

**Week of March 13:  
Senate and Assembly Release One House Budget Proposals,  
Setting the Stage for Intense Negotiations As April 1 Deadline Looms**

While we turned the clocks ahead one hour this week in anticipation of spring Mother Nature reminded us that winter wasn't quite over. Tuesday's major Nor'easter resulted in a cancellation of the legislative sessions in each house and a one-week delay in the election of three Board of Regents, but it did not stop the budget process from moving forward, as both the Senate and Assembly released their one house budget proposals (Monday evening) and passed the accompanying resolutions upon their return on Wednesday. The resolutions are an aspirational document where each House outlines their priorities and stakes out their positions in response to the Executive budget proposal. Budget negotiations will now enter the final phase with the establishment of budget conference committees, which work to resolve the outstanding differences. By all accounts, the Governor and Legislative Leaders are aiming for an on-time budget.

**I. STATE BUDGET FY 2017-18 UPDATE**

Unlike the previous years, the Senate took up two budget resolutions this week, one put forth by the Senate Republican Conference, which passed along party lines, and one from the Senate Independent Democratic Conference (IDC), which received only eight votes in favor, from the members of the IDC and triggered a rather heated debate on the Senate floor with members of the mainline Democratic conference angered over not having a similar opportunity to have a resolution considered. While the resolutions from the Senate Republicans and Senate IDC largely mirror each other, there are a few notable exceptions where the IDC broke from the position of the Senate Majority, including among others: (1) supporting an extension of the so-called millionaires tax; (2) providing financial and tuition assistance to undocumented students (more commonly referred to as the DREAM Act); and, (3) funding for the New York's health exchange/marketplace, New York State of Health. We continue to review the one-house budget resolutions and corresponding budget bills, but have prepared this summary highlighting the where the Senate and Assembly agree or disagree with respect to the Executive budget proposal.

**A. Raise the Age**

- **Assembly on Raising the Age of Criminal Responsibility** – The Assembly modified the Governor's proposal with respect to: (1) standards and enhanced services for Persons In Need of Supervision; (2) narrowing the list of serious offenses that would go before the Youth Part to the existing list of felonies; (3) allowing youth charged with certain vehicle and traffic offenses to be processed in Family Court; (4) expanding youthful offender eligibility to individuals under the age of 21 and establishing a presumption for status to be granted; (5) assuring the State picks up the cost from counties and local municipalities.
- **Senate on Raising the Age of Criminal Responsibility** – The resolutions of the Senate Majority and Senate Independent Democratic Conference went farther than in previous years with both calling for raising the age stating, "The Senate supports raising the age of criminal responsibility while ensuring public safety and the proper balance of the role and responsibilities of established court systems. The Senate believes that the State should assist in ensuring that 16 and 17 year olds receive the treatment and programming they need in order to avoid the repeated cycle of mass incarceration that many of our youth experience today." The resolutions went on to recognize the importance of considering the rights of victims, while also stressing that reform not place any additional financial strain on counties and local governments.

**B. Other Criminal Justice Reforms**

- The Senate Independent Democratic Conference and Assembly **accepted** the Governor's proposal to decriminalize the possession of small amounts of marijuana, while the Senate Republicans **rejected** it. The Assembly went further to allow records to be sealed in certain cases regarding low-level marijuana possession.

- Governor and Assembly both included proposals to enhance the right to a speedy trial. The Senate denied without prejudice the Governor’s provisions pertaining to the right to a speedy trial.

### C. Medicaid & Health Care-Related Proposals

- **Health Regulation Modernization Team** – The Assembly **rejected** the proposal, while Senate Republicans and Senate Independent Democratic Conference **modified** the proposal, limiting it to reviewing and preparing recommendations regarding the licensure of health care facilities and home care. The Senate modifications also removed the language that would have allowed for altering scopes of practice of clinicians and caregivers.
- **Plan to Combat Rising Cost of Prescription Drugs** –
  - The Assembly **modified** the Governor’s proposal, which would have the Drug Utilization Review Board (DURB) set a benchmark price for certain high cost drugs and place a surcharge on when such price is exceeded. The Assembly’s proposed changes, includes having the Attorney General certify the benchmark price set by the DURB and exempting pharmacies from such surcharges.
  - The Senate also **modified** the Governor’s proposal to focus on those that do not result in offsets or savings for the Medicaid program. We are reviewing the budget bills to further evaluate the changes.

### D. Office of Mental Health

- Senate and Assembly both **rejected** merging Western New York Children’s Psychiatric Center with Buffalo Psychiatric Center.

### E. Division of Budget/Executive Authority

- Legislature has **rejected** Governor’s request to have authority to make unilateral changes in the budget once adopted in the event of changes, including reduction in federal aid.
- **Recovery Schools** – As part of the plan to combat the epidemic surrounding overdoses on opioids and heroin, the Governor proposed establishing two recovery high schools, one downstate and one upstate, which the Assembly **rejected**. The Senate **modified** the proposal, calling for the establishment of three recovery schools.

### F. Higher Education

- **Excelsior Scholarship Program: Tuition-Free College at SUNY and CUNY** –
  - The Assembly **modified** the Governor’s tuition-free proposal as follows: (1) allow students to take two semesters at 12 credits; (2) raise the income eligibility threshold to \$150,000, an increase that would be phased in over four years; (3) establish accommodations for individuals with special needs; (4) allow for only two-thirds of the a Pell Grant to be counted toward the Excelsior Program; and (5) updating the tuition the program would cover every four years.
  - The Senate Republicans and IDC **rejected** the proposal in their budget resolutions. However, the Senate resolutions did include a number of other provisions to address college affordability, incorporating many of elements of the plan the IDC recently released (reported in last week’s report), including a pre-paid tuition program, establishing an enhanced TAP award as well as expanding TAP eligibility to include part-time SUNY students and certain students in undergraduate/graduate programs. In addition, the Senate budget resolutions and corresponding budget bills call on “non-public, not-for-profit” colleges to establish internal college affordability committees that examine ways to reduce student costs, requiring a report on the initiatives implemented on August 1, 2018. The corresponding budget language indicates that institutions that have already implemented plans to address college affordability can submit such information to verify compliance. Meanwhile, the Senate budget resolutions and budget bills provide for the establishment of a Private Student Loan Refinance Task Force for the purposes of examining ways to incentivize lending institutions to create student loan refinance programs.
- **Changes to Bundy Aid for Independent and Private Colleges** – The Senate and Assembly **rejected** the Governor’s proposal to limit Bundy aid funding to colleges and universities if the annual increase in tuition and fees is more than \$500 or the three year average of the Higher Education Price Index, whichever is greater.

- **Tuition Assistance Program (TAP) Awards at Independent and Private Colleges** – The Senate and Assembly **rejected** the Governor’s proposal that would disqualify students from receiving TAP awards if the independent or private college he or she attends raises tuition by more than \$500 or the three-year average of the Higher Education Price Index, whichever is greater.

## G. YouthBuild

- While the Senate and Assembly budgets both included the re-appropriation of \$300,000 for YouthBuild programs, the Senate one-house budget also included \$600,000 in new proposed funding.
- The Senate rejected the Governor’s proposal to rename The Urban Youth Jobs program, as the “New York Youth Jobs Program” as well as the proposed expansion and extension of the program for five years. The Assembly, on the other hand, modified the proposal to include provisions aimed at streamlining the application process and allowing for the development of an apprenticeship.

## II. OTHER RAISE THE AGE DEVELOPMENTS: ADDITIONAL SUPPORT & PRESS FROM BOROUGH PRESIDENTS & MANHATTAN DISTRICT ATTORNEY, WHILE ADVOCACY CONTINUES IN SENATE DISTRICTS

On Friday, the Brooklyn, Bronx, and Manhattan Borough Presidents wrote a letter in support of raising the age of criminal responsibility to Governor Cuomo, urging the plan be included in the budget. Recognizing the research on the issue, the local leaders write,

*“Youth in adult prisons are more likely to be physically and sexually assaulted than in youth rehabilitative facilities. Recidivism of youth who have been placed in adult prisons is higher than if they are sent to youth rehabilitative facilities. Further, youth sent to adult prisons are increasingly likely to commit more serious crimes when they reoffend. Additionally, youth are far more likely to commit suicide in adult facilities as compared to youth facilities.”*  
(Link enclosed)

Manhattan District Attorney Cyrus Vance penned a letter to the editor in *The New York Times* this week, in support of raising the age as well, stating in part, “We can do better than prosecuting and incarcerating 16- and 17-year-olds charged with nonviolent crimes on the same terms as adults. It is long past time for New York to lead in this area. Our legislators can look to four dozen other states to find that a safer and fairer system of juvenile justice is within reach.” (Link enclosed)

Meanwhile, advocates for raising the age delivered more than 2,000 postcards to the district office of Senator Rich Funke (R-Perinton), 700 of which were from constituents. The Senator’s director of communications and operations met with the advocates who indicated the Senator is not opposed to the concept, but has concerns related to cost and implementation. (Link enclosed)

## III. OTHER EDUCATIONAL NEWS

Board of Regents News:

- While the snowstorm delayed a vote this week, the Legislature will convene in a special session next Tuesday (March 21) to vote on candidates for three seats on the Board of Regents: incumbents T. Andrew Brown for the 7<sup>th</sup> Judicial District and Nan Mead for the 1<sup>st</sup> Judicial District, along with newcomer Susan Mittler, a retired school teacher from Ithaca who served on the Ithaca Teachers Association, for the 6<sup>th</sup> Judicial District. The five-year terms for these regents will start on April 1. (See link to *Politico New York* article enclosed)
- Board of Regents accepted Amendments to the School Counselor regulations.

## V. SPECIAL ELECTION NEWS

- **30<sup>TH</sup> SENATE DISTRICT:** Brian Benjamin, a real estate developer, is the candidate chosen by Democratic party leaders to run for the Senate seat vacated by Bill Perkins who was elected to the New York City Council. Mr. Benjamin defeated district leaders John Ruiz and Rev. Al Taylor for the right to run for the seat in the May 23 special election, an outcome that all but guarantees he will be the next Senator for the heavily Democratic district. Regarding the balance of

power in the Senate, Mr. Benjamin's election would mean there are 32 Democrats in the Senate, eight of whom are part of the Independent Democratic Conference. Mr. Benjamin has no intention of joining the Independent Democratic Conference stating, "Not only will I not be a member of the IDC, I will fight and raise money every day to get all eight IDC members out of office. If they are going to caucus with the Republicans, we are going to make sure that they are out of office, and we get some real Democrats in there." (Link enclosed)

## **VI. FEDERAL NEWS**

- By a vote of 55-43, the Senate confirmed Seema Verma to lead the Centers for Medicare and Medicaid Services.

### **Press Clips**

#### **Education**

"Legislature to re-appoint Brown and Mead, add newcomer to Regents board" *Politico New York*, March 13, 2017  
<http://www.politico.com/states/new-york/albany/story/2017/03/legislature-to-re-appoint-brown-and-mead-add-newcomer-to-regents-board-110342>

#### **Raise the Age**

"Borough Presidents Boost Raise the Age," *NYS State of Politics*, March 17, 2017  
<http://www.nystateofpolitics.com/2017/03/borough-presidents-boost-raise-the-age/>

"UPDATE: Raise the Age supporters press for action on changing age of criminal responsibility," *Victor Post*, March 16, 2017  
<http://www.victorpost.com/news/20170316/update-raise-age-supporters-press-for-action-on-changing-age-of-criminal-responsibility>

"Juvenile Justice in New York," *Letter to the Editor in New York Times from Manhattan District Attorney*, March 15, 2017  
<https://www.nytimes.com/2017/03/15/opinion/juvenile-justice-in-new-york.html>

"NYT Editorial: Crime and the Adolescent Brain," *New York Times*, March 11, 2017  
<https://www.nytimes.com/2017/03/11/opinion/sunday/crime-and-the-adolescent-brain.html>

#### **Other News**

"Machine-Backed Candidate Wins Battle Over Vacant Harlem Seat," *The Observer*, March 11, 2017  
<http://observer.com/2017/03/brian-benjamin-beats-john-ruiz-al-taylor-idc-harlem-state-senate/>