

**FY 2020 NEW YORK STATE EXECUTIVE BUDGET**

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

**MEMORANDUM IN SUPPORT**

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**CONTENTS**

<b>PART</b>	<b>DESCRIPTION</b>	<b>STARTING PAGE NUMBER</b>
A	Amend Education Law and make other changes necessary to authorize School Aid and implement education-related programs in the Executive Budget	6
B	Allow public accounting firms to have minority ownership by individuals who are not Certified Public Accountants	7
C	Amend the education law, in relation to authorizing school bus stop cameras; and to amend the vehicle and traffic law, in relation to increasing fines for passing a stopped school bus	8
D	Enact the Senator Jose R. Peralta New York State DREAM Act	9
E	Enact the For-Profit College Accountability Act	10
F	Establish an arts capital grants fund	11
G	Authorize Mortgage Insurance Fund (MIF) Utilization	12
H	Authorize compliance with Child Care Development Block Grant (CCDBG) health and safety requirements	13
I	Authorize Family First Preventive Services Act background clearances	14
J	Remove Certain Requirements for Domestic Violence Victims Seeking Shelter in a Domestic Violence Shelter	15
K	Reform Persons In Need of Supervision (PINS) provisions	16
L	Authorize the pass-through of any Federal Supplemental Security Income Cost of Living Adjustment	17
M	Extend and expand temporary operator authority	18
N	Authorize time-limited job try-outs as an eligible work activity for Public Assistance recipients	19
O	Increase Criminal Penalties for Wage Theft	20

<b>PART</b>	<b>DESCRIPTION</b>	<b>STARTING PAGE NUMBER</b>
P	Reduce Penalties for Unemployment Insurance Recipients Working Part-Time	20
Q	Ensure Equal Pay	21
R	Pass the Gender Expression Non-Discrimination Act	22
S	Extend New York Human Rights Law to Cover All Students	23
T	Prohibit Source of Income Discrimination	24
U	Limit Security Deposits	25
V	Increase Protections Against Harassment in the Workplace	25
W	Protect veterans from financial exploitation	26
X	Ensure Breastfeeding is Protected in the Workplace	27
Y	Prohibit Conversion Therapy for Minors	28
Z	Enact Provisions Related to Rent Regulation	29

## 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 and the apportionment of public moneys; to amend the education law, in relation to a statement of the total funding allocation; to amend the education law, in relation to services aid; to amend the education law, in relation to moneys apportioned for boards of cooperative educational services aidable expenditures; to amend the education law, in relation to establishing regional STEM magnet schools; to amend the education law, in relation to supplemental public excess cost aid; to amend the education law, in relation to academic enhancement aid; to amend the education law, in relation to high tax aid; to amend the education law, in relation to the statewide universal full-day pre-kindergarten program; to amend the education law, in relation to the teachers of tomorrow teacher recruitment and retention program; to amend the education law, in relation to class sizes for special classes containing certain students with disabilities; to amend the education law, in relation to waivers from duties; to amend the education law, in relation to annual teacher and principal evaluations; to amend the education law, in relation to the education of homeless children; to amend the education law, in relation to the suspension of pupils; to amend the education law, in relation to school safety plans; to amend the education law, in relation to including healthy relationships in health education; to amend the education law, in relation to authorizing and directing the commissioner of education to require that every school district adopt and distribute a policy regarding sex discrimination; 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 reimbursements for the 2019-2020 school year; 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 withholding a portion of employment preparation education aid and in relation to the effectiveness thereof; to amend chapter 82 of the laws of 1995, amending the education law and 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 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 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 thereof; 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 91 of the laws of 2002, amending the education law and other laws relating to reorganization of the New York city school construction authority, board of education and community boards, in relation to the effectiveness thereof; to amend chapter 345 of the laws of 2009, amending the education law and other laws relating to the New York city board of education, chancellor, community councils, and community superintendents, in relation to the effectiveness thereof; to amend chapter 472 of the laws of 1998, amending the education law relating to the lease of school buses by school districts, in relation to the effectiveness thereof; 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 97 of the laws of 2011, amending the education law relating to census reporting, in relation to the effectiveness thereof; in relation to school bus driver training; in relation to special apportionment for salary expenses and public pension accruals; in relation to the city school district of the city of Rochester; in relation to total foundation aid for the purpose of the development, maintenance or expansion of certain magnet schools or magnet school programs for the 2019-2020 school year; in relation to the support of public libraries; to repeal subparagraphs 2 and 3 of paragraph a of subdivision 1 of section 3609-a of the education law, relating to lottery apportionment and lottery textbook apportionment; and to repeal subparagraphs 1 and 2 of paragraph b of subdivision 4 of section 92-c of the state finance law, relating to the state lottery fund (Part A); to amend the education law, the business corporation law, the partnership law and the limited liability company law, in relation to certified public accountants (Part B); to amend the education law, in relation to authorizing school bus stop cameras; and to amend the vehicle and traffic law, in relation to owner liability for operator illegally overtaking or passing a school bus and increasing fines for passing a stopped school bus (Part C); to amend the education law, in relation to eligibility requirements and conditions governing general awards, academic performance awards and student loans; eligibility requirements for assistance under the higher education opportunity programs and the collegiate science and technology entry program; the definition of "resident"; financial aid opportunities for students of the state university of New York, the city university of New York and community colleges; and the program requirements for the New York state college choice tuition

savings program; and to repeal subdivision 3 of section 661 of the education law relating thereto (Part D); to amend the education law, in relation to the accountability of proprietary institutions (Part E); to amend the state finance law, in relation to the arts capital grants fund (Part F); to utilize reserves in the mortgage insurance fund for various housing purposes (Part G); to amend the social services law, in relation to the initial period of licensure or registration and required inspections, background clearances and training for child care providers; and to repeal certain provisions of such law relating thereto (Part H); to amend the social services law, in relation to federally required background clearances for persons working in residential foster care programs (Part I); to amend the social services law, in relation to residential programs for domestic violence victims; and repealing certain provisions of such law relating thereto (Part J); to amend the family court act, the social services law and the executive law, in relation to persons in need of supervision; and to repeal certain provisions of the family court act and the executive law relating thereto (Part K); 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 L); to amend the social services law, in relation to appointment of a temporary operator authority (Subpart A); and to amend part W of chapter 54 of the laws of 2016, amending the social services law relating to the powers and duties of the commissioner of social services relating to the appointment of a temporary operator, in relation to the effectiveness thereof (Subpart B) (Part M); to amend the social services law, in relation to permitting social services districts to assign individuals to participate in time-limited job try-outs as an allowable work activity leading to unsubsidized employment (Part N); to amend the labor law, in relation to increasing criminal penalties for convictions of failures to pay

wages (Part O); to amend the labor law, in relation to amending unemployment insurance benefits for earnings disregard (Part P); to amend the executive law, in relation to prohibiting wage or salary history inquiries; and to amend the labor law, in relation to the prohibition of a differential rate of pay on the basis of protected class status (Part Q); to amend the executive law, the civil rights law and the education law, in relation to prohibiting discrimination based on gender identity or expression; and to amend the penal law and the criminal procedure law, in relation to including offenses regarding gender identity or expression within the list of offenses subject to treatment as hate crimes (Part R); to amend the executive law, in relation to expanding the scope of unlawful discriminatory practices to include public educational institutions (Part S); to amend the executive law, in relation to preventing discrimination based on lawful source of income in housing (Part T); to amend the general obligations law, in relation to the amount of security deposit that a landlord may charge a tenant (Part U); to amend the executive law, the general obligations law and the labor law, in relation to the implementation of sexual harassment protocols (Part V); to amend the general business law, in relation to enacting the pension poaching prevention act (Part W); to amend the executive law, in relation to amending the definition of pregnancy-related condition (Part X); to amend the education law, in relation to prohibiting mental health professionals from engaging in sexual orientation change efforts with a patient under the age of eighteen years and expanding the definition of professional misconduct with respect to mental health professionals (Part Y); and establishing the "rent regulation act of 2019" (Part Z)



## **PURPOSE:**

This bill contains provisions needed to implement the Education, Labor and Family Assistance portions of the FY 2020 Executive Budget.

This memorandum describes Parts A through Z 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 would contain various provisions necessary for implementation of the education portion of the 2019-20 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 \$70 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:

- **Largest Ever State Support for Schools.** The FY 2020 Executive Budget recommends a year-over-year increase of \$956 million (3.6 percent) in direct aid to school districts for a total of \$27.7 billion for the 2019-20 school year. This represents the highest level of State support to schools in New York’s history. With this increase, School Aid will have grown by \$8.1 billion, or 42 percent, since 2011-12.
- **Foundation Aid and Community Schools.** The FY 2020 Executive Budget recommends a Foundation Aid increase of \$338 million, including an additional \$50 million for Community Schools, bringing the total investment in Community Schools to \$250 million. The Community Schools increase is targeted to school districts with failing and persistently failing schools as well as districts with significant growth in English language learners. Additionally, the Executive Budget increases the minimum Community Schools set-aside amount from \$75,000 to \$100,000.

- **School Funding Equity.** Although the State directs the vast majority of its School Aid to the highest need districts, districts do not always provide their highest need schools with funding allocations that are commensurate with the needs of those schools' students. To ensure all schools are funded equitably, the FY 2020 Executive Budget will require school districts to dedicate a portion of their annual Foundation Aid increase to any of their neediest schools that are not already equitably funded, based on a plan submitted to and approved by the State Education Department.
- **School Aid Growth Cap.** The FY 2020 Executive Budget recommends basing the School Aid Growth Cap on 10-year average annual income growth instead of annual income growth. This change is intended to reduce the volatility of the Growth Cap and improve its accuracy as a predictor of the State's underlying fiscal capacity.
- **Expense-Based Aid Reforms.** The FY 2020 Executive Budget proposes to create a new tier of Building Aid for newly approved projects and to consolidate several other aids into a single category that will grow based on inflation and enrollment. These changes will simplify aid calculations, offer more certainty over future funding, encourage school districts to control expenses outside of core instruction, give districts greater flexibility, and provide additional State resources to support Foundation Aid increases.
- **Mayoral Control of New York City Schools.** The FY 2020 Executive Budget recommends extending mayoral control of the New York City School District for an additional three years (through the 2021-22 school year).
- **Annual Professional Performance Reviews.** The FY 2020 Executive Budget recommends reforming the teacher evaluation system so that schools will not be required to use a State test as the measure of student performance and instead will be able to locally select what assessments of student learning are the best way to measure growth.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill would take effect April 1, 2019, except that selected provisions take effect immediately or on other specified dates.

**Part B – Allow public accounting firms to have minority ownership by individuals who are not Certified Public Accountants**

Purpose:

This bill would authorize public accounting firms to incorporate in New York State with minority ownership by individuals who are not Certified Public Accountants.

Summary of Provisions and Statement in Support:

This bill would allow public accounting firms to incorporate in New York State with minority ownership by individuals who are not Certified Public Accountants, provided the words "Certified Public Accountant" or the abbreviation "CPA" is excluded from the firm's name.

In today's rapidly evolving economy, accounting firms endeavor to provide a variety of services to their clients and to do so often requires the skills of individuals who are not Certified Public Accountants such as actuaries, industry experts, information technology professionals and valuation specialists. By allowing non-CPA professionals to become minority owners of public accounting firms, this bill would modernize New York's incorporation laws and better enable accounting firms in the State to provide the services their clients have come to expect.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill would take effect immediately.

**Part C – Amend the education law, in relation to authorizing school bus stop cameras; and to amend the vehicle and traffic law, in relation to increasing fines for passing a stopped school bus**

Purpose:

This bill authorizes school districts to enter into agreements with third parties to install or operate school bus stop-arm cameras, and increases the fines for passing a stopped school bus.

Summary of Provisions and Statement in Support:

In New York, approximately 2.3 million students ride school buses to and from school every year, and out of concern for their safety it is illegal to pass a stopped school bus. Yet on Operation Safe Stop in April 2018, the one day in which law enforcement targeted citations for passing a stopped school bus, over 850 people were ticketed.

Extrapolated for 180 days of school, someone passes a stopped school bus over 150,000 times a year, endangering the safety of school children. These changes will ensure that student safety on and around school buses is increased.

**Authorize School Districts to enter into contracts for school bus stop-arm cameras.** To improve student safety, the FY 2020 Executive Budget authorizes school districts to enter into third-party contracts for the installation, operation and maintenance of school bus stop arm cameras, which would be able to automatically record the license plate of any vehicle illegally passing a school bus. The owner of the vehicle would be responsible and be required to pay a penalty. Cameras would be required to avoid capturing the identity of the driver of the vehicle.

Costs associated with such cameras would not be considered a transportation expense reimbursable by State aid; instead, the school district would be entitled to receive the fine associated with a violation for passing a stopped school bus.

The legislation would also require school districts that enter into such contracts to submit data on the results of the program to the Governor, the Temporary President of the Senate, and the speaker of the Assembly.

**Increase Fines for Passing a Stopped Bus.** To further decrease the number of vehicles illegally passing stopped school buses, the FY 2020 Executive Budget proposes to increase the fines for such a violation from \$250-\$400 to \$500-\$750 for a first offense, from \$600-\$750 to \$1,000-\$1,250 for a second offense, and from \$750-\$1,000 to \$1,250-\$1,500 for a third offense.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill would take effect immediately.

**Part D – Enact the Senator Jose R. Peralta New York State DREAM Act**

Purpose:

This bill would enact the Senator Jose R. Peralta New York State DREAM Act to support the advancement of undocumented immigrant students by making them eligible to receive State financial assistance for college.

Summary of Provisions and Statement in Support:

The Senator Jose R. Peralta New York State DREAM Act would amend Education Law to make students without lawful immigration status eligible for the Excelsior Scholarship, the Tuition Assistance Program, the Enhanced Tuition Award, and other State financial assistance programs offered to college students who are New York State residents.

To become eligible for State financial assistance, a student without lawful immigration status would need to have lived continuously in New York State while attending high school or a high school general equivalency program in the State, and apply for admission at a college in New York within five years of receiving a high school or high school equivalency diploma. The bill would also make conforming changes to the laws governing resident tuition policy at the State University of New York and the City University of New York.

The DREAM Act will support the advancement of undocumented immigrant students and continue New York State's tradition of welcoming immigrants and honoring their contribution to our culture and economy.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill would take effect 90 days after the issuance of regulations and the development of an application form by the Higher Education Services Corporation, or 90 days after becoming law, whichever occurs later.

**Part E – Enact the For-Profit College Accountability Act**

Purpose:

This bill would enact the For-Profit College Accountability Act requiring for-profit colleges to meet minimum performance standards to participate in State supported student financial aid programs and to enroll students.

Summary of Provisions and Statement in Support:

The For-Profit College Accountability Act would require for-profit schools to report their funding sources and demonstrate that they are not receiving more than 80 percent of their revenue from taxpayers, including federal grants, loans and the Tuition Assistance Program (TAP). That threshold, which is lower than the federal government's 90 percent maximum, aims to reduce the reliance on taxpayer dollars. The For-Profit College Accountability act would also require that schools report on resources spent and

salaries of college leadership to ensure these institutions are putting the interests of their students first. The For-Profit College Accountability Act would also prohibit school leadership from serving on an accreditation board of an organization responsible for oversight of the for-profit college to avert potential conflicts of interest. Failure to meet any of these requirements would ultimately lead to loss of TAP and Enhanced Tuition Award funds.

President Obama's administration enacted the Gainful Employment Regulations, creating a performance matrix of the for-profit private colleges to ensure that these schools meet a minimum debt to earnings ratio of their graduates. Under President Trump, the requirements have been delayed and are expected to be eliminated entirely, doing away with critical protections for students from unscrupulous business practices. New York is proposing to fill the gap created by the absence of federal regulations by taking action to hold for-profit schools accountable.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill would take effect immediately.

**Part F – Establish an arts capital grants fund**

Purpose:

This bill would establish an arts capital grants fund to support small-sized arts and cultural organizations across the State.

Summary of Provisions and Statement in Support:

This bill would repurpose an arts capital revolving loan fund for use by the New York State Council on the Arts (NYSCA) to award capital grants to small-sized arts organizations. State Finance Law establishes an arts capital revolving loan fund for NYSCA to make loans to not-for-profit arts organizations. This fund is primarily supported by fees collected for distinctive license plates offered by the Department of Motor Vehicles to promote the arts and cultural institutions. NYSCA is primarily engaged in grant-making to not-for-profit arts organizations, including capital grants, and no longer administers loans. This bill would allow NYSCA to enhance its support of arts and cultural organizations by repurposing the fund to award capital grants instead of loans.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill would take effect immediately.

**Part G – Authorize Mortgage Insurance Fund (MIF) Utilization**

Purpose:

This bill would provide for the utilization of \$12 million projected to be available in excess Mortgage Insurance Fund (MIF) reserves.

Summary of Provisions and Statement in Support:

The MIF, a fund 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 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 requires excess revenues from the MIF, after expenses and the required reserves, be returned to the State following SONYMA Board approval. The MIF has been previously used to support new housing development and to provide relief for budgetary deficits; in the FY 2019 Budget, excess revenues were used for community development and other programs.

The MIF is currently projected to have \$12 million in reserves through FY 2019 that can be accessed without negatively impacting the MIF's credit rating. As set forth in sections 1 and 2 of the bill, these funds would be utilized for the Neighborhood and Rural Preservation Programs, which support community-based housing corporations across the State that provide various housing related services for low- and moderate-income populations.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget, which assumes MIF revenue for the aforementioned programs.

Effective Date:

This bill would take effect immediately.

## **Part H – Authorize compliance with Child Care Development Block Grant (CCDBG) health and safety requirements**

### Purpose:

This bill would amend child care inspection, training and background clearance requirements to comply with the federal Child Care and Development Block Grant Act of 2014 (CCDBG) and ease administrative burdens for child care providers.

### Summary of Provisions and Statement in Support:

This bill is necessary to comply with the health and safety provisions of the Federal CCDBG Act of 2014. To comply with the CCDBG health and safety requirements this bill:

- Mandates expanded background clearances for licensed and registered child care providers. Such providers are already required to receive a New York State criminal history and Statewide Central register of Child Abuse and Maltreatment (SCR) clearances. This bill would require that these providers also receive the following clearances: FBI criminal background; New York State and national sex offender registries; and the child abuse and neglect registry, sex offender registry and state criminal records for any state the provider has lived in within the last five years.
- Requires enrolled legally-exempt providers, except those exempted under federal law by being related to all children receiving care, to receive the same background clearance checks as licensed and registered child day care providers.
- Require that licensed and registered providers, as well as legally exempt providers that are not relative legally exempt providers, be inspected at least once a year.
- Makes conforming changes to be consistent with the federal requirements. The bill clarifies that “child day care” only refers to child care services requiring license or registration and does not include legally-exempt providers. The bill also adds and defines terms “legally-exempt provider” and “relative enrolled legally-exempt provider.”

The bill would also:

- Reduce administrative burdens on child care providers by increasing the period that child day care programs may receive an initial license or registration from the



Office of Children and Family Services (OCFS), from up to two-years to up to four-years.

- Amend the training requirements for child day care providers to better align them with OCFS regulations and federal law. This will mitigate the potential for duplicative trainings by clarifying that training on the topics or subject matters presently specified in state law, shall be required unless such topics or subject matters are substantially covered under federally required training.

This bill is needed to comply with Federal law and to avoid fiscal penalties from the Federal government that could reduce Federal child care funding to New York State. In addition, inspections and background clearances provide important safeguards that promote and maintain the quality and safety of child care services.

Budget Implications:

The cost for New York State to comply with the CCDBG health and safety requirements is estimated at \$78 million. This cost will be supported by available Federal funding. In Federal fiscal year 2018, New York State received an additional \$96 million in federal child care funding to aid in CCDBG compliance. Up to \$80 million of that funding is dedicated for health and safety compliance in the budget.

Effective Date:

This bill would take effect immediately.

**Part I – Authorize Family First Preventive Services Act background clearances**

Purpose:

This bill would authorize background clearance checks required by the Federal Family First Preventive Services Act (FFPSA) so that New York can continue to receive approximately \$600 million in annual Federal Title IV-E funding.

Summary of Provisions and Statement in Support:

This bill would enact various provisions necessary to comply with the Federal FFPSA.

It would authorize State and FBI criminal background checks for current and prospective employees of programs that provide residential foster care services. The FFPSA requires that all prospective employees of residential foster care programs receive a State and FBI criminal background check, regardless of whether they have the potential for regular and substantial contact with children. Existing employees of such programs who have not previously had such a check in connection with their employment are also required to have State and FBI criminal background checks.

Under current law, only employees of such programs that have regular and substantial contact with children are required to have background checks.

The bill would authorize the Office of Children and Family Services (OCFS) to provide background clearance information to entities in other states that license, certify or approve residential foster care programs when they are seeking a clearance from the Statewide Central Register of Child Abuse and Maltreatment (SCR) on a person who is employed or is seeking employment in such a program. FFPSA requires a clearance of the applicable state child abuse and neglect registry for all persons employed by or seeking employment with a residential foster care programs in each state that they reside or have resided in during the last five years.

In addition, the bill would require SCR clearances for all persons who are employed in residential foster care programs, regardless of whether or not they have the potential for regular and substantial contact with children. Existing employees of such programs that have not previously had an SCR clearance in connection with their employment, must be cleared prior to April 1, 2020, in accordance with a schedule developed by OCFS.

Enactment of these provisions is necessary to comply with the Federal FFPSA and for the continued receipt of Federal Title IV-E funding. Such funding supports vital child welfare services for children and families including foster care, adoption, kinship guardianship assistance, independent living services, and training. The approximate \$600 million of annual Federal Title IV-E funding helps offset eligible child welfare costs incurred by local social services districts. Failure to enact these provisions would jeopardize New York's ability to continue to receive Federal Title IV-E funding.

Budget Implications:

Enactment of this bill is necessary for the continued receipt of approximately \$600 million in annual Federal Title IV-E funding that supports vital child welfare services. The cost to implement these provisions is expected to be minimal.

Effective Date:

This bill would take effect July 1, 2019.

**Part J – Remove Certain Requirements for Domestic Violence Victims Seeking Shelter in a Domestic Violence Shelter**

Purpose:

This bill would eliminate the State requirement that domestic violence victims seeking shelter in a domestic violence shelter apply for Public Assistance (PA) and that providers charge victims with sufficient resources a fee for services.

Summary of Provisions and Statement in Support:

The Federal government has advised the State that its requirements that domestic violence victims seeking shelter in a domestic violence shelter apply for PA and that providers charge victims with sufficient resources a fee for services contradict Federal rules for Family Violence Prevention Services Act (FVPSA) funding. To comply with the Federal government's mandate, the FY 2020 Executive Budget would eliminate these requirements.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget and to comply with the Federal mandate.

Effective Date:

This bill would take effect beginning April 1, 2019.

**Part K – Reform Persons In Need of Supervision (PINS) provisions**

Purpose:

This bill would reform Person in Need of Supervision (PINS) provisions to reduce the placement of PINS in detention and residential settings.

Summary of Provisions and Statement in Support:

This bill would eliminate the ability of family courts to detain youth who are alleged to be a PINS and limit their ability to order residential foster care placement at the disposition of a PINS proceeding to only instances where the respondent youth meets the definition of a “sexually-exploited child” under New York’s Safe Harbor Law.

Under existing law, family courts can place youth who are the subject of PINS proceedings into detention facilities or foster care based solely on allegations relating to non-criminal behavior (i.e., alleged to have been truant from school, incorrigible, disobedient or beyond the control of their parents). There is no equivalent model in the adult criminal justice system whereby an adult may be held in jail, or be removed from their home against their will, based on an allegation that the adult engaged in conduct which did not violate any law. Moreover, PINS detention is costly and produces negative outcomes for youth. The exception for a “sexually-exploited child” is to protect the child from further exploitation.

This bill also eliminates the January 1, 2020 sunset on state funding for the detention and residential placement of youth alleged or adjudicated to be PINS.

Budget Implications:

While this bill repeals the sunset of State funding for the detention and residential placement of PINS, it is not a net cost to the State because of the prohibition on the placement of PINS in detention or residential foster care settings.

Effective Date:

This bill would take effect immediately.

**Part L – Authorize the pass-through of any Federal Supplemental Security Income Cost of Living Adjustment**

Purpose:

This bill would authorize Federal Supplemental Security Income (SSI) benefits to be increased in 2020 by the percentage of any SSI Cost of Living Adjustment (COLA).

Summary of Provisions and Statement in Support:

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 would amend those sections of law to set forth the actual 2019 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 2020 by the percentage of any Federal SSI COLA that becomes effective within the first half of calendar year 2020.

Budget Implications:

If the pass-through of the Federal SSI COLA is not enacted in the FY 2020 budget, 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 would take effect December 31, 2019.

## **Part M – Extend and expand temporary operator authority**

### Purpose:

This bill would authorize the Office of Children and Family Services (OCFS) to appoint a temporary operator for foster care agencies and would extend the authority of the Office of Temporary and Disability Assistance (OTDA) to appoint a temporary shelter operator for emergency shelters.

### Summary of Provisions and Statement in Support:

Current enforcement provisions for foster care agencies do not authorize OCFS to appoint an entity to assume operations if the established foster care agency does not comply with OCFS corrective action plans or orders directing them to take certain actions.

This bill would authorize OCFS to appoint a temporary operator for a foster care agency that would address concerns regarding the health, safety or welfare of children served in the program. A temporary operator could only be appointed when the foster care agency is unable or unwilling to ensure the proper operation of the program and conditions exist that have the potential to seriously endanger or jeopardize the health, safety or welfare of children served in the program, or when necessary to protect the health, safety or welfare of such children.

This bill also outlines notification and due process requirements prior to the appointment of the temporary operator, the time frames for which a temporary operator may be appointed (90 days with subsequent 90 day periods authorized), provisions regarding liability during the term that the temporary operator is appointed, the duties of the temporary and established operator, and the obligations the established operator is required to fulfill regarding costs associated with the temporary operator.

Requiring the established operator to reimburse the temporary operator during an appointment period is necessary to prevent a financial incentive for established operators to mismanage the care of children in foster care to avoid operating costs through the appointment of a temporary operator.

Additionally, this bill would extend OTDA's authority to appoint a temporary operator whenever the commissioner or their designee has determined an emergency shelter has failed to comply with the requirements of State or local laws or regulations to the operation of such emergency shelter. Authority would be extended from March 31, 2019 through March 31, 2022.

### Budget Implications:

This bill would ensure the State has the authority to take the necessary action, appointment of a temporary operator, to address concerns regarding the health and safety of children in foster care agencies supported with state funding and continue such authority regarding emergency shelters supported with state funding. There is no cost to implement the bill.

Effective Date:

This bill would take effect immediately.

**Part N – Authorize time-limited job try-outs as an eligible work activity for Public Assistance recipients**

Purpose:

This bill would amend § 336 of the Social Services Law (SSL) to allow social services districts (districts) to place Public Assistance (PA) recipients in time-limited job try-outs.

Summary of Provisions and Statement in Support:

This bill would authorize districts to assign PA recipients to 90-day job try-outs as work experience assignments with private for-profit, non-profit and public sector entities in satisfaction of PA work requirements.

The job try-out programs will provide training and skill learning opportunities that will lead to permanent employment at the end of a trial period. The bill also provides for penalties in the event of noncompliance by the participating for-profit, non-profit or public sector entity; and offers various protections to the PA participants, including, but not limited to safeguards set forth in the Human Rights Law, the Correction Law, and the Labor Law.

Budget Implications:

Enactment of this bill is necessary to implement the SFY 2020 Executive Budget in order to provide PA recipients with increased employment options and expanded opportunities for skill development leading to permanent employment and self-sufficiency.

Effective Date:

This bill would take effect 120 days after the bill becomes law; provided that the Commissioner of the Office of Temporary and Disability Assistance (OTDA) may promulgate any rules or regulations necessary to implement this act on or before its

effective date.

## **Part O – Increase Criminal Penalties for Wage Theft**

### Purpose:

This bill would increase the criminal penalties for egregious wage theft and violations of other labor laws to align with other comparable criminal offenses.

### Summary of Provisions and Statement in Support:

Criminal penalties for wage theft in New York State are currently incongruous with other comparable crimes such as shoplifting. Prosecutions are limited as District Attorneys are less likely to prioritize misdemeanors or larcenies, causing regional inconsistencies and leaving millions of stolen wages uncollected.

This bill would amend section 198-a and section 213 of the Labor Law to increase criminal penalties for employers who knowingly engage in wage theft. This bill would indicate the class of penalty an employer would be guilty of based on specified amounts of wage theft per employee. It would also require payment of lost wages to employees as restitution.

### Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because these measures will deter employers from committing wage theft and enhance the recovery of wages owed to workers.

### Effective Date:

This bill would take effect immediately.

## **Part P – Reduce Penalties for Unemployment Insurance Recipients Working Part-Time**

### Purpose:

This bill would minimize the financial impact to Unemployment Insurance (UI) claimants who work part-time while they seek full-time employment.

### Summary of Provisions and Statement in Support:

New York State's current unemployment system discourages claimants from supplementing their income by working part-time while collecting benefits. Currently, a claimant's weekly UI benefit is reduced by 25 percent for each day worked, even if the individual works for one hour. As a result, workers who try to return to the workforce through part-time work can be penalized, despite the fact that part-time work can serve as a bridge to full-time employment.

This bill would permit a claimant who is partially unemployed and eligible for benefits to be paid a reduced benefit amount based upon the difference between the weekly benefit rate if totally unemployed and an amount equal to two-thirds of total remuneration of any nature payable to the claimant for services of any kind during such week.

It would also provide that for a claimant whose partial unemployment is limited to one or two days a week of unemployment and whose remuneration is less than the maximum weekly benefit amount, he or she shall be paid a benefit amount equal to seventy-five percent or fifty percent respectively, of his or her weekly benefit amount, if the amount is higher than partial unemployment formula.

In addition, the bill would amend section 594 of the Labor Law to eliminate forfeit day penalties and to increase the monetary penalties from 15 percent to 25 percent for the first occurrence and 50 percent for a second occurrence within 5 years of the first determination. The section would also be amended to provide that the additional 10 percent amount (or 35 percent amount for the second occurrence) of the monetary penalties are placed in the unemployment insurance control fund for fraud prevention.

#### Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget as it will create an incentive for unemployed New Yorkers to assume a part-time job as they search for full-time work.

#### Effective Date:

This bill would take effect on the 90th Day after the Commissioner of Labor certifies that the Department of Labor has an information technology system capable of accommodating the amendments of the bill.

### **Part Q – Ensure Equal Pay**

#### Purpose:



This bill would prohibit the request of applicant salary history as a factor in determining whether to offer employment and would expand pay equity provisions to include equal pay for substantially similar work for all protected classes.

Summary of Provisions and Statement in Support:

This bill would amend subdivision 1 of section 296 of the Executive Law to state that in order for an employer or employment agency to rely on or inquire about the salary history of an applicant as a factor for offering employment, the information must be voluntarily provided by the applicant, without prompting the applicant. Should the applicant voluntarily disclose their salary history, the employer or employment agency would not be prohibited from discussing with the applicant about their expectations of salary, benefits or other compensation.

This bill would amend also section 194 of Labor Law to expand coverage of the equal pay provisions for substantially similar work beyond sex or gender to include all protected classes.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill would take effect on the 180<sup>th</sup> day after it becomes law.

**Part R – Pass the Gender Expression Non-Discrimination Act**

Purpose:

This bill would enact the Gender Expression Non-Discrimination Act (GENDA), to prohibit discrimination based on gender identity or expression, and include offenses regarding gender identity or expression under the hate crimes statute.

Summary of Provisions and Statement in Support:

In 2015, Governor Cuomo issued state-wide regulations prohibiting harassment and discrimination on the basis of gender identity, transgender status, or gender dysphoria. Last year, the Governor established a Hate Crimes Task Force and a hotline for individuals to report bias or hate crimes.

However, discrimination and harassment continue to threaten transgender individuals, especially those in communities of color and others that are multiply marginalized. GENDA would solidify protections against discrimination, harassment, and hate crimes

against people on the basis of gender identity and expression. Passing GENDA will allow for all New Yorkers to be treated with the fairness and dignity they deserve.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill would take effect on the 30<sup>th</sup> day after enactment, provided, that sections nineteen through twenty-four of the bill shall take effect on the first of November next succeeding the date on which it is enacted.

**Part S – Extend New York Human Rights Law to Cover All Students**

Purpose:

This bill would extend the Human Rights Law’s anti-discrimination provisions, which afford protection against discrimination, harassment, and bullying for members of protected groups, to public educational institutions.

Summary of Provisions and Statement in Support:

All New Yorkers must 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. For decades, the Division of Human Rights (DHR) accepted, investigated, and adjudicated discrimination complaints from attendees of both public and private secondary schools and universities. In 2012, a New York State 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 by 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:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget as agency operations for DHR depend upon a clear definition of jurisdiction.

Effective Date:

This bill would take effect immediately.

## **Part T – Prohibit Source of Income Discrimination**

### Purpose:

This act would amend Human Rights Law to add lawful source of income as a protected class and to prohibit housing discrimination on the basis of lawful source of income.

### Summary of Provisions and Statement in Support:

This bill will eliminate a significant barrier to housing for thousands of New Yorkers and prohibit landlords from discriminating against potential tenants based on their lawful source of income.

Across the state, this form of housing discrimination disproportionately impacts the most vulnerable New Yorkers, including individuals receiving disability benefits, single mothers receiving child support, armed service members receiving veterans' benefits, homeless families exiting shelters and the elderly receiving pensions or social security income. Further, lawful source of income discrimination keeps individuals and families in homeless shelters or substandard housing for longer periods of time and prevents New Yorkers from accessing low-poverty, high opportunity neighborhoods.

Section 1 of the bill provides the short title.

Section 2 amends Section 292 of the executive law by adding a new subdivision 35, which defines lawful source of income in a way that includes all lawful sources of income, including housing subsidies and section 8 vouchers.

Sections 3, 4, 5, and 6 amend sections of the executive law that relate to housing discrimination by adding source of income as a prohibited category of discrimination.

Section 7 of the bill sets an immediate effective date.

### Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it eliminates a significant barrier to housing access for New Yorkers.

### Effective Date:

This act would take effect immediately and shall apply to all causes of action filed on or after such date.

## **Part U – Limit Security Deposits**

### Purpose:

This bill amends Section 7-108 of the General Obligations Law of New York State to limit the amount of security deposit that a landlord may charge.

### Summary of Provisions and Statement in Support:

Saving enough money to rent a new apartment can be a significant hurdle for New York residents, with requirements such as first month's rent, last month's rent and a security deposit required from the tenant to the landlord in order to lock in and access the rental unit. Currently, there is no statewide limit as to the maximum amount a landlord can charge a tenant as a security deposit, thereby making obtaining a new apartment even more taxing. With minimal savings and rising rents, the upfront costs of a security deposit—along with fees for credit reports and background checks—can make moving to or within New York a challenge.

Section 1 provides the title of the Act as the “New York Security Deposit Act.”

Section 2 revises Sections 7-108 the General Obligations Law of New York State to limit the amount of security deposit that a landlord may charge a tenant to an amount or value not in excess of two months' rent, including the first month's rent.

Section 3 provides that this law shall take effect immediately.

### Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget because it will reduce barriers to housing access for New Yorkers.

### Effective Date:

This bill would take effect immediately.

## **Part V – Increase Protections Against Harassment in the Workplace**

### Purpose:

This bill would bolster protections against sexual harassment in the workplace.

### Summary of Provisions and Statement in Support:

In recognition of the harm sexual harassment poses to our workplaces, Governor Cuomo signed into law a sexual harassment package as part of the FY 2019 budget. This bill would further increase protections against such harassment.

This bill would amend section 300 of the Executive Law to ensure that judicial interpretations of similarly worded provisions of federal civil rights laws establish a floor for interpretations of Human Rights Law, rather than a ceiling.

Section 296 of the Executive Law would be amended to clarify that harassment is not limited to actions that are severe or pervasive.

Section 5-336 of the General Obligations Law would be amended to require that all non-disclosure agreements in employment contracts entered on or after January 1, 2020 include language stating that employees may still file a complaint of harassment or discrimination with a state or local agency and testify or participate in a government investigation.

This bill would also amend section 201-g of the Labor Law to require the Department of Labor to consult with the Division of Human Rights on the production and distribution of a workplace sexual harassment prevention poster that must be conspicuously posted by every employer to inform employees of their rights.

#### Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

#### Effective Date:

This bill would take effect January 1, 2020.

### **Part W – Protect veterans from financial exploitation**

#### Purpose:

This bill would better protect veterans and their family members, especially elderly and disabled veterans, against deceptive practices known as “pension poaching.”

#### Summary of Provisions and Statement in Support:

This bill would prohibit any entity from receiving compensation for helping veterans and their dependents prepare a claim, except as permitted under United States Department of Veterans’ Affairs (USDVA) standards. It would also prohibit charging unreasonable fees for services where the USDVA permits fees and bans pledging that an individual will receive a specific amount of veterans’ benefits money. Finally, the bill would require any entity offering these services to veterans and their dependents for a fee to inform

their customers that the New York State Division of Veterans' Affairs (DVA) and their county Veterans Service Agencies can provide them free services regarding veterans' benefits.

Elderly and disabled veterans face the problem of "pension poaching" scams in which dishonest insurance agents, financial planners, and other professionals, who lack USDVA accreditation and cannot legally file claims, offer to help veterans and their family members obtain Federal benefits such as the Aid and Attendance pension from the USDVA, often for a substantial fee. Veterans do not need to pay for pension related services as many accredited and highly qualified Congressionally-recognized Veterans Service Organizations offer veterans assistance free of charge.

The scams also include convincing veterans to reposition personal assets to qualify for their Aid and Attendance pension, which adversely impacts many veterans when seeking Medicaid eligibility.

#### Budget Implications:

By protecting veterans from financial exploitation this bill would help ensure that veterans are best able to benefit from services funded by DVA. There is no cost to implement the bill.

#### Effective Date:

This bill would take effect 120 days after enactment.

### **Part X – Ensure Breastfeeding is Protected in the Workplace**

#### Purpose:

This bill would amend the Executive Law to clarify that lactation is a pregnancy-related condition entitled to reasonable accommodations in the workplace.

#### Summary of Provisions and Statement in Support:

In 2015, Governor Cuomo signed the Breastfeeding Mother's Bill of Rights, guaranteeing breastfeeding parents the right to use break time to express breast milk at work and the right to reasonable efforts by an employer to provide a private space to do so. In 2018, the Governor directed the Department of Financial Services to provide a clear reminder to health insurers that they must provide comprehensive lactation support services to new mothers.

This bill would ensure employers are following such laws by clarifying that lactation is a

pregnancy-related condition covered by the New York Human Rights Law requiring employers to make reasonable accommodations for lactation in the workplace. If an employer fails provide such accommodations, it would be considered discrimination and the employer would be liable.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget in order to protect working mothers' entitlement to reasonable accommodations in the workplace.

Effective Date:

This bill would take effect immediately.

**Part Y – Prohibit Conversion Therapy for Minors**

Purpose:

This bill would amend various laws to prohibit the practice of conversion therapy in New York State.

Summary of Provisions and Statement in Support:

In 2016, Governor Andrew M. Cuomo announced a series of comprehensive regulations to prevent the practice of conversion therapy in State mental health facilities and prevent health insurance coverage of conversion therapy. It is in the interest of New York to build on these efforts in order to fully protect the physical and psychological well-being of New Yorkers, including lesbian, gay, bisexual, and transgender youth, from exposure to the serious harms caused by conversion therapy; and to protect New Yorkers from harmful practices that falsely claim to change an individual's sexual orientation or gender identity.

This bill would amend the Education Law to make it professional misconduct for a licensed professional to engage in conversion therapy with a patient under the age of eighteen years.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget.

Effective Date:

This bill would take effect immediately.

## **Part Z – Enact Provisions Related to Rent Regulation**

### Purpose:

This bill would provide for the extension of the New York State system of rent regulation beyond the current expiration date of June 15, 2019, and require that such extension include provisions to reform and expand the current controls.

### Summary of Provisions and Statement in Support:

The New York State Rent Laws are set to expire on June 15, 2019. This bill would provide for the extension of the Laws and require that such extension include reforms to the current system related to ending vacancy decontrol, amending the application of preferential rent, and limiting capital improvement charges. The substance of these reforms would be based on findings published in a report by the Division of Housing and Community Renewal.

### Budget Implications:

Enactment of this bill is necessary to implement the FY 2020 Executive Budget to ensure effective protections for renters and proper administration of the rent laws.

### Effective Date:

This bill would take 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.