; DOH employees set up testing sites and conducted contact tracing; DOL staff worked to ensure the disbursement of critical unemployment benefits; and there are many other examples of critical services that PEF members were directed to do as part of their official duties during this crisis. We need to recognize these heroes as well.

B. **Nurse Across New York Program:** (Health and Mental Health Article VII:

S.8007/A.9007 – PART A)

PEF strongly supports this proposal as an important first step in attracting and retaining nursing staff in New York state. We believe this proposal should be expanded to cover

all nursing titles and clarified so as to include state agencies that have been difficult to staff, such as DOCCS, OPWDD, OMH and OCFS.

C. **Civil Service Reform**: (Public Protection and General Government Article VII: S.8005/A9005)

- a. **Shift Pay Differentials** (PART U): Authorizes the Director of Classification and Compensation, with the authorization of the Director of the Budget, to authorize shift pay for any “hard-to-fill” shifts.

D. **State Employee Student Loan Forgiveness and Tax Exemption**: (Public Protection and General Government Article VII: S.8005/A9005 – PART S and Revenue (S.8009/A.9009) – PART D) – These provisions facilitate the ability of state employees to access loan forgiveness awards offered by the Department of Education and to limit any additional tax liability on loan forgiveness awards.

E. **Resources for Information Technology Training and Certifications**: PEF is appreciative of the inclusion of \$2 million in training money for staff at the Office of Information Technology. In the past, these resources have not been appropriately designated or used to expand the technical certifications of staff. PEF would like to see a requirement that these funds be expended to expand the capacity of OITS staff to operate, maintain and protect the state’s IT infrastructure and data. PEF also requests that this appropriation be increased to \$5 million in the 2022-23 fiscal year.



### III. OTHER CONSIDERATIONS IN REBUILDING THE STATE WORKFORCE - FIX TIER 6

A decade of agency budget cuts, hiring freezes and pension plan benefit reductions have significantly degraded the state's competitive position in attracting and retaining talent. To meet rising demand, private employers have increased compensation and benefits, expanded workplace flexibility and developed collaborative workplace cultures to attract and retain quality employees. Now that the labor market is so tight, the state is simply unable to attract or retain the staff it needs to maintain services.

While no one expects the state to provide the highest salaries, the state needs to improve the Tier VI pension plan in the following ways to attract and retain its highly skilled workforce:

- (1) **Reestablish the Standard 3% Employee Contribution:** The Tier 6 plan established employee retirement contribution bands of 3-6% based on salary. Last year, state employees worked more than 19 million hours of overtime, much of it mandated. These increased earnings are driving up workers' pension costs unnecessarily and unfairly. Under Tier 4, workers all paid a standardized 3% contribution. We believe this standardized contribution should be reinstated; and
- (2) **5-Year Vesting:** Private employers are covered by the Employee Retirement Income Act of 1974 which stipulates plan benefits must be made available after five years credited service. It is simply unfair and unreasonable for the state to require employees to work 10 years before accruing any benefit from their employment. Employees under Tier 6 contribute tens of thousands of dollars without accruing any benefits before their 10<sup>th</sup> anniversary on the job. We need to re-institute the five-year vesting rule to encourage workers to remain in state employment; and
- (3) **2% Final Average Salary Calculation at 20 Years of Service:** Tier 6 significantly reduced the benefits for career employees by reducing the pension factor upon the attainment of 20 years of credited service. This benefit keeps employees in state

service so that they can accrue the time needed to maximize benefits. The erosion of this benefit in Tier 6 has provided private employers the opportunity to lure experienced, professional employees out of state service.

(4) **Overtime Cap:** Tier 6 instituted an overtime cap of \$15,000 per year. Last year, in response to the pandemic and state hiring freeze, state employees worked 19 million hours of overtime at a cost of just over \$850 million, much of this mandated by their employer. In addition to the Tier 6 plan driving employees into higher employee contribution brackets as delineated in (1) above, this arbitrary overtime cap is penalizing employees who are mandated or volunteer to work during the pandemic. What employer does that? The overtime cap should be repealed or at least suspended during the course of the pandemic.

#### **IV. EXECUTIVE BUDGET – AREAS OF CONCERN**

While PEF supports many of the programs outlined by the Governor, the following areas are problematic:

##### **A. LIMITING THE USE OF OUTSIDE CONSULTANTS AND CONTRACTING OUT**

This budget continues the disturbing trend of using private for- and not-for-profit entities to do work once performed by the state's highly qualified and competent workforce. Again, this year the state will spend almost \$1 billion on outside contracts without having conducted a cost-benefit analysis for public inspection. While OITS, OMH, OPWDD, OCFS and DOT maintain the most outside contracts, many other State agencies continue to outsource services and jobs without ever demonstrating need, reduced costs, expedited timelines or improved outcomes. We believe that the state workforce – hired under the statutorily-based and century-old civil service system -- is best suited to deliver public services to the residents and taxpayers of this state. That said, we are not saying agencies

should never contract out. What we are saying is that all public officials have a responsibility to demonstrate the costs and benefits of using taxpayer dollars on private contracts and/or consultants transparently. Continuing to divert services and resources to private entities at the expense of the state's most at-risk residents, who are dependent upon the State for services, is detrimental to clients, state workers and taxpayers.

**BUDGET REQUEST:** PEF requests the inclusion of legislation in this year's budget to require agencies to conduct formal cost-benefit analysis before engaging outside contract services to increase transparency and accountability for the use of taxpayer dollars (See also, S.5356 Sen. Breslin/A.8159 Asm. Bronson).

**B. AGENCY SPECIFIC BUDGET CONCERNS ON WORKFORCE:**

1. **Office for People with Developmental Disabilities:** The pandemic has wreaked havoc on both public and private providers of services for the developmentally disabled. To address the issues being experienced in the private sector, OPWDD advanced a multi-pronged, multi-million dollar plan to provide hazard pay (\$1,000), a vaccination incentive (\$500) and recruitment and retention bonuses to attract and retain direct care staff. The Executive is proposing additional actions, including a rate hike of 5.4% to help these private operators continue rendering services to this at-risk population.

Despite the fact that just in the past two years, more than 100 state-operated facilities have or are in the process of closing, OPWDD has advanced no plan to avoid further displacement of hundreds of individuals with developmental disabilities under their direct care. WE must do better than this...we must do more!

**BUDGET REQUEST:** Add \$200 million and require OPWDD to develop and implement an emergency staffing and facilities acquisition plan to address and prevent further displacement of individuals with disabilities who are served directly by the OPWDD.

## 2. Department of Corrections and Community Supervision:

PEF supports the Governor’s “Jails to Jobs” program. However, PEF believes that the \$4 million allocated to start the program is seriously insufficient. PEF supports providing additional training to parole officers so that they can assist formerly incarcerated individuals locate employment. PEF also believes that savings from correctional facility closures should be used to build a network of integrated government operated services and supports through the NYS Office of Mental Health, the NYS Office of Addiction Services and Supports and other state social service agencies. This would provide parole officers and others with a menu of government-operated programs and services readily available for formerly incarcerated individuals so they can access the free services and support they need to be successful.

According to DOCCS’ own data, the ratio of parolees to parole officers is 46:1.<sup>2</sup> The current ratio of managers to state employees is only 15:1.<sup>3</sup> This ratio doesn’t support successful re-integration and doesn’t adequately protect the public. We need to hire an additional 500 parole officers to do the work needed to successfully re-integrate formerly incarcerated individuals back into the community, to provide real, substantive services and oversight and to keep communities safe in anticipation of the effectiveness of the “Less is More” Law of 2021 (Chapter 427).

**BUDGET REQUEST: Add 500 Additional Parole Officers to Reduce Caseloads**

## 3. Office of Information Technology:

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<sup>2</sup> Source: <https://doccs.ny.gov/system/files/documents/2022/01/doccs-fact-sheet-january-2022.pdf>

<sup>3</sup> Source: <https://www.cs.ny.gov/businesssuite/docs/workforceplans/2021.pdf>

a. **Fellowship Program**: The Executive Budget proposes to expand the tech talent pipeline by increasing exposure to technical roles in government service in order to provide new graduates the opportunity to enter public service two years out of school. This proposal would circumvent the state’s civil service system, which is designed to eliminate cronyism and political influence in the state’s hiring practices. PEF fully supports OITS utilizing every tool at its disposal to attract and hire the very best IT employees, but it makes no sense for the state to invest resources in a non-merit based employment practice when the agency is still significantly understaffed.

**BUDGET REQUEST**: Reject the “Fellows Program” and develop long-term IT sustainability through hiring and development.

b. **Require Staff Training on New Equipment/Software**: In the procurement of hardware/software, a percentage of the contract must include training of the staff on how to use of the product. In the past, successful bidders for such contracts were required to provide training to staff. However, unlike past upgrades and purchases, neither the state nor the preferred vendor providing the hardware and software provided any training to staff on how to use the equipment and software. Moving forward, outside vendors providing equipment to the state must be required to provide training on any new hardware and/or software and contractors should not be awarded such contracts if the training of existing staff is not explicitly provided for in the proposed bid.

**BUDGET REQUEST**: Require all hardware and software contracts to include a requirement for staff training on such software and equipment.

c. **Secession Planning and Civil Service Testing Reforms**: Due to the stresses of the pandemic, OITS is losing its institutional knowledge. The agency needs to develop a strategic workforce development plan for succession, knowledge transfer, and skill development.

**BUDGET REQUEST:** Develop long-term intellectual and personnel sustainability and continuity by developing career pathways and skill development.

4. **Department of Health:** The department has maintained appropriate in-house expertise on issues of virology and pathogens, but desperately needs to fill vacancies for scientists who identify and evaluate other hazards like PFOAs (should we spell this out?), Legionella outbreaks, radon, lead, and asbestos. This is a critical area for the state to maintain or expand its capacity to identify, monitor or abate these and other similar hazards, which have been shown to disproportionately affect minority and low-income areas.

**BUDGET REQUEST:** Fill the critical positions that monitor and evaluate the unique threats posed by environmental and other hazards.

Thank you for the opportunity to share our concerns with you. We look forward to working with the Executive and the Members of the Legislature to enact a budget that reflects the needs and priorities of all New Yorkers.

Respectfully Submitted,

Wayne Spence

President, New York State Public Employees Federation