

Interim

State Budget Comparisons

County Impact Report



NYSAC[®]

NEW YORK STATE
ASSOCIATION OF COUNTIES

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**State Budget Comparisons
County Impact Summary**

Table of Contents

| | |
|--|----|
| Executive Summary..... | 3 |
| Changes in Taxation..... | 4 |
| New Legislative Revenue Proposals..... | 7 |
| Direct Local Government Assistance..... | 9 |
| Aid and Incentives to Municipalities (AIM)..... | 9 |
| Property Tax Cap..... | 9 |
| Triggers for Potential Sweeping Cuts..... | 9 |
| State Spending by Functional Areas..... | 10 |
| Aging..... | 10 |
| Agriculture..... | 11 |
| <i>Make Technical Changes to the Farm Workforce Retention Credit</i> | 11 |
| Community Colleges..... | 11 |
| Early Childhood Development and Children with Special Needs..... | 14 |
| Economic Development..... | 15 |
| Energy..... | 18 |
| Environment..... | 19 |
| Ethics..... | 21 |
| Gaming and VLT Revenue Sharing..... | 22 |
| Gun Laws Proposed Amendments..... | 22 |
| Human Services..... | 23 |
| Judiciary and Court Related Matters..... | 24 |
| Labor..... | 26 |
| Legalize Adult-Use Recreational Marijuana..... | 27 |
| Public Health..... | 28 |
| Public Safety..... | 30 |
| Real Property Services..... | 31 |
| Shared Services..... | 32 |
| Transportation..... | 32 |
| Veterans..... | 33 |

State Budget Comparisons County Impact Summary

Executive Summary

The State Legislature in both houses made significant changes to the 2019-20 Executive Budget proposal restored cuts, rejected new mandates, and restoring cuts or cost shifts to county governments. This summary outlines several key areas in the one house budget measures that responded to county concerns.

- 1) The Senate and Assembly reject the Governor's 30-day amendment AIM shift to counties, and restores State funding for AIM.
- 2) The Senate and Assembly keep the Governor's internet sales tax proposal.
- 3) The Senate and Assembly keep the Governor's proposal to eliminate the sales tax exemption for gas and electric service associated with gas and electricity purchased from an energy service company (ESCO).
- 4) The Senate and Assembly included \$65 million for Extreme Weather transportation funding. The Senate also included an additional \$150 million in CHIPS base aid.
- 5) The Senate and Assembly increase the appropriation for local agricultural initiatives. The Executive Budget proposal provided \$29.5 million. The Assembly provides \$32.4 million and the Senate provides \$37.8 million to restore local agriculture programs.
- 6) The Assembly and Senate both provided increased aid to community colleges. The Assembly provides \$6.9 million for additional operating services and the Senate provides an additional \$3 million for community college base aid and a \$50 per FTE increase from \$2,847 to \$2,897.
- 7) The Assembly and Senate reject the Governor's Cannabis Regulation and Taxation Act. The Legislature remains open for discussion on this initiative. The Assembly included funding assuming legislation will pass by the end of the session.
- 8) The Assembly and Senate reject the Governor's Pre-Trial Justice Reform Act. The Legislature remains open for discussion on this initiative.
- 9) The Assembly includes \$7 million in funding for early voting reforms. The Senate includes \$10 million.
- 10) The Assembly and Senate reject the Governor's expanded Bottle Bill proposal.
- 11) The Assembly and Senate restore in full the Governor's proposed 16% Public Health funding cut to restore to the 36% in state funding for Article 6 programs.
- 12) Both houses of the legislature included a tax on vapor products to reduce teen vaping.
- 13) The Senate included the full \$2.5 billion appropriation for the Clean Water Infrastructure Act.
- 14) The Senate and Assembly reject the proposed 10% local share cut to TANF for NYC.

Opportunities for Continued Advocacy:

- 1) **PINS Reform.** The Assembly and Senate include the Governor's proposal to modify the PINS reform proposal. This will have a negative impact to local departments of social services as youth with a PINS petition will no longer be eligible for preventive service dollars as they will not be classified as "open preventive" cases.
- 2) **Bottle Bill Expansion.** NYSAC will focus on a limited bottle bill expansion to include some funding for municipal recycling facilities as well as an expansion to include more glass products such as wine and liquor.
- 3) **Cannabis Legalization.** Provide 4% share to counties at a retail point of sale tax if adult use cannabis is to be legalized.
- 4) **Market Based Judgment Interest Rate**—lower the 9% to current federal rate.

State Budget Comparisons County Impact Summary

Changes in Taxation

Key Revenue Items that Will Impact Counties

Updating Internet Sales Tax Collections/Implementing the Wayfair v South Dakota Decision

The Governor is again proposing to update New York's sales tax collections process to ensure that sales taxes owed are collected regardless of the method of purchase. A significant amount of sales tax owed under state law remains uncollected when transactions are conducted over the Internet. The proposal would require large Internet marketplace providers to collect sales tax on behalf of all vendors that use their platform and remit these sales taxes to the State. Many of these large retailers already collect sales tax through their platforms, but they do not do it for all vendors using their website. On a full annual basis, the state estimates that as much as \$280 million in local sales tax could be collected through this "marketplace" fairness change – DOB estimates \$158 million for counties (before sales tax sharing) and \$122 million for New York City.

In addition, the recent *Wayfair v South Dakota* U.S. Supreme Court Decision, which overturned an earlier Court decision from 1992 (*Quill*) clarified that states do have the right to collect sales tax on internet transactions coming into their state under most circumstances (there are safe harbor decisions for small retailers that will protect them from having to collect sales tax. Due to the *Wayfair* decision the state is using its existing law nexus thresholds as the starting place for safe harbor provisions. This means remote sellers must collect New York state and local sales taxes if they sell more than \$300,000 and conduct more than 100 transactions into the state (this safe harbor is viewed as slightly more generous than what the Supreme Court outlined in the *Wayfair* decision). This is estimated to bring in as much as \$110 million annually in currently uncollected sales tax – DOB estimates \$62 million for counties (before sales tax sharing) and \$48 million for New York City.

The combined fiscal impact of this state sales tax marketplace fairness update and Supreme Court decision for local governments is the collection of up to \$390 million in sales tax that has, to date, evaded collection. The \$390 million represents about 2.2 percent of the total local sales tax collected in 2018.

Assembly – Support

Senate – Support

Elimination of the Energy Services Company Sales Tax Exemption

The Executive Budget proposes to eliminate the sales tax exemption for gas and electric service associated with gas and electricity purchased from an energy service company (ESCO). The exemption was enacted in the early 2000's to provide an incentive for customers to purchase gas and electricity from third party energy service companies. It eliminated the collection of sales tax on the transportation, transmission or delivery of gas and electricity when it is sold separately from the commodity. The Governor's proposal concludes the incentive is no longer necessary as the ESCO industry has matured in the state over the last two decades. New York City eliminated this exemption in 2009. For counties, repealing the exemption is expected to

State Budget Comparisons County Impact Summary

increase local sales tax collections by up to \$48 million on a full annual basis (before sales tax sharing).

Assembly – Support

Senate – Support

Other Major Revenue Proposals

There are 49 separate revenue actions proposed in the Governor’s Budget that will raise about \$1.3 billion in SFY 2020. These revenue proposals will generate additional resources in each year thereafter as follows:

- \$4.4 billion in SFY 2021
- \$5.7 billion in 2022
- \$6.3 billion in 2023

Some of the key proposals include:

Extending the millionaires tax for five years through tax year 2024. Under current law the tax is set to expire at the end of 2019. DOB estimates this extension will increase state tax receipts as follows:

- \$771 million in SFY 2020
- \$3.6 billion in SFY 2021
- \$4.8 billion in SFY 2022
- \$5.5 billion in SFY 2023

Assembly – Support with modifications. Their proposal includes new higher rates on high wealth individuals. Currently the top state income tax rate is 8.82% on incomes over \$2.1 million, the Assembly adds new rates as follows:

- 9.32% on portion of income over \$5 million and below \$10 million
- 9.82% on portion of income over \$10 million and below \$100 million
- 10.32% on portion of income above \$100 million

Senate – Supports Governor’s proposal

Extend the PIT limitation on charitable deductions for five years through 2024. Under current law the limitation is set to expire at the end of 2019. DOB estimates this extension will increase state tax receipts as follows:

\$86 million in 2021

\$175 million in 2022

\$180 million in 2023

Assembly – Support

Senate – Support

Caps growth in the STAR exemption benefit, and lowers STAR income eligibility threshold to \$250,000 (from \$500,000). This lowers general fund spending by \$231 million in FY 2020, growing to \$354 million by 2023

Assembly – Rejects

Senate – Rejects

**State Budget Comparisons
County Impact Summary**

More tax return audits are expected to increase state tax receipts as follows:

- \$12 million in SFY 2020
- \$120 million in SFY 2021
- \$120 million in SFY 2022
- \$120 million in SFY 2023

Assembly – Support

Senate – Support

Sales Tax Fairness and Conformity items mentioned above will generate state resources as follows:

- \$221 million in SFY 2020
- \$378 million in SFY 2021
- \$378 million in SFY 2022
- \$378 million in SFY 2023

Assembly – Support

Senate – Support

Enacting the Cannabis Regulation and Taxation Act is expected to generate new tax revenue as follows for the state:

- \$0 in SFY 2020
- \$83 million in SFY 2021
- \$85 million in SFY 2022
- \$141 million in SFY 2023

Assembly – Rejects

Senate – Support with Modifications

Increase biennial registration fee for attorneys (\$375 to \$425) and criminal history search (\$65 to \$90) – fees would go to the Indigent Legal Services Fund

- \$66 million in SFY 2020
- \$66 million in SFY 2021
- \$66 million in SFY 2022
- \$66 million in SFY 2023

Assembly – **Modified.** Rejects increase in registration fee for attorneys, increases criminal history search fee from \$65 to \$100. Fiscal impact remains the same.

Senate – Rejects

Expand the New York Bottle Bill program

- \$0 million in SFY 2020
- \$18 million in SFY 2021
- \$20 million in SFY 2022
- \$20 million in SFY 2023

Assembly – Rejects

Senate – Rejects

Impose new tobacco control policies

- \$2 million in SFY 2020
- \$19 million in SFY 2021

State Budget Comparisons County Impact Summary

- \$19 million in SFY 2022
- \$19 million in SFY 2023

Assembly – Supports

Senate – Supports

New Legislative Revenue Proposals

- *Assembly creates a new state real estate transfer tax on conveyances of real property in excess of \$5 million under the following schedule:*
 - .3% above \$5 million but not more than \$10 million
 - .5% above \$10 million but not more than \$50 million
 - .7% above \$50 million but not more than \$100 million
 - .9% above \$100 million but not more than \$250 million
 - 1.1% above \$250 million but not more than \$500 million
 - 1.3% above \$500 million but not more than \$1 billion
 - 1.5% above \$1 billion

**State Budget Comparisons
County Impact Summary**

| Direct Local Government Assistance | | | | |
|--|----------------------------|---------------------------------------|---------------------------------------|---------------|
| Program | 2018-19 Enacted | 2019-20 Exec. Proposed | Assembly | Senate |
| AIM | \$715,000,000 | \$656,000,000 | \$715,000,000 | \$716,000,000 |
| Citizens Reorg. Grants | \$35,000,000 | \$35,000,000 | \$35,000,000 | \$35,000,000 |
| Local Govt. Efficiency Grants | \$4,000,000 | \$4,000,000 | \$4,000,000 | \$4,000,000 |
| County Wide Shared Services | \$225,000,000 | \$0 <i>(\$225M Reappropriated)</i> | \$0 <i>(\$225M Reappropriated)</i> | \$0 |
| Small Govt Assistance | | | | |
| Essex | \$124,000 | \$124,000 | \$124,000 | \$124,000 |
| Franklin | \$72,000 | \$72,000 | \$72,000 | \$72,000 |
| Hamilton | \$21,300 | \$21,300 | \$21,300 | \$21,300 |
| VLT | \$28,885,313 | \$28,885,313 | \$28,885,313 | \$28,885,313 |
| Madison | \$2,250,000 | \$2,250,000 | \$0 | \$2,250,000 |
| Onondaga Co. | \$2,000,000 | 0 | \$0 | \$0 |
| Rural Medicaid Transit Assistance | \$4,000,000 | \$0 | \$0 | \$4,000,000 |
| Cayuga | \$92,500 | 0 | \$0 | \$0 |
| Seneca | \$340,000 | 0 | \$0 | \$0 |
| Franklin | \$310,000 | 0 | \$0 | \$0 |
| Niagara County IDA | \$1,600,000 | 0 | \$0 | \$0 |
| N.A. Gaming Compact Fund | \$186,000,000 | \$233,000,000 | \$233,000,000 | \$233,000,000 |
| Commercial Gaming Fund | \$60,000,000 | \$62,000,000 | \$62,000,000 | \$62,000,000 |
| Power Plant Closing Fund & other purposes (Sen) | \$69,000,000 | \$69,900,000 | | \$70,000,000 |
| New Distressed Local Government Aid | \$0 | \$0 | \$0 | \$70,000,000 |
| TOTAL | \$1,305,695,113 | \$1,091,252,613 | | |

State Budget Comparisons County Impact Summary

- *Assembly & Senate Authorizes New York City to impose a separate property tax on non-primary residences exceeding a certain dollar value under the following schedule – the NYC Comptroller estimates this could generate \$650 million annually:*

| <u>Property Value</u> | <u>Tax Rate</u> |
|------------------------------------|---------------------------------|
| ○ \$5 million to \$6 million --- | .5% above \$5 million |
| ○ \$6 million to \$10 million --- | \$5k + 1% above \$6 million |
| ○ \$10 million to \$15 million --- | \$45k + 1.5% above \$10 million |
| ○ \$15 million to \$20 million --- | \$120k + 2% above \$15 million |
| ○ \$20 million to \$25 million --- | \$220k + 3% above \$20 million |
| ○ +\$25 million --- | \$370k + 4% above \$25 million |
- *Assembly & Senate Authorizes Westchester County to impose an additional 1 percent local sales tax, above the current 3 percent – through November 30, 2022.*
- *Assembly Creates New York Agriculture and Rural Jobs Credit – establishes an agriculture and rural jobs investment fund to provide equity funding to support agricultural investments in rural communities and allows a state tax credit for eligible contributions to these rural business growth funds.*
- *Senate supports expanding existing sports betting law and allows for mobile wagering under certain restrictions and licensure.*

Direct Local Government Assistance

Direct local government assistance has been targeted for cuts starting with AIM, and the Governor has not proposed additional funding for shared services matching funds beyond the \$225 million authorized last year.

Aid and Incentives to Municipalities (AIM)

The budget proposes to alter the AIM program by eliminating funding to any municipality were AIM funding represents less than two percent of their total expenditures. The budget indicates this would reduce payments to municipalities by \$59.2 million annually and impact at least 1,250 towns and villages, and another 70 or so that have failed to report fiscal data to the state.

The Governor's 30-day amendments required counties to make direct payments to all towns and villages losing their state AIM funding due to the Governor's proposed cut – using county sales tax revenue.

Assembly – Rejects and restores State funding for AIM

Senate – Rejects and restores State funding for AIM

Property Tax Cap

The Governor's Budget proposes to make the property tax cap permanent.

Assembly – Rejects

Senate – Supports

Triggers for Potential Sweeping Cuts

Tax Shortfall Trigger

State Budget Comparisons County Impact Summary

Second, the Governor is also asking the legislature to grant the authority to enact across the board spending reductions in certain local assistance grants and reimbursements by up to 3 percent if state tax revenue forecasts fall more than \$500 million below expectations during the state fiscal year. School Aid, Medicaid and public assistance would be exempt from the cuts.

Since the state has lowered state tax revenue estimates six times in the last two years by a combined \$4.2 billion, and the Medicaid and federal cuts may have already been triggered (requiring an act of Congress to reverse them) – counties and others remain especially vulnerable to mid-year state funding cuts under the Governor’s budget proposal.

Assembly – Rejects

Senate – Rejects

State Spending by Functional Areas

Below is an interim analysis of Governor Andrew M. Cuomo’s Fiscal Year 2020 Executive Budget Proposals that impacts counties. NYSAC will continue to review the specifics of the proposals.

Aging

Create an Optional Private Pay Model in the State Office of the Aging

The Executive Budget authorizes a private pay program for programs administered by the State Office for the Aging (NYSOFA). NYSOFA will be authorized to expand access to programs to those above the 400% of the Federal poverty limit who chose to purchase these services using private funding. Counties would have the option to opt-in to this program.

This legislation would authorize seniors earning greater than 400% of the Federal poverty limit to participate in activities and programs sponsored by state and county.

Assembly – The assembly rejects this proposal.

Senate – The Senate modifies the Executive proposal to place a per-unit premium cap of 20% above the wholesale price on services delivered pursuant to private pay protocols, and inserts language to ensure that low-income recipients remain the highest priority for service delivery from area agencies on aging and their contractors.

EISEP Services

The Executive Budget proposes an additional \$15 million for EISEP services through local Offices for the Aging. Furthermore, the typical 25% local maintenance of effort match is exempt from this funding. The funds must be used to address the unmet needs of the elderly as reported to NYSOFA.

Assembly – The Assembly included an additional \$1 million appropriation for CSE services in addition to including the Governor’s proposal to add an additional \$15 million for EISEP services.

Senate – The Senate accepts the Governor’s proposal.

**State Budget Comparisons
County Impact Summary**

Agriculture

Make Technical Changes to the Farm Workforce Retention Credit

The Executive Budget would amend to the farm workforce retention credit to allow the credit for the same farming activities eligible for the farmers school tax credit. State Tax Law currently provides a farm workforce retention credit to individuals and corporations that is equal to \$250–\$600 per employee, depending on the taxable year for which the credit is claimed. In recognition of the increasing diversity of agriculture, this bill would expand the credit to additional farming operations that are currently eligible to receive the farmers’ school tax credit, such as cider production and Christmas tree farming. Employers will receive a credit of \$500 per eligible farm employee in tax year 2019.

Assembly—The Assembly retains this proposal.

Senate – The Senate also concurs with the Executive proposal to make technical corrections to the Farm Workforce Retention Credit.

Expand Access to New York-Grown Agricultural Products

The Executive Budget provides \$29.5 million for local agricultural initiatives. Rather than itemizing funding for individual programs, the Governor presents this funding in two lump sums. The Governor also provides \$20 million for non-point source pollution control, farmland preservation, and other agricultural programs.

Assembly— The Assembly provides \$32.4 million for local agricultural initiatives and retains the Executive’s \$20 million for non-point source pollution control, farmland preservation, and other agricultural programs.

Senate – The Senate provides \$37.8 million for local agricultural initiatives and retains the Executive’s \$20 million for non-point source pollution control, farmland preservation, and other agricultural programs. In contrast to the Executive and Assembly budgets, the Senate itemizes the funding for individual agricultural programs.

Establish the New York Agriculture and Rural Jobs Fund

Assembly—The Assembly includes a proposal to (1) provide a tax credit for investments made in rural business growth funds and (2) establish the New York agriculture and rural jobs fund. Monies of the fund, following appropriations by the Legislature, can be expended only for the purposes of providing funding for the New York agriculture and rural jobs credit.

Community Colleges

Funding for Community College state aid is reduced from the prior year. The chart below highlights these changes.

| Community College Funding – SFY 2019-20 Proposed | | | | |
|---|----------------------------|-----------------------------|-----------------|---------------|
| Description | SFY 2018-19 Enacted | SFY 2019-20 Proposed | Assembly | Senate |
| State Base Aid | \$453,484,000 | \$441,791,000 | \$453,900,000 | \$447,400,000 |
| Next Gen Job Linkage | \$3,000,000 | \$3,000,000 | \$3,000,000 | \$3,000,000 |
| Rental Aid | \$11,579,000 | \$11,579,000 | \$11,579,000 | \$11,579,000 |
| Contract Courses and Workforce | \$1,880,000 | \$1,880,000 | \$1,880,000 | \$1,880,000 |

**State Budget Comparisons
County Impact Summary**

| | | | | |
|----------------------------|----------------------|----------------------|----------------------|----------------------|
| High Need Degrees | \$1,692,000 | \$1,692,000 | \$1,692,000 | \$1,692,000 |
| Child Care | \$2,099,000 | \$1,001,000 | \$2,349,000 | \$1,550,000 |
| Low Enrollment Assistance | \$940,000 | \$940,000 | \$940,000 | \$940,000 |
| Family Empowerment Pilot | \$0 | \$3,000,000 | \$0 | \$0 |
| Apprenticeship/EOC | \$3,000,000 | \$3,000,000 | \$3,000,000 | \$3,000,000 |
| SUNY Orange bridge | \$100,000 | \$0 | \$0 | \$100,000 |
| TOTAL STATE FUNDING | \$477,774,000 | \$467,883,000 | \$478,340,000 | \$471,141,000 |

Assembly— The Assembly provides \$6.9 million for additional operating services and expenses of community colleges and to provide that no community college shall receive less than 98% of the base aid funding that it had received in the 2018-19 community college fiscal year.

Senate – The Senate provides an additional \$3 million for community college base aid, a \$50 per FTE increase from \$2,847 to \$2,897.

Criminal Justice System

Extend Authorization for Certain Municipalities to Operate Red Light Cameras

The Executive Budget proposal extends authorization for eight municipalities to operate red light cameras within their boundaries until 12/1/2024. The current law authorizes nine municipalities to operate varying numbers of red-light cameras within their boundaries, with various expiration dates. The City of Rochester repealed its local law authorizing the program in 2016. Each expiration date, except for the City of Rochester would be extended until 12/1/2024. Below is a chart which has been included in the Governor’s budget proposal:

| Municipality | Authorized Cameras | Current Expiration | Proposed Expiration |
|--------------------------|--------------------|--------------------|---------------------|
| City of Albany | 20 | 8/21/2019 | 12/1/2024 |
| City of Mt. Vernon | 12 | 8/21/2019 | 12/1/2024 |
| County of Nassau | 100 | 12/1/2019 | 12/1/2024 |
| City of New Rochelle | 12 | 8/21/2019 | 12/1/2024 |
| City of New York | 150 | 12/1/2019 | 12/1/2024 |
| County of Suffolk | 100 | 12/1/2019 | 12/1/2024 |
| City of White Plains | 12 | 9/12/2020 | 12/1/2024 |
| City of Yonkers | 25 | 12/1/2019 | 12/1/2024 |

Assembly — The Assembly rejects this proposal.

Senate — The Senate extends this authorization; however, they modify the proposed expiration from 12/1/2024 to 12/1/2021.

*Pre-Trial Justice Reform Act
Eliminates Monetary Bail*

For the second consecutive year, the Executive Budget proposal seeks to eliminate monetary bail for people facing misdemeanor and non-violent felony charges.

State Budget Comparisons County Impact Summary

First, this legislation would mandate that police issue appearance tickets in misdemeanor and class E felony cases, with enumerated exceptions, so that fewer people spend time in jail before arraignment. Second, this legislation eliminates cash bail and release people on their own recognizance, detention can be ordered only in limited cases involving high risk of flight or a current risk to the physical safety of a reasonably identifiable person or persons, and the order comports with Supreme Court jurisprudence regarding required substantive and procedural due process before detention. Lastly, this legislation implements a new procedure whereby a district attorney may move for a hearing to determine whether a limited number of eligible defendants may be held in jail pretrial.

Amends the Criminal Trial Discovery Process

This legislation repeals Article 240 of the Criminal Procedures Law and adds a new Article 245, Discovery. This legislation would require prosecutors and the defense to share information before a trial takes place. This includes disclosure of evidence and information favorable to the defense; intended exhibits; expert opinion evidence; witnesses' criminal history information; and search warrant information will be made available to defendants in a timely and consistent manner. To that end, this bill will provide prosecutors the ability to petition a court for a protective order, shielding identifying information when necessary to ensure the safety of those witnesses.

Speedy Trial Access

This legislation would obligate courts to take a more proactive role in actively advising litigants regarding how time will be charged and will not take at face value an assertion that the government is ready to proceed with trial. Specifically, the legislation outlines that the court may make inquiry into the actual readiness that the district attorney is ready for trial. If the court determines that the district attorney is not ready, the statement of readiness is not valid.

Assembly/ Senate — The Assembly and Senate reject these proposals. It is likely the state legislature will pass a comprehensive justice reform package this year.

Comprehensive Reentry Package to Improve Outcomes for Formerly Incarcerated Individuals

This bill would enact major components of legislation that remove barriers to reentry. Specifically, this legislation would:

- Amend occupational licensing laws to remove mandatory bans on applicants with criminal convictions;
- Amend VTL law to remove six-month mandatory drivers' license suspension for non-driving related offenses;
- Amend public officers' law to protect the release of mugshots under freedom of information law;
- Amend criminal procedure law and executive law to prevent the use in a civil context of past arrest information that did not result in a conviction;
- Amend corrections law to provide for consideration of compassionate release for older incarcerated individuals facing health issues exacerbated by age.

Assembly — The Assembly rejects this proposal.

Senate — The Senate maintains the Executive Proposal with minor language changes.

State Budget Comparisons County Impact Summary

Reduces Certain Misdemeanor Sentences to 364 Days

This legislation reduces the maximum potential sentence for class A misdemeanors by one day, changing the maximum sentence for misdemeanors from one year to 364 days. Anyone convicted of a misdemeanor and sentenced to jail for 365 days will automatically have their sentence reduced to 364 days. This legislation will take effect immediately.

Assembly/ Senate — The Assembly and Senate reject this proposal.

Raise the Age

The Executive Budget proposal includes an additional \$100 million for raise the age-related expenses. The total appropriation is \$200 million and \$54 million in appropriations.

Assembly—The Assembly concurs with the Governor’s recommendation and includes a provision that states, notwithstanding any other provision of law to the contrary, counties and the city of New York shall not be required to contribute a local share of eligible expenditures that would not have been incurred absent the provisions of chapter 59 of the Laws of 2017 (raise the age statute) that increased the age of juvenile jurisdiction above fifteen years of age.

Senate — The Senate concurs with the Governor’s budget recommendation.

Early Childhood Development and Children with Special Needs

Early Intervention Provider Rate Increase

The Executive Budget increases the Early Intervention program reimbursement rates for services furnished to eligible infants and toddlers in the Early Intervention Program and their families by licensed physical therapists (PT), occupational therapists (OT), and speech-language pathologists (SLP) by 5 percent to mitigate provider shortages and recognize the education and training of these specialized service providers.

Early Intervention Services Pool (Part II A2007B)

Assembly — expands the 5% rate increase to all providers. The Assembly also proposes to eliminate the provider requirement to bill third party commercial insurance/requirement that commercial insurers cover EI services, and instead creates a \$16 million pool to reimburse localities and the state for their proportionate share of reimbursement related to third party commercial insurance reimbursement.

Senate — The Senate is silent on the rate increase, but also includes similar language to the Assembly bill regarding third party claiming. The Senate appropriates \$15 million for the state/local reimbursement pool intended to replace the loss of the insurance reimbursement.

The Executive Budget keeps the early intervention aid to localities appropriation relatively flat at \$173.2 million down \$100,000 from \$173.3 million last year. It is assumed that the state has not included a funding offset for counties to accommodate this increase in provider rates, but we are seeking a clarification from the state.

Assembly/Senate — The Assembly proposes the same appropriation for early intervention aid to localities as the Executive Budget.

State Budget Comparisons County Impact Summary

Economic Development

Reauthorize and Extend Minority- and Women-Owned Business (MWBE) Provisions

State agencies and authorities are charged, by statute, with establishing business participation goals for minorities and women. This bill would extend the sunset provision for this authorization and the requirements of the program from December 31, 2019 to December 31, 2024. In addition, the bill would expand upon the requirements of the MWBE program based upon the findings of the 2016 Disparity Study. This would include (1) expanding program requirements to include all municipalities on contracts let with appropriated state dollars and (2) requiring units of local government to set goals on contracts and submit reports to the Director of the Division of Minority and Women-owned Business Enterprises.

Assembly — The Assembly omits this proposal.

Senate — The Senate retains but modifies the Executive proposal to update provision of law relating to participation by MWBEs in state contracts based upon the 2016 Disparity Study.

Expand the Employee Training Incentive Program (ETIP) Credit

The Executive Budget proposes to expand the ETIP credit to include employers' in-house training, as well as to include software development and clean energy internships, with the goal of strengthening the current program and providing more opportunities for training.

Assembly — The Assembly retains this proposal.

Senate — The Senate also retains this proposal.

Create the New York State Employer-Provided Child Care Credit

The Governor proposes to create a new credit equal to 100 percent of the Federal credit for employers who provide child and dependent care facilities to their employees with the goal of enhancing the opportunity for employers to provide quality child care services to their employees.

Assembly — The Assembly retains this proposal.

Senate — The Senate also retains this proposal.

Create the Employer Recovery Hiring Tax Credit

The Executive Budget proposes to create a new credit for employers of up to \$2,000 for each person in drug abuse recovery that they employ with the goal of incentivizing the hiring of individuals who have successfully completed substance abuse disorder treatment and affording new job opportunities to a vulnerable population.

Assembly — The Assembly retains this proposal.

Senate — The Senate also retains this proposal.

Establish New York as a Leader in Hemp Production

The Executive Budget proposes a comprehensive cannabis regulatory framework, administered by the new Office of Cannabis Management (OCM) to centralize the licensing, enforcement and economic development functions. The OCM would administer all licensing, production, and distribution of cannabis products in the adult-use, industrial, and medical cannabis markets.

Assembly — The Assembly omits the Governor's cannabis proposal. However, in the State Operations bill, the Assembly includes \$35.4 million for a Cannabis Management Program. This includes \$24.5 million for an adult-use cannabis program; \$9.8 million for a medical marijuana program; and \$1 million for industrial hemp.

Senate — The Senate rejects without prejudice the Cannabis Management Program.

State Budget Comparisons County Impact Summary

Round Seven of Market NY

The Executive Budget includes \$8 million in competitive funding through the Market NY initiative to support tourism marketing plans and projects that best demonstrate regional collaboration among counties to promote regional attractions.

Assembly — The Assembly does not retain this funding.

Senate — The Senate does not retain this funding.

Prevailing Wage Requirements for Covered Development Projects

Assembly — The Assembly adds language to require covered developers and covered lessees or lessors to ensure that all building service employees performing building service work in connection with a covered development project or covered lease are paid no less than the prevailing wage.

Covered developers are defined as any entity receiving financial assistance in relation to a covered development project. A covered employer is any entity who employs building service workers at a covered development project or at any real property subject to a covered lease. Covered lessee means any entity leasing real property from a public agency. Covered lessor means any entity from whom a public agency is leasing commercial office space or commercial office facilities of 10,000+ square feet, provided that the public agency leases no less than 51% of the total square footage of the building. A covered development project means a project that has received or is expected to receive financial assistance.

Subject Projects Financed through Certain Public Entities to Hours, Wages, and Supplement Contract Requirements

Senate — The Senate advances legislation that would restore the definition of public works as embodied in S1947 (Ramos)/A1261 (Bronson). The Senate believes prevailing wage should be paid on projects supported by public dollars. However, the body acknowledges legitimate concerns by various stakeholders and supports all stakeholders coming together to negotiate a mutually agreeable outcome. The final proposal should recognize regional cost differentials among the state, recognize the unique nature of Industrial Development Agency and Local Development Corporation incentives, ensure development in all regions of the state continues, preserving opportunities for MWBEs, and preserve the development of affordable housing.

Additionally, the Senate proposes to require projects that receive over \$1 million in certain tax incentives to pay prevailing wage to building service workers upon completion of the project. The Senate believes prevailing wage should be paid to building service workers in these situations. However, the body again acknowledges legitimate concerns by various stakeholders and supports all stakeholders on the building service worker wage component coming together to negotiate a mutually agreeable outcome.

Create a Database of Deals

Assembly — The Assembly proposes to create a searchable state subsidy and aggregate economic development benefits database. The database will display Empire State economic development benefits that a qualified participant has been awarded and other benefits such qualified participant has received from another state agency provided for the same project.

State Budget Comparisons County Impact Summary

Senate — The Senate also advances language to create a new Database of Deals to improve State economic development transparency and accountability.

Restore Reporting Requirements for START-UP NY

Assembly — The Assembly proposes to add disclosure authorization and reporting requirements that would require public disclosure of the names and addresses of businesses located within a tax-free NY area, as well as other information contained in such business' applications and annual report. The Commissioner must provide an annual report to the Governor and Legislature, and businesses in tax-free NY areas must submit an annual report to the Commissioner.

Adds New Obligations for Members of Economic Development Entities

Assembly — The Assembly proposes to extend provisions of Article 6 of the Public Officers Law that are applicable to agencies to economic development entities. The public bodies of such entities must maintain and make available for public inspection and copying any and all proposals submitted to it through a centralized application process. The entity may redact or withhold portions of a proposal if it would be exempt from disclosure pursuant to Article 6 of Public Officers Law.

Any member of an economic development entity would be deemed a state officer or employee and must file an annual statement of financial disclosure. The provisions of Section 74 of Public Officers Law applicable to an officer or employee of a state agency would also apply to any member of an economic development entity.

Strategic Investment in Workforce Development Program

Assembly — The Assembly proposes to create a Strategic Investment in Workforce Development Program. In collaboration with DOL, ESD, SUNY, CUNY, and DOE, the NYS Urban Development Corporation must provide support to eligible applicants (within the amounts available for the program) and identify: (1) the training needs of employers, employees and prospective employees; (2) areas of the state or specific industries where a shortage of skilled workforce is impacting the ability of those areas of the state or industries to remain competitive and innovative; (3) methods and models to train and employ youth workers; and (4) ways to serve prospective employees that are currently unemployed or underemployed. The program will utilize the information gathered to target workforce training activities, employment credentials or certificate opportunities, and skill development programs to meet the identified needs and to provide necessary training and skill development programs to youth and individuals who are unemployed or underemployed.

Advance the YouthBuild Act

Senate — The Senate advances legislation to enact the New York State YouthBuild Act, as embodied by S839 (Montgomery)/A165 (Cahill), and authorizes the Commissioner of Labor to make grants to eligible YouthBuild programs, establishes program requirements, and expands the number of YouthBuild programs in New York State.

State Budget Comparisons County Impact Summary

Elections

On Monday January 14th, the New York State Assembly and New York State Senate passed a series of election reform bills that were signed by the Governor. These reforms include:

- 1) Voter pre-registration which authorizes 16- and 17-year-olds to automatically register to vote so they are eligible to vote when they turn 18 years of age.
- 2) Automatic transfer of a registration and enrollment of a voter to wherever they move within the state.
- 3) Eliminated the LLC loophole making LLC's subject to the existing contribution limits for corporations.
- 4) Passed legislation for a constitutional amendment to remove cause for absentee ballot voting (no-excuse absentee ballots).
- 5) Passed legislation for a constitutional amendment authorizing voter registration to be completed at least ten days before election day.
- 6) Combined the state and federal primaries to be held on the fourth Tuesday in June.
- 7) Early voting reform which provides that beginning the tenth day prior to any election and ending on the second day prior to the election, anyone registered and eligible to vote shall be permitted to vote.

Many of these proposals were included in the Governor's Executive Budget, but were not funded.

Assembly — The Assembly budget included an appropriation of \$7 million for counties to implement early voting. The Assembly has included a proposal Part XX of the PPGG Article VII bill that mirrors S.508A (Myrie) / A2070A (Cusick). This bill would allow counties to buy and use electronic poll books. The Assembly includes an additional \$27 million for counties to purchase printers and e-poll books.

Senate — The Senate provides \$10 million in funding for early voting and other reforms.

Energy

Discontinue the Energy Services Sales Tax Exemption

The Executive Budget proposes to repeal the sales tax exemption for transportation, transmission, and distribution charges associated with gas and electricity purchased from an energy service company (ESCO). The exemption perpetuates unequal treatment among utility customers, as a business purchasing its electricity from a local utility company will pay sales tax on its total electric or gas bill, while another business purchasing gas or electricity from an ESCO will pay sales tax only on the gas or electricity, and not on the transportation, transmission or distribution of that gas or electricity. This bill would take effect June 1, 2019 and would apply to sales made and services rendered on or after that date, whether or not under a prior contract.

Assembly — The Assembly included this proposal.

Senate — The Senate included this proposal.

Extend the Clean Heating Fuel Credit for Three Years

This bill would extend the sunset dates for the corporate and personal income tax credits for purchasing bioheating fuel for residential purposes until January 1, 2023. The credit is equal to \$.01 per percent of biodiesel fuel not to exceed 20 cents per gallon, purchased by the taxpayer. This extension supports the use of clean energy in homes.

State Budget Comparisons County Impact Summary

Assembly — The Assembly included this proposal.

Senate — The Senate included this proposal.

Environment

Advance the Climate Leadership Act

The Climate Leadership Act would create a Climate Action Council to be chaired by the commissioner of the Department of Environmental Conservation (DEC) and the president of the New York State Energy Research and Development Authority (NYSERDA). The Council would be charged with developing a roadmap outlining recommendations to put the state on a path to economy-wide carbon neutrality. The State aims to have one hundred percent of its electricity demand supplied by clean energy by 2040. A new article added to the Environmental Conservation Law would also authorize DEC to establish regulations to achieve statewide greenhouse gas emissions reductions.

Assembly — The Assembly omits the Climate Leadership Act.

Senate — The Senate also omits the Climate Leadership Act and states that they will provide focused attention to this issue outside of the budget.

Expand the “Bottle Bill” to Include Additional Beverage Containers

The Executive Budget includes legislation to amend the Returnable Container Act (“Bottle Bill”) to expand the types of beverage containers covered under the Act to include bottles from sports drinks, energy drinks, fruit and vegetable beverage, ready-to-drink tea and coffee, and wellness beverages. The Bottle Bill expansion includes some exceptions for containers of dairy milk, milk substitutes, infant formula, syrups and flavorings, medical prescriptions and dietary supplements. This proposal will also help reduce sorting and financial burdens on local government recycling programs. Additionally, the Governor will include amendments to to address implementation issues and to respond to feedback from stakeholders, as well as enhanced penalties.

Assembly — The Assembly rejects the Governor’s proposed Bottle Bill expansion.

Senate — The Senate rejects the Executive proposal to expand the Bottle Bill and states that the body seeks a workable solution to support redemption, recycling, the reduction of material in the waste stream and to work towards consensus with the relevant stakeholders.

Make the Waste Tire Fee Permanent

The Executive Budget permanently extends the Waste Tire Fee, which is scheduled to expire December 31, 2019. This \$2.50 fee, which has been in place since 2003, funds the abatement of waste tire sites and supports Department of Environmental Conservation (DEC) employees involved in solid and hazardous waste cleanup activities.

Assembly — The Assembly includes the Governor’s proposal in relation to waste tire management. It extends the fee to 2022.

Senate — The Senate modifies the Executive proposal to eliminate the sunset on the Waste Tire Management Program. The Senate proposes to provide funds to the Department of Agriculture & Markets for the purpose of assisting farmers utilizing waste tires in agriculture practices and to preclude recoupment of abatement costs at farms.

Clean Water Infrastructure

In FY 2018, the State enacted the Clean Water Infrastructure Act to invest \$2.5 billion in drinking water infrastructure and source water protection actions over five years. The FY 2020

State Budget Comparisons County Impact Summary

Executive Budget proposes to make an additional \$2.5 billion investment in drinking water infrastructure, wastewater infrastructure, and water quality protection over five more years. A \$500 million appropriation to support investments in clean water projects is included in the FY 2020 Executive Budget.

Assembly — The Assembly maintains the \$500 million in funding for clean water infrastructure projects.

Senate — The Senate adds \$2 billion for a total of \$2.5 billion over a multi-year period for clean water infrastructure projects, such as improvements to solid waste management facilities, intermunicipal infrastructure projects, projects to address emerging contaminants, water quality improvement projects, concentrated animal feeding operations, septic system replacement, and projects to address issues on Long Island.

Ban Single Use Plastic Bags

The Executive Budget includes legislation to ban single-use plastic bags provided to customers beginning on March 1, 2020. A plastic carryout bag provided by a store must have “Please return to a participating store for recycling” printed or displayed on the bag. Stores will be allowed to use their existing stock of plastic carryout bags for one year after the ban goes into effect. Stores will also be required to have a collection bin that is visible, clearly marked, and easily accessible to consumers.

Assembly — The Assembly omits the Governor’s proposed ban on single-use plastic bags.

Senate — The Senate modifies the Executive proposal to ban plastic bags. The Senate accepts the general ban on plastic bags but includes a fee on paper carryout bags and allocates fees to alleviate the potential burden on disparately impacted communities. It is important to the Senate that the final agreed-upon language ensure that reusable bags are distributed to those who cannot afford new fees on grocery bag purchases.

Protect Ocean Waters from Offshore Drilling

The Executive Budget includes legislation that will prohibit oil and gas development in the North Atlantic Planning Area.

Assembly and Senate — The Legislature passed a bill to address this issue that is awaiting the Governor’s signature.

Renew Funding for the Environmental Protection Fund (EPF)

The Executive Budget continues EPF funding at \$300 million. Appropriations include:

- \$38 million for solid waste programs,
- \$88 million for parks and recreation,
- \$153 million for open space programs, and
- \$21 million for the climate change mitigation and adaptation program.

This investment will provide funding for environmental programs, such as land acquisition, farmland protection, invasive species prevention and eradication, enhanced recreational access, water quality improvement, and an environmental justice agenda.

Assembly — The Assembly maintains funding for the EPF at \$300 million.

Senate — The Senate rejects language authorizing amounts appropriated in the EPF for the use of personal service expenses. The Senate also amends the EPF to provide additional funds for a number of Senate environmental priorities including:

- \$1.5 million (for a total of \$16.5 million) for zoos, botanical gardens, and aquaria;

State Budget Comparisons County Impact Summary

- \$2 million (for a total of \$19 million) for farmland protection;
- \$200,000 (for a total of \$1.7 million) for greenhouse gas management; and
- \$2.1 million for farmland conservation planning.

Organics Recycling

Senate —The Senate advances new language requiring food scraps generators of a certain size to separate, store, and transport food scraps to an organics recycler.

Ethics

Require Financial Disclosures by Local Elected Officials

The Governor’s proposal would require all County Executives, County Managers, Chairs of County Boards of Supervisors, as well as all other local elected officials who earn an annual government salary of more than \$50,000, to file annual statements of financial disclosure with the Joint Commission on Public Ethics. The Commission would be responsible for review and disclosure of improprieties to authorities.

Assembly — The Assembly rejects this proposal.

Senate— The Senate also rejects this proposal.

Campaign Finance Reform

Public Financing of Elections is proposed by the Governor and includes a 6:1 public financing matching ratio for small donations, lowering campaign contribution limits, and bans corporate contributions.

Assembly — The Assembly rejects this proposal.

Senate— The Senate also rejects this proposal.

Candidates for Statewide Office to Disclose Their Tax Returns

Under this proposal, candidates for the State Assembly and the State Senate will be required to provide the past five years of federal and state tax returns to the state board of elections as a condition of getting on the ballot for a general election

Assembly — The Assembly rejects this proposal.

Senate— The Senate also rejects this proposal.

Expand the Length and Scope of Post State Employment Restrictions

This proposal would increase the existing “two-year bar” that prevents state employees from interacting with their former agency from two years to five years.

Assembly — The Assembly rejects this proposal.

Senate — The Senate also rejects this proposal.

Reforms to FOIL

Under this proposal the New York Freedom of Information Law (FOIL) would apply to the State Legislature.

Assembly — The Assembly rejects this proposal.

Senate — The Senate also rejects this proposal.

**State Budget Comparisons
County Impact Summary**

Gaming and VLT Revenue Sharing

The Executive Budget authorizes casino gaming revenue sharing funding of:

- \$62 million, in total, for the three commercial casino regions, a slight increase of \$2 million over the prior year (3.3%), and
- \$233 million, in total for the Native American casino gaming regions, a \$47 million increase over the prior year (25%). The increased authorization provides enough capacity to allow for the Seneca Nation to catch up on prior year payments that have been withheld in a dispute with the State. It is still unclear how the Seneca Nation will proceed after losing the arbitration with the state, but budget authority is available for a full repayment.

Assembly — Supports

Senate — Supports

The chart on below details the differences in appropriations and revenue sharing for both commercial gaming and Native American compact regions.

| Commercial Gaming Revenues – SFY 2019-20 Budget Proposal | | |
|---|---------------------|---------------------|
| Description | SFY 2018-19 | SFY 2019-20 |
| Catskill (Hosts & Counties) | \$20 million | \$20 million |
| Capital District (Hosts & Counties) | \$20 million | \$20 million |
| Southern Tier (Hosts & Counties) | \$20 million | \$22 million |
| Total Revenue Sharing | \$60 million | \$62 million |

| Native American Gaming Compact Revenues – SFY 2019-20 Proposed | | |
|---|----------------------|----------------------|
| Description | SFY 2018-19 | SFY 2019-20 |
| Mohawk (Hosts) | \$15 million | \$15 million |
| Mohawk (Counties) | \$6 million | \$6 million |
| Oneida (Hosts) | \$34 million | \$32 million |
| Oneida (Counties) | \$10 million | \$10 million |
| Seneca Niagara (Hosts) | \$44 million | \$65 million |
| Seneca Niagara (Counties) | \$17 million | \$26 million |
| Seneca Allegany (Hosts) | \$26 million | \$29 million |
| Seneca Allegany (Counties) | \$9 million | \$12 million |
| Seneca Buffalo Creek (Hosts) | \$18 million | \$27 million |
| Seneca Buffalo Creek (Counties) | \$7 million | \$11 million |
| Total Revenue Sharing | \$186 million | \$233 million |

Gun Laws Proposed Amendments

Bump Stock Ban

The Governor’s Budget proposes to ban rapid-fire modification devices. This would prohibit the possession, manufacture, transportation, shipment and sale of items that accelerate the firing rate of firearms, rifles, or shotguns.

State Budget Comparisons County Impact Summary

Assembly — This was not included in the Assembly Budget Proposal; however, this issue was passed by both houses outside the budget process earlier in session.

Senate — The Senate omitted this from their Budget Proposal.

Establish a Waiting Period Before Firearms are Delivered to a Purchaser

The Governor's Budget proposes a ten-day waiting period before a licensed gun dealer may deliver a firearm, shotgun or rifle to a purchaser when the sale has not been approved or denied by the National Instant Criminal Background Check System (NICS).

Assembly — This was not included in the Assembly Budget proposal.

Senate — The Senate omitted this from their Budget Proposal.

Human Services

Reform Persons in Need of Supervision (PINS) Provisions

This legislation would reform the Persons in Need of Supervision (PINS) provisions to reduce the placement of PINS in detention and residential settings. This legislation eliminates the ability of family courts to detain youth who are alleged to be a PINS and limit their ability to order residential foster care placement at the disposition of a PINS proceeding to only instances where the respondent youth meets the definition of a "sexually-exploited child" under New York's Safe Harbor Law. Last year as part of the enacted 2018-19 State Budget, funding for placement of PINS in residential settings and detention was set to expire on January 1, 2020. This legislation eliminates the 1/1/20 sunset on state funding.

This legislation would take effect immediately which means that counties will no longer be able to receive state funding match on PINS placements upon enactment of the state budget.

Assembly — The Assembly includes this proposal with slight modifications.

Senate — The Senate Budget proposal includes the Governor's PINS reform.

Youth Employment

The TANF Youth Employment program was increase by \$4 million to \$44 million.

Pass-Through of Federal Supplemental Security Income Cost of Living Adjustment

This bill would authorize Federal Supplemental Security Income (SSI) benefits to be increased in 2020 by the percentage of any SSI Cost of Living Adjustment (COLA). This legislation would authorize that the actual 2019 Personal Needs Allowance (PNA) to be automatically increased in 2020 by the percentage of any Federal SSI COLA that becomes effective within the first half of calendar year 2020.

Authorizes Time-Limited Job Try-Outs as an Eligible Work Activity for Public Assistance Recipients

The Executive Budget would authorize social service districts to place Public Assistance (PA) recipients in time-limited job try-outs. This legislation authorizes districts to assign PA recipients to 90-day job try-outs as work experience assignments with private for-profit, non-profit and public-sector entities in satisfaction of PA work requirements.

Assembly — The Assembly omits this proposal.

Senate — The Senate rejects this proposal.

State Budget Comparisons County Impact Summary

Extended Medicaid Global Cap

The Executive Budget provides for the extension of the Medicaid Global Cap through FY 2021.

Office of the Independent Intellectual and Developmental Disability Ombudsman

The Assembly has included a provision in their one-house bill to create an office of the independent intellectual and developmental disability ombudsman which will be operated by the office for people with developmental disability for the purpose of assisting individuals with an intellectual or developmental disability to ensure that they receive coverage from managed care organizations that is appropriate in meeting their individual service needs.

Office of the Advocate for People with Disabilities

The Senate advances language to create a new Office of the Advocate for People with Disabilities, housed under the Department of State. The office of the advocate for people with disabilities shall advise and assist state agencies in developing policies designed to help meet the needs of persons with disabilities.

Home Stability Support Program

The Assembly proposes the creation of a home stability support program. Each local DSS shall provide a shelter supplement to eligible individuals and families to prevent eviction and address homelessness in an amount equal to 85% of the fair market rent. The home stability support program shall provide for up to a total of 14,000 new shelter supplements a year statewide and funds shall be distributed to each local DSS based on their pro rata share of households below the federal poverty level in the state, using the most recent U.S. census data.

The Senate provides \$20 million to establish the Home Stability Support Program, a new statewide rent supplement for families and individuals who are eligible for public assistance benefits and who are also facing eviction, homelessness, or loss of housing due to domestic violence or hazardous living conditions.

Judiciary and Court Related Matters

Indigent Defense

The Governor's budget proposal includes \$205.5 million to counties for indigent defense purposes. This is an increase of \$50 million in aid compared to 2018. The budget proposes new language requiring that all local reimbursement requests must be submitted within 12 months of the incurred costs.

Additionally, the budget provides \$5.7 million for State operational support. In order cover some of the increased allotment the Governor's Budget seeks to raise the biennial registration fee for attorneys is increased by \$50 to \$425 and raise the criminal history search fee is increased by \$25 to \$90 per search.

The Assembly modifies the Executive Article VII proposal by (1) removing the biennial attorney registration fee increase and (2) increasing the OCA criminal history record search fee by an additional \$10 – from \$65 to \$100 (with \$70 of each fee deposited in ILSF).

**State Budget Comparisons
County Impact Summary**

| Indigent Defense Legal Services Funding | | | | |
|--|-----------------------------|--------------------------------|---|---|
| | Final FY 2018-19 | FY 2019-20 Proposed | FY 2019-20 Assembly Proposal | FY 2019-20 Senate Proposal |
| State Operations | \$5.7 million | \$6.1 million | \$6.1 million | |
| Aid to Localities | \$155.5 million | \$204.8 million | \$207.8 million | |
| All Funds | \$161.2 million | \$210.9 million | \$213.9 million | |

The proposed \$155.5 million county aid appropriation would be allocated as follows:
ILS Distributions and Grants - \$81.0 million is allocated for ILS distributions and grants

Hurrell-Harring Settlement (5 counties) - \$23.8 million is allocated for implementation of the Hurrell-Harring settlement, as follows:

- \$19.0 million for the five settlement counties to add staff and other resources needed to comply with caseload/workload standards determined by ILS.
- \$2.0 million to further implement the written plan developed by ILS to improve the quality of indigent defense in the five settlement counties; and
- \$2.8 million to further implement the written plan developed by ILS to provide in person representation of eligible defendants at all arraignments in the five settlement counties.

Statewide Expansion of Hurrell-Harring Reforms (52 counties) – \$100 million to implement arraignment, caseload/workload standards, and system improvements. This is a \$50 million dollar increase from last year’s budget.

Assembly/Senate – The Assembly and Senate modify the Executive proposal by removing the twelve-month restriction on reimbursement for county expenditures.

The Assembly further modifies the Executive Local Aid proposal by (1) adding \$3 million for parental mandated representation (reduction of caseloads); (2) removing the annual reporting requirement (Statewide Expansion) and (3) removing the twelve-month restriction on payment of county expenditures (Statewide Expansion and ILS Distributions and Grants).

Market Based Judgment Interest Rate

Under New York State law the interest rate for plaintiffs seeking to appeal a judgment is set at 9%. This is vastly higher than current federal interest rates. The Governor’s proposed budget would require that the rate of interest be calculated at a prevailing market rate identical to that used by the Federal Court System. Accordingly, the interest rate on all court judgments and accrued claims paid by public and private entities based on the weekly average one-year constant maturity treasury yield. This bill would reduce the amount of interest paid by the State and by local governments on court judgments.

Assembly – This was not included in the Assembly Budget proposal.

Senate – This proposal was not included in the Senate Budget proposal.

State Budget Comparisons County Impact Summary

Indigent Legal Services Fund (ILSF)

The Executive proposal would increase fees to enhance Indigent Legal Services Fund (ILSF) revenues by increasing the (1) OCA criminal history records search fee from \$65 to \$90 and (2) biennial attorney registration fee from \$375 to \$425.

Assembly/Senate — The Assembly and Senate modify the Executive proposal by removing the biennial attorney registration fee increase.

The Senate further modifies the Executive proposal by removing the OCA criminal history record search fee increase; whereas the Assembly further modifies the proposal by increasing the OCA criminal history record search fee by an additional \$10 – from \$65 to \$100 (with \$70 of each fee deposited in ILSF).

District Attorney Salary Increase

For the fourth year in a row the increase to DA salaries that, under state law is tied to the state judge salaries, are not included in the budget. This mandatory salary level will increase again in 2019 due to anticipated Judicial salary COLA raises. This State inaction costs counties over \$2 million per year.

Assembly — This was not included in the Assembly budget proposal.

Senate — This was not included in the Senate budget proposal.

18-B Assigned Counsel Rates

Senate — The Senate advances a proposal calling for an increase in the current assigned counsel rates of \$60 per hour for misdemeanor cases and \$75 per hour for other cases, noting that “comparable compensation in the federal courts has risen to \$140 per hour” and that “the Executive should commit state funds to support the increase ...”

Labor

Janus Related Restrictions of Employee Information on Local Governments

In 2018 the Governor by Executive Order prohibited State entities from disclosing personal contact information of State employees to outside parties. This was in response to the *Janus* Supreme Court Case where it was determined that public sector unions were barred them from charging “agency fees” to the public employees for whom they negotiate pay increases and benefit bumps if those employees decline to join the union as full members.

This budget proposal would codify the 2018 Executive Order and this disclosure prohibition will be extended to county and local governments.

Assembly — This was included in the Assembly Budget proposal.

Senate — This was included in the Senate Budget proposal.

Banning Credit Checks for Employment

This proposal would ban private and public companies in New York from using credit reports when making hiring determinations.

Assembly — This was not included in the Assembly Budget proposal.

Senate — This was not included in the Senate Budget proposal.

State Budget Comparisons County Impact Summary

Extend Binding Arbitration until July 1, 2024

The Governor's proposal would extend binding arbitration for public safety unions until July 1, 2024. When public employers and certain unions (primarily those that represent police, fire and other "uniform" employees) reach an impasse in their contractual negotiations, current law provides for a binding arbitration process to settle the dispute. For arbitration involving an automatically fiscally eligible municipality, the binding arbitration panel must weigh the municipality's "ability to pay."

Assembly — This was included in the Assembly Budget proposal.

Senate — This was included in the Senate Budget proposal.

Continuous Recruitment Exams for Open-Competitive Positions

This legislation amends the Civil Service Law to allow the NYS Department of Civil Service or a municipal commission to establish a continuing eligible list in connection with open-competitive examinations. This act shall take effect immediately.

Assembly — This was not included in the Assembly Budget proposal.

Senate — This was not included in the Senate Budget proposal.

Equal Pay

The Executive Budget prohibits the request of applicant salary history as a factor in determining whether to offer employment and would expand pay equity provisions to include equal pay for substantially similar work for all protected classes. The legislation states that for an employer to inquire about an applicant's salary history, the information must be voluntarily provided by the applicant without prompting the applicant. This legislation would also expand coverage of the equal pay provision for substantially similar work beyond sex or gender to include all protected classes.

Assembly — This was not included in the Assembly Budget proposal.

Senate — This was not included in the Senate Budget proposal.

Ensure Breastfeeding is Protected in the Workplace

The Executive Budget proposal includes a provision that lactation is a pregnancy-related condition entitled to reasonable accommodations in the workplace. If an employer fails to provide such accommodation, it would be considered discrimination and the employer would be liable.

Assembly — This was not included in the Assembly Budget proposal.

Senate — This was not included in the Senate Budget proposal.

Workforce Development Program Funding

A breakdown comparing funding totals in the proposed budget to last year can be found at the following link as provided by NYSAC affiliate NYATEP:

<https://files.constantcontact.com/9b12d7ad001/f99acde1-0a46-4196-b9c3-a6a5a342fc59.pdf>

Legalize Adult-Use Recreational Marijuana

Adult-Use of Recreational Marijuana

The Executive Budget proposal includes the Cannabis Regulation and Taxation Act, which would:

State Budget Comparisons County Impact Summary

- create and amend existing laws to legalize adult-use cannabis;
- consolidate governance of all forms of cannabis; and
- create a regulatory structure to oversee the licensure, cultivation, production, distribution, sale and taxation of cannabis within New York State.

Legal sales would not begin until April 1, 2020, at the earliest. The legislation is expected to increase All Funds revenue by \$83 million in FY 2021, \$85 million in FY 2022, \$141 million in FY 2023, and \$184 million in FY 2024.

An analysis can be found at www.nysac.org.

Assembly — The Assembly omits the Governor’s cannabis proposal. However, in the State Operations bill, the Assembly includes \$35.4 million for a Cannabis Management Program. This includes \$24.5 million for an adult-use cannabis program; \$9.8 million for a medical marijuana program; and \$1 million for industrial hemp.

Senate — The Senate omits the Governor’s proposal but remains open to discussions.

Public Health

Article 6 Funding Cuts to NYC

The Executive Budget proposes a substantial cut to State Aid Reimbursement to New York City, reducing the percent of reimbursement above the base grant from 36% to 20%. The state projects a total net savings of \$27 million in Fiscal Year 2020 and \$54 million when fully annualized.

Assembly — The Assembly rejects the proposal to cut reimbursement 36% to 20%.

Senate — The Senate also rejects the Governor’s proposal.

Regulates E-Cigarettes Through a Comprehensive Tobacco Policy

To protect the health of New Yorkers, the Executive Budget proposes to (1) raise the minimum sales age for tobacco products from 18 to 21; (2) prohibit sales of tobacco products in all pharmacies; (3) prohibit the acceptance of price reduction instruments for both tobacco products and e-cigarettes; (4) prohibit the display of tobacco products or e-cigarettes in stores; (5) clarify that the Department of Health (DOH) has the authority to promulgate regulations that prohibit or restrict the sale or distribution of electronic cigarettes (e-cigarettes) or electronic liquids (e-liquids) that have a characterizing flavor, or the use of names for characterizing flavors intended to appeal to minors; (6) prohibit smoking inside and on the grounds of all hospitals licensed or operated by the Office of Mental Health (OMH); (7) impose a 20 percent excise tax on the retail sale of vapor products; and (8) require that electronic cigarettes be sold only through licensed tobacco retailers.

Assembly — The Assembly omits the Governor’s language to impose a supplemental tax on vapor products and replaces it with their own language. The Assembly proposes to tax vapor products purchased at retail at a rate of 20 percent. Every person who intends to sell vapor products in the state must receive a certification of registration prior to engaging in business.

Senate — The Senate accepts the Executive proposal to impose new regulations, restrictions, and protections with regard to the use of tobacco and electronic cigarettes.

State Budget Comparisons County Impact Summary

Authorize the Regulation of Pharmacy Benefit Managers

The Executive Budget proposes to amend the Insurance Law to regulate Pharmacy Benefit Managers (PBMs) through registration, licensure, examination and disclosure requirements with the goal of protecting consumers and ensuring that PBMs do not contribute to the rising costs of health insurance and prescription drugs through unfair business practices.

Assembly — The Assembly omits this proposal.

Senate — The Senate modifies the Executive proposal on Pharmacy Benefit Managers to ensure that required changes are applied only to contracts signed after the bill is signed into law, and any changes to rates as a result must be actuarially appropriate.

Establish a Commission to Evaluate Options for Achieving Universal Access to Affordable Health Care

This bill would direct the Department of Health and the Department of Financial Services to establish a commission to consider and advise on options for achieving universal access to high-quality, affordable health care in New York. The commission will consult with the Legislature and stakeholder groups, convene at least one meeting for members of the public to review and discuss options, and provide a report to the Governor by December 1, 2019.

Assembly — The Assembly omits this proposal.

Senate — The Senate also rejects this proposal and states in their budget resolution that the body remains committed to exploring solutions that will facilitate vulnerable populations accessing quality, affordable healthcare.

Lower Blood Lead Levels and Establish Lead-Based Paint Standards

The Executive Budget would amend Public Health Law by lowering the blood lead level that constitutes an elevated lead level from ten to five micrograms per deciliter (ug/dL). In addition, the Commissioner of Health would be required to promulgate regulations to establish minimum standards for lead-based paint in residential rental properties, and to provide necessary authority to local housing code enforcement agencies to include lead paint hazard control into existing enforcement activities.

Assembly — The Assembly rejects this proposal.

Senate — The Senate modifies the Executive proposal related to lowering blood lead levels and establishing lead-based paint standards in residential properties by advancing language to:

- Require the Commissioner of Health to incorporate a lower threshold for elevated blood lead levels within six months of the issuance of federal guidance recommending a lower threshold;
- Require annual water supply statements to include information on all lead pipes located within a water system;
- Expand the requirement of lead testing in drinking water to day care facilities; and
- Require municipalities to conduct testing of potable water supplies of parks within the jurisdiction for lead contamination and abate the lead contamination condition within 90 days; and

The Senate also adds additional funding to assist municipalities in inspections and remediations of lead contamination.

Prison and Jail-Based Substance Use Disorder Services

State Budget Comparisons County Impact Summary

The Executive Budget continues \$3.75 million in funding to support medication-assisted treatment (MAT) in local jails and leverages federal funds to expand MAT to three additional DOCCS facilities. These programs will support inmates in recovery and link them to community-based services prior to their release, increasing their chances of success and reducing recidivism.

Assembly — The Assembly provides an additional \$1.5 million for jail-based and substance use disorder services.

Senate — The Senate provides an additional \$3.4 million for jail-based and substance use disorder services.

Public Safety

Eliminates the Statute of Limitations for Rape in the 2nd and 3rd Degrees

This legislation removes the statute of limitations for Rape in the 2nd Degree and Rape in the 3rd Degree. Eliminating the statute of limitation for these crimes allows victims the opportunity to have their cases heard in the court of law.

Assembly — This was not included in the Assembly Budget proposal.

Senate — The Senate omitted this from their Budget Proposal.

Elimination of the Death Penalty

This legislation would eliminate capital punishment from State law and would take effect immediately.

Assembly — This was not included in the Assembly Budget proposal.

Senate — The Senate omitted this from their Budget Proposal.

Establish Extreme Risk Protection Orders

The Executive Budget includes language that would prevent individuals determined by a court to be likely to engage in conduct that would result in serious harm to themselves or others from purchasing, possessing, or attempting to purchase or possess a forearm, rifle or shotgun. This legislation would provide procedural safeguards to remove firearms from individuals who are believed to pose a severe threat of harm to themselves, or others. More information is provided in the “Gun Laws Proposed Amendments” section.

Assembly — This was not included in the Assembly Budget proposal.

Senate — The Senate omitted this from their Budget Proposal.

Voluntary Jail-Based Restoration to Competency Programs

The Executive Budget authorizes a county to develop a residential mental health pod unit for felony level defendants within their local jail. This proposal authorizes the establishment of jail-based restoration to competency programs for felony defendants pending judicial hearings, within locally operated jails subject to the facilities consent. This proposal expands current law to provide that restoration to competency may also take place in a mental health unit(s) operated within a local correctional facility.

The state estimates that the cost per restoration is approximately \$128,000 and the State and counties outside of NYC each pay 50% of the costs. The state suggests that to restore defendant’s in a jail-based setting only costs \$42,500 per restoration. Furthermore, since counties reimburse the NYS Office of Mental Health for 50% of the costs of any restorations

State Budget Comparisons County Impact Summary

that occur at state hospitals, this proposal would save counties approximately \$21,500 per restoration.

Any county that consents to operating a jail-based restoration program will be eligible for additional State grant funding for the design, planning, construction and/or the operation of such program.

Assembly — This was not included in the Assembly Budget proposal.

Senate — The Senate concurs with the Executive proposal to establish a voluntary jail-based restoration to competency pilot program within local correctional facilities.

Real Property Services

Assessment and Equalization Rates

Annually, New York State Office of Real Property Tax Services (ORPTS) calculates equalization rates for each of the state's assessing units (more than 1,200 statewide and mostly a town function). The equalization rate is the ratio of total assessed value (AV, calculated by the local assessor) compared to the municipality's total market value (MV, calculated by ORPTS).

Equalization rates help establish the apportionment of taxes each property owner must send to a school district, because school districts stretch over multiple municipal lines. Recently some local reassessments and market changes have caused large equalization rate changes in parts of the State. This sudden shift in property tax apportionment has caused some property owners to experience large increases in their school tax rate even in cases where the school and the municipalities stayed within the tax cap. The following changes are proposed in the Governor's budget to reduce some of this fluctuation and/or property owner "sticker shock."

The Governor's Budget proposes to:

- Provide school districts an option to ameliorate the equalization rate by directing school taxes to be apportioned based upon average property values over either a three-year or a five-year period.
- Allow a county and an assessing unit (typically a town) to agree that the local legislative body of a county shall appoint the members of the Board of Assessment Review that will hear and resolve assessment complaints within that assessing unit. Both the County and the town would need to agree to move forward on this system.

Assembly — This was included in the Assembly Budget proposal.

Senate — This was included in the Senate Budget proposal.

Local Option Assessment Relief Upon the Declaration of a State Disaster Emergency

Under this proposal, counties, cities, towns, assessing villages, and school districts could, at local option, grant property tax assessment relief to properties that are damaged as a result of a disaster even if the damage occurs after the taxable status date. An eligible municipality that opts in has the further option of offering relief to those whose buildings and other property improvements lost less than 50% of their value. If the municipality opts into the legislation without opting to offer relief at levels below 50%, the relief would only be available to those whose buildings and other property improvements lost 50% or more of their value. The current law would only allow this after getting State legislative approval.

Assembly — The Assembly rejects this proposal.

State Budget Comparisons County Impact Summary

Senate — This was included in the Senate Budget proposal with modifications.

Shared Services

County-Wide Shared Services Initiative Match

Over the past two years, 53 counties filed shared services plans with the State. The plans identified a total of 567 projects with \$260.6 million in projected recurring property tax savings. The Executive Budget reappropriated \$225 million for state match funding for first year savings for local governments that implemented shared services plans in 2018 and are eligible to receive matching funds in calendar year 2019.

Assembly and Senate The Assembly and Senate both also reappropriated the \$225 million.

Transportation

Local Roads and Bridges

CHIPS and Marcheselli aid are level funded at prior year levels.

Assembly

- CHIPS and Marcheselli aid are level with the Governor's proposal
- \$65 million is added for Extreme Weather repair. This funding was absent from the Governor's proposal.

Senate

- CHIPS and Marcheselli aid are increased by \$150,000,000
- \$65 million is added for Extreme Weather repair. This funding was not included in the Governor's proposal.

Local Authorization of Motorized Scooters

The Governor's budget allows for local governments to pass laws authorizing and regulating motorized scooters. State Traffic laws will still apply to persons operating locally authorized scooters. The local law will be limited in scope with the following, but not limited to, restrictions:

- Locally authorized scooters may only be operated on public highways with a posted speed limit of thirty miles per hour or less;
- No locally authorized scooter shall be used to carry more than one person at one time;
- No person shall operate a locally authorized scooter outside during the period of time between one-half hour after sunset and one-half hour before sunrise unless such person is wearing readily visible reflective clothing or material which is of a light or bright color;
- Every operator of a locally authorized scooter shall be sixteen years of age or older;
- No person shall operate a locally authorized scooter in excess of twenty miles per hour;
- If the governing body of any county, city, town or village authorizes the use of scooters on any sidewalk, they can't exceed eight miles per hour
- Operators to wear protective headgear
- No person shall operate a locally authorized scooter while he or she is impaired by drugs or alcohol.

Assembly — The Assembly Budget proposal does not include this provision.

Senate — The Senate Budget proposal does not include this provision.

State Budget Comparisons County Impact Summary

Veterans

The Governor's Budget proposes a coordinated initiative involving both private- and public-sector service providers. The Joseph P. Dwyer Veteran Peer Support Project will be expanded from 16 counties to all 62. State personnel will receive training in how to recognize the warning signs of suicide and how to identify veterans, especially homeless veterans, and connect them with veteran-specific services. The State will also launch a telehealth services pilot program to reach Native American veterans.

Assembly — The Assembly Budget proposal includes \$3.735 million for this program.

Senate — The Senate Budget proposal includes \$3.735 million for this program.