

2014-15 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 contracts for excellence, calculation of the gap elimination restoration amount, apportionment of school aid, teachers of tomorrow teacher recruitment and retention program, school district reorganizations and real property tax rates, transportation after 4 p.m., to establish a teacher excellence fund, duties and waivers of school districts with children with handicapping conditions, to authorize the commissioner of education to establish regional tuition rates for approved special education itinerant services, to authorize reimbursement for approved special education itinerant services based on actual attendance, to authorize New York city to establish local tuition rates for approved special education itinerant services; 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 extending the expiration of certain provisions; 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; 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; to amend the education law, in relation to the definition of "school district basic contribution"; 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; 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; 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 extending the expiration of certain provisions of such chapters; to provide special apportionment for school bus driver training; to provide special apportionment for salary expenses; to provide special apportionment for public pension accruals; to provide special apportionment for salary expenses; in relation to suballocation of certain education department accruals; in relation to the support of public libraries; and providing for the repeal of certain provisions upon expiration thereof (Part A); authorizing the creation of a state debt in the amount of two billion dollars, in relation to creating the smart schools bond act of 2014 for the purposes of funding capital projects to provide learning technology equipment or facilities, enhanced internet connectivity for schools and communities, and educational facilities to accommodate pre-kindergarten programs; and providing for the submission to the people of a proposition or question therefor to be voted upon at the general election to be held in November, 2014 (Part B); to amend the education law and the state finance law, in relation to the implementation of the smart schools bond act of 2014 (Part C); to amend the education law, in relation to the nurse practitioners modernization act (Part D); to amend the education law and the executive law, in relation to harassment, bullying and discrimination in schools (Part E); to amend the executive law, in relation to unlawful discriminatory practices by educational institutions (Part F); to amend the education law, in relation to creating the science, technology, engineering and mathematics incentive program (Part G); to amend chapter 57 of the laws of 2005 amending the labor law and other laws implementing the state fiscal plan for the 2005-2006 state fiscal year, relating to the New York state higher education capital matching grant program for independent colleges, in relation

to the New York state higher education matching grant program for independent colleges and the effectiveness thereof (Part H); to amend the social services law, in relation to increasing the standards of monthly need for aged, blind and disabled persons living in the community (Part I); to amend the social services law, in relation to public assistance restrictions (Part J); to utilize reserves in the project pool insurance account of the mortgage insurance fund for various housing purposes (Part K); and to amend the education law, in relation to educational programs in juvenile justice programs operated by the office of children and family services (Subpart A); and to amend the social services law, in relation to a deadline for the close to home initiative (Subpart B) (Part L)

PURPOSE:

This bill contains provisions needed to implement the Education, Labor and Family Assistance portions of the 2014-15 Executive Budget.

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

Part A - Amend Education Law and make other changes necessary to authorize School Aid and implement education-related programs in the Executive Budget

Purpose:

This bill contains various provisions of law necessary to implement the education component of the 2014-15 Executive Budget.

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

Public education in New York represents a significant commitment of State and local resources. With total spending levels exceeding \$58 billion, New Yorkers have maintained the highest per-pupil spending levels in the nation – even during difficult financial times. Not only is education the largest area of State spending, it is also the largest component of local property taxes. This substantial investment reflects New York State's long-standing commitment to providing opportunity for all students.

This bill includes measures to authorize School Aid along with other changes necessary to implement education-related programs in the Executive Budget. Significant provisions include:

- **2014-15 School Aid Increase.** The 2014-15 Executive Budget recommends \$21.9 billion in educational aid for the 2014-15 school year, a year-to-year increase of \$807 million. As part of the \$807 million total increase in educational aid for the 2014-15 school year, the bill would provide a methodology that would target most of the School Aid allocated increase to high need school districts.
- **Teacher Excellence Fund.** The bill would establish the Teacher Excellence Fund to reward teacher excellence, and recruit and retain the most effective educators. Teachers rated as "highly effective" will be eligible to receive up to \$20,000 in annual supplemental compensation through the Teacher Excellence Fund.
- **School District Consolidation.** The bill would provide school districts seeking to merge with the option to delay for one year, and/or phase-in for up to ten years, adjustments to tax rates in the participating school districts. This would prevent large one-time fluctuations in tax rates for participating school districts, and remove significant sudden changes in tax rates as a barrier to school district mergers.
- **School District Mandate Relief.** The bill would create a new waiver process that would allow school districts, BOCES and approved private special education programs to petition the State Education Department for flexibility in complying with certain special education requirements.
- **Preschool Special Education Reforms.** The bill would authorize the following changes to the Special Education Itinerant Teacher (SEIT) services component of the Preschool Special Education program. It would: (1) authorize the State Education Department to establish regional rates; (2) limit payment to program operators only for services that are actually provided; and (3) authorize New York City to establish reimbursement rates for providers in New York City within maximum rates set by the State.
- **Contracts for Excellence.** The bill would require all school districts currently in the Contracts for Excellence program to remain in the program unless all of the school buildings in the school district are reported as "In Good Standing" for purposes of the State accountability system. School districts that remain would be required to maintain funding for Contracts for Excellence programs at the same level required for the 2013-14 school year.
- **Other Miscellaneous Provisions.** The bill also contains a number of other provisions including extensions of existing provisions of State law.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget.

Effective Date:

This bill takes effect April 1, 2014, except where otherwise stated.

Part B - Authorize the \$2 billion Smart Schools Bond Act of 2014 to be submitted for voter approval in November of 2014

Purpose:

This bill would authorize issuance of \$2 billion of general obligation bonds to improve educational technology and add additional pre-kindergarten classroom space through the Smart Schools Bond Act of 2014, subject to voter approval in November of 2014.

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

This legislation, the Smart Schools Bond Act of 2014, authorizes issuance of \$2 billion of bonds to finance improved educational technology and additional pre-kindergarten classroom space to improve learning and opportunity for students throughout the State.

Section 1 of the bill contains the terms of the Act and bond issuance. Section 2 provides for the Act to take effect upon approval by voters, as required by the State Constitution.

The Act would authorize the State to incur \$2 billion of indebtedness in the form of tax-exempt general obligation bonds to be sold by the State Comptroller to finance capital projects to bring high-speed broadband internet connectivity to schools and communities within their school district; improve educational technology, including computers, servers and interactive whiteboards; and expand pre-kindergarten classroom space.

Bond proceeds would support the cost of approved projects for such purposes in accordance with separate legislation adopted to implement the Act.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget because it authorizes issuance of the bonds required to finance the Smart Schools program.

Effective Date:

This bill takes effect immediately, except that section 1 of the bill does not take effect until approved by voters at the November 2014 general election.

Part C - Amend Education Law and State Finance Law as necessary to implement the Smart Schools Bond Act of 2014

Purpose:

This bill would amend Education Law and State Finance Law to implement the \$2 billion Smart Schools Bond Act of 2014 to be submitted to voters in November 2014.

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

This bill, the Smart Schools Implementation Act of 2014, allocates funding for approved learning technology, internet connectivity and pre-kindergarten classroom projects to improve learning and opportunity for students. These projects, undertaken by or on behalf of school districts, would be financed with the \$2 billion of general obligation bonds authorized by the separate Smart Schools Bond Act of 2014.

School districts could use the funds for the following projects: high-speed broadband or other wireless connectivity in schools and their communities; learning technology, such as interactive whiteboards, servers, and desktop, laptop and tablet computers; and new or improved pre-kindergarten classroom space. The bill also provides for an allocation methodology of the \$2 billion among school districts.

The bill would create a three-person review board consisting of the Commissioner of Education, the Chancellor of the State University and the State Budget Director, to issue program guidelines and approve school districts' plans for use of the funds.

The bill also amends the State Finance Law, by establishing a new fund, the Smart Schools Bond Fund, to hold the bond proceeds, specifying the projects' different useful lives and directing the Comptroller to issue the bonds based on the projects' weighted average life.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget because it authorizes the Smart Schools program to be financed with \$2 billion of bond proceeds.

Effective Date:

This bill would take effect upon voter approval of the Bond Act in November 2014.

Part D - Establish the Nurse Practitioners Modernization Act

Purpose:

This bill would enable experienced nurse practitioners to practice with collaborative relationships with physicians. The bill would also allow new nurse practitioners to collaborate with experienced nurse practitioners for their first 3,600 hours of practice if they cannot secure a collaborative agreement with a physician.

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

This initiative would increase access to health care services. Such access is particularly important because under the federal Affordable Care Act, the State expects to enroll 1.1 million individuals through New York's health plan marketplace, the NY State of Health, which is likely to exacerbate existing shortages of clinicians in many areas of the State.

Under current law, nurse practitioners must practice in collaboration with a licensed physician in accordance with a written practice agreement and written practice protocols. This proposal would amend Education Law § 6902(3) to provide that:

- 1) A nurse practitioner whose written agreement with a physician terminates or cannot be renewed through no fault of the nurse practitioner could be supervised by another nurse practitioner with more than 3,600 hours of work experience with the approval of the State Education Department (SED) for up to six months, which could be extended for good cause; and
- 2) Nurse practitioners with more than 3,600 hours of work experience could forego written collaboration agreements and written practice protocols with physicians, as long as they document, in the manner dictated by SED, collaborative relationships with physicians who have agreed to maintain such relationships.

Allowing nurse practitioners to practice without the written agreements and practice protocols with physicians is an important strategy that will help the State address the additional demand attributable to new enrollees. In addition, the data that would become available to the State under this initiative would further assist future efforts to enhance access to services. By supporting the State's primary care infrastructure, this proposal would help reduce overall spending in the health care system over time.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget, which assumes this initiative could be administered within proposed funding levels.

Effective Date:

This bill takes effect January 1, 2015.

Part E - Amend Education and Executive Law in relation to the investigation and reporting of patterns of harassment, bullying or discrimination and removal of school officers

Purpose:

This bill would improve current reporting, investigation and intervention requirements under the Dignity for All Students Act.

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

As the Dignity for All Students Act proclaims: “Students’ ability to learn and to meet high academic standards, and a school’s ability to educate its students, are compromised by incidents of discrimination and harassment including bullying, taunting or intimidation.” This bill would improve current reporting, investigation and intervention requirements under the Dignity for All Students Act.

All students, particularly the most vulnerable children enrolled from kindergarten through 12th grade, must be protected from discrimination and harassment. To ensure that these students are protected, schools must be required report in a timely manner to the State such incidents to ensure that State officials can take swift action.

This bill would require that school officials determine whether a verified incident of harassment, bullying or discrimination is part of a larger pattern of behavior against a particular class or classes of persons based on their actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex. School officials would be required to promptly report any such pattern of harassment, bullying or discrimination to the State Education Department, the State Police, and the Division of Human Rights. Failure to make such a report would result in the commencement of a removal proceeding pursuant to existing procedures.

Upon receiving a report of a pattern or practice, the State Education Department would develop, and the school district would implement, intervention protocols in order to end the harassment, bullying or discrimination.

The Division of Human Rights would also report instances of harassment, bullying or discrimination to the State Education Department where there has been a finding of probable cause.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget, which assumes this initiative could be administered within the amounts recommended for the 2014-15 fiscal year.

Effective Date:

This bill would take effect 90 days after it becomes law.

Part F - Extend anti-discrimination protections to students who attend public schools

Purpose:

This bill would extend anti-discrimination protections that currently shield members of protected groups from discrimination, harassment, and bullying in private schools to include public schools.

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

All New Yorkers should be able to attend school without fear of discrimination or harassment, and to the extent that students are harassed or bullied in school, remedies should be available to them under the New York State Human Rights Law.

The Division of Human Rights (DHR) had long accepted discrimination complaints from attendees of public and private secondary schools and universities. However, in 2012, a NYS Court of Appeals case, involving severe racial bullying of a young girl, held that the law did not cover public schools (including public universities) as the statutory language referencing "educational corporation" or "educational institution" did not indicate the scope of coverage. As a result, only students attending tax-exempt private, non-sectarian schools are currently covered under the Human Rights Law.

This bill would define educational institutions to include both public and private schools and ensure that all students are afforded protection against discrimination.

Budget Implications:

This legislation would broaden the scope of DHR's authority. With such expanded jurisdiction, nonetheless, DHR will be able to perform its mandated role within the proposed appropriation in the Executive Budget.

Effective Date:

This bill takes effect immediately.

Part G - Establish the Science, Technology, Engineering and Mathematics Incentive Program for the top 10% of New York's high school students

Purpose:

This bill would establish the Science, Technology, Engineering, and Mathematics (STEM) Incentive Program to encourage our best and brightest students to be educated in and build their careers in New York State.

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

This bill would amend Education Law to establish STEM Incentive Program. This program would provide a full tuition scholarship to attend any college or university within the State University of New York or the City University of New York to the top 10 percent of high school graduates from each high school in New York State if a student commits to work in New York State in a STEM job for five years following graduation. This program would attract promising high school students to STEM careers and will help fill job openings in New York State in a critical sector of our economy.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2015 Executive Budget, which includes an \$8 million appropriation to cover first year costs of the program.

Effective Date:

This bill would take effect April 1, 2014.

Part H - Extend the New York State Higher Education Capital Matching Grant Program

Purpose:

This bill would extend the Higher Education Capital (HECap) Matching Grant Program for three additional years.

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

The FY 2006 Enacted Budget authorized the creation of the \$150 million HECap Matching Grant Program to support capital projects at the State's various independent colleges and universities. Projects were selected through a formula-driven process and were required to have a three to one (non-State to State) dollar match by eligible academic institutions.

Legislation enacted in 2013 extended the HECap program for a period of one year and included a competitive process to reallocate unused funds. To provide adequate time to administer new awards through the retained competitive process, this bill would extend the program for three additional years with a sunset date of March 31, 2017.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2015 Executive Budget, which assumes that up to \$13.7 million of the total \$150 million provided for the program may be available to eligible academic institutions in the new competitive process.

Effective Date:

This bill takes effect immediately.

Part I - Authorize the pass-through of any Federal Supplemental Security Income Cost of Living Adjustment which becomes effective on or after January 1, 2015

Purpose:

This bill would authorize Federal Supplemental Security Income (SSI) benefits to be increased in 2015 by the percentage of any SSI Cost of Living Adjustment (COLA).

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

Sections 131-o and 209 of the Social Services Law establish specific amounts for the monthly Personal Needs Allowance (PNA) and the monthly SSI standard of need (the maximum combined Federal and State benefit) for recipients in various living arrangements. This bill amends those sections of law to set forth the 2014 PNA amounts and the standard of need for eligibility and payment of additional State payments. It also authorizes those amounts to be automatically increased in 2015 by the percentage of any Federal SSI COLA which becomes effective within the first half of calendar year 2015.

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

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, 2014.

Part J - Prohibit electronic benefit transfers of public assistance benefits at certain venues

Purpose:

This bill would amend Social Services Law in order to facilitate New York's compliance with Section 4004 of the Middle Class Tax Relief and Job Creation Act of 2012 (Public Law 112-96).

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

Public Law 112-96 requires states to establish policies and implement procedures to prevent the use of temporary assistance for needy families (TANF) funds issued via electronic benefit transfers at automated teller machines or point-of-sale terminals in liquor stores, casinos, gaming establishments and adult-oriented entertainment venues. This bill would extend these policies and procedures to safety net assistance, thereby ensuring uniform treatment of public assistance recipients, and would establish penalties for prohibited transactions.

Budget Implications:

Enactment of this bill is necessary to implement the 2014-15 Executive Budget in order to ensure New York State's compliance with Public Law 112-96.

Effective Date:

This bill takes effect sixty days after enactment.

Part K - Mortgage Insurance Fund Utilization

Purpose:

This bill would provide for the utilization of \$75.4 million in excess Mortgage Insurance Fund (MIF or the Fund) reserves.

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

The MIF, a division of the State of New York Mortgage Agency (SONYMA), was created in 1978 to insure mortgage loans for projects that would not otherwise be able to obtain private mortgage insurance, thereby encouraging the commercial and public investment of mortgage capital and increasing the supply of affordable housing in New York State.

The SONYMA statute allows for excess revenues from the Fund, after expenses and the required reserves, to be returned to the State following SONYMA board approval. The MIF has been previously used to support new housing development or provide relief for budgetary deficits; in FY 2014, \$60 million was used for various housing assistance and capital programs and \$104 million was transferred to the General Fund.

The MIF is currently projected to have in excess of \$75 million in reserves through SFY 2015 that can be accessed without negatively impacting the Fund's credit rating. The funding would be utilized in the following manner, as prescribed by the bill:

- Rural Rental Assistance Program (\$20.4 million): supports rental subsidies for low-income elderly and family tenants residing in federally-funded multifamily projects in rural areas of the State; Mitchell-Lama Portfolio (\$32 million): supports the initial refinancing and capital repairs of 36 Mitchell-Lama affordable housing projects that Homes and Community Renewal acquired from the Empire State Development Corporation;
- Neighborhood and Rural Preservation Programs (\$12 million): supports community-based housing corporations across the State that provide various housing related services for low- and moderate-income populations;

- Various affordable housing capital programs (\$11 million): supports the Rural and Urban Community Investment Fund Program (\$6.8 million); the Low-Income Housing Trust Fund Program (\$2.5 million); and the Homes for Working Families Program (\$1.8 million) pursuant to the Governor's House New York initiative.

Budget Implications:

The bill is necessary for enactment of the Executive Budget, which assumes the MIF revenue for the aforementioned programs.

Effective Date:

This bill takes effect immediately.

Part L - Expand educational services at Office of Children and Family Services youth facilities and extend the timeframe for facility closures under the Close to Home initiative

Purpose:

To improve the variety of educational services offered to youth in Office of Children and Family Services (OCFS) facilities by expanding contracts with the Boards of Cooperative Educational Services (BOCES), and to extend the timeframe for facility closures under the Close to Home initiative.

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

This bill would amend the Education Law to authorize OCFS to contract with BOCES to provide any and all educational services at OCFS youth facilities that BOCES provides to school districts. Under current law, OCFS may contract with BOCES for special education services only. Expanding BOCES services would provide more educational opportunities for youth at these facilities. Additional BOCES services may include subjects such as foreign languages, music, art, career/technical skills and others.

This bill would also amend the Social Services Law to extend the authority of OCFS to close its facilities under the Close to Home initiative from September 1, 2014 to April 30, 2015. OCFS is authorized to approve a Close to Home plan for youth in non-secure or limited secure settings from a social services district with a population in excess of one million. Within one year of the effective date of an approved plan, but no later than September 1, 2014, OCFS is authorized under current law, upon 60 day notice, to close its facilities and make corresponding staffing and service reductions to reflect the decreasing number of youth placed in OCFS custody.

In 2012, OCFS approved a plan for a Close to Home initiative for New York City youth placed in local, non-secure programs. OCFS closed three of its non-secure facilities and made corresponding staffing and service reductions, consistent with the resulting decrease in the OCFS non-secure youth population.

When the Close to Home initiative was enacted, it was projected that the second phase of the initiative, a New York City plan for limited secure youth, would become operational in April 2013. However, the preparation for the transition of limited secure youth from OCFS to New York City has taken longer than originally anticipated, and limited secure facility closures may not be effectuated until April, 2015.

Budget Implications:

The current authorization for OCFS to close facilities does not provide sufficient time to implement a New York City limited secure Close to Home initiative and associated OCFS facility closures. Therefore, this bill to extend the timeframe for closures is necessary to ensure that OCFS limited secure facilities can be closed and associated savings can be achieved.

Effective Date:

This bill takes effect immediately.

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.