



## DEMOCRATIC CONFERENCE / COUNSEL AND FINANCE

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Date: March 14, 2017  
To: Senate Democratic Conference Members  
From: Counsel and Finance Staff  
Re: Senate One-House Super Highlights

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This memorandum provides full analysis of the highlights of the Senate One-House Budget bills. The bills before the Senate concurs in the adoption of each of the main appropriation and Article VII bills, with various changes and other proposals by the Senate Majority in the following manner.

### **Education**

#### **School Aid and Foundation Aid**

The Senate rejects the Executive recommendation to eliminate the phase-in for Foundation Aid.

The Senate proposal for Foundation Aid would include funding for English Language Learners, small cities, sparsity aid and small schools. All of these categories would be part of the Senate funding increase for Foundation Aid.

School districts would receive a maximum Foundation Aid award of 16% if they qualify for any of the new funding categories or 12% for all other districts. According to the Senate Article VII legislation, the Big Five City School Districts would not benefit from this new funding categories.

The Senate provides an increase of approximately \$375 million to provide a Foundation Aid increase of about \$800 million.

The Senate includes language that would allow school districts to use Foundation Aid to increase the number of community schools, after school programs, dual language programs, and mental health services and professionals within schools.

The Senate eliminates the Foundation Aid set-aside for community schools. Community schools funding will now be included in the actual Foundation Aid amount. The Senate includes language to allow districts to use the funding for either community schools or other academic initiatives. In addition, the community schools' language will allow school districts to use community school funding to establish and expand dual language programs and expand the number of mental health professionals.

### School Aid: Universal Prekindergarten

The Senate includes a five-year implementation process for the consolidation of all Universal Prekindergarten programs. All school districts would be held harmless from any loss of funding.

### School Aid: Expense Base Aids

The Senate includes current law funding in the amount of \$377 million for all expense-base aids including BOCES, Building Aid, Transportation Aid, Private Excess Cost Aid and Public Excess Cost Aid-High Cost. This is the same amount of funds included by the Executive Budget proposal.

### Empire After School Program

The Senate eliminates \$35 million in funding for the Empire After School program. The Executive proposal included a new Empire After School program at \$35 million, creating 22,000 slots in 16 high poverty counties.

### Mayoral Control

The Senate rejects the Executive budget proposal to extend current provisions related to Mayoral Control for the New York City school district for three years.

### Charter Schools

The Senate proposes the following changes related to charter schools:

- Accepts the Executive proposal to unfreeze charter school basic tuition;
- Accepts the Executive proposal to provide charter school transition aid to districts outside New York City;
- Modifies the Executive proposal to increase charter facilities aid by expanding the definition of total, actual rent to include lease payments, maintenance, costs of capital improvements, security, insurance, and taxes;
- Modify the Executive proposal to require co-located space accommodate certain grades levels in one building to require that all of a charter's grades be educated in a single location;
- Removes the charter school cap and all regional restrictions, currently set at 460;
- Provide that charter schools that operate pre-kindergarten programs would not have to meet any contractual terms or conditions imposed by a non-charter entity;
- Require New York City to reimburse charters directly for costs related to employing "necessary support" personnel, such as nurses, security guards, custodians, food service workers, in the amount of ten percent of charter school basic tuition if staff is not provided by the district; and
- Allows charters to be eligible for building aid.

### Nonpublic Schools

The Senate includes a proposal allowing nonpublic schools to be eligible for grants for reimbursement for the salaries of STEM teachers in grades three through twelve. The Senate also includes a proposal to require the state police to develop risk assessment plans for nonpublic schools to recommend personnel and infrastructure improvements needed to ensure school safety. The proposal would allow nonpublic schools to be reimbursed for costs related to the recommendations beginning in the 2017-18 SY.

### Contracts for Excellence

The Senate modifies the Executive proposal for Contracts for Excellence to provide that only the New York City school district would be required to submit a contract for the 2017-18 SY.

### Transportation Contracts

The Senate proposal allows the Employment Cost Index be used in place of the currently Consumer Price Index for certain transportation contracts for school buses. The proposal would also exempt school buses, parts, equipment, lubricants and fuel from NYS sales tax, and include fringe benefits, specifically tuition reductions as allowable under federal law, as reimbursable expenses incurred by licensed transportation carriers under the Transportation after 4 P.M. program.

### Recovery High Schools

The Senate modifies the Executive proposal to authorize BOCES to enter into contracts with the Office of Alcoholism and Substance Abuse Services to operate two recovery high schools by expanding the number of pilot programs to three. The Senate modifies the proposal to require that at least one of the three recovery high schools be located in either Suffolk or Nassau Counties.

### McKinney-Vento Homeless Assistance Act

The Senate accepts the Executive proposal to amend the Education Law to conform to recent Federal changes to the McKinney-Vento Homeless Assistance Act

### ELL Regulation Flexibility

The Senate includes a proposal that would allow school districts that have made a good faith effort to hire a teacher that is dually certified as required under Part 154 Commissioner Regulations, but is unable to hire a qualified teacher may satisfy the requirement by hiring a teacher who: (1) has at least an initial teaching certificate and has scored proficiently on a content specialty test in the language to provide instruction in; or (2) is certified to teach English

to Speakers of Other Languages.

### Education Affordability Tax Credit

The Senate includes a proposal to establish a non-refundable Education Affordability Tax Credit. The proposal would authorize a tax credit up to 90% percent of the taxpayer's total qualified contributions, capped at \$875,000, for taxpayers with an AGI under \$300,000. The bill would also authorize for taxpayers with an AGI greater than \$300,000, a tax credit up to 75% of the taxpayer's total qualified contribution, capped at \$875,000. Fifty percent (50%) of the annual cap will be available for qualified contributions made to public education entities (including charter schools), school improvement organizations, and local education funds. The remaining fifty percent (50%) of the annual cap will be available to educational scholarship organizations (private schools, including religious schools from prekindergarten through high school).

Three new refundable tax credits would also be established: a Home-Based Instructional Materials Credit, an Instructional Materials Credit, and a Helping Open Opportunities to Learn tax credit, which would provide a refundable credit to taxpayers who pay tuition for a dependent child to attend an elementary or secondary school.

### Special Education Waivers

The Senate accepts the Executive proposal to authorize a school district, private school or BOCES to apply to SED for a waiver from certain special education requirements provided that federal compliance is maintained.

### Late-filed Contracts

The Senate includes a proposal to provide forgiveness for districts that submitted transportation contracts or final building project cost reports late, by allowing contracts within a certain timeframe to be legalized, validated, ratified, and confirmed.

### Internal Audit Function

The Senate includes a proposal to allow internal audits to be performed every five years, instead of annually, and to allow districts with less than 5,000 students to be exempt from the internal audit requirement.

### Fingerprinting

The Senate includes a proposal to allow the Department of Motor Vehicles to forward a copy of a prospective employee's fingerprints to the commissioner for purposes of conducting a criminal history record check.

### Regulation Fiscal Notes

The Senate includes a proposal to require the Regents to request a fiscal note from the Division of Budget prior to promulgating any rule, regulation, or amendments.

### East Ramapo School District

The Senate accepts the Executive proposal to continue to allow the Commissioner of Education to appoint up to three state monitors to the East Ramapo Central School District to provide oversight, guidance and technical assistance related to the educational and fiscal policies, practices, programs and decisions of the school district, as well as supplementary funding.

### Energy System Tax Stabilization Reserve Fund

The Senate includes a proposal to allow the Hendrick Hudson Central School District to establish an energy system tax stabilization reserve fund to lessen and prevent increases in the school district's real property tax levy as a result from decreases in revenue due to the closure of the Indian Point nuclear power plant.

### Miscellaneous Actions

The Senate one-house budget bills take the following funding actions:

- \$500,000 for grants to school districts to cover the costs of the Advanced Placement tests for students who qualify for Free and Reduced Price Lunch;
- Eliminates \$400,000 for the Excellence in Teaching Awards program;
- Increases aid to the East Ramapo School District by \$1 million to \$2 million;
- Provides \$25 million for nonpublic school STEM programs;
- Provides \$7.7 million to reimburse private schools for the costs associated with State School immunization program;
- Increases funding for the Schools for the Blind and Deaf by \$2.3 million;
- Provides \$903,000 for the Henry Viscardi Schools;
- Provides \$206,000 for the Primary Mental Health Project for a total of \$1.1 million;
- Restores \$500,000 for the University at Albany Center for Autism;
- Includes \$15 million for a Senate Bullet Aid appropriation;
- Increases the set-aside for the Consortium for Workers Education by \$1.5 million to \$3 million;
- Provides \$1 million for the NYC Community Learning School Initiative;
- Restores \$4.8 million for supplemental valuation grants; and,
- Provides \$2 million for an enhanced credential program for the Workforce Education Program.
- Provides \$1 million for Independent Living Centers.
- Restores \$8 million for Aid to public libraries.
- Restores \$500,000 for Public TV and Radio.
- Provides an additional \$15 million for library construction aid bringing total funding to \$29 million.

- Provides \$1 million for Independent Living Centers.
- Restores \$8 million for Aid to public libraries; and,
- Restores \$500,000 for Public TV and Radio.

## **Higher Education**

### Operating Aid

The Senate accepts the Executive's proposal to provide \$1.3 billion in operating aid for CUNY Operated Colleges. The Senate recommends \$2.72 billion in operating aid for SUNY State Operated Colleges, which is a \$66.2 million decrease from the Executive's proposal.

### Aid to Localities Funding for CUNY and SUNY

The Senate decreases Aid to Localities funding for CUNY by a net \$254,000. This amount is a net of a reduction of \$2.3 million in community college operating assistance, a restoration of \$902,000 for childcare services and a restoration of \$1.13 million for the Joseph Murphy Institute. The Senate provides no appropriation increases to community college base aid.

The Senate also decreases Aid to Localities funding for SUNY by a net \$417,000. This amount is net of a reduction of \$3.7 million in operating assistance, a restoration of \$1.09 million for childcare services, a restoration of \$100,000 for SUNY Orange Bridge Program, a restoration of \$1.5 million for the Graduate Achievement and Placement Program, and \$600,000 for the Harvest New York Program

The Senate accepts the Executive recommendation of \$5 million for the Next Generation College Linkage program (\$3 million for SUNY and \$2 million for CUNY).

### Tuition Assistance Program

The Senate rejects language that would allow undocumented students to receive tuition assistance under TAP. The Senate One-House also rejects the Executive's Excelsior Scholarship which would have allowed students to attend public colleges tuition free. Although rejecting the Excelsior Scholarship and the DREAM Act, the Senate One-House Budget only reduces the TAP appropriation by \$9.2 million to a total of \$1.08 billion.

### Program Funding

The Senate proposes no changes to SEEK, EOP, or EOCs.

- SEEK: \$23.4 million.
- EOP: \$26.8 million.
- EOC: \$55 million.

### Capital Projects Funding

The Senate recommends flat funding for critical maintenance projects. The Senate shifts funds to include an appropriation of \$75 million for CUNY and \$150 million for SUNY that would be allocated by Senate resolution.

#### Excelsior Scholarship

The Senate rejects the Executive proposal to provide free tuition to students attending SUNY and CUNY whose family AGI is equal to or less than \$125,000.

#### DREAM Act

The Senate rejects the Executive proposal to allow undocumented students to receive tuition assistance.

#### Exorbitant Tuition Rates

The Senate rejects the Executive proposal to prohibit students from using TAP awards at institutions where annual tuition and mandatory fee increases exceed the three-year average of the higher education price index, or \$500, whichever is greater.

#### SUNY/CUNY Tuition Increases

The Senate rejects the Executive proposal to allow SUNY and CUNY to increase tuition by more than \$250 annually over a five-year period.

#### CUNY Foundation Resources

The Senate rejects the Executive proposal to authorize 10% of annual funding from CUNY affiliated not-for-profit foundations to support students.

#### Maintenance of Effort

The Senate includes expanded Maintenance of Effort provisions for SUNY and CUNY, which includes (1) the SUNY Health Science Centers and (2) all SUNY and CUNY mandatory costs, including collective bargaining costs, fringe benefits, and other non-personal services costs such as utility costs, building rentals and other inflationary expenses incurred, in the maintenance of effort provision for SUNY and CUNY beginning in state fiscal year 2018-19 and thereafter.

#### Graduate TAP

The Senate proposal allows graduate students enrolled in a combined undergraduate/graduate program to receive up to \$2,200 or 90% of tuition annually, whichever is less, for dependent students with a family income under \$2,000. Dependent students with a family income up to \$20,000 would be eligible for a reduced graduate TAP amount. Independent students with an

income of under \$1,000 would be eligible for a full award amount, and independent students with an income up to \$5,666 would be eligible for a reduced amount.

### Enhanced TAP

Awards would be available to students who earn at least thirty credits each academic year, maintain a certain GPA and remain on track to on-time graduation, agree to live and work in NYS upon graduation for a certain period of time, and sign a contract with HESC to have his/her scholarship converted to a loan if the student fails to fulfill this requirement. Income eligibility for Enhanced TAP awards would be phased-in over three years, allowing independent students with a family net taxable income up to \$100,000 to be eligible in 2017-18 AY, up to \$110,000 in 2018-19 AY, and \$125,000 in 2019-2020 and thereafter. The minimum Enhanced TAP award would equal \$3,000 and maximum award would be \$5,500. Enhanced TAP awards would be applied after existing TAP awards.

### Part-Time TAP

The Senate proposal allows students attending SUNY community colleges beginning in the 2017-18 AY to be eligible for part-time TAP awards, as long as the student is enrolled in at least six but less than 12 credit hours, and maintains a GPA of 2.50. Part-time TAP awards would count toward a student's maximum term of eligibility for TAP.

### Pre-Paid Tuition Plan

The Senate proposal establishes a pre-paid tuition plan and fund for the prepayment of undergraduate tuition at SUNY, CUNY, or any other participating colleges within the state at a fixed, guaranteed level for application for two-year and four-year programs

### Private Student Loan Refinance Task Force

The Senate proposal establishes an eleven-member task force to study and issue a report on ways lending institutions that offer private student loans to New York state students can be incentivized to create student loan refinance programs.

### Room and Board Cost Disclosure

The Senate proposal requires SUNY and CUNY boards of trustees to direct college presidents to disclose information annually related to competitive process used and costs of dormitory construction, student capacity, the amount charged for room and board, justifications for any increases in charges, and the breakdown of how room and board charges are spent.

### STEM Scholarship Eligibility

The Senate proposal allows students attending private institutions of higher education to be eligible for STEM Incentive Scholarship Program.



### College Affordability Planning Committee (CAPC)

The Senate proposal requires each private, not-for-profit degree granting college presidents to establish an internal committee to create and implement a specialized college affordability plan that examines affordability initiatives with the goal of reducing student costs. Each CAPC must report by August 2018 and again by August 2019 progress towards reducing college costs to the legislature.

### Telecounseling Network Pilot Program

The Senate proposal allows up to five campuses to participate in a pilot program that would enable campuses to coordinate with the campus health centers, local healthcare providers, and SUNY's academic health centers (Upstate, Downstate, Stony Brook, and Buffalo) to arrange for mental health and counseling services to be provided through a telecounseling network.

### Community College Funding Study

The Senate proposal requires SUNY community college presidents to establish an internal committee to study the effectiveness of the current FTE funding formula and any alternatives based on funding by academic program.

### Child Welfare Incentive Scholarship and Loan Forgiveness Program

The Senate proposal establishes a scholarship program for students currently employed at a voluntary not-for-profit child welfare agency licensed by OCFS and enrolled in a SUNY undergraduate program or graduate degree program at a private institution. Applicants must agree to continue working full-time at such an agency for at least five years after completing his/her studies.

The Senate proposal also establishes a loan forgiveness incentive program for the purpose of attracting workers to be employed in voluntary NYS not-for-profit child welfare agencies. To be eligible for the program, applicants must have graduated from a NYS college or university, have outstanding loan debt, and agree to work in such an agency for at least five years.

### SUNY/CUNY State Inspector General

The Senate does not include the Executive's proposal to expand oversight by the State Inspector General to include nonprofit organizations and foundations affiliated with SUNY and CUNY, including oversight over the adoption of written financial control policies by affiliated SUNY and CUNY foundations

## **Health**

### **Department of Health**

The Senate proposes \$2.5 billion in All Funds support for State Operations, reflecting a decrease of \$1.06 billion from the Executive Budget. This decrease is due to rejection of the Executive's proposed two-year appropriation for the Medical Assistance Administration program and the elimination of the NY State of Health Program. Highlights of these changes are as follows:

- \$4.5 million reduction from the administration program, personal service;
- \$986.11 million reduction from the Medical Assistance Administration program reflecting the rejection of the two-year appropriation; and
- \$71.66 million as a result of eliminating the New York State of Health Program, which provides funding to operate the Health Exchange.

The Senate provides additional funding for Aid to Localities as follows:

- \$11 million to reject the proposed reduction for General Public Health Works Program funding for New York City;
- \$3.9 million to reject Early Intervention reforms proposed by the Executive;
- \$24.6 million to reject the Executive's proposal to consolidate 39 public health programs into four funding pools;
- \$621,000 for women's health services;
- \$1.2 million for comprehensive care centers for eating disorders;
- \$600,000 for the Senate Task Force on Lyme and Tick Borne diseases;
- \$350,000 for the ALS Association Greater New York Chapter;
- \$1.87 million for the healthy neighborhood program;
- \$500,000 to support water testing for public water systems serving under 10,000 individuals;
- \$150,000 for the Child Health Plus Program;
- \$362,000 for the Alliance for Donation; and
- \$485,000 for the Center for Liver Transplant.

The Senate also reduces the Medical Assistance Administration Program by \$1.41 billion and rejects the two-year appropriation for Medicaid spending. Under the Medical Assistance (Medicaid) Program, the Senate reduces funding for this program by \$67.59 billion and increases other Medicaid spending items. Highlights of these changes are as follows:

- \$66.11 billion reduction is attributed to the rejection of two-year appropriations;
- \$37.5 million reduction in funding for the health homes and also earmarks \$5 million for the collaborative for children and families;
- \$161.53 million in additional funding for hospital inpatient services;
- \$10 million in additional funding for hospital outpatient and emergency room services;
- \$11.8 million in additional funding for nursing home services;
- \$1.75 million in additional funding for pharmacy services; and
- \$68.14 million in additional funding the Medical assistance program.

The Senate proposes \$987.62 million in Capital funding, which is an increase of \$300 million over the Executive Budget. This increase is attributed to an additional \$300 million for the Health Care Facility Transformation Program. The \$800 million in funding is allocated as follows:

- \$450 million for essential health care services;
- \$50 million for Montefiore Medical Center; and
- \$300 million for additional funding for essential health care services.

The Senate One-House Budget also rejects language authorizing appropriation changes without legislative oversight in the event Federal dollars are reduced.

#### Office of Medicaid Inspector General

The Senate One-House Budget concurs with the Executive's recommendations and provides \$50.02 million in All Funds support for State Operations.

#### Justice Center for the Protection of People with Special Needs

The Senate One-House Budget concurs with the Executive's recommendations and provides \$53.89 million in All Funds support for State Operations.

The Senate One-House Budget concurs with the Executive's recommendations and provides \$649,000 in All Funds support for Aid to Localities.

#### Increased Cost-Sharing For Essential Plan Enrollees

The Senate accepts the Executive's proposal to increase premiums for enrollees of the Essential Plan whose incomes are between 138% and 200% of the Federal Poverty Level and index future premium increases to the rate of inflation. The Senate also changes the definition of "large employer" for health insurance purposes from 100 employees to 50 employees.

#### Pharmaceutical Price Controls

The Senate rejects the Executive's pharmaceutical price control proposals to set a benchmark price for high priced drugs and require rebates for the amount over the benchmark price, to reduce the generic CPI penalty threshold from 300% to 75%, and to require the licensure of pharmacy benefit managers. Instead, the Senate proposes:

- Requiring supplemental rebates be issued to the Medicaid program by a drug manufacturer if it is determined that the price increase for that drug accounts for an increase of drug spending for the entire Medicaid program of 5% plus medical CPI.
- Adding price gouging provisions by requiring manufacturers that increase the wholesale acquisition cost of a drug by more than 100% in a 12 month period to provide information that justifies the price increase. If DOH determines the price to be excessive, then the drug would require prior-authorization under the Medicaid program and the matter may be referred to AG for price gouging investigation.

- Creating a drug rebate remittance program to study how DOH utilizes all available drug rebates available by drug manufacturers.
- Requiring audits of pharmacy benefit managers.

### Fighting the Opioid Epidemic

The Senate accepts several of the Executive’s proposals to modify the Medicaid program to combat the Opioid crisis in New York. Specifically the Senate accepts the Executive’s proposals to make the inappropriate prescribing of opioids a practice that could kick a provider out of the Medicaid program, and aligning Medicaid prescription refills with New York Controlled Substance Law. The Senate rejects the Executive’s proposals to repeal “prescriber prevails” and authorization to allow physicians to establish comprehensive medication management with pharmacists.

### New York City Cost Shifts

The Senate rejects the Executive’s proposal to reduce State reimbursements to New York City for the General Public Health Works Program from 36% to 29% but accepts the proposal to reduce New York City’s administrative Medicaid payment by \$50 million if New York City fails to increase Medicaid billing for school supportive health services by \$100 million.

### Medicaid Global Cap

The Senate rejects the Executive’s proposal to extend the Medicaid Global Cap for one year and instead extends the Medicaid Global Cap permanently, provides further clarification on what funding counts towards the Global Cap, and requires any changes to the State plan be approved by the legislature.

### Long Term Care Reforms

The Senate rejects the Executive’s proposals restricting enrollment in managed long term care plans to enrollees who require nursing home levels of care, eliminating bed hold payments to nursing homes, and requiring spousal support contributions towards the cost of long-term care for spouses living together.

### Healthcare Facility Transformation Program

The Senate rejects the Executive’s proposal to authorize up to \$500 million for capital project for essential health care providers to transform and expand access to health care services. Instead, the Senate One-House keeps the \$500 million appropriation (including the \$50 million for Montefiore) and provides an additional \$300 million in Capital Funding under the existing Health Care Facility Transformation Program for essential health care services. The requirement that at least \$30 million be allocated to community based providers is not included.

### Health Care Regulation Modernization Team

The Senate accepts the Executive's proposal to create a Health Care Regulation Modernization Team that will study ways to modernize healthcare regulations in the state. The Senate modifies the Executive's proposal to expand the purview of the Team to include studying ways to increase the accountability of DOH staff in enforcement actions.

### Water Contamination Testing

The Senate modifies the Executive's proposal to require public water systems to test drinking water every three years for contaminants. While the Executive proposal required every public drinking water system to test for contaminants, the Senate requires drinking water systems that serve 4,000 or more people to test for these contaminants, and allows for systems that serve fewer than 4,000 people to request DOH to test for the contaminants. Every public water system that serves fewer than 10,000 people would have the testing paid for by DOH.

The Senate rejects the Executive's proposal to require all private water supplies to be tested for contaminants as a condition of sale for residential property. Instead, the Senate proposes the creation of a Drinking Water Quality Institute that will be tasked with developing a list of contaminants that public water systems will have to test for, developing maximum contaminant levels (MCL) for unregulated contaminants, conducting scientific studies and public outreach, establishing a notification procedure for municipalities and State agencies to report and notify the State and public of potential contaminant threats, developing testing techniques and frequency of testing of public water systems, and ensuring state officials are aware of up-to-date research on water quality and contaminants.

### Funding for Water Quality and Water Infrastructure Article VII Language

The Senate One-House modifies the Executive's proposal, adding \$5 billion for the "Clean Water Bond Act of 2017." It also proposes a Drinking Water Quality Institute (S.3773/Hannon) and the Emerging Contamination Monitoring Act, requiring DOH to adopt threshold recommendations by the DWQI or the federal threshold in lieu of a recommendation.

The Senate proposal further modifies those projects and programs eligible for the proposed \$2 billion in funding under the "New York Regional Water Infrastructure Improvement Act of 2017." The Senate One-House makes such funds available to municipalities, up to \$10 million per year, for projects related to sewage treatment works, drinking water facilities, and stormwater collecting systems. It further amends the Executive's proposal by including the updating and replacing of septic systems and eliminates DEC grants for source water protection (land acquisition). The proposal also directs the DEC to investigate and remediate solid water management sites and drinking water related sites that pose significant or imminent threats to public health and provides up to \$4 million over 24 months from the initial response date. The Senate further directs DEC in conjunction with DOH to establish an online tracking and mapping system for water contamination in the state.

### Miscellaneous Provisions

- Rejects the Executive’s proposal to reform and streamline reimbursement procedures for Early Intervention services;
- Rejects the administrative reductions to Hospitals under the Medicaid program;
- Accepts the Executive’s proposal to extend HCRA for 3 years;
- Accepts the Executive’s proposal to regulate vapor products in the same manner as tobacco products including banning the use of vapor products in most public indoor areas;
- The Senate adds several new provisions:
  - Prohibits the merger of Western New York Children’s Psychiatric Center with another healthcare facility and require the center to be maintained as a separate and distinct entity;
  - Requires Medicaid coverage for cost of donor breast milk for premature infants and infertility services;
  - Requires that critical access hospitals (CAHs) in rural areas be reimbursed for emergency and all outpatient services at 101% of the reasonable costs the facility incurred for providing those services;
  - Requires the AIDS Institute to pay additional subsidies to health insurance plans that cover services for individuals with AIDS;
  - Creates the "living donor support program" to help pay the living expenses of an organ donor; and
  - Creates the Lupus Research Enhancement Program to make grants to institutions conducting research on lupus and establishes a Lupus Research Advisory Council to monitor the grant process.

## **Mental Hygiene**

### Office of Alcoholism and Substance Abuse Services

The Senate concurs with the Executive's recommendations and provides \$121.16 million in All Funds support for State Operations.

The Senate proposes \$506.9 million in Aid to Localities funding, reflecting an increase of \$2.74 million over the Executive's recommendations. This increase is attributed to additional funding for prevention, treatment and recovery services.

### Office of Mental Health

The Senate concurs with the Executive's recommendation and provides \$2.28 billion in All Funds support for State Operations.

The Senate provides \$1.46 billion in Aid to Localities support, reflecting a decrease of \$1.99 million. Highlights of these changes are as follows:

- \$7.5 million reduction for various community mental health residential programs;
- \$3.19 million in increased funding for Joseph P. Dwyer Veteran Peer to Peer Program;
- \$750,000 for Crisis Intervention Teams;

- \$500,000 for Children’s Prevention and Awareness Initiatives;
- \$300,000 for Farmnet;
- \$175,000 for South Fork Mental Health Initiatives;
- \$100,000 for North Country Behavioral Healthcare Network;
- \$100,000 for Mental Health Association of New York State, Inc; and
- \$400,000 for NLP Research and Recognition Project.

The Senate concurs with the Executive's recommendation of \$374.47 million in Capital funding.

Office for People with Developmental Disabilities

The Senate One-House Budget includes \$2.15 billion for State Operations reflecting an increase of \$3 million over the Executive Budget. This increase is attributed to the implementation and expansion of the care demonstration program.

The Senate provides \$2.26 billion in Aid to Localities support, reflecting a decrease of \$3.75 million from the Executive’s recommendations. Highlights of these changes are as follows:

- \$15 million reduction for the Community Services Program, including:
  - \$3.75 million reduction for residential services;
  - \$3.75 million reduction for day programs;
  - \$3.75 million reduction for family support services; and
  - \$3.75 million reduction for workshop, day training, and employment services.
- This is offset by \$11.25 million in additional funding to provide increased salaries to direct support workers, which would be effective January 1, 2018.

The Senate concurs with the Executive's recommendation of \$86 million in Capital funding.

Jail-Based Restoration

The Senate rejects the Executive’s proposal to authorize the creation of mental health pods within local jails to restore felony defendants deemed incompetent to stand trial to competency.

**Human Services**

Human Service Providers

The Senate agrees with the proposed deferral of human services cost of living adjustment (COLA) worth 0.8% for one year starting April 2017 through March 2018.

Aging

The Senate modifies the Executive’s proposal by reducing funding for Community Services for the Elderly Program (CSE) by \$1.12 million, and increasing funding for aging programs as follows:

- \$3.4 million for long-term care system point of entry improvements through better

- coordination;
- \$200,000 for Lifespan Elder Abuse Prevention Program;
  - \$500,000 for Lifespan of Greater Rochester, Inc. for sustainability and expansion of enhanced multidisciplinary teams;
  - \$5 million for state reimbursement to counties for costs incurred for CSE;
  - \$10 million for Statewide Register of Elder Abuse and Maltreatment;
  - \$500,000 for a pilot program for individuals that are over 65 years of age and can no longer drive or visually impaired individuals of all ages; and
  - \$1 million for Naturally Occurring Retirement Communities and Neighborhood Naturally Occurring Retirement Communities (NORCs/NNORCs).

### Elder Abuse Initiatives

The Senate adds new language for elder abuse initiatives that matches legislation introduced by Senator Serino. One part calls for the development of multidisciplinary investigative teams that investigate elder abuse and maltreatment, while the second section calls for the creation of a statewide central register of abuse and maltreatment within the Office of Children and Family Services.

The Senate Majority also inserted language that permits banking institutions to refuse payment of any funds when there is a reasonable belief a vulnerable adult is the victim of financial exploitation. The banking institutions must make a reasonable effort to notify all interested parties and the local social services district, as well as provide access to pertinent records. This language mirrors Senator Valesky's legislation (S.1093) that passed the Senate this session unanimously.

### Senior SCRIE

The Senate adds new language that grants real property tax abatement to rent-controlled or rent regulated properties when the maximum authorized rent exceeds 1/2 of the tenants' household income. This new proposal is similar to S.2586 (Young). The proposal extends the Senior Citizen Rent Increase Exemption (SCRIE) and the Disability Rent Increase Exemption (DRIE), as well as authorizes the City of New York to institute a tenant rent increase exemption program (TRIE) for tenants who pay over 50% of their income in rent and who reside within rent controlled, rent regulated, and within certain other types of housing incorporated under the private housing finance law.

### Office of Children and Family Services (OCFS)

The Senate modifies the Executive Budget by removing appropriation language that would have required \$27 million in Title XX discretionary funding be dedicated to funding child care programs.

The Senate provides an increase in funding over the Executive's proposal for the following programs:



- \$4.7 million in general funds for child care;
- \$39,000,000 for foster care;
- \$2.57 million for child advocacy centers;
- \$1.7 million for youth development programs;
- \$5 million for the Advantage Afterschool Program;
- \$200,000 for the Center for Elder Justice for the Prevention of Elder Abuse;
- \$1 million for the New York State YMCA Foundation;
- \$125,000 for the Gateway Youth Outreach Program;
- \$200,000 for the Cattaraugus Youth Bureau;
- \$400,000 for the NYC Big Brothers/Big Sisters Program;
- \$300,000 for the Citizen’s Committee for NYC;
- \$150,000 for the American Legion Boys Program-Morrisville;
- \$600,000 for New Alternatives for Children Program;
- \$1.4 million for 2-1-1 NY regional collaborators;
- \$1 million for boys and girls clubs;
- \$300,000 for Community Voices Heard;
- \$300,000 for Hillside Children’s Center Youth Program;
- \$2.5 million for legal defense initiatives; and
- \$50,000 for Helen Keller Services for the Blind.

### Child Welfare Proposals

The Senate accepts the Executive’s proposal to extend the Child Welfare Financing Reform Act to 2022. Additionally, the Senate concurs with the Executive's proposal to alter the funding structure for residential placement of children with special needs, under the direction of the Committee on Special Education. The proposed funding change would eliminate the State’s share and shift the entire cost to the City of New York, costing nearly \$19 million in aid.

The Senate accepts the Executive's proposal to modify the definition of “abused child” under the Family Court Act to include human and/or sex trafficking. The Senate also accepts the Executive's proposal authorizing municipalities to establish plans for runaway and homeless youth (RHY) and provide services for “homeless young adults.”

The Senate rejects the Executive's proposal authorizing the Department of Health to license voluntary foster care agencies health facilities for limited health-related services. Rejection of this proposal means that providers will not receive reimbursement for health-related expenses after the planned transition from fee-for service to managed care for foster children beginning in January 2019.

### Child Care Safety Regulations

The Senate has inserted language that calls for several changes in enforcement actions against child care providers in New York state. Such changes include notification requirements to parents in the event of a program closure, the creation of a statewide searchable registry of all child day care programs with detailed information about providers and increased civil penalties

for repeat child care providers. Also, OCFS is empowered to suspend or limit a license without a hearing, upon written notice.

This language is taken directly from the Governor's Program bill introduced last year (S.8134/A.10729) by Senator Klein and Assemblywoman Lupardo. Although it passed the Senate unanimously, it failed to move in the Assembly at the end of session.

#### Office of Temporary and Disability Assistance (OTDA)

The Senate modifies the Executive's proposal by removing appropriation language and a \$200,000 allocation that would have established a pilot program to provide intensive case management services for households in which a household member was recently released from prison.

The Senate modifies the Executive's proposal by increasing funding for the following programs:

- \$20 million for additional Supplemental Security Income (SSI) payments for eligible aged, blind, and disabled persons;
- \$750,000 for the Disability Advocacy Program;
- \$150,000 for the United Way of Central New York;
- \$22.3 million (TANF) for child care;
- \$800,000 (TANF) for ACCESS Welfare to Career Program (3 programs-1 CUNY, 1 NYC based institution, 1 Westchester based institution);
- \$1.3 million (TANF) for the Capital Region-Oneida (Rensselaer, Saratoga, Schenectady, Albany and Oneida counties) child care facilitated enrollment pilot program; and
- \$2.5 million (TANF) for the Liberty Zone (Brooklyn, Queens, Bronx and Monroe counties) child care facilitated enrollment pilot program.

#### Pay for Success Program

The Senate modifies the Executive's proposal by reducing funding for the Pay for Success Program by \$16 million.

#### Miscellaneous

- The Senate accepts the Governor's proposal authorizing the State to intercept all lottery over \$600, up to the amount of public assistance received, given to public assistance recipients during the last ten years. Projected to generate \$3.1 million in revenue to the state, the proposal increases the interception of lottery winnings from 50% of winnings to a full 100%.
- The Senate accepts the Executive's proposed increase for SSI recipients. Proposed increases range from \$1- \$3 per month, dependent upon the type of care received.
- The Senate also adds language authorizing incremental increases for individuals and couples receiving enhanced residential care, beginning in 2017 and continuing through 2021. The increases begin at \$1,547 a month for individuals and \$3,094 per month for couples.

- The Senate concurs with the Executive's proposal to require two background checks for employees, consultants, assistants and volunteers of publicly-funded emergency shelters. The background checks will be for individuals who will have the potential for regular and substantial contact with individuals cared for by the shelters.

## **Housing, Construction and Community Development**

### **Mortgage Insurance Fund**

The Senate modifies the Executive's proposal by transferring from the Mortgage Insurance Fund (MIF) to support the Neighborhood and Rural Preservation Programs and the Rural Rental Assistance Program through the Housing Trust Fund Corporation, as well as homeless housing programs through the Homeless Housing and Assistance Corporation. The Senate also makes significant changes to the Executive Budget by authorizing:

- \$22.96 million for the Rural Rental Assistance program;
- \$33.3 million for the rehabilitation of Mitchell-Lama housing projects;
- \$9.979 million Neighborhood Preservation Program, with \$250,000 for the Neighborhood Preservation Coalition;
- \$4.739 million for the Rural Preservation Program, with \$250,000 for the Rural Preservation Coalition;
- \$36 million for the Rural and Urban Community Investment Fund Programs;
- \$21 million for the Low Income Housing Trust Fund Program;
- \$2 million for the Homes for Working Families program;
- \$6.522 million for the Supportive Housing Program, the Solutions to End Homelessness Program or the operational support for AIDS Housing Program;
- \$2 million for the Mobile and Manufactured Home Replacement Program; and
- \$3 million for Nonprofit Community Land Trusts.

### **Affordable NY (421a)**

The Senate accepts the majority of the Executive's proposal for the Affordable New York Housing Program/421a and adds enhanced benefits and additional eligible projects.

- Adds Urban Development Corporation Large Scale Projects as eligible planned projects, to the 421a abatement program. Projects would have to be part of a General Project Plan adopted by the NYS Urban Development Corporation and consist of at least 2,500 units, but would not have to be attached or in the same building. The development could be over several contiguous blocks. If the aggregate for each 1,500 units, rather than each multiple dwelling, meets the wage requirements, UDC Large Scale Projects would be eligible for the extended benefits.
- Raises the cap on Affordability Option D (Homeownership projects) assessed valuation cap from \$65,000 to \$85,000. Allows sale or transfer of the unit to relatives within 3 degrees to meet the 5 year primary residence requirement. Allows this option for projects with 4-80 units, a change from 6-35 units.
- Removes prohibition on other substantial assistance from Affordability Option E.
- Amends the Replacement Ratio: Instead of a 1-to-1 replacement ratio, there would be a

4-to-1 ratio so that for every 4 affordable units lost to demolition, only 1 new unit would be required for the new project.

- Adds that if any rent stabilized unit is \$2,700/ month, the unit shall be excluded from Rent Stabilization laws- essentially removing units from Rent Stabilization prior to vacancy.
- The Senate Majority Revenue bill removes language pertaining to the effective date of the Rent Act of 2015, which appears to phase out portions of the Rent Act of 2015.

### Capital Projects

The Senate accepts the Executive proposal with no mention of the 2016-2017 Memorandum of Understanding between the three houses.

### New Housing Programs

- Mobile and Manufactured Home Replacement Program is a new deferred payment loan grant opportunity for homeowners with 80% AMI for the county, that would provide up to \$100,000 and homeownership courses, to replace dilapidated mobile and manufactured homes sited on land owned by the homeowner.
- First Home Savings Program authorizes first time home buyers to establish tax free savings accounts to purchase their first home. Account holders would be able to deduct deposits of up to \$5,000/ year from their state taxable income; married couples would be able to deduct up to \$10,000. Total contributions would be capped at \$100,000. Buyers would have to use the account withdrawal to purchase a primary residence in New York state and live there for at least 2 years.
- Affordable Senior Housing and Services Program provides capital funding to facilitate the construction and rehabilitation of affordable rental apartments for independent senior citizens over the age of 62, living in the same building or complex, 80% of whom have incomes of up to 80% AMI. The program also provides for service coordination funds to not-for-profit organizations, through the Office of the Aging, that would offer an array of free, on-site senior services to help promote healthy aging.
- Adds middle income buildings to the State Low Income Housing Tax Credit Program (SLIHTC) for units that serve households with incomes 130% of the AMI. The program is currently limited to units that service household with incomes at or below 90% AMI. SLIHC provides a dollar-for-dollar reduction in state taxes to investors in qualified housing.

### Miscellaneous

- Authorizes the New York city council to oversee the activities of NYCHA by requiring that the housing authority produce reports and conduct hearings to review the activities of

NYCHA.

- Authorizes NYCHA to calculate the time a victim of domestic violence lives in a domestic violence shelter toward this priority designation, such that domestic violence shelters would be treated the same as homeless shelters.
- Creates an Independent Monitor Office within NYCHA, appointed by the Governor, to review and provide oversight of any project, and make recommendations regarding corrective action.
- Intentionally omits added protections for consumers utilizing reverse mortgage products.

## **Public Protection**

### Capital Projects

In the Senate's Capital Projects Bill they cut \$100 million from the Special Infrastructure Account and appropriate the remaining \$203 million as follows, To prepare for, prevent, deter, or respond to acts of terrorism; natural or man-made disasters, including severe weather events; risks to public safety, health, and/or other emergencies \$193 million. For services and expenses of the New York city police department for the purchases of vehicles including bulletproof glass and panels for vehicles \$4 million. And for services and expenses of law enforcement agencies outside of the city of New York for equipment purchases \$6 million. The Special Infrastructure account is cut by \$100 million and the money is divided into \$10 million for local police agencies and the remaining \$192 million is for anti-terrorism projects.

### Department Of Corrections and Community Service

In DCJS the Senate adds \$16.73 million in restoring all cuts in the Aid to Localities programs that were in the Executive's Submission. Westchester Policing is fully restored at \$2.3 million. The Senate increases the amount allocated to District Attorney Salaries by \$1.6 million. The Senate does not change the Executives cut to Prisoner's Legal Services. The Senate keeps SNUG funding at \$4.8 million but lines out the Bronx (\$700,000), Richmond County (\$450,000), Onondaga County (\$400,000) and Kings County (\$250,000). Additionally in DCJS, the Senate lump sums out \$5.104 million for unspecified law enforcement programs. The Senate specifically lines out the \$2.965 in specific programs such as Finger Lakes enforcement, Willard Drug Treatment and monies to various police departments. They reduce State Operations by \$400,000 in Administrative costs.

### Division Of Veterans Affairs

The Senate Restores all of their lined out programs from last year's budget totaling \$1.7 million add. They include aid to county and city veterans' service agencies pursuant to article 17 of the executive law \$1,177,000; For services and expenses of the veterans outreach center, inc. (Monroe County) \$250,000; For services and expenses of the SAGE Veterans' Project \$100,000; For services and expenses of the New York State Defenders Association Veterans Defense Program \$250,000; For services and expenses of Helmets-to-Hardhats \$200,000; and

For services and expenses of the Veterans Miracle Center \$25,000.

#### Miscellaneous Appropriations

- The Senate proposes eliminating \$41 million for the Division of State Police in general fund by rejecting the support for Troop NYC.
- The Senate reduces \$2 million in Capital Projects for maintenance and improvement for the Division of Military and Naval Affairs.
- The Senate adds in Capital Projects \$100 million in Interoperable Communications for the Division of Homeland and Emergency Services.
- The Senate concurs with the Executive's proposal for two new programs to prevent Domestic violence in Newburgh and Troy.

#### Raise the Age

Raise the Age is not included in the One-House bill, and the relevant provisions are intentionally omitted from the Senate budget bill.

#### Identity Theft and Related Crimes

As in the Governor's proposal, the One-House adds a new degree of Computer Tampering and expands the range of Identity Theft crimes. The One-House bill also establishes several new crimes, including Petit Theft of Service; Denial of Service Attack on a Computer, Computer Service, Computer Program, or Computer Network; and Scheme to Defraud. The bill expands the crimes of Grand Larceny and Unlawful Possession of a Skimmer Device (which is renamed Criminal Possession of a Skimmer Device). The bill includes Scheme to Defraud in the definition of Public Corruption, and includes most of the newly-created crimes in the definition of Enterprise Corruption.

#### Search Warrants for Electronic Communications

This bill would allow District Attorneys and other public servants to execute search warrants, where currently only police officers may execute search warrants. The proposal also codifies the permissibility of search warrants of electronic communications where the communications company is headquartered in, does business in, or offers services in New York.

#### State Reimbursement for Public Defender Services

Accepted from the Governor's proposal; however, the deadline for ILS' plans to improve services is extended from December 1, 2017 to May 1, 2018, and the deadline for implementation has been extended from April 1, 2023 to April 1, 2024. The One-House bill also rejects the raising of driver's license suspension lift fees, criminal background check fees, and attorney registration fees to pay for the expense of State reimbursement of public defender services.

### Hate Crimes Task Force

Modified from the Governor's proposal to remove the requirement that the task force inform the public of their rights and available remedies and the requirement that the task force makes reports to the Legislature. Instead, the task force would be instructed to comply with local law enforcement agencies "when at all possible."

### Cemetery Desecration, Making Graffiti as a Hate Crime.

The One-House bill incorporates recently-passed bills S.1786 (Klein), which would enhance penalties for Criminal Mischief and Larceny committed at a place of religious worship or a cemetery; S.4777 (Carlucci), which would allow the crime of Making Graffiti to be charged as a hate crime; and S.1785 (Klein), which increases the penalties for gang-related graffiti and graffiti on buildings of religious worship. Senators Krueger and Montgomery voted No on S.1786, Senator Montgomery voted No on S.4777, and Senators Hamilton, Krueger, and Montgomery voted No on S.1785.

### Diversion Court Programs

This One-House bill would allow Courts to look at a defendant's previously sealed cases, including juvenile delinquency cases, when making a determination regarding the defendant's placement in a diversion court. The bill also allows diversion court defendants to appear via video conferencing for most court appearances, and allows the court to require electronic monitoring of defendants. The bill would require that treatment facilities alert local police when a diversion court participant is being treated at that facility, and establishes the class D felony of Unauthorized Departure from a Rehabilitation Facility.

### New York State Criminal Street Gang Act

The One-House bill establishes a scheme for criminalizing participation in a criminal street gang. If a defendant is convicted of Criminal Street Gang Activity, he or she would be subject to enhanced penalties. The bill would allow for the forfeiture of proceeds of these crimes and directs that 40% of funds forfeited be deposited into a newly-created fund for the prevention of street gang violence. The bill also directs the Education Department, in conjunction with the Division of Criminal Justice Services, to prepare training materials for the purpose of reducing gang-related activity and drug and alcohol abuse. The bill permits the Education Department and individual school districts to adopt uniforms or dress codes that prohibit "gang-related apparel."

### Youth Violence Prevention Task Force

The One-House bill establishes a Youth Violence Prevention Task Force, which would be composed of members appointed by the Majority and Minority leaders of the Assembly and Senate and by the Governor. The task force would study the effectiveness of current youth violence reduction programs and would issue a report on its findings by December 1, 2018.

## Translation of Orders of Protection

The bill would require that all orders of protection issued in Family Court and criminal courts be translated into the appropriate languages of the party. The language of this provision is very similar to S.5914-A of 2016 (Espaillat). This proposal has generally been an alternative Senate-preferred version to a similar bill that is supported by the Office of Court Administration and the Assembly.

## Miscellaneous

- The Senate rejects decriminalization of marijuana.
- The Senate accepts the admissibility of photo arrays and the recording of interrogations of high level felonies.
- The Senate accepts the Governor's proposals regarding Victims' Services awards.
- The Senate rejects sentencing reform and reduction of prison sentences and post-release supervision.

## **Veterans, Homeland Security and Military Affairs**

### Cyber Security

The Senate Majority Budget proposal requires a comprehensive review and analysis of all cyber security services to be performed every five years and requires the formation of a cyber-security advisory board and the implementation of a cyber-security initiative. The Senate Majority also creates a cyber-security defense unit, including cyber incident response teams that would, among other things, focus on cyber education and attack prevention.

### Emergency Services

The Senate Majority Budget proposal directs New York City to develop and adopt a comprehensive emergency management plan, and authorizes cities with fewer than one million people, towns and villages to develop a plan, that includes provisions for home health care, medical professionals, nurses, doctors and hospice services.

### Veterans

The Senate Majority accepts the Executive budget proposal to improve the reach of veteran treatment courts and adds language to expand on the Veterans treatment court peer-to-peer mentoring program to allow VSO's to access grants under this program.

## **Ethics & Campaign Finance Reform**

The Senate did not take any action whatsoever to accept, reject, or modify any of the proposals contained in the Executive's "Good Government and Ethics Reform" stand-alone Article VII bill. That bill was introduced on January 23, 2017 (S2010) but has not been amended to date.



The State Senate has not submitted any new proposals pertaining to campaign finance reform or ethics in any of the Executive's budget bills that have been introduced and subsequently amended. Proposals rejected by the Senate include the following items:

- Requires all legislators to seek an advisory opinion from the Legislative Ethics Commission ("LEC") before earning any outside income in excess of \$5,000 per year.
- Close the so-called "LLC Loophole", effectively reducing their contribution limits to \$5,000 in the aggregate each year.
- Require local elected officials who earn more than \$50,000 per year in a government salary, as well as all County Executives, County Managers, and all Chairs of County Boards of Supervisors to file the state financial disclosure forms.
- Implements campaign finance proposals such as a voluntary system of full public financing, reducing campaign contribution limits, lowering contribution limits to soft money "housekeeping accounts" from unlimited to \$25,000, lowering "hard money" contributions to party accounts from \$62,500 to \$25,000, requiring additional disclosure by "bundlers" of campaign contributions, limiting party or constituted committee transfers and spending limits on behalf of individual candidates to \$5,000 per election, except under limited circumstances, requiring contributions or loans in excess of \$1,000 be reported within sixty day, and requiring additional disclosure of loans.
- FOIL reform to incorporate the legislature into FOIL, expedites FOIL appeals, and amends the attorney's fees provisions and when they can be awarded during FOIL litigation.
- Provides Inspector General jurisdiction to investigate contracted parties with the state in agency procurements when there are allegations of fraud, corruption, criminal activity or conflicts of interest.
- Creation of a Chief Procurement Officer ("CPO") to oversee the integrity and uniformity of procurement practices and oversight.
- Prohibits campaign contributions by those that submit bids, quotes, or responses to state contract offers to officeholders in the governmental branch awarding the contract.
- Creates a system of automatic voter registration for qualified individuals who apply for a driver's license, renewal, or identification card.
- Establishes a system of early voting in each county throughout the state.
- Restricts any outside earned income a member of the state legislature could earn to 15% beyond the member's statutorily set salary.
- Constitutional amendment allowing New Yorkers to register and vote on the same day.
- Constitutional amendment proposal creating four-year legislative terms for legislators, and eight-year term limits for members of the legislature and statewide elected officials.

## **Labor and Workforce**

### **Appropriations**

The Senate modifies the Executive's proposal by decreasing the General State Charges budget by \$120 million for the purposes of adjusting spending to reflect a re-estimate of cash disbursements for employee fringe benefits.

The Senate adds nearly \$15 million to the Executive proposal to support programs such as

AFL-CIO WDI, Cornell ILR, YouthBuild, Displaced Homemakers.

### Wage Theft and Minimum Wage

The Senate rejects the Executive's proposals to enhance wage theft remedies, and adds a new proposal that would require the Department of Labor to smooth the increased wages for fast food workers under the wage order that existed prior to the 2016 minimum wage deal (instead of giving the Department of Labor the option to do so, as was agreed up in 2016). The Senate adds language matching legislation by Senator Amedore that charges UI benefits to the State trust fund instead of an employer account for benefits created by laying off an employee due to a paid family leave beneficiary returning to work.

The Senate adds new language that would adjust the Minimum Wage Reimbursement Credit and allow a business to claim a youth who is paid at minimum wage or no more than 50 cents over the minimum wage. This language corresponds to concerns brought forward by the Food Industry Alliance, which argued that the reimbursement credit cannot be used when a business is required to pay youth anything more than minimum wage due to a union contract;

### Public Employees

The Senate rejects the Executive's proposal to create an Administrative Hearings Unit, as are proposals that would provide reforms to the State Insurance Fund, cuts in state retiree healthcare benefits, hiring flexibility for the Office of Information Technology Services, and creation of part-time unemployment benefits.

The Senate also adds new proposals that would enhance the ability of retired employees to return to state service without forfeiting pension benefits, including lifting the income cap for such work from \$30,000 to \$50,000 and create a blanket waiver for the hiring of retired police officers as school resource officers.

### Buy American

The Senate concurs in part with the Governor's Buy American proposal, but modifies the language to conform more with S.4073/Robach, which applies the provisions only to manufactured goods procured as part of a contract for public works or public buildings. The Senate also includes language exempting Canadian iron or steel to the extent such provisions are inconsistent with international trade agreements;

### Miscellaneous

- The Senate rejects the proposal to extend and expand the Urban Youth Jobs Tax Credit, which, if enacted, would eliminate tax credits after the 2017 tax year;
- The Senate includes language that corresponds to S.5186/Carlucci, which would provide grants out of a \$150,000 allocation to companies that manufacture goods in New York and create a "New York Made" label for such products;

- The Senate adds language to exempt NYCHA from new mold licensure requirements, as previously proposed in legislation sponsored by Senator Savino;
- The Senate adds language that would extend the filing deadline from 2 years to 5 years for New York State firefighters to apply for accidental disability retirements for certain cancers. Similar legislation has been pushed by Senator Golden in previous years; and
- The Senate adds a new proposal that would prevent the Executive from reducing positions via attrition or otherwise in any agency where at least 25% of the current FTEs have worked overtime unless caused by emergency situations. This proposal attempts to prevent loss of jobs due to attrition in human service agencies such as OPWDD or OMH due to the high levels of overtime among current employees.

## **Environment**

### **\$2 Billion Water Quality Appropriation**

The Senate accepts the Executive's proposed \$2 billion Water Quality infrastructure appropriation making minor modifications to eligible projects to further explicitly authorize agricultural project support among various categories such as water quality improvement, lead service line replacement, and road salt management, among others. The Senate additionally proposes a \$5 billion Water Quality bond act as discussed within the health budget.

### **\$300 Million EPF**

The Senate accepts the Executive's proposed \$300 million environmental Protection Fund and provides minor modifications to internal funding lines, including: reducing EJ community impact grants from \$4 million to \$2 million; reducing the climate change account from \$21.6 million to \$17.2 million and including a new \$3 million suballocation for farmer drought assistance; including a new \$5 million Catskill Park stewardship projects line; a new \$3 million Cornell Lyme Disease line; and a new \$700,000 suballocation for a Long Island commission for aquifer protection.

### **\$108 Million RGGI Sweep**

The Senate proposes to sweep a total of \$108 million from RGGI proceeds. This is accomplished by increasing the Executive's proposed \$23 million RGGI sweep to the general fund to \$78 million (\$55 million increase), and allocating an additional \$30 million to a fund created in 2015 to provide community contingency support for communities whose tax bases are significantly impacted by electric generating facility closures. This original program swept \$30 million from RGGI, and this current proposal would increase the fund to a total of \$60 million, extend the percentage of revenue losses that the support would cover (increased from 80% to 100%), and increase the duration that a community can access the contingency funds (from 5 to 10 years) –PPGG Part RR.

### **Extension of Compliance Deadline for Diesel Emissions Reduction Act**

The Senate proposes to extend the DERA compliance deadline from December 31, 2017 to December 31, 2019. This proposal also eliminates state contractors from DERA requirements; extends the waiver period for soon-to-be retired vehicles by four years until 2022; and pushes back a required DEC report on the status of DERA compliance by two years until 2020.

### Food Waste and Food Scraps Recycling

The Senate rejects the Executive's proposal to require high-volume food waste generators to donate edible, unsold foods to local charities, and send inedible excess food waste to organics recyclers if they are within 50 miles.

### State Matching Funds for Waterfront Revitalization

The Senate accepts the Executive's proposal to increase state matching funds for Department of State Local Waterfront Revitalization Program projects from 50 percent to 75 percent. The Senate also accepts the Executive's EPF proposal of \$16 million for this program including \$10 million for inner city and underserved communities.

### Yearling Buck Protection Program

The Senate One-House includes Senator O'Mara's bill S.4739-A which would create a secondary Yearling Buck Protection Program. The existing program only applies to one wildlife management unit, this would establish a similar program for several other units. The definition of "antlered deer" is less extensive in this proposal. Those under seventeen are exempted from its provisions.

### Miscellaneous

- The Senate rejects the Executive's proposal to create a companion capital account to the State Oil Spill Fund.
- The Senate rejects the Executive's proposal to add the climate change mitigation and adaptation account to additional areas of law that enumerate the accounts within the EPF.
- The Senate includes Senator Gallivan's bill S.1386-A, which amends numerous provisions established within 2014 crossbow authorization legislation to expand the use of a crossbows in New York, treating crossbows more as a longbow and less as a gun. This expansion includes allowing 12 and 13 years old to hunt with a crossbow if accompanied by a parent or guardian and eliminating the requirement that safe crossbow use be taught in required hunter education courses.
- The Senate includes Senator Griffo's bill S.3156 which lowers the universal hunting age from 14 to 12 years old, including crossbows and big game rifle hunting.
- The Senate includes Senator Lanza's bill S.2640 which would exempt bulk storage facilities located within one mile of a similar major facility in an adjoining state from increases to petroleum transfer fees. This legislation would impact only one facility, the Kinder Morgan Terminal which is located on Staten Island. The projected reduction to the Oil Spill Fund would be approximately \$1 million.

- The Senate includes Senator Funke’s bill S.1045 which would extend the renewal schedule for the two most common pesticide applicator licenses from one to three years. This would also reduce the associated fee from an annual \$200 fee to a 3-year \$450 fee, causing a projected annual loss of revenue to the state of approximately \$330,000. Pesticide applicator fees support DEC programs.

## **Agriculture**

### **Fully Restores Aid to Localities Programs**

The Senate fully restores \$9.5 million in Agricultural Aid to Localities program funding and increases the overall appropriation to \$33.5 million by proposing an additional \$2.6 million to support six new spending lines, including \$1 million for an additional round of beginning farmers grants as well as assistance for organics certification, school gardening programs, and Cornell labor law farmer assistance, among others.

### **Reduces State Fair Capital and Supports Local Fairs and Humane Societies**

The Senate reduces the Executive’s \$50 million capital appropriation for a second round of state fairground upgrades by \$20 million to a total of \$30 million, and offsets this reduction by proposing new funding of \$10 million for local fairground capital projects (increased from \$5 million in SFY 2016-17), and \$5 million for municipal and not for profit humane society capital improvements (\$5 million also included in Assembly 1-House Budget).

### **Rejects Taste NY Marketing Appropriation**

The Senate rejects a \$850,000 state operations appropriation within the department to support marketing for the Taste NY program (this is in addition to a \$1.1 million Ag ATL appropriation for the same purpose).

## **Cultural Affairs, Parks and Tourism**

### **Rejects \$320 Million in Parks and Trails Capital Appropriations**

- The Senate rejects the Executive’s proposed \$120 million capital appropriation for State Park infrastructure upgrades;
- The Senate rejects the Executive’s Empire State Trail proposal (\$123 million to the Hudson River Valley Greenway Communities Council and \$77 million to the NY Power Authority);
- The Senate *accepts* the Executive’s ATL proposal of \$42.5 million for the NYS Council on the Arts; and
- The Senate *accepts* the Executive’s proposed \$38 million capital appropriation to the Olympic Regional Development Authority.

## **Miscellaneous**

- The Senate rejects the Executive's proposal to remove the the chairman of the State Athletic Commission from the list of positions with the statutory salary of \$101,600.

## **Transportation**

### CHIPS

The Senate proposes a \$75 million increase in CHIPS aid, bringing the annual total to \$552.7 million, including flat Marchiselli funding.

### NY Works

The Senate proposes a \$107 reduction in New York Works funding, bringing the total to \$1.49 billion: specifically, the State provides less funding for non-federal aided highway purposes affiliated with the 2015-19 DOT Capital Plan -a reduction of \$270 million. The Executive added this same amount in the 30-day Amendments. The Senate provides an additional \$27.5 million in Aviation funding and \$50 million for state and local bridges. The Senate also provides an increase of \$85 million for non-MTA transit aid under New York Works.

### Mass Transit Operating Aid

The Senate proposes an \$11.3 million increase in Aid to Localities appropriations to the Department of Transportation. The Senate provides no major fiscal changes to mass transit operating aid for MTA, but includes \$6.8 million for downstate operating transit aid and \$4.5 million to upstate operating transit aid:

Downstate non-MTA increases:

- \$67,000 for Rockland County
- \$656,000 for Staten Island Ferry
- \$1.1 million for Westchester County
- \$1.3 million Nassau County
- \$518,000 for Suffolk County
- \$1.7 million for NYC DOT (further provides that \$2 million of this less-than-\$2 million appropriation be expended on express bus service for Staten Island)
- \$636,000 for Formula Aid
- \$758,000 for all systems, except for the MTA

Upstate Transit System increases:

- \$714,000 for CDTA
- \$652,000 for CNYRTA
- \$791,000 for RGRTA
- \$1.1 million for NFTA
- \$786,000 for Formula Aid
- \$496,000 for all systems

### Non-MTA Capital Projects

The Senate includes \$6.17 million, bringing the total to \$79 million, for non-MTA capital purposes including costs of mass transportation capital projects and facilities. Combined with New York Works, a total of \$91 million additional capital assistance is provided for non-MTA systems.

### Verrazano Narrows Bridge Commercial Vehicle Rebate

The Senate provides an additional \$3.5 million of General Fund resources for costs associated with increasing the Verrazano Narrows Bridge residential rebate program.

### Rural Medical Transportation Program

The Senate also provides \$5 million for the Commissioner of Transportation to develop and submit a plan to the Governor and legislative leaders recommending equitable distribution for rural public transportation systems negatively impacted by changes in Medicaid reimbursements (non-emergency medical transportation) related to the Medicaid Redesign program.

### Aviation Purposes

The Senate provides an additional \$2 million for aviation capital purposes, provided through the Dedicated Highway and Bridge Trust Fund, bringing total funding to \$6 million. Combined with New York Works funds, an additional \$29.5 million is devoted to aviation capital.

### NPS/Consultant Increase

The Senate increases non-federal highway capital aid by \$11.5 million for non-personal services, which generally covers contractual services, equipment, or supplies.

## Design-Build

The Senate rejects the Executive's proposal to extend design-build/best value authorization permanently and expand to include all state authorities and agencies. The Senate also rejects the design-build extension language placed in the appropriations, as they did last year.

## Miscellaneous

- The Senate modifies the proposal to increase the oversize motor carrier permit cap from 10,000 through 2025 to increase the cap by 2,000 instead for any year.
- The Senate rejects the proposal to empower the Public Transportation Safety Board to withhold transit operating assistance funds for failure to comply with PTSB orders.
- The Senate modifies the proposal to increase motor carrier dimensions in connection with Federal statutory changes to eliminate the provision requiring suspensions of vehicle registrations when motor carriers have been issued out-of-service orders by the Federal DOT.
- The Senate modifies the toll scofflaw provision to clarify that criminal "theft of services" charges would not be triggered until a value of at least \$500 is obtained.
- The Senate rejects the proposal to increase reinstatement fees for out-of-state license revocations, which bring them into line with New York residents.
- The Senate rejects the proposal to increase motor vehicle title fees, and rejects the proposal authorizing DMV to issue a \$5 fee to cover REAL ID-compliant licenses.
- The Senate rejects the proposal authorizing DOT to enter into shared services agreements with NYPA and the Canal Corporation to maintain the canal system.

The Senate also adds many additional proposals modeled off of Senate Republican and IDC bill introductions. Noteworthy or controversial proposals include:

- The Senate adds authorization for a "Canadian citizen trail pass" for registered snowmobilers from Canada, so that they can use New York snowmobile trails upon obtaining a one year registration. (S. 1529/Ritchie)
- The Senate adds a repeal of the definition of "transportation purpose" that was added to the 2016 Enacted Budget. The Budget proposal was opposed by the City of New York and many local parks groups and community advocates. An identical bill to the Senate one house language was vetoed by the Governor in 2016 (S.8037 of 2016, S.3976 of 2017).
- The Senate adds a modification permitting ATVs to weigh 1500 pounds dry weight, a



50% increase. This proposal is opposed by environmental groups like Environmental Advocates and the Adirondack Council. Identical legislation passed 36-24 in 2013, with bipartisan objection, and has not been back on the floor since. (S.1909/Ritchie)

- The Senate adds a toll advisory task force requiring evaluation of current toll rates, discounts, and potential toll increases. (Similar to S.5092/Carlucci)
- The Senate adds a higher speed limit for Ocean Parkway in Brooklyn. Though lawmakers have expressed concerns about safety incidents on the street, they seek an increase in the speed limit to avoid traffic diversion onto residential streets. (S.5170/Felder)
- The Senate adds an update to the arterial maintenance formula that more than doubles the reimbursement to municipalities for maintenance of state arterials within their jurisdiction. This is nearly identical to S.7896/Golden, but included a new provision preventing the bill from taking effect until a tax cap is enacted in New York City.
- The Senate adds a mandatory suspension for 2 school zone speeding violations within an 18-month period. (S.336-B/Peralta of 2017)
- The Senate adds a requirement for DOT to maintain canal system bridges so as not to impede large commercial vehicles. DOT already must maintain bridges in a state of good repair if the public convenience requires its maintenance. Identical previous legislation S.2658-A/Ortt passed with objection from Senators Dilan, Krueger, and Perkins in 2016.

### Metropolitan Transportation Authority

The Senate accepts the Executive's appropriations and recommends no changes.

### Transit Sweeps

The Senate accepts the Executive's proposed \$121.5 million sweep from downstate transit funds and the reduction of \$65 million of MTA assistance committed since 2011.

### Department of Motor Vehicles

The Senate provides an additional \$6.8 million for an Impaired Driving Safety Program to implement an Article VII proposal (TED Part EEE), for costs associated with the impaired driving safety program including ignition interlock monitoring and county STOP-DWI programs. The Senate also eliminates broad appropriation transfer authority from DMV appropriations.

### Ridehailing/Ridesharing

The Senate modifies the Executive's proposal providing special authorization for transportation network companies (TNCs) to operate outside of New York City without complying with for-hire laws in several ways. It modifies the insurance provision to require that coverage include accidents occurring throughout the country and Canada. It eliminates the Executive's additional conditions on group policy plans and replaces with a requirement that insurance be provided by an insurer eligible to write insurance in the state. It eliminates the provision exempting disclosure of a TNC driver's name pursuant to freedom of information laws.

The bill also eliminates the customer complaint process and generally empowers DMV to regulate the process instead. It adds a provision protecting non-NYC airports' ability to enter into contracts and impose fees governing TNC operations on their grounds. Finally, modeled off of the bill that passed on February 6, S.4159/Seward, it charges a 2% TNC assessment fee rather than the Executive's 5.5% and directs it to transportation purposes.

### Motorist Safety Legislation

The Senate modifies the Executive's motorist safety proposal to eliminate the distracted driving provisions, and also modifies the mandatory seatbelt provision to include passengers 21 years of age or older – however, this leaves a coverage gap for passengers aged 16 through 20, which is the cohort with the worst motor vehicle safety record. In contrast, Senator Dilan sponsors a bill – which the Executive mirrored – that requires all backseat passengers to wear seatbelts (S.2928).

### \$3 million NYC Traffic Adjudications Sweep

The Senate accepts the Executive's sweep of \$3 million of traffic adjudication fine revenues recovered in New York City to the State General Fund.

### Corporations/Public Authorities

#### Port Authority IG

The Senate ignores the Executive's Good Government and Ethics Reform bill, which included a proposal to create a New York-specific inspector general at the Port Authority, additional to the existing IG's office.

## Miscellaneous

- The Senate modifies the Executive's proposal to extend DASNY's authority to enter into design and construction management agreements with DEC and ORPHP to two years, and requires a report within 90 days on the program's use thus far.
- The Senate rejects the Executive's proposal to authorize DOH and DASNY to use alternative procurement methodologies to fund laboratory consolidation, including Wadsworth Laboratories.
- The Senate adds legislation raising the cap on State-authorized land banks from 20 to 25. Senator Young's identical bill, S.1897, passed 61-0 on 2/28 this year.
- The Senate adds a toll exemption for residents of Kings County who use the Verrazano-Narrows Bridge, modeled after the exemption authorized for Richmond County residents Senator Krueger opposed this bill in 2016 (S.1468).
- The Senate adds a proposal prohibiting the Port Authority from assessing cargo facility charges to finance their cargo infrastructure. The standalone bill, currently S.3710/Ranzenhofer, has not advanced to the floor due to bipartisan regional concerns.
- The Senate adds a proposal forgiving nearly \$4 million of State loans to the Oswego Port Authority for the 23-year span between the 1950s and 1980s. This bill, S.3013/Ritchie, had three AWRs in committee in 2016 and did not advance to the floor.
- The Senate adds a repealer of the legislation enacted in the 2016 Budget creating the Design and Construction Corporation. This legislation was repeatedly criticized during the budget process.
- The Senate adds the New York Microgrids Act, directing NYSERDA to establish a microgrids grant program in an attempt to reduce electricity rates. NYSERDA already operates the NY Prize program, which focuses on reducing costs, improving resiliency, and spurring innovative partnerships. It emphasizes microgrid usage. (S.4490/Hamilton)

## **Economic Development**

### Department of Economic Development

The Senate modifies the Executive State Operations proposal by eliminating \$700,000 to promote international trade, providing a total of \$26.2 million.

The Senate modifies the Executive Aid to Localities proposal with an increase of \$2.8 million that includes the following:

- Restores \$1.3 million for the Centers of Excellence (additional \$127,667 to each center);
- Adds \$1 million in new funding for the New York Medical College to create the Center of Excellence in Precision Responses to Bioterrorism and Disaster;
- Cuts \$1 million from Market NY for a total of \$6 million;

- Adds \$1 million for the Local Tourism Matching Grants Program for a total of \$4.8 million;
- Adds \$1 million for the Innovation Hot Spots and Incubators Program for a total of \$6 million;
- Adds \$200,000 in new funding for the Regional Economic Gardening Program;
- Adds \$100,000 for the Finger Lakes Tourism Alliance; and
- Adds \$80,000 for the Dream It Do It Western NY.

The Senate concurs with the Executive Aid to Localities proposal for the following:

- Centers for Advanced Technology matching grants (\$13.8 million);
- Technology Organization Matching Grants (\$1.4 million);
- Industrial Technology Industrial Service (\$921,000);
- SUNY Polytechnic Institute Colleges of Nanoscale Science and Rensselaer Polytechnic Focus Center (\$3 million);
- High Technology Matching Grants Program (\$6 million);
- \$1.45 million in new funding for the Chapter of NYARC and the Cornell Cooperative Extension of Nassau County; and
- Federal Manufacturing Extension Partnership Program (\$9.5 million).

#### Urban Development Corporation

The Senate modifies the Executive Aid to Localities proposal with a reduction of \$63.8 million for a total of \$43.8 million.

- The Senate concurs with the following Executive proposals:
  - Minority and Women-Owned Business Development and Lending Program (\$635,000);
  - Federal Community Development Financial Institutions Program (\$1.5 million);
  - Entrepreneurial Assistance Program (\$1.8 million);
  - Retention of Professional Football in Western New York (\$4.6 million);
  - Urban and Community Development Program (\$3.4 million); and
  - Empire State Economic Development Fund (\$26.2 million).
- The Senate rejects the Executive proposal to fund advertising for the NY Open for Business and the Excelsior Business Program (\$69.5 million).
- The Senate adds the following:
  - Military Base Retention (\$3 million);
  - Beginning Farmers NY Fund (\$1 million);
  - Bronx Overall Economic Development Corporation (\$600,000);
  - Center State CEO (\$400,000);
  - Adirondack North County Association (\$300,000);
  - Kingsbridge-Riverdale-VanCortlandt Development Corporation (\$200,000);
  - Watkins Glen International (\$125,000); and
  - Bronx Chamber of Commerce (\$100,000).

The Senate modifies the Executive Capital Projects proposal with a reduction of \$503.6 million for a total of \$1.9 billion.

- The Senate concurs with the following Executive proposals:
  - Clarkson-Trudeau Partnership for biotech industry in North Country (\$5 million);
  - NY SUNY 2020 Challenge Grant Program (\$55 million);
  - NY CUNY 2020 Challenge Grant Program (\$55 million);
  - New York Power Electronic Manufacturing Consortium (\$33.5 million);
  - New York Works Economic Development Program (\$199 million)
  - Kingsbridge National Ice Center (\$108 million);
  - Moynihan Station Project (\$700 million);
  - Drinking Water Upgrade for the City of Auburn and the Town of Owasco (\$2 million);
  - Buffalo Billion Squared (\$400 million); and
  - Life Sciences Initiative (\$300 million).
- The Senate rejects the following Executive proposals:
  - Market NY (\$8 million);
  - Life Sciences Laboratory Public Health Initiative (\$150 million);
  - Cultural, Arts and Public Spaces Development Fund (\$10 million);
  - Regional Economic Development Council Initiative (\$150 million);
  - Orlando LGBT Terrorist Attack Memorial (\$1 million); and
  - Strategic Projects Program (\$207.5 million).
- The Senate adds the following:
  - \$5 million in new funding for the life sciences feasibility study related to the Wadsworth Center in the Capital Region; and
  - \$3 million for the Made by New Yorkers Economic Development Fund;
- The Senate restores the following:
  - Beginning Farmers NY Fund (\$1 million);
  - Military base retention and research efforts (\$3 million);
  - Adirondack North Country Association (\$350,000);
  - Regional Economic Gardening Program (\$250,000);
  - Fishing Tournament promotions (\$150,000); and
  - Watkins Glen International (\$150,000).

## Article VII

- Rejects the Executive's proposal to extend the MWBE program for an additional year. If no extension is granted, this program is set to expire on December 31, 2017;
- Modifies the Executive's START-UP NY proposal by requiring the Commissioner to prepare a final report for the Governor and the Legislature on the effectiveness of the program before April 1, 2018. Establishes an earlier deadline for submission of an application from December 31, 2020 to April 1, 2018;
- Adds a provision amending the State Administrative Procedure Act in relation to requiring agencies to minimize adverse impact on jobs when creating new rules. This bill is very similar to S.6448A/Murphy, which passed the Senate unanimously in 2016;
- Adds a provision that codifies the Governor's regional economic development councils. This bill passed out of committee this year with 4 AWR votes from SDC members;
- Adds language that requires the Department to create a comprehensive economic

development report each year listing all forms of economic development spending by all state agencies, authorities and corporations. This is a less comprehensive bill compared to Senator Krueger's S.3364; and

- Modifies the life science initiatives program which allows the Department to provide financial support to life science entities. The language requires institutions in New York city only to match funds appropriated on a one-to-one basis by cash, personnel, equipment, material donations or other facility and operations expenditures. The language allows only one-third of all funds appropriated to be awarded to New York City.

## **Energy & Telecommunications**

### Department of Public Service

The Senate concurs with the Executive's proposal of \$95.7 million for State Operations and \$5.75 million Aid to Localities.

### New York Energy Research and Development Authority (NYSERDA)

The Senate concurs with the Executive's proposal of \$15.6 million for Capital Projects.

### Article VII

- The Senate rejects the Executive's proposal authorizing utility and cable television assessments to provide funds to the Department of Health from cable television assessment revenues (TED, Part V).
- The Senate modifies the Executive proposal by limiting moneys received by the assessment to \$1.2 million instead of \$19.7 million. The Senate adds \$500,000 to the University of Rochester Laboratory for laser energetics for a total of \$1.2 million and omits everything else, including: \$1 million for the NYS Office of Climate Change in the Department of Environmental Conservation; funding for the NYSERDA Energy Research, Development and Demonstration Program, its Energy Policy and Planning Program; and \$150,000 for the Department of Agriculture and Markets' (AGM) Fuel NY program.
- The Senate adds new language to grant NYSERDA the authority to establish the "New York Microgrids Program," in consultation with NYPA, LIPA, the Department of Environmental Conservation, and the Department of Public Service. The program would give grants not to exceed \$150,000 with preferences to: communities in areas of the state where energy costs are particularly high in relation to a measure of its median household income as determined by NYSERDA; rural areas; energy insecure regions; and low income municipalities (TED, Part NNN).
- The Senate adds new language to grant NYSERDA the authority to establish a \$15 million New York State Geothermal Heating System Rebate Program for the installation of geothermal heating systems over two years. Residential and small-scale systems are eligible for rebates up to \$1,500 per ton of installed capacity and commercial and large-scale systems are eligible for rebates up to \$1,200 per ton of installed capacity. NYSERDA is required to provide a report on the program within one year of effective

date (TED, Part OOO).

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## **Revenue and Taxes**

### **Denials of Executive Proposals**

The following revenue items proposed by the Governor are rejected in the one-house bill presented by the Senate Majority:

- Extending the highest personal income tax bracket for three years.
- Permanently extending the high income charitable contribution deduction limitation.
- The Executive's proposal to expand the workforce training credit. This proposal amends the current Employee Training Credit Program to incentivize companies to include incumbent worker training as part of their expansion and retention projects, and to expand the credit to include training for employees working in the life sciences.
- Denies all STAR related provisions.
- Extending and re-naming the NY Youth Works Program. The recommendation extends the Urban Youth Jobs Program tax credit for five years to 2022 and renames the Program as the New York Youth Jobs Program tax credit.
- Reforming the existing Investment Tax Credit (ITC) Program. This proposal reforms the existing Investment Tax Credit (ITC) statute by identifying certain uses of property for which the ITC would not be allowed.
- Requiring New State Employees to be Compliant with State Tax Obligations.
- Requiring practitioners to be compliant with State tax obligations before receiving excess medical malpractice coverage.
- Permanently extend warrantless wage garnishment. This proposal makes permanent the authority for the Commissioner of Taxation and Finance to serve income executions (wage garnishments) on individual tax debtors.
- Require all corporations subject to tax in NYS that are treated as S corporations for Federal tax purposes also be treated as S corporations for New York State tax purposes.
- Close the co-op sale loophole in the personal income tax, and characterize the gain from

the sale of entities who own shares in cooperative housing corporations located in New York as New York source income.

- Close non-resident asset sale loophole and impose a tax on nonresident individuals who are partners that sell the partnerships assets, and then classify the transaction as a sale of an intangible partnership interest.
- Require providers to collect sales tax on the taxable sales of tangible personal property that they facilitate.
- Close sales tax related entities loopholes.
- Apply the Public Safety Communications Surcharge on the sale of each prepaid wireless communication service or device.
- Tax and regulate vapor products.
- Clarify the amount of untaxed cigarettes required to seize a vehicle.
- Reform the taxation of cigars and change the method of taxation on cigars from a percentage of the wholesaler's price to a tax equal to 45 cents per cigar.
- Close a real estate transfer tax loophole ("Mansion Tax") on the conveyance of residential real property where the consideration for the transfer is \$1 million or more.

#### New Items Added in Revenue Bill

The following items have been added to the Revenue bill by the Senate Majority in its one-house budget bill:

- Permanently extends the existing State Property Tax Cap.
- Increases the existing minimum wage tax credit; allows a business to pay minimum wage or no more than 50 cents above minimum wage to a youth that otherwise qualifies for the reimbursement credit.
- Increases from \$250 to \$500 the maximum amount of the farm workforce retention credit this year and from \$400 to \$1000 when fully effective. Also, for Westchester, Nassau, and Suffolk counties, the credit shall equal the number of employees multiplied by 600 in 2018 and 1500 in 2022.
- Creation of the new Empire State Music Production Tax Credit, which equals 25% of qualified production costs. A new Empire State Gaming Media Production Credit is also included.
- A new Middle Income Class Housing Tax Credit program is included. This provision was included in Senate Republican budget the last two years. This program expands on the existing Low Income Housing Tax Credit Program. This Program is capped at \$25 million annually.
- A new distressed commercial properties tax credit program is proposed. The maximum credit is \$100,000. The credit is 30% of the actual cost.
- A new visitability tax credit is included. The Secretary of State will administer the program. The Program is capped at \$1 million annually statewide. 50% of the costs are allowed with a maximum annual cap of \$2750.
- Increases the exemption from the MTA Mobility Tax for self-employed individuals from \$50,000 to \$250,000.
- Exempts all municipalities from the MTA Mobility Tax.
- After 2021, freezes the MTA business tax surcharge rate charged in the MCTD that help



support MTA operations. This rate was changed in 2014 from a flat 17% rate to a discretionary rate, as determined by the Commissioner of Taxation and Finance, by which finances of the MTA are not adversely affected and its revenue stream is held constant.

- Increases the pension income exclusion amount from \$20,000 to \$40,000 in 2019.
- A taxpayer is granted a tax deduction totaling \$10,000 for each child with special needs who is adopted.
- Raises the minimum taxable income at which a taxpayer is required to file a income tax from \$4,000 to whatever level the standard deduction is, depending on how the taxpayer files.
- Extends from 2017 to 2021, various tax benefits providing for the development of Lower Manhattan.
- Adds new provisions providing for the Educational Affordability Tax Credit Program.
- Adds a new Green Building Tax Credit Program. The amount of the credit equals 50% of qualified costs. The credit can only be awarded once in 10 years and have a maximum value of \$7,500.
- Incorporates a mandatory State Operating Funds spending cap.
- Provides for advertising on lottery tickets.
- A new tax credit program is included called the College Debt Freedom Account Program Tax Credit. The business taxpayer is allowed a 50% credit of the amount contributed to an employee's College Loan Freedom Account. The maximum amount of the credit is \$2500 per year.

### Alcohol-Oriented Revenue Proposals

- The Senate rejects the Executive proposal to establish "Taste-NY" permits. The proposal authorized the issuance of *up to ten* special licenses for the sale of alcoholic beverages at retail for consumption off-premises to those individuals with a written agreement with Agriculture and Markets to operate a "Taste NY" store.
- The Senate rejects the Executive's proposal to create a new motion picture alcohol permit. A new retail on-premises license for consumption would be created to allow for on-premise alcoholic beverage sales in licensed motion picture theaters, under specific conditions.

### General Government

#### Agency Appropriations

- The Senate modifies the Executive's proposal by increasing the Department of State's budget, providing an additional \$2 million in funding for the Business and Licensing Services Program.
- The Senate rejects the Executive's proposal, and increases appropriations by \$527,000 for the purposes of contractual services.
- The Senate eliminates the \$3 million contractual services appropriation proposed in the Executive's Board of Elections Budget for the purpose of voting machines examinations.

- The Senate modifies the Executive's proposal by removing the \$15 million appropriation allocated in the Office of General Services capital projects budget that is associated with Flood Recovery efforts of repairing, restoring, or replacing State-owned structures and their contents.

### Commercial Gaming and Tribal State Compact Revenue

The Senate provides an additional \$2 million for the Commission, specifically \$1.4 million is directed towards commercial gaming and an additional \$600,000 is recommended for Tribal State Compact Revenue from Native American Casinos.

- Region One of Zone Two (Catskills/Hudson Valley Region): \$540,910
- Region Two of Zone Two (Capital Region): \$540,910
- Region Five of Zone Two (Eastern Southern Tier/Finger Lakes Region): \$318,180

### Racing and Wagering Executive Budget Actions

- The Senate rejects the Executive proposal for equine drug testing. Regulatory costs for Gaming Commission operations are funded via assessments on the industry. This proposal continues that trend by assessing costs associated with equine steroid and drug testing from the state onto the racing industry itself. Enactment of this proposal would result in approximately \$4.5 million in savings to the State.
- The Senate modifies the Executive's proposal to update the State's charitable gaming laws. This proposal repeals various sections of current law governing charitable gaming and consolidates them into one new article in the Racing law. The bill also revises the minimum age to play bingo to 18 years and allows for the use of checks, credit and debit cards in games of chance. The number of years a charitable organization has to be in existence in order to conduct charitable gaming is also reduced from 3 years to 1 year.
- The Senate modifies the Executive's proposal to privatize the New York Racing Association ("NYRA"): Part NN is modified to allow NYRA to return to private control. In addition, the proposal intentionally omits the Executive's proposal to authorize a reduction in the number of winter race dates at Aqueduct, subject to agreement with the respective horsemen and breeders associations and approval of the Gaming Commission, as well as NYRA's authorization to run nighttime races up to 11 p.m. at Belmont racetrack. The bill also removes the additional financial oversight controls to the state Franchise Oversight Board ("FOB"), in the event NYRA fails to operate at a profit or materially deviates from its adopted financial plan.
- The Senate modifies the VLT Capital Awards Rate Extender: Part QQ extends for one additional year the capital awards program provided to VLT vendors throughout the state. This proposal is modified to allow the Yonkers Raceway to take part in the program. Under current law, that facility is not eligible to participate. Moreover, the facility would not be capped at \$2.5 million like other facilities. The capital award is instead worth 1% of the total revenue, after payment of prizes and then increases to 4% on April 1, 2019. This enhanced capital award would only be provided pursuant to an agreement with each

facility to expand and further develop. Resorts World would have to invest a minimum capital investment of \$300 million and Yonkers Raceway \$180 million in order to be eligible.

New Racing, Gaming, and Wagering Senate One House Adds:

- The Senate adds a new omnibus proposal that makes several different changes to the racing law pertaining to simulcasting, purse support payments for horsemen, and distribution of certain payments to racetracks. The proposal also amends the tax law to increase the operator commission rate for Batavia and Vernon VLT racinos. This was a bill proposed by Sen. Gallivan (S4509) that recently went through committee. In addition, the proposal changes the “maintenance of effort” and “dark day” payment formulas that are made by tracks to further benefit off-track-betting corporations. The VLT vendor commission rate for Yonkers is also increased from 31% to 32%. This would have the direct result of a reduction in aid to education. The proposal also repeals language included in last year’s enacted budget which froze payments to the breeding funds and horsemen as a result of allowing Nassau OTB to operate VLTs in conjunction with Resorts World.
- *Revenue Jockey Compensation Insurance Fund – Similar to S4286 (Bonacic)*  
The Senate adds a new proposal that alters the statutory requirements for whom the jockey compensation insurance fund must provide insurance. Specifically, the proposal allows the fund to cover licensed employees of licensed trainers or owners, subject to approval by the Gaming Commission. The fund would also be able to elect, with the approval of the Gaming Commission, to secure coverage through some form of self-insurance. Under current law, licensed employees of licensed trainers, such as hot walkers and exercise riders, are covered by the workers compensation policy of the trainers for whom they work. Last year, the Governor vetoed a proposal very similar to this bill (S5541B). According to the veto, the bill would allow insurance companies to administer claims without receiving approval from the Worker's Compensation Board. In addition, the bill contained no penalty provisions if the JICF decided to eliminate coverage for any of the new employees that would be covered. Ultimately these flaws led the Governor to conclude that the bill would not help control workers' compensation costs and could even decrease protections
- *Online Poker – Similar to S3898 (Bonacic)*  
The Senate adds a new proposal to create a statutory and regulatory framework for the State Gaming Commission to license and implement Texas Hold'em' and Omaha Hold'em online poker games. The proposal would only allow these two types of online games. The games could be played between persons physically located in the state or as permitted by the Commission through potential compact agreements with other states such as Delaware, New Jersey, and Nevada that also allow online poker. The Commission would be required, within 180 days following enactment, to promulgate regulations, and 180 days thereafter, authorize up to 11 licenses to companies that wish to operate online gaming platforms. The prior version of this bill only allowed for 11

licenses (the old proposal was 11 total licenses).

Licenses could only be awarded to current Video Lottery Terminal facilities or to those companies operating full Class 3 casinos in the state. Moreover, licensees would be required to pay the State a fee of \$10 million for the privilege of conducting online poker. Licenses would be valid for a period of 10 years. Funds received from a licensee shall be applied to satisfy any tax obligation incurred as a result of an additional privilege tax of 15% imposed by the State on these games.

- *Additional Vendor Marketing Allowance*  
The Senate adds a new proposal that increases by 2% the vendor's marketing allowance allowed under current law for several video lottery terminal facilities. By increasing the allowance, this proposal essentially reduces State aid to education by tens of millions of dollars. The Monticello raceway would enjoy a marketing allowance of 12% and Empire City at Yonkers would increase by 2%.

### Banks and Financial Services

The Senate rejects various proposals in the Executive Budget that would regulate financial institutions and enhance the authority of the Department of Financial Services, including:

- Provide authorization to order failing insurers into administrative supervision proceedings;
- Increasing enforcement power of the Superintendent against illegal and unlicensed activity;
- Allowing DFS to license and regulate student loan servicers;
- Permitting banking institutions to hold transactions on the accounts of vulnerable adults based on reasonable belief of financial exploitation;
- Allowing DFS to disqualify bad actors from continued involvement in the industry;
- Requiring nonprofit organizations that facilitate lending circles to register with DFS; and
- Providing DFS with authority over any online lender doing business within the State.

### Local Government

#### School Tax Relief (STAR)

The Senate Majority accepts the Executive's proposal to convert the New York City Personal Income Tax (PIT) Rate Reduction Benefit to a New York State PIT Credit. It rejects Executive language capping the STAR Exemption at the 2017-18 level, making the Income Verification Program mandatory, and allowing partial payment of real property taxes, relaxing STAR Credit secrecy rules, and assessing co-ops for the STAR Credit. The Majority adds language making small businesses eligible for the Basic STAR benefit, repeals the STAR Credit created in 2016, and reopens the STAR Exemption Program to new homeowners. The Senate also adds language providing for reimbursement of any penalty with interest due to any delayed receipt of a STAR Credit check.

### Base Level Grant AIM Funding

The Senate rejects Executive language that subjects Base Level Grant funding to possible reductions if receipts are less than the amount assumed in the 2017-18 Financial Plan, and makes it contingent on passage of a 2017 Chapter Law creating the County-wide Shared Services Property Tax Savings Plans. The Senate also rejects Executive language subjecting reappropriations for awards under the Local Government Performance and Efficiency Program to possible reductions if receipts are less than the amount assumed in the 2017-18 Financial Plan.

The Senate accepts the Executive's \$35 million appropriation for the continuation of Citizen Empowerment Tax Credits and Citizens Reorganization Empowerment Grants, and \$4 million appropriation for the continuation of Local Government Efficiency Grants. It restores \$2 million in per capita aid to villages, as provided in the 2016-17 Enacted Budget, and adds \$3.9 million in Miscellaneous Financial Assistance, including \$772,500 in interim financial assistance to Seneca, Cayuga and Franklin counties to mitigate shortfalls due to non-payment of real property taxes by the Cayuga Indian Nation of New York and St. Regis Mohawk Tribe, and \$1.6 million to the Niagara County Industrial Development Agency for use to fund downtown economic development initiatives within the City of Niagara Falls.

### Shared Service Property Tax Savings Plan

The Senate rejects the Executive's proposal for County-wide Shared Services Property Tax Savings Plans. It adds new language requiring each county and the City of New York to prepare a Comprehensive Emergency Management Plan, which includes procedures for allowing identification and access by physicians, nurses and home health care personnel who provide vital health care, to individuals in their care.

### New York City Proposals

- Adds a provision creating the New York city tax reform study commission which is required to provide the Governor and Legislature with reforms to the real property taxation system in the city of New York. This bill is identical to S.1379/Little which passed the Senate unanimously earlier this year.
- Adds language that would establish a real property tax cap for New York city. New York city would be prohibited from raising its property tax levy by more than 2 percent or the rate of inflation, whichever is less. This legislation is identical to last year's bill S.3709B/Lanza which passed the Senate with 17 negative votes from the Conference.
- Adds legislation that establishes the NYCHA repair certificate program which provides zoning benefits to developers that perform capital repairs to housing projects. This bill is identical to S.1990/Klein which has not moved out of committee.
- Adds a provision which would require the Department of Homeless Services of the city of New York to provide notice to local public officials relating to the establishment of homeless shelters and the use of hotels for the homeless. This bill is identical to S.4802/Klein which has not moved out of committee.

### Miscellaneous

- The Senate rejects the Governor's proposal to reduce interest rates on court judgments & accrued claims paid by the State and local governments.
- The Senate permanently extends current provisions authorizing a municipality or political subdivision to contract for the purchase of apparatus, equipment, or supplies, or may contract for services relating to those products through the use of a contract let by the federal government.
- The Senate adds a directive that Westchester County, the town of Cortlandt, the village of Buchanan and the Hendrick Hudson School District shall perform a study to develop possible reutilization solutions for the Indian Point nuclear facility.
- Additionally, the Senate doubles the funding available to local government entities from \$30,000,000 to \$60,000,000 to alleviate the financial burden caused by the closure of an electric generating facility that causes a reduction in the real property tax collections or PILOTs by at least 20%, which were owned by the electric generation facility. Payments would be available for ten years, instead of five. The financial assistance would increase from an amount up to 80% of the lost revenue in the first year up to 100% of the loss of revenues in the first year and not less than 90% in the second year.
- The Senate adds a proposal that expands the rebuttable presumption coverage to include cancer of the lymphatic or hematological systems, the digestive, urinary, prostate, neurological, breast or reproductive systems or melanoma by amending the Volunteer Firefighters' Benefit Law.
- Creates a new class one-a designation for condos and co-ops. Class one-a properties are subject to class one property taxes and exemption options, such as STAR, such that they would be treated as residential one, two or three family homes. Rental properties would be classified as class two properties, not class one-a.
- Raises the income cap for STAR eligibility from \$29,000 to \$50,000.
- Authorizes small businesses to receive STAR exemption benefits if the business employs 20 people or fewer and has a gross business income of less than \$350,000 attributable to the business per year. Small business base STAR exemptions would be \$10,000 in 2018-2019; \$20,000 in 2019-2020; and \$30,000 for 2020-2021 and thereafter.
- Intentionally omits authorization for municipalities to collect partial payments for general and school property taxes.