

2010-11 NEW YORK STATE EXECUTIVE BUDGET

**EDUCATION, LABOR AND FAMILY ASSISTANCE
ARTICLE VII LEGISLATION**

MEMORANDUM IN SUPPORT

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MEMORANDUM IN SUPPORT

A BUDGET BILL submitted by the Governor in
Accordance with Article VII of the Constitution

AN ACT to amend the education law, in relation to a contract for excellence; to amend the education law, in relation to education mandates; to amend the state finance law, in relation to the state lottery fund; to amend the education law, in relation to identifying school districts with high rates of identification of students with disabilities; to amend the general municipal law, in relation to authorizing a withdrawal from the employee benefit accrued liability reserve fund and the examination of accounts; to amend chapter 756 of the laws of 1992 relating to funding a program for work force education conducted by the consortium for worker education in New York city, in relation to apportionment and reimbursement and in relation to the effectiveness of such provisions; to amend chapter 425 of the laws of 2002, amending the education law relating to the provision of supplemental educational services, attendance at a safe public school and the suspension of pupils who bring a firearm to or possess a firearm at a school, in relation to the effectiveness of such chapter; to amend chapter 101 of the laws of 2003, amending the education law relating to implementation of the No Child Left Behind Act of 2001, in relation to the effectiveness thereof; to amend chapter 618 of the laws of 1998, amending the general municipal law and the education law relating to disposal of surplus computer equipment by political subdivisions, in relation to extending the expiration of such chapter; to amend chapter 219 of the laws of 2003, amending the education law relating to publishers or manufacturers providing printed instructional materials or college students with disabilities, in relation to extending the provisions of such chapter; to amend chapter 552 of the laws of 1995, amending the education law relating to contracts for the transportation of school children, in relation to the effectiveness thereof; to amend chapter 147 of the laws of 2001, amending the education law relating to conditional appointment of school district, charter school or BOCES employees,

in relation to the effectiveness thereof; to amend chapter 534 of the laws of 1993 amending the education law relating to physical therapy assistants, in relation to extending the effective date thereof; to amend chapter 20 of the laws of 1998 amending the education law relating to the provision of physical therapy assistant services in public and private primary and secondary schools, in relation to extending the effectiveness of such chapter; to amend chapter 386 of the laws of 1996, amending the education law relating to providing for a waiver allowing state aid in certain circumstances, in relation to extending its effectiveness; to amend chapter 537 of the laws of 2008, amending the education law, relating to a restricted dental faculty license, in relation to extending the effectiveness thereof; to amend chapter 169 of the laws of 1994 relating to certain provisions related to the 1994-95 state operations, aid to localities, capital projects and debt service budgets, in relation to the effectiveness thereof; to amend chapter 82 of the laws of 1995, amending the education law and certain other laws relating to state aid to school districts and the appropriation of funds for the support of government, in relation to the effectiveness thereof; to repeal subdivision 17 of section 1950 of the education law, relating to boards of cooperative educational services; and providing for the repeal of certain provisions upon expiration thereof (Part A); to amend the education law, in relation to the streamlining of planning and reporting requirements for school districts; to repeal subdivision 32 of section 305 of such law relating to a study of reporting requirements; to repeal section 805 of such law relating to special procedures for enforcement of the health education curriculum; to repeal clause (e) of subparagraph 5 of paragraph b of subdivision 1 of section 4402 of such law relating to annual reports on transition of students with disabilities; to repeal paragraph b of subdivision 1 of section 4452 of such law relating to submission of a plan for the identification and education of gifted pupils; and to repeal subdivision 10 of section 4403 of such law relating to recommendations for adult services (Part B); to amend the education law, in relation to the renaming of certain special education aids (Part C); to amend the arts and cultural affairs

law, in relation to the New York State Theatre Institute Corporation and to amend chapter 688 of the laws of 1979, relating to creating the Nelson A. Rockefeller Empire State Plaza performing arts center corporation and to repeal certain provisions of the arts and cultural affairs law relating thereto (Part D); to amend the education law and the state finance law, in relation to tuition and self-supporting revenues of the state and city universities; and to repeal subdivision 8-b of section 355 and paragraph 4-a of subdivision A of section 6221 of the education law relating thereto (Subpart A); to amend the education law, the public authorities law, and the public buildings law, in relation to capital facilities in support of the state university and community colleges (Subpart B); to amend the education law, and the state finance law, in relation to procurement in support of the state and city universities (Subpart C); to amend the public officers law, the education law and the retirement and social security law, in relation to promoting efficiency and effect savings in support of the state university (Subpart D); to amend the civil service law, the education law and the social services law, in relation to state university health care facilities (Part E); and to enact reporting requirements (Subpart F) (Part E); to amend the education law, in relation to good academic standing requirements (Part F); to amend the education law, in relation to restrictions on eligibility to receive awards and loans; and to repeal certain provisions of such law relating thereto (Part G); to amend the education law, in relation to tuition assistance program awards for graduate school students; and repealing certain provisions of such law relating thereto (Part H); to amend the education law, in relation to tuition assistance program awards (Part I); to amend the education law, in relation to tuition assistance program award determinations (Part J); to amend the education law, in relation to eligibility requirements for student financial aid (Part K); to amend the education law, in relation to tuition assistance program awards (Part L); to amend the education law, in relation to the definition of income for purposes of tuition assistance program awards (Part M); to amend chapter 57 of the laws of 2005 amending the education law relating to the New York

state nursing faculty loan forgiveness incentive program and the New York state nursing faculty scholarship program, in relation to the effectiveness thereof (Part N); to amend chapter 31 of the laws of 1985, amending the education law relating to regents scholarships in certain professions, in relation to extending the effectiveness of certain provisions thereof (Part O); to amend the education law, in relation to the scholarship for academic excellence and New York state math and science teaching incentive program (Part P); to amend the education law, in relation to the definition of non-resident students for purposes of tuition charged by community colleges (Part Q); to amend chapter 420 of the laws of 2002 amending the education law relating to the profession of social work; and to amend chapter 676 of the laws of 2002 amending the education law relating to defining the practice of psychology, in relation to the professions of social work and mental health practitioners (Part R); to amend the education law and the public authorities law, in relation to the New York higher education loan program (Part S); to amend the education law, in relation to the New York state district attorney and indigent legal services attorney loan forgiveness program (Part T); to amend the education law, in relation to the optional retirement plan (Part U); to amend the real property tax law, in relation to limiting school tax relief (STAR) exemption benefit to certain home value (Part V); to amend the real property tax law, in relation to the computation of the school tax relief (STAR) exemption (Part W); to amend the state finance law, the tax law and the administrative code of the city of New York, in relation to the New York city personal income tax rates (Part X); to amend the social services law, in relation to electronic benefit transfer services (Part Y); to amend the social services law, the family court act and the surrogate's court procedure act, in relation to establishing a kinship guardianship assistance program (Part Z); to amend the family court act, in relation to limiting court-ordered child protective investigations to where there is a reasonable suspicion of child abuse or neglect (Part AA); to amend the family court act and the social services law, in relation to allowing electronic court appearances (Part BB); to amend the

social services law, the family court act and the executive law, in relation to sexually exploited children (Part CC); in relation to fair share payments by certain child care providers; and providing for the repeal of such provisions upon expiration thereof (Part DD); to amend the social services law, in relation to local mandate relief pertaining to children and family services planning and to repeal subdivision 5 of section 423 of such law relating to child protective services planning (Part EE); to amend the executive law, in relation to reimbursement for expenditures made by the office of children and family services (Part FF); to amend the social services law, in relation to the standards of monthly need for needy persons in receipt of public assistance (Part GG); to amend the social services law, in relation to increasing the standards of monthly need for aged, blind and disabled persons (Part HH); to amend the social services law, in relation to establishing the amount of the additional state payment for persons eligible for supplemental security income, clarifying the meaning of the term standard of need for purposes of such payments, and authorizing the office of temporary and disability assistance to provide additional state payments (Part II); to amend the social services law, in relation to the nutrition outreach and education program; and to repeal certain provisions of the public health law relating thereto (Part JJ); and to amend the tax law and the social services law, in relation to the wage reporting system and providing for the repeal of such provisions upon expiration thereof (Part KK)

PURPOSE:

This bill contains provisions needed to implement the Education, Labor and Family Assistance portions of the 2010-11 Executive Budget.

This memorandum describes Parts A through KK of the bill which are described wholly within the parts listed below.

Part A – Amend the Education Law to provide a one-year reduction in School Aid, adjust the planned phase-in of Foundation Aid beginning in the 2011-12 school year, and make other changes necessary to implement the Executive Budget.

Purpose:

This bill contains various provisions necessary for implementation of the education portion of the 2010-11 Executive Budget.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Gap Elimination Adjustment: This bill would amend the Education Law for the 2010-11 school year to provide a Gap Elimination Adjustment (GEA) formula consistent with the core principles of School Aid. This recommendation applies a one-time \$1.4 billion GEA comprised of a \$2.1 billion reduction in State General Fund support, partially offset by the use of the remaining balance of \$726 million of New York's American Recovery and Reinvestment Act (ARRA) State Fiscal Stabilization Fund - Education Fund award. The GEA reduces School Aid on a per pupil basis, adjusted for each school district's wealth, student need, administrative efficiency, and residential property tax burden. The GEA would be applied against formula-based School Aid, excluding Building Aid and Universal Pre-Kindergarten.

Maintain Formula Aid Categories at Current levels: In order to provide necessary out-year savings, this bill would amend the Education Law to extend existing statutory provisions for one additional year – until 2011-12 – for selected formulas. Specifically, State support funding for various programs that provide operating support to school districts would be continued at current levels. Additionally, Education Law would be modified to adjust the phase-in schedule for Foundation Aid so it would be fully phased-in 2016-17.

Claiming Limits: This bill would amend the Education Law to limit State liabilities for School Aid to those that result from data and claims on file with the State Education Department by the statutory deadline for the production of the data set used for development of the Executive Budget.

Mandate Reform: This bill would amend the Education Law to provide mandate reform measures to reduce school district costs, ease the paperwork workload and remove selected mandates. By encouraging structural reforms and reducing operational costs, this proposal promotes efficiency and flexibility for school districts.

Establish State Education Department Regulatory Review Process: This bill would amend the Education Law to require the State Education Department to implement a regulatory review process similar to Executive Order No. 17 (which is the mandate review process imposed on executive state agencies), which is intended to prevent the imposition of unfunded mandates on school districts. This would include preparation of

local fiscal impact statements on all new regulations and a review of existing regulations to eliminate unnecessary mandates.

Regional Student Transportation: This bill would amend the Education Law to allow school districts to reduce expenses by contracting with other entities, including other school districts, counties and municipalities to provide more efficient student transportation. School districts would also be authorized to partner on school bus maintenance.

Contingency Budget Calculation: This bill would amend the Education Law to prevent mandatory negative spending growth for school districts that are operating under a contingency budget by limiting the spending cap calculation to no less than the previous year's spending levels. The current statutory provisions for the calculation of the contingency budget cap do not account for a period of deflation.

School District Charter School Payments: Consistent with limiting Foundation Aid to 2009-10 levels, this bill amends the Education Law to maintain charter school payments made by school districts to charter schools for children attending charter school to the current per pupil levels for the 2010-11 school year. Chapter 57 of the laws of 2009 initiated a one year freeze on these per pupil charter school payments. This would extend that freeze for one additional year.

Access to Employee Benefit Accrued Liability Reserve Funds: This bill would amend the Education Law to authorize school districts' governing boards to withdraw excess funds in an employee benefits accrued liability reserve fund in order to maintain educational programming during the 2010-11 school year. The amount withdrawn could not exceed the Gap Elimination Adjustment for a school district. The State Comptroller would be required to certify that funds withdrawn are in excess of the amount required for employee benefits which are a liability against the fund.

Contract for Excellence: This bill would amend the Education Law to modify Contract for Excellence requirements, in recognition of the fiscal circumstances facing the State and the suspension of increases in Foundation Aid. School districts currently in the program would be required to continue in the program with a reduced financial liability unless all school buildings in a school district are reported as "In Good Standing" for purposes of the State accountability system. School districts that remain in the program would be required to maintain funding on existing Contract for Excellence programs less the percentage reduction of the Gap Elimination Adjustment.

Summer School Special Education: This bill would amend Education Law to change State reimbursement to school districts for summer school special education costs from a flat rate of 70 percent for all districts to the Foundation Aid State Sharing Ratio for each district, starting with the 2010-11 school year. This change would conform reimbursement for summer school special education with the more equitable wealth adjusted financing structure of the State's School Aid funding system. This bill would

also limit the portion of the current year appropriation that is available to pay prior years' claims.

Preschool Special Education: This bill would amend Education Law to limit the growth in the county share of costs for preschool special education to two percent per year beginning with the 2010-11 school year and to assign any growth above two percent to the school district of residence. This bill would also amend Education Law to encourage school districts' Committees on Preschool Special Education to recommend suitable and least restrictive placements at providers closest to a child's home. This bill would also require the State Education Department to respond to local audits of preschool special education providers within three months.

Library Aid: This bill would amend the Education Law to continue supplemental aid to public, school and research library systems in the 2010-11 fiscal year using the same formula as in 2009-10. The bill would also continue to hold recipients of library aid harmless from reductions to aid they received in the 2001-02 fiscal year, except for the proportionate reduction needed to limit the State's obligation to the amount appropriated for the program.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget including out-year savings.

Effective Date:

This bill takes effect April 1, 2010, except that selected provisions take effect immediately or on other specified dates.

Part B – Enact School District Paperwork Reduction and Mandate Reform.

Purpose:

This bill would enact the School Paperwork Elimination and Reduction Act of 2010.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill would streamline certain local school district reporting requirements by the State Education Department. It would also eliminate duplicative and outdated reports that are no longer used by the State Education Department.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget by creating administrative efficiencies and generating fiscal savings for school districts.

Effective Date:

This bill takes effect April 1, 2010.

Part C – Modernize the nomenclature for special education aid formulas.

Purpose:

This bill would rename Public High Cost Excess Cost Aid, Private Excess Cost Aid, and Supplemental Public Excess Cost Aid as Public High Cost Special Education Aid, Private Special Education Aid, and Supplemental Public Special Education Aid, respectively.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill would amend subdivisions 4, 5-a, and 8 of § 3602; subdivisions 2 and 3 of § 3609-b, and subdivisions 6 and 7 of § 4401 of the Education Law to Public High Cost Excess Cost Aid, Private Excess Cost Aid, and Supplemental Public Excess Cost Aid as Public High Cost Special Education Aid, Private Special Education Aid, and Supplemental Public Special Education Aid, respectively.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget because the term "excess cost" has become outdated, and no longer reflects the intended effect of these aid categories. Updating their names to a more modern nomenclature will help to improve the transparency of School Aid and the budget process.

Effective Date:

This bill takes effect July 1, 2010.

Part D – Require the New York State Theatre Institute and the Empire State Plaza Performing Arts Center Corporation to become self-supporting.

Purpose:

This bill would amend the enabling legislation of New York State Theatre Institute (NYSTI) and the Nelson A. Rockefeller Empire State Plaza Performing Arts Center Corporation (the Egg) to authorize and enable these organizations to become self-supporting. NYSTI and the Egg currently generate off-budget revenue through ticket sales and fundraising that is used to reduce their reliance on State appropriations -- these efforts would need to increase.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Pursuant to Article 9 of the Arts and Cultural Affairs Law, NYSTI is a public benefit corporation dedicated to producing family theatre and providing educational programs to students. Since a large portion of NYSTI's operating budget has traditionally been supported by State funds, the Arts and Cultural Affairs Law currently requires NYSTI to submit a budget request to the Director of the Budget annually. The law also authorizes NYSTI to request assistance from other agencies in processing their payroll, and authorizes and directs agencies to provide this service.

This bill would amend Arts and Cultural Affairs Law to require NYSTI to become self-supporting. Since NYSTI would no longer receive direct State funding, the bill would relieve NYSTI of the requirement to submit an annual budget request. This bill would not alter the constitution or governance structure of NYSTI, however it would permit, rather than require, another agency to assist NYSTI with processing payroll (currently, the State University of New York at Albany provides administrative support to NYSTI).

Chapter 688 of the Laws of 1979 established the Egg as a public benefit corporation. Like NYSTI, the Egg has traditionally received a State appropriation and has been required to submit an annual budget request. This bill would require the Egg to be self-supporting and would eliminate the requirement that they submit a budget request.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget, which assumes \$2.1 million in related 2010-11 Financial Plan savings and \$3.6 million in 2011-12 savings.

Effective Date:

This bill takes effect immediately.

Part E – Enact the New York State Public Higher Education Empowerment and Innovation Act.

Purpose:

This bill would enact the New York State Public Higher Education Empowerment and Innovation Act which would provide enhanced discretion for the State University of New York (SUNY) and the City University of New York (CUNY) in the areas of tuition, account management, asset maximization, administration, mission-related public-private partnerships, procurement, and capital construction.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

In June 2008, the Commission on Higher Education (the "Commission") submitted its Final Report of Findings and Recommendations to the Governor. The Commission recommended that the regulatory reforms enacted subsequent to the 1985 report of the Independent Commission on the Future of the State University of New York should be expanded in scope so that New York's public universities are better equipped to sustain themselves in an environment of declining State support, and better aligned with the innovative capacity enjoyed by peer public university systems and institutions in other states. As such, the New York State Public Higher Education Empowerment and Innovation Act would enable SUNY and CUNY to implement innovative strategies in finance and administration. Such strategies would be beneficial during times of strong economic growth, but are essential during times of financial difficulty, and would give the universities the tools to better manage declining State fiscal support and surging enrollments. In addition, the Act would strengthen SUNY's and CUNY's capacity to advance the interest of the State in developing a highly skilled workforce that is central to a strong economy and broad tax base.

The New York State Public Higher Education Empowerment and Innovation Act would:

- Authorize the boards of trustees for SUNY and CUNY to implement a responsible and rational incremental tuition policy that would provide the universities with the discretion to raise tuition up to an annual cap of two and one half times the five-year rolling average of the Higher Education Price Index (HEPI)
- Authorize the SUNY and CUNY trustees to implement differential tuition rates for programs and campuses within their systems, based on the recommendation of the college president and in accordance with specific guidelines promulgated by the trustees.
- Allow SUNY and CUNY to receive and disburse revenues from tuition and self-supporting program activities without appropriation.
- Prescribe specific semi-annual reporting requirements on revenues and expenditures at a campus-specific level to ensure continued transparency and accountability.
- Ensure that all rights and benefits, including collective bargaining and terms of employment, are retained by employees of SUNY, CUNY and the State University Construction Fund (SUCF), and otherwise not impacted by the enhanced discretion that would be afforded by this bill.
- Authorizes the lease of real property under the jurisdiction of SUNY to other entities in support of its educational purpose, and the participation in

public/private partnerships that would benefit SUNY's mission, subject to approval of a newly created State University Asset Maximization Review Board.

- Provide that lease agreements authorized pursuant to this legislation will be subject to Minority and Women-owned Business Enterprise (MWBE) provisions, prevailing wage rates, indemnification clauses, reverter clauses and project labor agreements.
- Allow for SUCF to operate more autonomously in order to fulfill its mission of progressing SUNY's multi-year capital plan.
- Broaden the abilities of SUCF to implement capital projects through more efficient construction delivery methods, subject to procurement guidelines that must substantially conform to those applicable to existing public authorities.
- Authorize the construction and financing by the Dormitory Authority of the State of New York (DASNY) of facilities for the benefit of SUNY by not-for-profit entities associated with the State University, provided that the associated projects are subject to prevailing wage, MWBE, and competitive process requirements.
- Authorize DASNY to rehabilitate, construct and finance dormitories on behalf of community colleges, which would be required to assume full financial responsibility for the cost of the projects.
- Allow SUNY to lease facilities within Albany County directly, rather than requiring the Office of General Services (OGS) to act on its behalf.
- Remove provisions of law subjecting SUNY and CUNY to pre-approval of contracts by the Office of the State Comptroller (OSC) in order to streamline the procurement of goods and services, while maintaining provisions requiring the post-audit of such contracts by OSC.
- Authorize SUNY affiliated auxiliary service corporations, campus-related foundations and other non-profit corporations to make purchases through the centralized contracts of OGS, but prohibits the resale of such commodities and services.
- Allow post-audit in lieu of pre-audit requirements for Attorney General approval of leases between SUNY and its alumni associations in support of dormitory projects.
- Allow CUCF and DASNY to utilize alternative construction delivery methods for applicable CUNY projects.
- Indemnify SUNY students who are enrolled in required clinical or other experiential programs as part of their course of study.

- Increase SUNY's and CUNY's master planning cycle with the Board of Regents from four years to eight years, consistent with the length of the planning cycle for independent colleges.
- Provide that medical, dental, and optometric residents and interns who provide services at the health-related facilities of SUNY may opt to participate in the State and Local Employees' Retirement System, but are not eligible to participate in the Optional Retirement Program or the Teachers' Retirement System.
- Allow State University hospital participation in managed care networks and other joint and cooperative health care arrangements without pre-approval from any State entity, and conform procurement guidelines of SUNY's health care facilities to those of the SUNY campuses, as prescribed in this bill.
- Require managed care programs to establish procedures to assure access to optometric services provided by licensed clinics of the College of Optometry of the State University.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget, as it will provide SUNY and CUNY with the ability to more efficiently and effectively manage recommended reductions of State support.

Effective Date:

This bill takes effect immediately.

Part F – Increase academic standards for non-remedial Tuition Assistance Program recipients.

Purpose:

This bill would increase the minimum academic standards required for non-remedial students to maintain Tuition Assistance Program (TAP) eligibility.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill would amend the Education Law by imposing increased academic standards upon non-remedial students. Students enrolled in a program of remedial study approved by the Commissioner of Education would remain on the current academic standards and TAP eligibility schedules. All other TAP recipients would be placed on a more stringent academic standards schedule that will require them to earn a total of 15 credits (minimum) and a 1.8 grade point average (GPA) by the end of their second

semester of study. The current standards schedule requires a minimum of 9 credits and a 1.2 GPA after the second semester.

Thereafter, such recipients would need to earn a specified GPA, which by the end of the course of study would be 2.0, and meet certain specified credit amounts for each successive TAP payment.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget, which assumes savings of \$5.9 million in 2010-11, and \$8.4 million annually when fully implemented.

Effective Date:

This bill takes effect July 1, 2010.

Part G – Amend the eligibility requirements for the Tuition Assistance Program (TAP) as it relates to students in default on certain student loans.

Purpose:

This bill would modify the award eligibility criteria for the Tuition Assistance Program (TAP) to create parity in the treatment of students in default on New York State and Federal loans, regardless of guarantor.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The Federal Department of Education enters into agreements with state or private non-profit entities to serve as guarantors on student loans, and also provides loans directly to students without using a guarantor. The New York State Higher Education Services Corporation (HESC) is such a guarantor and has the largest share of New York State's guaranteed student loan market. Under current law, students in default on loans guaranteed by HESC are ineligible for TAP awards, while students in default on other student loans remain eligible for TAP. This bill would create parity by amending Section 661 of the Education Law to eliminate TAP eligibility for all students who are in default on any New York State or Federal student loan, regardless of whether or not the loan is guaranteed by HESC.

This bill was advanced with the 2006-07, 2007-08, 2008-09 and 2009-10 Executive Budgets, but not enacted.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget, which assumes savings of \$2.9 million in 2010-11 related to establishing TAP default parity and \$4.1 million of savings on a recurring basis annually thereafter.

Effective Date:

This bill takes effect July 1, 2010.

Part H – Eliminate Tuition Assistance Program eligibility for graduate students.

Purpose:

This bill would eliminate Tuition Assistance Program (TAP) eligibility for graduate students.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Approximately 7,600 graduate students currently receive an average annual TAP award of \$380. In addition to this nominal award, these students are also eligible for Federal Family Education Loan Program (FFELP) and William D. Ford Direct Loan Program assistance. Graduate students also have available to them a number of fellowships and assistantships to help defray the cost of their program of study. In recognition of the State's current fiscal situation and to help preserve the basic TAP benefit for undergraduate students, this proposal would eliminate TAP eligibility for graduate students.

This bill was advanced with the 2009-10 Executive Budget, but not enacted.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget, which assumes \$2.1 million in savings in 2010-11 and \$3 million of recurring annual savings thereafter.

Effective Date:

This bill takes effect July 1, 2010.

Part I – Place financially independent students under age 22 and married students with no children on new Tuition Assistance Program award schedules.

Purpose:

This bill would place financially independent students under age 22 and married students with no children on new Tuition Assistance Program (TAP) award schedules.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill would place financially independent students under age 22 and married students with no children on new TAP award schedules. Financially independent students under age 22 would be placed on a more generous TAP award schedule, enabling these students to receive a higher TAP award. Many of these students are orphans, wards of the court, or are otherwise separated from their families for certain other similar reasons, but are included on an award schedule intended for independent students. Married students with no children, on the other hand, would be placed on a less generous TAP award schedule. These students are currently placed on the dependent schedule and receive a more generous award, even though they have no children as their spouse is considered the dependent. Moving them to a schedule more closely related to the independent schedule would put these students more on par with their single adult classmates.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget, which assumes savings of \$1.3 million in 2010-11 and \$1.9 million in annual savings on a recurring basis thereafter.

Effective Date:

This bill takes effect July 1, 2010.

Part J – Reduce the maximum Tuition Assistance Program (TAP) award for students matriculated in certain two-year degree programs to \$4,000.

Purpose:

This bill would reduce the maximum Tuition Assistance Program (TAP) award for students matriculated in certain two-year degree programs from \$5,000 to \$4,000.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill would reduce the maximum TAP award for students matriculated in certain two-year degree programs to \$4,000, while maintaining the minimum TAP award at \$500.

The maximum TAP award is currently set at \$5,000. The highest tuition rate currently being charged at a New York community college is \$3,714 and the average rate is \$3,409. As a result, the maximum TAP award proposed in this bill would still cover the entire cost of tuition at public community colleges.

Additionally, students currently matriculated in two-year degree programs at SUNY or CUNY four-year institutions will remain on the current schedule with a \$5,000 maximum TAP award.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget, which assumes savings of \$19.6 million in 2010-11 and \$28.0 million in savings on a recurring basis annually thereafter.

Effective Date:

This bill takes effect July 1, 2010.

Part K – Provide Tuition Assistance Program awards to students attending certain institutions not under the State Education Department's direct supervision.

Purpose:

This bill would provide Tuition Assistance Program (TAP) awards to students attending certain institutions that are currently not under the direct supervision of the New York State Education Department (SED).

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

There are income-eligible students who attend non-profit institutions of higher education that cannot receive TAP awards because their schools, although authorized by the State Education Department (SED) to offer post-secondary education, are not under SED's direct supervision. This bill would amend the statutory prohibition against providing TAP to otherwise income-eligible students at certain specialized not-for-profit higher education institutions that are based in the State, accredited by an agency recognized by the U.S. Secretary of Education and that have students who are eligible to receive Pell grants.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget, which assumes additional costs of approximately \$13 million in 2010-11 and \$18 million annually thereafter.

Effective Date:

This bill takes effect July 1, 2010.

Part L – Reduce Tuition Assistance Program awards by \$75.00.

Purpose:

This bill would reduce the Tuition Assistance Program (TAP) awards for all recipients by \$75 beginning in 2010-11.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Under current law, TAP recipients generally receive awards ranging from \$500 to \$5,000. This bill would reduce each award by \$75 beginning in 2010-11. As a result, awards will generally range from \$425 to \$4,925. This amount would be reduced proportionally by semester, trimester or other term of attendance during the academic year.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget, which assumes savings of \$16.5 million in 2010-11 and \$23.6 million of savings annually thereafter.

Effective Date:

This bill takes effect July 1, 2010.

Part M – Include all private pension and annuity income in Tuition Assistance Program eligibility determinations.

Purpose:

This bill would provide that the calculation of income for purposes of the Tuition Assistance Program (TAP) shall include private pension income not otherwise subject to State taxation.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The 2009-10 Enacted Budget required the inclusion of all public pension income for purposes of calculating TAP. Currently, for private pensioners age 59 1/2 and older the first \$20,000 of pension income is excluded for purposes of calculating TAP. This bill would conform the treatment of private pension income with that of public pensions by requiring that pension income from any and all sources would be counted as income for the purposes of calculating TAP awards.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget, which assumes savings of \$1.4 million in 2010-11 and \$2.0 million of savings annually thereafter.

Effective Date:

This bill takes effect July 1, 2010.

Part N – Extend the Patricia K. McGee Nursing Faculty Scholarship and the Nursing Faculty Loan Forgiveness Incentive programs until 2015.

Purpose:

This bill would extend the Patricia K. McGee Nursing Faculty Scholarship and the Nursing Faculty Loan Forgiveness Incentive programs until June 30, 2015.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The Patricia K. McGee Nursing Faculty Scholarship and the Nursing Faculty Loan Forgiveness Incentive programs encourage students in New York to pursue degrees in nursing education leading to careers as nursing faculty. Under current law, these programs are set to expire on June 30, 2010.

This bill would extend these programs by amending section 3 of part V of chapter 57 of the laws of 2005. The programs will be extended from June 30, 2010 to June 30, 2015.

This is new legislation.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget and is included in the Financial Plan.

Effective Date:

This bill takes effect immediately.

Part O – Extend the Regents Physician Loan Forgiveness Program until the end of the 2010-11 academic year.

Purpose:

This bill would extend the Regents Physician Loan Forgiveness Program until the end of the 2010-11 academic year, as well as restore new awards for the 2009-10 academic year through retroactive payments.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The Physician Loan Forgiveness Program encourages doctors in New York to advance their careers in medicine by serving in high needs areas throughout the State. This program was inadvertently allowed to sunset at the end of the 2008-09 academic year.

This bill extends this program by amending section 17 of chapter 31 of the laws of 1985 to retroactively award loan forgiveness awards in 2009-10 and sunset after awards are given for the 2010-11 academic year.

This is new legislation.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget and is included in the Financial Plan.

Effective Date:

This bill takes effect immediately and shall be deemed to have been in full force and effect on the same date and in the same manner as part I of chapter 57 of the laws of 2008.

Part P – Amend the Education Law to eliminate certain State sponsored merit scholarship programs beginning in Academic Year 2010-11.

Purpose:

This bill would eliminate new scholarship awards for the Scholarships for Academic Excellence program and the Math and Science Teaching Incentive Program in the 2010-11 Academic Year and thereafter.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The Scholarships for Academic Excellence Program currently provides approximately 6,750 new awards annually, and the Math and Science Teaching Incentive Program provides about 100 new awards each year. The elimination of these programs will ultimately save more than \$14 million annually on a recurring basis.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget, which assumes savings of approximately \$4.7 million in 2010-11 and \$14.1 million in annualized savings.

Effective Date:

This bill takes effect on July 1, 2010.

Part Q – Amend the Education Law in relation to community college chargeback provisions.

Purpose:

This bill would provide that the authority for community colleges of the State University of New York (SUNY) to charge an amount sufficient to cover a non-resident student's allocable portion of the local sponsor's share of the operating costs (i.e. chargeback) applies only to non-resident (outside New York City) students enrolled in two-year programs of study leading to an associate degree.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Twenty-nine of SUNY's thirty community colleges currently receive funds from other counties within New York State equivalent on a per student basis to the level of support provided by the host campus' local sponsor share of the cost of educating students enrolled in associate degree programs. Only one campus, the Fashion Institute of Technology (FIT), levies a chargeback for programs of study above the associate degree level. The cost of these students imposes a burden on upstate and Long Island counties that are home to students who attend FIT. This bill would ensure that all counties are treated more equitably with respect to community college chargebacks.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget, which assumes that counties will receive an estimated \$9 million of relief from FIT chargeback rates.

Effective Date:

This bill takes effect immediately and applies to charges imposed in the 2010-11 Academic Year and thereafter.

Part R – Extend current social worker and mental health professional licensing exemptions for the Department of Mental Hygiene, the Office of Children and Family Services, and local government programs.

Purpose:

This bill would extend, until June 1, 2014, the current exemption for employees of DMH, OCFS, and local government operated, regulated, funded or approved programs from certain social work, psychology and mental health professional licensure requirements.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill would amend Chapters 420 and 676 of the Laws of 2002, relating to the licensure of social workers, psychologists and other mental health professionals. Both laws include provisions that exempt DMH, OCFS and local government programs and providers from meeting licensure requirements until January 1, 2010. Chapter 57 of the Laws of 2009 extended the exemptions for an additional six months, from January 1, 2010, to June 1, 2010. This bill would further extend the exemptions from June 1, 2010, to June 1, 2014.

Chapter 420 of the Laws of 2002 made significant changes to the manner in which social work practice is evaluated and regulated by creating two licensed titles for social workers, Licensed Master Social Worker (LMSW) and Licensed Clinical Social Worker (LCSW), and defining the scope of practice for each title. The primary difference between the LMSW and LCSW license is that the LMSW license does not require previous clinical experience whereas to qualify for an LCSW, the individual must have at least three years of full-time post-masters supervised clinical social work experience.

Chapter 676 of the Laws of 2002 clarifies and defines the scope of practice for the profession of psychology in New York State. Chapter 676 also established licensing requirements for other mental health professionals, including mental health counselors, marriage and family therapists, creative arts therapists and psychoanalysts.

Chapter 420 of the Laws of 2002 was amended in 2003 to include a provision to exempt individuals working for OCFS until January 1, 2010.

The purpose of these exemptions is to allow for greater State and local government flexibility in the delivery of mental health services while the full impact of the law is evaluated and affected organizations move toward compliance. The licensing requirements contain strict standards for education and experience that must be met to

qualify for licensure. Many individuals, including paraprofessionals, may be performing tasks that fall within the scope of practice of these licensed professions but have not attained the education and experience required for licensure. Since many State-operated and local mental health programs rely on social workers, psychologists and other mental health professionals to perform counseling, psychotherapy, and case management, failure to extend the exemption would have a significant negative impact on the delivery of mental health services and may require the State and local governments to lay off social workers and other mental health professionals who do not meet current licensing standards and replace them with licensed individuals.

Absent this legislation, LMSWs would also be prohibited from supervising LCSWs and could not practice clinical social work unless they received supervision from a LCSW, Licensed Psychologist, or Psychiatrist. Since LMSWs cannot provide clinical services without supervision, the sunset of the exemption would also require State and local governments to hire a large number of LCSWs, Psychologists and Psychiatrists. This would also likely create a disruption in the supervisory staffing patterns and succession planning issues as LMSWs will no longer be able to serve as clinical supervisors. Given that the State faces a clinical staffing shortage, this may have a negatively impact services.

Budget Implications:

Enactment of this bill would allow the State to avoid costs preliminarily projected at \$62 million per year, and voluntary providers to avoid costs of \$227 million per year. Such additional costs would be required to hire and replace existing employees who lack the licensing requirements that would be in effect absent this legislation.

Effective Date:

This bill takes effect on April 1, 2010.

Part S – Amend various provisions of law in relation to the New York Higher Education Loan Program (NYHELPS).

Purpose:

This bill would amend various provisions of law in relation to the New York Higher Education Loan Program (NYHELPS).

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The New York Higher Education Loan Program (NYHELPS), which was enacted as part of the 2009-10 State budget, is administered by the Higher Education Services Corporation (HESC) and financed by the State of New York Mortgage Agency (SONYMA) through the use of private activity bonds. This bill would make technical and

conforming changes, which are necessary for the program to operate efficiently and maintain competitive interest rates.

These changes include:

- Conforming provisions related to NYHELPS student loan interest deductions with other student loan interest deduction tax law provisions;
- Allowing for certain forbearances as described to credit rating agencies and bondholders, and allowing for the inclusion of additional forbearance and deferments in the future through HESC regulations;
- Authorizing payment of certain discharged debt from the applicable default reserve fund;
- Requiring applicants for professional licenses to report whether they are in default on a NYHELPS loan, when reporting other defaults or non-payments to the State Education Department;
- Requiring that cosigners, as well as borrowers, successfully complete the NYHELPS financial literacy course prior to receiving a NYHELPS loan;
- Clarifying the definition of an eligible college;
- Conforming provisions for the garnishment of wages with federal law;
- Clarifying requirements that a student who is enrolled, or accepted for enrollment, be eligible for a death or disability discharge, and further authorizing discharges for borrowers who die while on active military duty, payable from the applicable default reserve fund;
- Exempting HESC and SONYMA from the provisions of any local or municipal law in connection with any activities performed under NYHELPS;
- Requiring borrowers and cosigners to electronically sign loan documents required under NYHELPS;
- Clarifying that an otherwise eligible borrower or cosigner will be deemed ineligible for a loan if the student for whom the loan is sought is in default on another education loan; and
- Permitting HESC to receive data from the Department of Taxation and Finance in connection with delinquent, as well as defaulted, NYHELPS loans.

Budget Implications:

This bill is necessary to implement the 2010-11 Executive Budget, which provides funding for the NYHELPS program.

Effective Date:

The provisions of this bill take effect immediately unless otherwise indicated in the bill.

Part T – Make technical corrections with regard to the District Attorney and Indigent Legal Services Attorney Loan Forgiveness Program.

Purpose:

This bill would make technical corrections to the District Attorney and Indigent Legal Services Attorney Loan Forgiveness Program, in regard to requirements of residency.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The District Attorney and Indigent Legal Services Attorney Loan Forgiveness program encourages young attorneys to practice public interest law. This bill would make technical corrections to ensure that residency requirements are met, and to "grandfather" the eligibility of certain district attorneys who met the eligibility requirements prior to a change in the statute last year.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget.

Effective Date:

This bill takes effect immediately.

Part U – Expand investment choices for the Optional Retirement Program to include corporations that manage or invest in mutual funds.

Purpose:

This bill would authorize the State University of New York (SUNY) to offer employees participating in the Optional Retirement Program (ORP) the alternative of investing in mutual funds.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Current law limits investment options for employees enrolled in ORP to those provided by corporations subject to Insurance Department supervision. This bill would amend Education Law §§ 390, 391 and 392 to provide SUNY with the option of expanding investment choices for its ORP employees to include mutual funds offered either directly by investment companies registered with the Securities and Exchange Commission or by their third party distributors.

In addition to expanding employee choice, this bill would provide ORP investment managers at SUNY with the same investment options available to the State Comptroller, who manages the retirement investments of most State and local public employees.

Similar legislation was introduced in the 2008-09 and 2009-10 Executive Budgets, but not enacted.

Budget Implications:

Enactment of this bill is associated with the implementation of the 2010-11 Executive Budget, which appropriates funds constituting the State's contribution to ORP retirement accounts.

Effective Date:

This bill takes effect immediately.

Part V – Eliminate the STAR exemption benefit for properties having an equalized value of \$1.5 million or more.

Purpose:

This bill would eliminate the STAR exemption benefit for properties having an equalized value of \$1.5 million or more.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The STAR Program ("Program") was created to offset rising property taxes experienced by homeowners and to provide additional targeted property tax relief for senior citizens. At present, the Program has no income or property value limitations. By eliminating the STAR exemption benefit for homes valued at \$1.5M or more, the State will save taxpayer funds and end what amounts to a subsidy for owners of high-value properties.

Section 1 of the bill would amend Real Property Tax Law § 425(4-a) by adding a new paragraph (d) that would limit the STAR exemption benefit to homes with equalized values below \$1.5 million. Currently, property value is not a factor in determining eligibility for the STAR exemption benefit.

Section 2 of the bill would make it effective April 1, 2010 and applicable to the administration of the STAR exemption benefit beginning with the 2010-2011 school year.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-2011 Executive Budget. Eliminating the STAR exemption benefit for properties having an equalized value of \$1.5 million or more would reduce General Fund spending by \$30 million in SFY 2010-11.

Effective Date:

This bill takes effect immediately and would apply to the administration of the STAR benefit exemption with respect to 2010 and subsequent assessment rolls.

Part W – Lower the STAR "floor" from 89 percent to 82 percent.

Purpose:

This bill would lower the "floor" adjustment used in the computation of STAR exemption benefits, from 89 percent to 82 percent.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The amount of the STAR exemption for each assessing unit is determined by multiplying the STAR base figure of \$30,000 by an equalization adjustment that accounts for the variance in the level of assessment among assessing units. In an assessing unit where a decreasing equalization rate leads to a corresponding reduction in the STAR exemption, the STAR "floor" sets forth a percentage below which the STAR exemption may not decrease from one year to the next. Under current law, the STAR exemption for an assessing unit may not be less than 89 percent of the exempt amount determined for the prior levy. As originally enacted, the STAR exemption for an assessing unit could not be less than 95 percent of the exempt amount determined for the prior levy, meaning that the exemption could not fall by more than 5 percent in any one year due to declining equalization rates. In 2008, the floor was changed to 90 percent for 2008 and 89 percent thereafter, meaning that under current law, the exemption may fall by up to 11 percent in any one year due to declining equalization rates.

Section 1 of this bill would amend Real Property Tax Law (“RPTL”) § 425(2)(e)(ii) to provide that the above-referenced 89 percent “floor” adjustment would not apply after the 2009-10 school year. (RPTL § 425(2)(e)(ii) was added in 1997 and amended in 2008, when the “floor” was reduced from 95 percent to 90 percent for 2008 and to 89 percent starting in 2009).

Section 2 of this bill would amend RPTL § 425(2)(e) by adding a new subparagraph (iii) to change the “floor” for annual STAR exemption adjustments from 89 percent to 82 percent for the 2010-11 and subsequent school years. As a result, the amount of the exemption could fall by up to 18 percent in any one year due to declining equalization rates.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget. Reducing the STAR “floor” adjustment would reduce General Fund spending by \$40 million in SFY 2010-11.

Effective Date:

This bill takes effect immediately and applies to the administration of STAR exemptions for the 2010 year and subsequent assessment rolls.

Part X – Restructure NYC Personal Income Tax STAR by limiting the tax rate reduction benefit to the first \$250,000 of income.

Purpose:

This bill would amend the State Finance Law, the Tax Law and the Administrative Code of the City of New York to cap the New York City personal income tax rate reduction for individuals with taxable income in excess of \$250,000.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Section 1 would amend State Finance Law § 54-f (1) to recognize the rate cap reimbursement.

Sections 2 and 3, respectively, would amend the Tax Law and the Administrative Code of the City of New York to cap the tax rate reduction benefit for individuals with taxable income in excess of \$250,000. The rate for individuals with income in excess of \$250,000 would increase from 3.2% to 3.4%.

Section 4 would authorize the Commissioner of Taxation and Finance to adjust the withholding tables to account for the rate change.

Section 5 would waive the estimated tax underpayment penalty if taxpayers remit the additional estimated taxes with their quarterly payments due after the rates change takes effect.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget. Restructuring NYC Personal Income Tax STAR tax rates would reduce General Fund spending by \$143 million in SFY 2010-11.

Effective Date:

This bill takes effect immediately and applies to tax years beginning after 2009.

Part Y – Enable the use of an electronic benefit transfer system for the foster care and adoption programs.

Purpose:

This bill would authorize payments to foster and adoptive parents by electronic benefit transfer, direct deposit or debit card through an electronic benefit transfer system.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Payments to foster and adoptive parents are made monthly to help meet the special needs of foster and adopted children. Local social services districts (districts) issue up to 46,000 checks per month to adoptive parents to help support the care of children who are no longer able to remain with their birth families. This bill would specifically authorize adoption subsidy and certain foster care payments by electronic benefit transfer, direct deposit or debit card, or such other methods as the Office of Children and Family Services (OCFS) would allow by regulation. OCFS could also, by regulation, provide guidelines governing the use of any such payment methods. Current law does not specify how payments to foster and adoptive parents can be made and this bill would clarify that payments may be made through an electronic benefit transfer system, and provide OCFS with the flexibility to allow for new payment methods as they become available and to regulate their use.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget because it provides mandate relief to districts that will better enable them to operate State-funded programs within available resources.

Effective Date:

This bill takes effect on April 1, 2010.

Part Z – Create the Kinship Guardianship Assistance Program.

Purpose:

This bill would create the Kinship Guardianship Assistance Program.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

It is estimated that approximately 6,000 children in foster care are placed with relatives in the State. In many cases returning home and adoption are not suitable, preventing permanency for these children. This bill would authorize a relative who becomes the legal guardian to receive assistance on behalf of an eligible foster child upon discharge from foster care, where the relative had been caring for the child while in foster care.

To be eligible for assistance, the child must be in foster care for at least six consecutive months with the prospective relative guardian and the local social services district (district) must make a determination that returning home and being adopted are not appropriate permanency options. The district will provide monthly kinship guardianship assistance payments for the care and maintenance of the child, and certain specified benefits the child had while in foster care will continue under the Kinship Guardianship Assistance Program. These eligible services include medical assistance, independent living services, and education and training vouchers.

It is anticipated that this new program will enhance permanency for children in foster care. While districts will continue to make assistance payments to relative guardians, children will no longer be under the supervision of the district, which will reduce district administrative oversight and costs. This program will be funded through the Foster Care Block Grant, and is designed to be compliant with federal law to enable the State to receive federal funding for Title IV-E eligible children.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget because it will provide relief to districts that will better enable them to operate programs within available resources, since increased use of kinship guardianship is expected to lower administrative costs.

Effective Date:

This bill takes effect January 1, 2011.

Part AA – Allow for court-ordered child protective investigations only in those instances in which there is reasonable cause to suspect child abuse or neglect.

Purpose:

This bill would allow for court-ordered child protective investigations only in those instances in which there is reasonable cause to suspect child abuse or neglect.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Local social services district (district) child protective services staff are charged with investigating allegations of child abuse and neglect, as reported to districts from the State's child abuse hotline. Districts have indicated that they have been ordered by family courts to perform child protective services investigations in matters such as custody disputes with increasing frequency. Districts note that these child protective services investigations are frequently ordered with little or no underlying child safety concern and that these orders are diverting resources from cases where there is an actual allegation of abuse or neglect. The situation is further exacerbated when the court orders include short timeframes for completion.

The bill would clarify the circumstances in which an investigation may be ordered by requiring reasonable cause to suspect child abuse or neglect as a prerequisite for the investigation. The bill also subjects court-ordered investigations to the same timeframes as established in statute for child protective services investigations. Eliminating investigations in cases where there is no reasonable cause will free up local district child protective staff to address child safety by focusing on actual allegations of abuse and neglect.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget because it provides mandate relief to districts to operate State-funded programs within available resources.

Effective Date:

This bill takes effect thirty days succeeding enactment.

Part BB – Authorize appearances by electronic means in Family Court proceedings.

Purpose:

This bill would allow appearances in family court to be conducted by electronic means.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Currently, all parties, interested persons and witnesses in family court proceedings are required to appear in person. In some cases, court appearances are costly for the State and social services districts, and are difficult for individuals who do not reside or work in the jurisdiction in which the proceedings take place, or who are incarcerated.

For example, when youth in facilities operated by the Office of Children and Family Services (OCFS) are required to make a family court appearance, OCFS must transport the youth to and from the jurisdiction in which the court appearance will take place. OCFS requires that two staff escort the youth. Many times the youth must stay overnight at a facility located near the court and staff must also stay overnight in the area. This is a costly and inefficient use of staff resources, and results in the youth missing school and other programs.

This bill would allow parties, interested persons and witnesses in family court proceedings related to juvenile delinquents, termination of parental rights, persons in need of supervision (PINS), abuse and neglect and permanency hearings to make their appearance via electronic communication, such as by telephone or videoconference, from a designated family court or another acceptable location, upon application and court approval. A court would be authorized to permit electronic appearances when: (1) the individual resides in a county other than that of the family court where the case is pending; (2) the individual will be incarcerated on the court date; (3) the court determines that it would be an undue hardship for the individual to attend or testify at the court; (4) all parties agree to the use of electronic appearances; or (5) for other good cause. Electronic appearances by incarcerated parents in termination of parental rights fact-finding hearings would require additional findings.

This bill would reduce travel and overtime costs currently incurred by the State related to the transport of youth in OCFS facilities to and from court appearances. This bill would also provide a tool for local governments to achieve efficiencies and manage costs within available resources. For example, a court could permit a psychiatrist or other professional in an abuse and neglect or juvenile delinquency proceeding to testify via videoconferencing in appropriate cases, saving the State or local government travel expenses, and staff time or fees. Electronic appearances will also allow parties to present additional witnesses with administrative convenience.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget because electronic court appearances will result in estimated State savings of \$201,000 in 2010-11, annualizing to \$345,000 in 2011-12.

Effective Date:

This bill takes effect April 1, 2010.

Part CC – Clarify the scope and fiscal responsibility associated with the Safe Harbour for Exploited Children Act.

Purpose:

The bill would modify the Safe Harbour for Exploited Children Act to clarify the fiscal and programmatic scope of the Act as well as the responsibilities of the Office of Children and Family Services (OCFS) and local social services districts (district).

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

In 2008, the Safe Harbour for Exploited Children Act (the Act) was enacted under Chapter 569 of the Laws of 2008. The Act defined sexually exploited children, changed the way these children are treated in the criminal justice system, and established short and long-term housing opportunities exclusively for sexually exploited youth.

This bill would clarify certain portions of the Act. More specifically, this bill would, among other things: (1) revise the definition of a "sexually exploited child" by deleting children of familial sex abuse because an appropriate service structure already exists for these children under Article 10 of the Family Court Act; (2) clarify that a long-term safe house may be operated by a Temporary Independent Living Program; (3) provide for notification in most instances to parents, guardians and custodians of their child's physical and emotional condition as well as the circumstances surrounding the child's presence in the program within 72 hours of admission of a sexually exploited child pursuant to a court order; (4) clarify that the responsibilities of OCFS and districts to provide for safe houses and other services for sexually exploited children are limited to the extent that funds have been made available specifically for that purpose; and (5) require, in certain circumstances, that a child charged as a juvenile delinquent for an act of prostitution or loitering for prostitution be considered a severely trafficked person for purposes determining which type of petition is appropriate;

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget because it limits funding to available appropriations. The Executive Budget includes \$3 million for the operation of a long term safe house for sexually exploited children.

Effective Date:

This bill takes effect immediately.

Part DD – Authorize the deduction and transfer of payments to child care unions from certain child care providers.

Purpose:

This bill would authorize the deduction and transfer of payments (“fair share payments”) to child care unions, from home-based child care providers who choose not to be members of the union, for services rendered.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

In May 2007, Governor Eliot Spitzer issued Executive Order #12, which recognized the right of home-based child care providers to organize and enter into written agreements with the State. Certain providers in New York City are represented by the United Federation of Teachers (UFT) and other providers throughout the rest of the State are represented by the Civil Service Employees Association (CSEA). In October 2009, an agreement was reached between the State and the unions that, among other provisions, provided that the State would seek legislation to allow the unions to collect fair share payments for services rendered from providers who choose not to be members of the applicable union. Such payments would reflect the fact that the unions provide representation to all providers in the unit, regardless of whether they are union members.

This bill would authorize child care unions to receive fair share payments from represented home-based child care providers who choose not to be members of their union. Providers may, however, choose to have returned the portion of any fair share payment related to activities or causes of a political or ideological nature only incidentally related to being a provider. For providers who receive payment from a social services district on behalf of one or more families receiving subsidized child care services, the social services district must deduct the amount of the fair share payment from the child care subsidy funds otherwise due to be paid to the provider and transmit the payment to the union. The unions are responsible for paying for the necessary technological changes and for providing the State with information about the providers who are to make fair share payments in a format designated by the State. The deduction of fair share payments will begin after the necessary technological changes have been made to the applicable payment systems and the necessary information has been provided by the union.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget because it will allow for implementation of the agreements between child care unions and the State, which provide that the unions will assume all costs related to changing the State’s applicable payment systems as well as the administrative cost of deducting and transferring the fair share payment.

Effective Date:

This bill takes effect immediately and would remain in effect until September 30, 2013.

Part EE – Reduce mandates on local social services districts by streamlining county planning requirements.

Purpose:

This bill would simplify and streamline the requirements for local social services district (district) multi-year consolidated services plans, also known as child and family services plans.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Currently, agency regulations provide for a three-year planning cycle for local child and family services plans, and local districts are required to submit annual implementation reports.

This bill would: (1) extend the planning cycle to five years consistent with Federal requirements; (2) allow districts to report on updates to their plans as necessary to describe any significant changes; (3) eliminate the requirement for annual implementation reports; (4) provide more flexibility for public participation in the planning process; and (5) eliminate unnecessary information from plans, so that requirements are more consistent with Federal and other State statutory requirements.

This bill would allow districts to continue to meet the Office of Children and Family Services' (OCFS) plan requirements while removing unnecessary burdens. OCFS will continue to evaluate the information it requires from districts so that districts provide needed information which is not otherwise available to OCFS through other sources. In addition, OCFS will continue to work with districts to address specific information needs that may arise.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget because it provides mandate relief to districts to operate State-funded programs within available resources.

Effective Date:

This bill takes effect 30 days after its enactment.

Part FF – Clarify the State’s authority to withhold payments to districts for past due youth facility reimbursement.

Purpose:

This bill would clarify the Office of Children and Family Services’ (OCFS) authority to collect past due youth facility chargeback payments from social services districts (districts) for costs associated with OCFS operated youth facilities. It would also clarify that OCFS may modify facility rates based on changes in the federal funds available for facility costs.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Districts are responsible for paying 50 percent of costs associated with OCFS operated youth facilities. OCFS pays 100 percent of facility costs in the first instance and then bills counties for 50 percent of costs according to a rate methodology.

This bill would clarify that OCFS may withhold amounts owed to districts for OCFS programs such as detention and foster care when a district is more than 60 days behind in reimbursing OCFS for the 50 percent share of youth facility costs. In addition, this bill would allow OCFS to modify facility rates based on changes in federal reimbursement.

From 2001 through 2005, districts were billed for rates based on facility costs from 1999. After OCFS updated the rates, districts were notified and billed for prior year rate adjustments and were given graduated due dates for payment of the adjusted costs. The vast majority of districts have complied with the graduated due dates, however, a few districts have not paid the adjusted prior year costs. This bill would clarify the authority of OCFS to withhold other agency payments otherwise due to districts to ensure the receipt of revenue included in the State’s financial plan. In addition, it is necessary to clarify the ability of OCFS, with the approval of the Division of the Budget, to establish the amount of the facility rates charged to districts in a manner that reflects changes in the amount of federal funding made available for reimbursement of facility costs.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget because it will authorize the collection of past due payments assumed in the State’s financial plan and enable district reimbursement for facility costs to continue to reflect previous changes to the federal funding made available for such costs.

Effective Date:

This bill takes effect April 1, 2010.

Part GG – Modify the scheduled Public Assistance Grant Increase.

Purpose:

This bill would reduce the planned 2010 and 2011 increases to the non-shelter portion of the public assistance grant from ten percent to five percent and would provide for five percent increases for two years thereafter.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The monthly public assistance benefit is comprised of a shelter and non-shelter portion. The shelter portion varies based on family composition and county of residence. The non-shelter portion is a fixed amount comprised of a basic allowance, a home energy allowance and a supplemental home energy allowance.

The 2009-10 Enacted Budget included a ten percent increase to the basic allowance portion of the public assistance grant for three consecutive years. The first increase was implemented in July 2009 and raised the non-shelter portion of the grant from \$291 to \$321 for the average public assistance household. The second and third ten percent increases are scheduled for July 2010 and July 2011.

This bill would amend Social Services Law (SSL) § 131-a(3)(a-2) and (a-3) to reduce the 2010 and 2011 planned increases to the basic allowance from ten percent to five percent and would add paragraphs (a-4) and (a-5) to increase the basic allowance by five percent per year for two additional consecutive years.

This bill would also amend SSL § 131-a(2)(a-2) and (a-3) and would add paragraphs (a-4) and (a-5) to make corresponding increases to the income thresholds used to determine public assistance eligibility.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget, which assumes \$13.968 million in General Fund savings.

Effective Date:

This bill takes effect immediately.

Part HH – Authorize the Supplemental Security Income Federal Cost-of-Living Adjustment Pass-Through.

Purpose:

This bill would increase Supplemental Security Income (SSI) rates for 2011 by passing through any federal Cost-of-Living Adjustment (COLA) to all SSI recipients.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Social Services Law §§ 131-o and 209 establish specific amounts for the monthly Personal Needs Allowance (PNA) and standard of need for SSI recipients in various living arrangement categories. Generally, the federal SSI benefit amount is increased by an annual COLA and State law must be amended to ensure that accurate payments are made.

The bill sets forth the actual dollar amounts of the 2010 PNA and the standard of need for eligibility and payment of additional State payments. It also authorizes those amounts to be automatically increased in 2011 by the percentage of any federal SSI COLA which becomes effective within the first half of calendar year 2011.

Legislation to effectuate the federal SSI COLA has been enacted annually since 1984.

The pass-through of any 2011 COLA authorized by this bill is anticipated by SSI recipients and congregate care providers alike, and helps offset rising cost-of-living expenses.

Budget Implications:

If the pass-through of the federal SSI COLA is not authorized in State statute, there will be no statutory authority to provide SSI recipients with the full amount of any federal increase plus a State supplement at the current level. The State supplements would be automatically reduced to reflect the current standards of need set forth in the SSL.

Effective Date:

This bill takes effect December 31, 2010.

Part II – Authorize the State to administer additional State payments for Supplemental Security Income (SSI) recipients and other eligible individuals.

Purpose:

This bill would authorize the State to take over from the federal government the administration of additional State payments for SSI recipients and other eligible individuals to avoid the cost of rising federal administrative fees.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

Individuals who are eligible for federal SSI benefits are eligible for an additional State payment pursuant to Social Services Law § 209. The federal Social Security Administration (SSA) administers New York's additional State payments and charges a fee for each check issued on the State's behalf. The fee is currently set at \$10.45 and total administrative costs are projected to be \$84 million in 2010-11.

Current law authorizes additional State payments to be administered by the federal government or by local social services districts. This bill would add new provisions to authorize the Office of Temporary and Disability Assistance to administer additional State payments, either directly or through State supervision of a fiscal agent.

This bill would also establish that there must be a determination on a federal application for SSI before an individual can be found eligible for additional State payments.

Finally, this bill would clarify the definitions of "additional state payments," "standard of need," and "living alone."

Budget Implications:

The State will realize recurring savings of over \$60 million annually after full implementation of this bill. This bill would also result in initial administrative costs in 2010-11 of less than \$1 million and there will be costs associated with systems development and administration of the program in future years.

Effective Date:

This bill takes effect immediately.

Part JJ – Transfer the administration of the Nutrition Outreach and Public Education Program from the Department of Health to the Office of Temporary and Disability Assistance.

Purpose:

This bill would authorize the Office of Temporary and Disability Assistance (OTDA) to administer the Nutrition Outreach and Public Education Program.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The Public Health Law currently authorizes the Department of Health (DOH) to administer the Nutrition Outreach and Public Education Program. This bill would remove the program authorization from the Public Health Law and establish new authority for the program in the Social Services Law, under the administration of OTDA.

Since the Nutrition Outreach and Public Education Program is closely tied to the Food Stamp program, this bill would align the administration of the two programs.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget which transfers funding for the Nutrition Outreach and Public Education Program from DOH to OTDA.

Effective Date:

This bill takes effect immediately.

Part KK – Authorize the Office of Temporary and Disability Assistance to Access Wage Reporting Data

Purpose:

This bill would authorize the Office of Temporary and Disability Assistance (OTDA) to access wage reporting data on former public assistance recipients in order to evaluate the effectiveness of public assistance employment programs and to determine the continued eligibility of such recipients for transitional benefits such as child care and/or food stamps.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill would authorize the transfer of wage reporting information to OTDA from the Department of Taxation and Finance concerning former recipients of public assistance

for a period of three years and six months after the closure of the recipient's public assistance case. This data would be available to OTDA for the purpose of determining the eligibility of former recipients for transitional benefits such as child care, which is available to former public assistance recipients for one year after the transition from public assistance; or for food stamps, which is available to former recipients for at least six months after the public assistance case is closed.

In addition, this bill would allow OTDA to use the wage reporting data to evaluate the effectiveness of public assistance employment programs. This includes those programs historically funded through the \$2.4 billion federal Temporary Assistance for Needy Families (TANF) block grant, such as Bridge, Career Pathways and Wage Subsidy. Access to former recipients' wage reporting data will help OTDA measure the effectiveness of such public assistance employment programs and enable social services districts to target placements into the most effective programs, thereby ensuring the most successful use of federal, State and local investments in public assistance programs over time.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget to ensure that investments in public assistance employment programs are targeted to maximize compliance with federally-mandated work participation rates, failure of which could result in monetary sanctions.

Effective Date:

This bill takes effect immediately and would expire on June 1, 2014.

The provisions of this act shall take effect immediately, provided, however, that the applicable effective date of each part of this act shall be as specifically set forth in the last section of such part.