

*The Annual Executive Budget Proposal Review*  
*Provided by*  
*Carreau Consulting @ The Elk Street Group*

**GOVERNOR’S EXECUTIVE BUDGET PROPOSAL FOR FY 2018-19**

On Tuesday, January 16, 2018, Governor Cuomo released his Executive budget proposal for fiscal years 2018-19, totaling \$168.2 billion (all funds), keeping the rate of growth in spending for state operating funds below 2 percent at 1.9 percent, while providing for a 3 percent increase in education aid and 3.2 percent increase in State Medicaid spending pursuant to the Medicaid Global Spending Cab. Meanwhile, the Executive budget proposal also includes a plan to close the \$4.4 billion budget deficit through \$2.7 billion in spending changes, \$0.7 million in resource changes, and \$1 billion in revenue raisers (i.e. new taxes and fees).

**A. ADDRESSING FEDERAL TAX CHANGES**

Although the State is planning to sue over the recently enacted federal tax plan and lead an effort to repeal and replace it, a key component to the Governor’s budget proposal includes the New York State Taxpayer Protection Act, an initiative that would shift the State’s income tax system from an employee paid system to an employer paid system. The Governor indicated this major change would not be a cost to businesses and hold employees harmless, however, tax experts and pundits alike, note the move would be incredibly complicated to implement.

The Executive budget also seeks to close the so-called “carried interest” loophole by treating such as ordinary income for New York State tax purposes and establishing a fairness fee. This particular plan would have to be adopted by surrounding states, including Connecticut, Massachusetts, Pennsylvania, and New Jersey.

The State Department of Taxation and Finance is releasing a this week that is a considered a blueprint for how the State might move forward.

**B. MENTAL HYGIENE**

The Executive Budget proposes **\$7.2 billion in funding, an annual spending growth of \$254 million or 3.7 percent** for the Office of Mental Health (OMH), the Office for People with Developmental Disabilities (OPWDD), Office of Alcoholism and Substance Abuse Services (OASAS), as well as the Developmental Disabilities Planning Council (DDPC), and the Justice Center for the Protection of People with Special Needs. The breakdown as provided in the budget briefing materials:

Category	FY 2018 (millions)	FY 2019 (millions)	Change	
			Dollar (in millions)	Percent
<b>OPWDD</b>	3,515.8	3,646.0	130.2	3.7
<b>OMH</b>	2,805.2	2,901.2	96.0	3.4
<b>OASAS</b>	578.0	603.9	25.9	4.5
<b>Justice Center</b>	42.3	44.3	2.0	4.7
<b>DDPC</b>	4.2	4.2	0.0	0.0
<b>Subtotal</b>	<b>6,945.5</b>	<b>7,199.6</b>	<b>254.1</b>	<b>3.7</b>
<b>Adjustments<sup>1</sup></b>	(1,268.6)	(1,761.0)	(492.4)	N/A
<b>Total<sup>2</sup></b>	<b>5,676.9</b>	<b>5,438.6</b>	<b>(238.3)</b>	<b>(4.2)</b>

<sup>1</sup> Adjustments reflect OPWDD programmatic spending in FY2018 and FY2019 that are reflected in DOH Medicaid spending. In addition to these amounts, Federal MA spending for these agencies is reflected in the DOH budget.

<sup>2</sup> FY2018 spending totals do not include \$1.4 billion in Fringe Benefits (\$696 million for OPWDD; \$656 million for OMH;

and \$37 million for OASAS) or Indirect Costs (\$30 million for OPWDD; \$29 million for OMH; and \$2 million for OASAS) reported under the Mental Hygiene Program Fund and Patient Income Account structure prior to General Fund consolidation in the FY 2019 Executive Budget.

#### **OMH & MENTAL HYGIENE-RELATED PROVISIONS OF INTEREST:**

- Closure of an additional 100 inpatient hospital beds, providing for \$11 million for reinvestment into community-based services (\$110,000 per bed).
- \$3 million in funding in 2018-19 fiscal year for making physician loan repayment awards to psychiatrists who are licensed to practice in New York State and who agree to work for a period of at least five years in one or more hospitals or outpatient programs operated by OMH or deemed to be in one or more underserved areas as determined by the OMH Commissioner. The budget also includes a re-appropriation of \$3 million carried over from previous years for contracts that have not been executed.
- Funding for 20 new Assertive Community Treatment teams, 10 in the New York City area, focusing on homeless individuals and homeless shelters, and 10 for the rest of the State.
- \$10 million in additional funding for supported housing and single residence occupancy programs
- \$50 million in capital funding to expand community crisis respite capacity
- \$5 million for peer support and engagement, particularly focused on individuals transitioning to the community from adult homes.
- Jail-Based Restoration to Competency Program – The Executive budget includes a proposal for OMH to establish jail-based restoration-to-competency programs within locally-operated jails and State prisons operated by the Department of Corrections and Community Supervision. Restoration to competency would be authorized in mental health units at such facilities with the budget appropriating \$850,000 to OMH to provide grants to county jails to assist with infrastructure improvements. Under current law, defendants deemed incompetent to stand trial are treated at OMH inpatient psychiatric units. (Note: This has been proposed in previous years and has been rejected in the past because of opposition from counties and advocacy groups).
- Funding for Raises for OMH/OPWDD/OASAS Direct Care Workers: \$262 million to support the 6.5 percent salary increase provided to direct care professionals (3.25 percent in January 1, 2018 and 3.25 percent in April 1, 2018). This funding will also provide agreed upon 3.25 percent salary increase for clinical workers employed by not-for-profit organizations rendering mental hygiene services on behalf of OPWDD, OMH or OASAS, which is effective April 1, 2018.
- OMH and OPWDD will collaborate on the development of a specialized program for dually-diagnosed individuals, which will be housed at the Bernard Fineson Campus in Queens. The program, “...will support people who are discharged from an OMH-certified inpatient setting, while they await access to appropriate OPWDD services in the community.”
- For OASAS, the 4.5 percent increase (\$26 million) in operating and capital support will be used in part to provide for:
  - 200 new residential treatment beds
  - 350 new opioid treatment program slots
  - Ten regional coalitions and partnerships to increase cross-sector collaboration between families, service providers, educators, law enforcement, State agencies and local leaders.
  - 18 family support navigators funded in last year’s budget will be fully operational in the upcoming fiscal year.
  - 20 peer engagement will be operational in the coming fiscal year
  - 4 new adolescent clubhouses for a total of 15 statewide
  - Funding for 14 recovery and community outreach centers
  - 250 new peer advocates
  - 7 new Problem Gambling Resource Centers
  - \$55 million in capital funds for developments of new beds/treatment slots

### C. MEDICAID/HEALTHCARE PROVISIONS OF INTEREST

- Overall, State Medicaid spending would grow by \$593 million, or 3.2 percent pursuant to the Medicaid Global Spending Cap, to \$18.9 billion. Total Medicaid spending (including federal funds) would rise 2.5 percent to \$70.1 billion.
- \$1 billion Healthcare Shortfall Fund to be established to handle the potential loss of \$2 billion in federal funds for the Children’s Health Insurance Plan or Essential Plan. Revenue for the fund would be derived in part from the pending sale or mergers of several not-for-profit healthcare insurance companies to for-profit entities. One current and pending example: for-profit Centene’s purchase of Fidelis Care.
- **Expansion of Medicaid coverage for care provided by licensed social workers in Article 28 settings. (Currently, Medicaid coverage for services provided by licensed social workers in these settings is limited to individuals under the age of 21 and to pregnant mothers).** The Governor's Executive Budget Proposal calls for a \$10 million allocation to the hospital quality pool for the purposes of expanding preventative services in general hospitals and diagnostic and treatment centers, including but not limited to mental health counseling provided by a licensed clinical social worker or a licensed master social worker, physical therapy, diabetes prevention, or treatment by an applied behavior analyst. In order to implement this provision, the budget also amends the Public Health Law, which currently limits Medicaid coverage for licensed social workers in such licensed facilities to providing individual psychotherapy services to individuals under the age of 21 and pregnant mothers. If enacted as drafted, this restriction would be lifted and licensed social workers would be authorized to treat all patient populations in such licensed facilities with the facilities receiving reimbursement for such services.
- **Social Work/Psychology/Mental Health Practitioner Licensure Exemption – The budget further clarifies the services that do and do not require licensure. The proposal would permit those who have been employed or obtained employment on or before July 1, 2020 to continue employment under the existing exemption, while any person employed after July 1, 2020 would need to meet the requirements for licensure. (Note: We are carefully reviewing the bill language and will provide a further update/clarification on this particular proposal).**
- Elimination of prescriber prevails in Medicaid Fee-for-Service and Medicaid Managed Care – no exception for mental health medications.
- One-year extension of Physician Excess Medical Malpractice Program, with funding maintained at \$127.4 million.
- Comprehensive Medication Management Protocols – Proposal is similar to last year’s allowing physicians or nurse practitioners to enter into comprehensive medication management protocols with pharmacists to manage patients who have chronic diseases and who have not met the clinical goals of treatment and are at risk for hospitalization. **Key difference from previous proposal: pharmacist could not substitute or select drug that differs from that initially prescribed unless such is authorized in the written protocol.**
- Requiring treatment plan and patient-prescriber agreement when opioids are prescribed for pain that has lasted longer than three months or past the time of normal tissue healing.
- Authorization of for-profit retail clinics in big box stores and retail spaces. One of the services that could be provided: “limited screening and referral for behavioral health conditions.” Another difference from past proposals: retail clinics are to be staffed at all times by one or more of the following: physicians, physician assistant and/or nurse practitioner. Budget projects \$5 million in savings for fiscal year 2019 and fiscal year 2020.
- Expand and statutorily define a scope of practice for certified nurse anesthetists, requiring collaborative agreement with anesthesiologist for those in the first 3,600 hours of practice and collaborative relationship for those in practice thereafter.
- Budget also includes initiatives and recommendations of DOH’s Regulatory Modernization Initiative, including:
  - Community Paramedicine Program – The collaborative program would include a hospital, nursing home or diagnostic and treatment center along with a physician, emergency medical services provider where the emergency medical services provider could provide non-emergency care at the patient’s home.
  - Integration of Primary Care/Mental Health/SUD Services – To allow for the integration of primary care, mental health and substance use disorder care and treatment, providers that have already received a license from DOH, OMH or OASAS would not be required to seek a separate license to add such integrated services.
  - Expanding Telehealth Coverage Under Medicaid – Expand the definition of originating site (where the patient is) to include patient’s home or any other location patient is located. The list of authorized providers of

telehealth would also be expanded to include: certified alcoholism and substance abuse counselors, early intervention providers, and any other provider determined by the Commissioner of Health in consultation with OMH, OASAS and OPWDD.

- **Study on Legalization of Marijuana** – Regarding the potential legalization of marijuana, the Governor proposed DOH conduct a study on the potential regulation of it, assessing the health impact, economic impact, criminal justice impact and consequences of legalization given the action taken in surrounding states and on the federal level.

**D. REVENUE RAISERS**

Among others, the \$1 billion in proposed new taxes and fees includes:

- \$127 million from a 2 cents-per-milligram tax on opioid manufacturers
- \$80 million from the Internet Fairness Conformity Tax (collecting sales tax on internet sales)
- \$140 million - Recouping the windfall health insurance companies received as a result of the federal tax plan. This consists of applying a 14 percent surcharge on the underwriting gains from insurance policies.
- \$96 million from discontinuing the energy services sales tax exemption
- \$3 million from extending the statute of limitations on amended tax returns
- \$3 million to allow warrantless tax debt to be assessed against unclaimed funds
- \$12 million from enhanced cigar tax enforcement
- \$82 million from federal of business related tax-credit claims
- \$3 million from imposing health tax on vapor products
- \$22 million from simplifying video lottery gaming rate and other provisions
- \$3 million from a vehicle inspection fees, which would apply to privately operated passenger carries, such as motor coaches.

**E. EDUCATION/ISSUES IMPACTING CHILDREN**

- 3 percent growth for education, representing a \$769 million increase, for a total of \$26.4 billion (Note the State Board of Regents had recommended an increase of \$1.6 billion). Here is how this \$769 million increase would be distributed as outlined in the budget briefing materials:

Category of Increase	Change (millions)
Additional Foundation Aid	\$338
\$50 Million Community Schools Set-aside	
Reimbursement for Expense-Based Aids / Other	\$317
Fiscal Stabilization Fund	\$64
Expanded Prekindergarten for Three- and Four-Year-Olds	\$15
Empire State After School Program	\$10
Early College High Schools	\$9
Smart Start	\$6
Breakfast After the Bell	\$5
Expanded Advanced Placement Access	\$2.5
Other Education Initiatives	\$2.5
<b>School Aid Increase</b>	<b>\$769</b>

- Additional \$9 million for early college high schools (Aid to Localities A9503/S7503, Page 134 Lines 8-62, Page 135 Lines 16)
- Additional \$10 million to expand after school slots, serving an additional 6,250 students
- Additional \$15 million to expand pre-kindergarten for three and four year olds in high needs schools.
- Additional \$50 million for community schools
- \$400,000 for third round of Empire State Excellence Awards

- Authorization for BOCES-non component school districts, which includes the Big 5 City School Districts, to participate in recovery schools, which are alternative schools providing educational programming for students diagnosed with substance use disorders and who have made a commitment to recovery.
- Alignment of charter school tuition with public school pending with New York City Charter schools receiving a total per pupil funding increase of 3 percent.
- Child Care Availability Task Force, which will include an array of stakeholders, to examine potential regulatory and statutory changes that would assist in enhancing access to child care.
- Prohibit lunch shaming (a public act “to humiliate a student who cannot afford lunch”) and prohibit schools from providing an alternative lunch to students who are eligible for free lunch (would be effective in the 2018-19 school year).
- \$2 million in additional funding in FY 2019 to defray the cost for low-income students to take Advanced Placement tests and/or International Baccalaureate tests (total appropriation \$4 million). In addition, \$500,000 in grants would be available to provide technical assistance to schools seeking to start advance placement courses. (Aid to Localities, A9503/S7503, Page 135, Lines 49-62, and Page 136 Lines 1-4)
- \$250,000 in grant funding for community schools to enhance mental health services, including wrap-around services and improving the school climate. (Aid to Localities A9503/S7503, Page 138, Lines 20-55)
- Creation and Printing of Standardized Assessment Forms – Two appropriations in the State Operations Appropriation Bill -
  - Under the auspices of the State Education Department, there is an \$8.4 million appropriation to allow for the creation and printing of State standardized assessments and release of a “significant amount of test questions,” pursuant to a plan prepared by the Commissioner of Education and approved by the Director of the Division of Budget. There appears to be an additional caveat on this appropriation in that no funds from this line item may be made available until the Legislature has acted upon appropriations contained in the Aid the Localities appropriation bill with respect to the Education Department. (State Operations Appropriation Bill, A9500/S7500, Page 105, Lines 9-29)
  - Under the auspices of the Department of Education’s Office of Prekindergarten Through Grade Twelve Education Program, the Executive Budget proposal re-appropriates \$8.4 million for the purpose of creating and printing “... more forms of state standardized assessments in order to eliminate stand-alone multiple choice field tests and release a significant amount of test questions.” The funding would be disbursed pursuant to a plan prepared by the Commissioner of Education and approved by the Director of the Division of Budget. (State Operations Appropriation Bill, A9500/S7500, Page 119, Lines 51-58).
- **Re-appropriation for Teacher and Principal Evaluations** – Budget includes a re-appropriation of more than \$917,000 for the purposes of implementing Section 3012-d of the State Education Law, which pertains to teacher and principal evaluations. The funding is to be used to “... acquire the services of experts including educators, testing experts, psychometricians and economists to support the design of additional state measures, the development of growth models and all other aspects of the teacher and principal evaluation system.” (State Operations Bill, A9500/S7500, Page 120, Lines 17-31)
- **Grants for Improving Educator Effectiveness/Teacher and Principal Bar Exam** - Governor’s budget appropriates \$14,700,000 for the purposes of enhancing educator effectiveness by: “(1) requiring longer, more intensive and high quality student-teaching experience in a school setting as a prerequisite for certification as a teacher and (2) creating standards for a teacher and principal bar exam certification program that would include a common set of professionally rigorous assessments to ensure the best prepared educators are entering the public school system.” (State Operations Bill, A9500/S7500, Page 106 Lines 59-62, Page 107 Lines 1-40)
- **Re-appropriation - Grants for Improving Educator Effectiveness/Teacher and Principal Bar Exam** – Governor’s budget re-appropriates \$13.7 million for the purposes of enhancing educator effectiveness. The appropriation explains the plan will include: “(1) requiring longer, more intensive and high quality student-teaching experience in a school setting as a prerequisite for certification as a teacher and (2) creating standards for a teacher and principal bar exam certification program that would include a common set of professionally rigorous assessments to ensure the best prepared educators are entering the public school system.” (State Operations Bill, A9500/S7500, Page 120, Lines 56-62, and Page 121, Lines 1-19)

## Other Notable Aid to Localities Appropriations

- \$14,900,000 million for the continuation of pathways in technology early college high school (P TECH) program grants within certain limitations. (Page 140 Lines 26-48)
- \$1,465,000 million for the early college high schools program pursuant to plan developed by Commissioner of Education and approved by the Director of the Division of Budget and with the this additional stipulation:

“... that a portion of the payment to the early college high schools program awarded from this appropriation shall be available on a sliding scale based upon the number of college credits earned annually by participating students consistent with guidelines established by the commissioner. Provided further that, notwithstanding any provision of law to the contrary, higher education partners participating in an early college high schools program, or the entity/entities responsible for setting tuition at the institution, shall be authorized to set a reduced rate of tuition and/or fees, or to waive tuition and/or fees entirely, for students enrolled in such early college high schools program with no reduction in other state, local or other support for such students earning college credit that such higher education partner would otherwise be eligible to receive.”

- There are also several re-appropriations for the pathways in technology early college high school program grants with the stipulation that “the funds appropriated herein for the early college high school program shall only be available for grants awarded for the 2017-18 school year and prior school years.” (Page 184, Lines 29-62, 188 Lines 11-26, 189, Lines 15-33, 193 Lines 30-45, 196 Lines 13-46, Page 199 Lines 57-62, Page 200 Lines 1-9, Page 201 Lines 1-17, Page 205 Lines 4-30)
- **Waiver from Certain Special Education Requirements** – Tucked into the Article VII Education, Labor and Family Assistance budget bill, is a proposal to allow a school district, approved private school or a BOCES program to apply for a waiver from certain special education requirements. A school district, approved private school or BOCES program would still have to meet federal requirements. The language specifies the requirements for submission of a waiver application, notification of parents and authorizes the Commissioner of Education to approve a waiver “... upon a finding that such waiver will enable a local school district, approved private school or board of cooperative educational services to implement an innovative special education program that is consistent with applicable federal requirements, and will enhance student achievement and/or opportunities for placement in regular classes and programs. In making such determination, the commissioner shall consider any comments received by the local school district, approved private school or board of cooperative educational services from parents or persons in parental relation to the students that would be directly affected by the waiver if granted.” This is not a new proposal as it was put forth in last year’s Executive budget, but ultimately rejected. (A.9506/S.7506, Page 33 Lines 52-56, Page 34, Lines 1-34)

## F. HIGHER EDUCATION

In terms of higher education, the Executive budget proposal consists of the following:

- Launch Second Phase of Excelsior Scholarship – The income eligibility threshold for families rises to \$110,000 in the upcoming 2018-2019 state fiscal year with the Governor proposing \$118 million in funding to cover 27,000 students under the scholarship program.
- Discontinuation of the Bundy Aid Program, which provides financial support to independent and private colleges in New York State, while reinvesting \$30 million of such funds into Higher Education Capital Matching Grants Program. Under this new competitive grant programs awards would be made to institutions for the purposes of improving academic programs, enhancing student life or for other economic benefits to the college community.
- Enhanced Tuition Award Program for Independent and Private Colleges & Universities – The budget provides \$22.9 million for the second phase of the program, which provides students up to \$3,000 in tuition assistance so long as the independent and/or private college or university matches the award and freezes tuition.
- **Passage of the DREAM Act, which would allow undocumented students eligible to apply for the Excelsior Scholarship, the Tuition Assistance Program and other state-administered scholarships.**
- Require SUNY and CUNY schools to have food pantries on campus or other arrangements to assure students have access to healthy food.
- Establish a Student Loan Ombudsman within the Department of Financial Services that would act as the student borrower’s advocate, working to resolve complaints, mediate disputes and educate borrowers.

- Require colleges to provide annual and more simplified disclosure notice to students that informs the student of “...the estimated amounts incurred for student loans, including the amount of student loans incurred to date; a range of the total payoff amount including principal and interest; and the monthly repayment amount that the student may incur for the loan to date.”
- Additional protections/regulations for the student loan industry, including among others requiring companies that service student loans to be licensed by the Department Financial Services.
- Prohibit state agencies from suspending an individual’s professional license for falling behind or defaulting on student loans.
- **Aid to Localities Appropriation Bill includes licensed social work loan forgiveness: \$1,728,000**

## G. CRIMINAL JUSTICE REFORMS

- \$100 million for raise the age implementation
- \$110 million re-appropriation in capital projects funding for raise the age with a stipulation that the funding can be transferred from OCFS to the Department of Corrections and Community Supervision.
- **Five Year Reauthorization the Close to Home Initiative, which authorizes New York City’s Administration for Children to provide services to youth who have come into contact with the juvenile justice system, however, the budget slashes the State’s financial support of the Initiative, saving the State \$31 million in fiscal year 2019. The City (and Raise the Age Campaign) see this funding as vital to implementation of RTA)**
- **Authorize the Office of Children and Family Services to close the Ella McQueen Reception Center, which had been serving as the initial point of reception for non-secure and limited secure juvenile placements. The State cites the lower number of youth who were receiving reception services as the case for closing the center. State relinquishment of the site will allow the city to take it over, a component of RTA implementation.**
- Bail Reforms (Part C of Public Protection & General Government Article VII Bill) – Among the reforms:
  - (a) Establish a presumption that individuals charged with a misdemeanor or non-violent charge will be released without the requirement of cash bail and in the least restrictive manner that will assure the defendant’s appearance in court. The budget documents not the judge could impose a range of other stipulations, such as a requirement to maintain contact with a pre-trial services agency, restrictions on travel and possession of firearms, pre-trial supervision or electronic monitoring. Instead, these individuals could be released on their own recognizance or with other non-monetary stipulations imposed by the court, including reporting to a pretrial services agency.
  - (b) In remaining cases, monetary bail would be permissible, but not required, following “an individualized assessment of the nature of case and the defendant’s personal and financial circumstances.”
  - (c) In cases of domestic violence or other serious crimes, a court can remand a defendant to pretrial detention if he or she commits a crime or “willfully fails to come to court” while on pretrial release.
- Discovery Reform – Criminal Procedure Law is amended to allow an exchange of evidence and information in advance of the start of a criminal trial. The trigger for the exchange of information is the arrangement on an indictment. Among the information to be disclosed: information favorable to defense; police reports; witness statements; intended exhibits; expert opinion evidence, and witnesses’ criminal history information.
- Speedy Trial Reforms – This includes amending the Criminal Procedure Law regarding the speedy trial waiver, which must be approved by judges, and outlines specific timelines for the waiver periods and prohibits the use of more than waivers unless there are outside extraordinary circumstances. A waiver can only be granted after the defendant makes an appearance before the judge. There is also a provision to require that a motion to dismiss must be made at least 20 days before the trial begins.
- \$50.7 million for indigent legal services
- Reducing the Use of Solitary Confinement – Recognizing there has been an overall 29 percent reduction in number of inmates serving time in a Special Housing Unit (SHU), while 5 percent of the prison population remains in SHU cell, Governor is directing Department of Corrections and Community Supervision to close more than 1,200 SHU beds.

## H. WOMEN’S AGENDA

The components of the agenda:

- Comprehensive Contraceptive Coverage Act, which will codify protections into law for access to contraception, including emergency contraception.

- Codify Roe v. Wade into law by removing the regulation of abortion from New York State’s Penal Law, assuring access for women while also removing criminal liability for health care providers.
- Establish Maternal Mortality Review Board, which would review every maternal death and prepare recommendations for improving care and treatment as well as strategies to address severe maternal morbidity and racial disparities. The board would consist of fifteen members appointed by the Commissioner of Health.
- Require two of the physician appointees to the State Board of Medicine to be experts in women’s health and in addressing health care disparities.
- In cases of domestic violence, require defendants to surrender all firearms and require judges to suspend firearm licenses of defendants until case is resolved. In addition, individuals subject to certain arrest warrants will be prohibited from purchasing firearms.
- Outlaw revenge porn and sextortion. The definitions (as stated in the budget summary documents):

“Sextortion is a type of exploitation that involves either coercion to extort sexual acts from a victim, or the use of sexual images or videos as a form of blackmail to force the victim to participate in sexual acts. Revenge porn is the non-consensual dissemination of sexually explicit images or videos intended to harm another.”

- Require hospitals to preserve sexual offense evidence collection kits for at least five years, or when the victims turn 19 years old. In addition, a victim must be notified repeatedly before the evidence can be discarded and at minimum 30 days before.
- Extend the protections of New York’s Human Rights Law to public schools. (Note - Currently, the protections are only afforded to students attending tax-exempt private, non-sectarian schools).
- A multi-faceted plan to combat sexual harassment, including:
  - Annual disclosure report from companies doing business with the State, reporting on the number of sexual harassment violations and nondisclosure agreements executed by the company.
  - Prohibit employers from requiring as a condition for employment an employee sign an agreement that removes the employee’s ability to seek justice in any forum regarding discrimination and sexual harassment.
  - Prohibit the use of taxpayer funds for settlements.
  - Prohibit public entities from entering into non-disclosure agreements unless it is the preference of the victim.
  - Establish a special unit within the Joint Commission on Public Ethics to receive and investigate claims of sexual harassment.
  - Develop a uniform code/policy against sexual harassment applicable to all branches of state government as well as local governments.
- Establish a working group to adapt or develop a new model and curriculum for computer science, in an effort to expand access to quality computer science education for all learners, including women. Working group is tasked with issuing a report to the Commissioner of Education.
- Implementation of the “Be Aware, Be Informed” campaign, which will consist of the Education Department, in consultation with the Department of Health, developing a curriculum for K-12 students on healthy relationships. The curriculum will incorporate the same definition of consent as New York’s Enough is Enough Law (addressing sexual assault on college campuses).
- Require schools serving students in grades 6 through 12 to make feminine hygiene products available at no cost.

In addition, as part of the Executive Budget, the Governor is proposing an amendment to the State Constitution to prohibit discrimination on the basis of sex. Currently, the New York State Constitution prohibits discrimination based on race, color, creed or religion.

## **I. CHILD VICTIMS ACT (PART P OF PUBLIC PROTECTION & GENERAL GOVERNMENT ARTICLE VII LEGISLATION)**

Among the components of the act:

- Elimination of the statutes of limitations for all felony sexually-related offenses committed against a person under the age of eighteen. (Note-Current law only permits such criminal cases to be brought within five years from date of occurrence.)
- Extension of the statute of limitations for civil cases to 50 years from the date of offense. (Note-Currently, such civil cases must be brought within three years of the victim’s 18<sup>th</sup> birthday.)
- Removal of the requirement that a notice of claim be filed. (Note-Current law requires victim to provide 90 days notice regarding intent to sue.)
- Claims that have otherwise been time-barred could be brought within one year of the effective date of this legislation.

## J. ASSISTANCE FOR NON-PROFITS

Following upon the Governor's State of the State, the Executive Budget briefing materials refers to the proposals previously unveiled including:

- Review the feasibility of non-profits obtaining group insurance through the NYSHIP Empire Plan.
- Establish the Nonprofit Educational Assistance Initiative, which will work to improve and promote access to educational resources and career advancement in the sector.
- Host a human services summit where stakeholders will share best practices regarding recruitment and retention in the nonprofit sector.

## K. WORKFORCE PROVISIONS

**1. New York Youth Jobs Act** (Provisions contained in Part R of Article VII Revenue Bill, 51-66) -- Expand New York Youth Works Program, which assists at-risk youth ranging in age from 16 to 24, increasing the tax credit the tax credit amounts by 50 percent from \$500 to \$750 per month for each full-time qualified employee for up to the first six months. The part time tax credit would increase from \$250 to \$375 per month for each qualified employee (working at least 20 hours) for up to the first six months. In addition, the tax credit would increase to \$1,500 per qualified full-time employee who is employed for an additional six consecutive months and to \$750 per qualified part-time employee who is employed for an additional six months. For those employed at least one additional year, the tax credit increases to \$1,500 per qualified full-time employee and \$750 per qualified part-time employee. The provisions also include new requirements of information businesses must submit in order to receive the final certificate of tax credit. Furthermore, section 25-a of the New York State Labor Law is amended to state,

“The commissioner shall establish guidelines and criteria that specify requirements for employers to participate in the program including criteria for certifying qualified employees, and issuing the preliminary certificate of eligibility and annual final certificate of tax credit. Any regulations that the commissioner determines are necessary may be adopted on an emergency basis notwithstanding anything to the contrary in section two hundred two of the state administrative procedure act. Such requirements may include the types of industries that the employers are engaged in. The commissioner may give preference to employers that are engaged in demand occupations or industries, or in regional growth sectors, including but not limited to those identified by the regional economic development councils, such as clean energy, healthcare, advanced manufacturing and conservation. In addition, the commissioner shall give preference to employers who offer advancement and employee benefit packages to the qualified individuals.”

**2. Consolidated Funding Application** – \$175 million consolidated funding application to award funds for workforce development through the Regional Economic Development Councils. The goal is to support regional efforts to business's short-term workforce needs, establish and/or enhance pipeline of talented possible employees, expand apprenticeships while also addressing the long-term needs of growing or evolving industries. The Governor's press release states, “Funds would also support efforts to improve the economic security of women, youth, and other populations that face significant barriers to career advancement. The funding for the workforce CFA will consist both of \$150 million in new, flexible resources and \$25 million in existing streams of workforce funding.”

**3. Establish new Office of Workforce Development** – The Office would oversee all of the State's workforce training programs as well as the above mentioned consolidation funding application. The office will be led by a new Director of Workforce Development and, according to the Governor's press release, work to “...establish standards for program performance and ensure alignment with the economic goals of the state and the individual regions.”

**4. Summer Youth Employment Program** – Budget provides a \$4 million increase.

Meanwhile, the Governor noted that the Legislature, Attorney General, and State Comptroller all submitted budgets with a 2 percent or below increase in spending. The Judiciary submitted a request for a 2.5 percent increase in spending, which the Governor indicated he would support so long as judges certify courts will remain open on weekdays from at least 9 a.m. to 5 p.m.

## L. Budget Hearings:

- Start Tuesday, January 23 with Higher Education.
- Workforce Development is Tuesday, January 24 @ 2:30 p.m.

- Health/Medicaid budget hearing is Monday, February 12 at 10 a.m.
- Mental Hygiene budget hearing is Tuesday, February 13 at 9:30 a.m.

Budget season is compressed as Passover starts March 30 and ends on April 7. The Easter holiday falls on Sunday, April 1. The budget must be adopted by April 1, 2018 to be on-time.