FY 2022 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 school contracts for excellence; to amend the education law, in relation to the purchase and use of school textbooks, school library materials, and computers; to amend the education law, in relation to the apportionment of public moneys to school districts employing eight or more teachers; to amend the education law, in relation to special apportionments and grants-in-aid to school districts and to moneys apportioned for board of cooperative educational services aidable expenditures; to amend the education law, in relation to the local district funding adjustment; to amend the education law, in relation to pandemic adjustment payment reduction; to amend the education law, in relation to aidable transportation expense; to amend the education law, in relation to the statewide universal full-day pre-kindergarten program; to amend the education law, in relation to moneys apportioned; to amend the education law, in relation to waivers from certain duties; to amend the education law, in relation to the New York state mentor teacher-internship 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 the national board for professional teaching standards certification grant; to amend the education law, in relation to charter school aid; to amend chapter 507 of the laws of 1974, relating to providing for the apportionment of state monies to certain nonpublic schools, to reimburse them for their expenses in complying with certain state requirements for the administration of state testing and evaluation programs and for participation in state programs for the reporting of basic educational data, in relation to the calculation of nonpublic schools' eligibility to receive aid; 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 reimbursement for the 2021-2022 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 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; relates to school bus driver training; relates to special apportionment for salary expenses and public pension accruals; relates to authorizing the city school district of the city of Rochester to purchase certain services; relates to suballocations of appropriations; relating to the support of public libraries; to repeal section 3033 of the education law relating to the New York state mentor teacher-internship program; to repeal section 3612 of the education law relating to the teachers of tomorrow teacher recruitment and retention program; and to repeal section 3004-a of the education law relating to the national board for professional teaching standards certification grant (Part A); to amend 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 registration of a new curriculum or program of study offered by a not-for-profit college or university (Part C); to amend the education law, in relation to extending state university of New York procurement flexibility and authorizing the state university of New York to purchase services from a consortium; and to amend part D of chapter 58 of the laws of 2011 amending the education law relating to capital facilities in support of the state university and community colleges, procurement and the state university health care facilities, in relation to the effectiveness thereof (Part D); to amend the education law, in relation to predictable tuition allowing annual tuition increase for SUNY and CUNY schools; and to amend chapter 260 of the laws of 2011, amending the education law and the New York state urban development corporation act relating to establishing components of the NY-SUNY 2020 challenge grant program, in relation to the effectiveness thereof (Part E); extending scholarship program eligibility for certain recipients affected by the COVID-19 pandemic (Part F); to amend the education law, in relation to establishing the amount awarded for the excelsior scholarship (Part G); to amend the executive law, in relation to facilities operated and maintained by the office of children and family services and to authorize the closure of certain facilities operated by such office; and to repeal certain provisions of such law relating thereto (Part H); to amend part N of chapter 56 of the laws of 2020 amending the social services law relating to restructuring financing for residential school placements, in relation to making such provisions permanent (Part I); to amend part G of chapter 57 of the laws of 2013, amending the executive law and the social services law relating to consolidating the youth development and delinquency prevention program and the special delinquency prevention program, in relation to making such provisions permanent (Part J); to amend part K of chapter 57 of the laws of 2012, amending the education law, relating to authorizing the board of cooperative educational services to enter into contracts with the commissioner of children and family services to provide certain services, in relation to the effectiveness thereof (Part K); to amend the social services law and the family court act, in relation to compliance with the Federal Family First Prevention Services Act (Part L); to amend the social services law, in relation to differential response programs for child protection assessments or investigations (Part M); to amend the judiciary law, in relation to authorizing the chief administrator of the courts to establish veterans treatment courts; and to amend the criminal procedure law, in relation to the removal of certain actions to veterans treatment courts (Part N); to utilize reserves in the mortgage insurance fund for various housing purposes (Part O);

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 P); to amend the state finance law, in relation to authorizing a tax check-off for gifts to food banks (Part Q); to amend the executive law, in relation to expanding the scope of the application of subdivision 4 of section 296 of such law to private educational institutions (Part R); to amend the executive law, in relation to prohibiting discrimination based on citizenship or immigration status (Part S); to amend the labor law, in relation to unemployment (Part T); to amend the private housing finance law, in relation to exempting certain projects from sales and compensating use taxes (Part U); to amend the social services law and the abandoned property law, in relation to the transfer of unclaimed support collections and unidentified payments; to amend the family court act and the domestic relations law, in relation to making conforming changes; to repeal certain provisions of social services law relating thereto; and to repeal paragraph (c) of subdivision 1 of section 600 and subdivision 3 of section 602 of the abandoned property law, relating to moneys paid to a support bureau of a family court (Part V); to allow employees to take paid time leave to obtain the COVID-19 vaccination (Part W); to amend the public authorities law, in relation to granting the state of New York mortgage agency authority to purchase mortgage loans from a broader pool of non-depository lenders, to purchase mortgages secured by new construction loans, and modify its mortgages to assist financially distressed homeowners (Part X); in relation to providing for the suspension of fees relating to the late payment of rent; and to permit tenants to use their security deposits as rent payments (Part Y); to amend the social services law, in relation to making child care more affordable for low-income families (Subpart A); and to amend the social services law, in relation to easing administrative burdens on child care programs and providers (Subpart B) (Part Z); and relating to prevailing wage requirements (Part AA)

PURPOSE:

This bill contains provisions needed to implement the Education, Labor and Family Assistance portions of the FY 2022 Executive Budget.

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

PART A – School Aid

Purpose:

This bill contains various provisions necessary for implementation of the education portion of the FY 2022 Executive Budget

Summary of Provisions and Statement in Support:

Education in New York represents a significant investment of State and local resources. 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:

- **$31.7 Billion in Support to School Districts**. The FY 2022 Executive Budget provides $31.7 billion in funding to school districts through School Aid, STAR reimbursement, the Local District Funding Adjustment, and federal Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act funds. Approximately 70 percent of these funds are targeted to high-need school districts. This funding level represents a $2.1 billion (7.1 percent) increase compared to the 2020-21 school year, including federal CARES Act funds, driven by $3.9 billion of CRRSA Act funds. State support, totaling $27.9 billion, is projected to decrease by $607 million (2.1 percent) compared to the 2020-21 school year.

- **Consolidation of Expense-Based Aids into Services Aid.** The FY 2022 Executive Budget consolidates 11 existing aid categories, including Transportation Aid and BOCES Aid, into a new block grant called "Services Aid." These aids, which have been the target of reform for many years, are collectively much less progressive than Foundation Aid, with only 53 percent of aid provided to high-need districts, compared to 72 percent of Foundation Aid. Funding for these aids is reduced by $693 million compared to projections of 2021-22 aid under current law, lowering Services Aid to $3.3 billion. This reduction may not exceed each school district's CRRSA Act funding allocation.

- **Local District Funding Adjustment.** The FY 2022 Executive Budget proposes a $1.35 billion Local District Funding Adjustment to be levied against other reimbursements to school districts. This payment reduction may not exceed each school district's CRRSA Act funding allocation.

- **Reimburse Pandemic-Related Transportation Costs.** The FY 2022 Executive Budget proposes to make costs related to delivery of school meals and/or instructional materials during the spring 2020 school closures eligible for Transportation Aid. Under current law, these costs are not eligible for State aid. Nearly three-quarters of school districts statewide indicate that they incurred costs related to the delivery of school meals or instructional materials during the spring 2020 school closures, consistent with the Governor's Executive Orders for districts to develop plans for alternative instruction options and for the distribution and availability of meals during pandemic-related school closures.

- **Eliminate Instructor Support Programs**. The FY 2022 Executive Budget discontinues the Teachers of Tomorrow ($25 million), Teacher Mentor Intern ($2 million), and Albert Shanker Grant ($0.4 million) programs after the end of the 2020-21 school year in order to achieve necessary State savings while preserving programs that provide direct services to sensitive student populations.

- **Reissue Expired Charters to New Schools**. The FY 2022 Executive Budget proposes to authorize the reissuance of any charter originally issued to a charter school that has subsequently closed due to surrender, revocation, termination or non-renewal, permitting the issuance of additional charters located in New York City, thereby expanding educational opportunities for disadvantaged students.

- **Reduce Charter School Tuition Rates.** The Executive Budget also proposes to reduce charter school tuition rates for the 2021-22 school year in proportion to school districts' combined reductions in expense-based aids and Local District Funding Adjustment as a percentage of their total General Fund spending, saving districts roughly $75 million. The 2022-23 tuition rates would then revert to their levels under current law in the absence of the 2021-22 reduction. In addition, the Budget proposes to capture roughly half of the savings to districts from this reduction in 2021-22 rates, lowering State reimbursement through supplemental tuition payments in FY 2022 by roughly $35 million. State reimbursement would be restored to its current law level in FY 2023.

- **Eliminate Charter School Facilities Aid.** The Budget proposes to eliminate State reimbursement to New York City for its charter school rental assistance in order to encourage the use of available co-located space in public facilities instead of leasing space in privately owned facilities.

- **Nonpublic School Aid.** The FY 2022 Executive Budget changes the payment schedule and claiming process for Mandated Services Aid and the Comprehensive Attendance Program. Starting with aid for the 2020-21 school year, which reimburses nonpublic schools' eligible 2019-20 expenses, payments would occur in the fourth quarter of the school year for which the aid is provided instead of beginning in the third quarter. Stricter, fixed claiming deadlines would be established (May 15 in 2021, April 1 in following years), and SED would prorate claims so as not to exceed the amount of aid appropriated for the school year.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2022 Executive Budget.

Effective Date:

This bill would take effect April 1, 2021, 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 2022 Executive Budget.

Effective Date:

This bill would take effect immediately.

PART C – Streamline new education program approval to meet workforce needs

Purpose:

This bill would streamline the approval process for new curriculum or programs of study at accredited institutions of higher education in New York.

Summary of Provisions and Statement in Support:

This bill would add a new section of Education Law to stipulate that any new curriculum or program of study that does not require a master plan amendment and is approved by the governing body of a public or not-for-profit college or university chartered by the Board of Regents with longstanding accreditation by the Middle States Commission on Higher Education will be deemed registered with the State Education Department.

In today's constantly evolving economy, the skills required and sought by employers change continuously. This bill will allow New York's colleges and universities to respond quickly to these ever-changing employer demands, thus allowing these institutions to adapt curriculum and degree programs to meet the needs of New York’s employers.

The current process surrounding the creation of new programs of study is cumbersome and time-consuming; these delays have slowed New York's ability to compete in the global economy. As such, it is crucial that the State streamline the current process.

Budget Implications:

Enactment of this bill is necessary to implement the 2021-22 Executive Budget.

Effective Date:

This bill takes effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2021.

PART D – Extend SUNY and CUNY procurement flexibility

Purpose:

This bill would extend existing procurement flexibility for SUNY, CUNY, their respective construction funds and SUNY healthcare facilities for an additional 5 years as well as authorize SUNY to purchase services through a consortium.

Summary of Provisions and Statement in Support:

Procurement flexibility for SUNY, CUNY, their respective construction funds and SUNY hospitals was originally enacted as part of the FY 2012 Budget (Chapter 58 of the laws of 2011) and subsequently extended in 2016. This bill would extend the same SUNY and CUNY procurement flexibility provisions for an additional five years through FY 2026.

Chapter 58 Part D of the laws of 2011 provided procurement flexibilities to SUNY and CUNY allowing them to enter into contracts within pre-established spending limits for the purchase of material, equipment and supplies, construction services, as well as the purchase of goods for SUNY hospitals, without pre-approval while maintaining review oversight by OSC.

This flexibility has enabled SUNY and CUNY to reduce the lead time on certain contracts by one to three months in general and allowed campuses to efficiently execute time-critical projects and engage small businesses that were previously unable to fulfill contract needs due to the lengthy amount of time necessary to enter into agreements.

Additionally, this legislation would authorize SUNY to purchase services through a consortium. Such consortium purchases would remain subject to existing OSC approval requirements.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2022 Executive Budget.

Effective Date:

This bill would take effect immediately and sunset on June 30, 2026.

PART E – Extend a predictable funding plan for SUNY and CUNY

Purpose:

This bill would extend a predictable funding plan for SUNY and CUNY through AY 2025.

Summary of Provisions and Statement in Support:

In 2011, the State enacted Governor Cuomo’s plan to end decades of unpredictable and sudden tuition hikes and implemented a rational tuition system that limits SUNY and CUNY tuition increases.

This new funding policy stabilized an unpredictable tuition rollercoaster that prevented students and their families from being able to plan for the full cost of their education. Prior to this plan, there were drastic tuition increases annually, sometimes as much as 45 percent. These dramatic spikes caused students to suddenly pay significantly more year-to-year. The predictable funding plan replaced this model with a structure of modest, predictable increases coupled with greater financial assistance.

Because of New York's commitment to providing an affordable quality education through SUNY and CUNY, tuition and fees at New York's public four-year colleges are among the lowest in the nation -- $2,006 below the national average and lower than 40 other states.

The predictable funding plan also provides important financial assistance to make college affordable for students with limited income. Revenue from tuition increases has been used to fund tuition credits for students eligible for the Tuition Assistance Program, thus maintaining their access to educational opportunities.

To keep tuition low and predictable, and to infuse additional funds into New York's public university systems, this bill would extend the predictable funding plan through AY 2025. During this period, SUNY and CUNY would be authorized, but not required, to raise tuition up to $200 annually.

The bill would also provide a tuition flexibility structure that will allow doctoral-degree granting institutions to increase research capacity and support student affordability. The revenue generated from any tuition increase would be reinvested to support faculty, instruction, initiatives to improve student success and completion, and tuition credits for TAP-eligible students.

This bill would also allow SUNY and CUNY to establish lower, more competitive tuition rates for high demand certificate programs. With this flexibility, New York's public colleges will help rebuild the economy by offering more affordable education and training opportunities in every region of the State, and building a skilled workforce to meet the needs of New York's employers.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2022 Executive Budget.

Effective Date:

This bill would take effect immediately and a portion of it would sunset on July 1, 2025.

PART F – Extend Financial Aid Eligibility for Certain Students Impacted by the Pandemic

Purpose:

This bill would hold harmless students who were unable to complete academic requirements needed to maintain financial aid eligibility as a result of the COVID-19 pandemic.

Summary of Provisions and Statement in Support:

This bill would preserve State financial aid benefits for students who, through no fault of their own, were unable to complete academic requirements needed to maintain financial aid eligibility because of the COVID-19 pandemic.

A recipient of a state financial aid award who was not able to complete a semester, quarter or term during the 2019-20 year because of the COVID-19 pandemic will have their eligibility for the award extended by an additional, equivalent period. Further, a recipient's financial aid award will not be reduced solely due to the inability to complete any semester, quarter or term as a result of the COVID-19 pandemic.

This bill aligns State financial aid eligibility requirements with guidelines adopted by the Federal government to hold harmless students who, through no fault of their own, were unable to complete academic requirements needed to maintain financial aid eligibility due to COVID-related illness, course closure or other special circumstances.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2022 Executive Budget.

Effective Date:

This bill would take effect immediately.

PART G – Maintain Excelsior Scholarship Tuition Support Levels

Purpose:

This bill would maintain the Excelsior Scholarship tuition support levels until AY 2024.

Summary of Provisions and Statement in Support:

Excelsior Scholarship enacting legislation maintains the tuition rate that SUNY and CUNY are allowed to charge recipients at AY 2017 levels and resets those rates to current tuition rate levels beginning in AY 2022 and every four years thereafter.

This bill would maintain the Excelsior Scholarship tuition rate at AY 2017 levels for an additional two academic years and reset to current tuition rates in AY 2024 and every year thereafter. Maintaining the tuition rate for two more years is necessary to help the

State manage the financial impact of the pandemic without reducing financial aid awards to students.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2022 Executive Budget.

Effective Date:

This bill would take effect immediately.

PART H – Authorize the closure of four underutilized OCFS Youth Facilities in 2021

Purpose:

This bill would authorize the Office of Children and Family Services (OCFS) to close Goshen Secure Center (Orange County), Columbia Secure Center (Columbia County), Red Hook Non-Secure Residential Center (Dutchess County), and Brentwood Non-Secure Residential Center (Suffolk County) in calendar year 2021.

Summary of Provisions and Statement in Support:

This bill would authorize closure of four OCFS operated Youth Facilities as part of the continued effort to right size the State's juvenile justice system. These facilities have been chronically underfilled, with a total capacity of 142 beds and a total of 50 youth currently placed. OCFS will instead place youth at other state facilities that have sufficient vacant capacity.

This bill would also waive the required one-year closure notice requirement for Youth Facilities, instead allowing for six-month notice, with a proposed closure date of 10/01/2021. At least six months prior to any closures, the Commissioner shall provide notice to the Legislature and post such notice to close facilities on the agency's website. This would provide six months of savings in FY 2022.

All staff currently assigned to these facilities will be offered reassignments to other vacancies in the OCFS system. OCFS will work with GOER and the Department of Civil Service on redeployment and retraining efforts.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2022 Executive Budget because it would achieve FY 2022 savings of $10.9 million. The full annual (outyear) savings totals $21.8 million.

Effective Date:

This bill would take effect immediately, with the closures taking effect on October 1, 2021.

PART I – Continue realigned financing for residential placements of children with special needs outside of New York City

Purpose:

This bill continues the realigned funding for Committee of Special Education (CSE) residential placements outside of New York City.

Summary of Provisions and Statement in Support:

The FY 2021 Budget eliminated the 18.424 percent State share for residential placements made by a school district CSE outside of New York City and increased the school district's share by an equal amount, from 38.424 percent to 56.848 percent. It also shifted the 50 percent State share for certain placements to the NYS School for the Blind or the NYS School for the Deaf to the school district. This realignment is set to sunset April 1, 2021.

This bill would amend section 3 of Part N of Chapter 56 of the Laws of 2020 to remove the April 1, 2021 sunset and make these provisions permanent.

These changes better aligned fiscal responsibilities with the entity that makes the placement decisions. As there is no State share for New York City's CSE placements, these changes also provide Statewide parity of the funding structure.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2022 Executive Budget because it continues the realignment of the funding for CSE placement outside of New York City, which has an estimated FY 2022 savings of $28 million.

Effective Date:

This bill would take effect immediately.

PART J – Make Funding for the Youth Development Program Permanent

Purpose:

This bill would make permanent the laws governing funding for the Youth Development Program.

Summary of Provisions and Statement in Support:

This bill would amend Part G of Chapter 57 of the Laws of 2013 to make permanent the laws regarding funding for Youth Development Program. This chapter combined funding streams for two separate programs, Youth Delinquency Prevention Programs (YDDP) and Special Delinquency Prevention Programs (SDPP), into one State funding stream that could be used more flexibly but consistent with the underlying purposes of YDDP and SDPP.

Under this chapter, each municipality (counties and the City of New York) must submit a comprehensive plan to be approved by OCFS specifying how they will meet the needs within their communities for youth development and the projected performance outcomes of programs and services funded under the plan.

Presently, Youth Development Program funding supports a variety of locally approved programs including, but not limited to: Youth Bureaus, afterschool programs and programs that prevent juvenile delinquency and foster positive youth development. These provisions were originally scheduled to sunset on December 31, 2018, but were extended, until December 31, 2021, by part I of chapter 56 of the laws of 2018.

The streamlined funding and reporting process resulting from Part G of Chapter 57 of the Laws of 2013 alleviated administrative requirements and provided municipalities with the ability to fund services based on evolving local need instead of historical practices. This legislation is necessary to prevent the chapter from sunsetting. It is appropriate to make this chapter permanent as there has been no known controversy regarding its implementation.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2022 Executive Budget because without the provisions of this bill, prior programs and funding structures would return. No additional funding beyond the $14.1 million in current appropriation authority is required.

Effective Date:

This bill would take effect immediately.

PART K – Make Permanent the Authority for the Office of Children and Family Services to Contract with BOCES

Purpose:

This bill would make permanent the authority of the Office of Children and Family Services (OCFS) to contract with Boards of Cooperative Educational Services (BOCES) to provide certain educational services to youth in OCFS juvenile justice facilities. This provision is currently scheduled to sunset June 30, 2021.

Summary of Provisions and Statement in Support:

This legislation would make permanent OCFS' authority to contract with BOCES to provide certain educational services to youth in OCFS juvenile justice facilities. Educational Law § 3202, among other things, requires that OCFS provide for the educational needs of the youth in its custody. Over the past several years, various amendments to Education Law have been made to authorize and expand the ability of OCFS to contract with BOCES to provide special education and career and technical education services to youth in OCFS juvenile justice facilities. Part J of Chapter 57 of the Laws of 2015 allowed OCFS to contract with BOCES to provide music, art and foreign language services and continued OCFS' ability to contract with BOCES until June 30, 2018. Part J of Chapter 56 of 2018 extended the authority through June 30, 2021.

OCFS is responsible for providing educational instruction to the youth in its custody. Youth placed in OCFS facilities have a myriad of different educational needs. While OCFS facilities have teachers on site, the educational services needed at facilities change frequently based on the individual needs of the youth and may exceed the capacity of existing staff.

OCFS has worked collaboratively with the State Education Department (SED) over the last decade on the shared goal of improving the educational experiences and outcomes of youth in OCFS' facilities. The agency's ability to contract with BOCES is an important tool towards meeting that goal as it provides OCFS with a mechanism to appropriately meet the individual educational needs of youth.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2022 Executive Budget because without the ability to contract with BOCES, OCFS would need to hire qualified full-time staff, at a greater cost, to ensure that the educational needs of youth in its facilities are met. OCFS is projected to spend approximately $38,000 on the BOCES contract in FY 2022. If OCFS were unable to contract with BOCES, the agency would have to hire approximately seven full time teaching staff to provide the same services at a greater cost ($485,000 annually) to taxpayers.

Effective Date:

This bill would take effect immediately.

PART L – Comply with Federal Family First Prevention Services Act Requirements

Purpose:

This bill would enact changes required to comply with the Federal Family First Prevention Services Act regarding the placement of youth in a qualified residential treatment program (QRTP).

Summary of Provisions and Statement in Support:

This bill would enact the following changes to comply with the Federal Family First Prevention Services Act:

- Require either a local social services district or the Office of Children and Family Services (OCFS) that has custody of a child to provide notice to the Family Court and all attorneys when a child is placed in a qualified residential treatment program (QRTP). A QRTP is a category of non-family-based residential treatment setting that serve children with specific needs who have been placed by the Family Court out of their homes.

- Require an assessment by a Qualified Individual of each placement of a child into a QRTP. A Qualified Individual is a trained professional or licensed clinician who is not connected to or affiliated with any placement setting in which children are placed. The assessment must be completed within 30 days of placement into the QRTP. If it is determined that QRTP placement is not appropriate, the placement may only continue under specified conditions.

- Require Family Court review and approval of a child's placement in a QRTP within 60 days of the placement. The Court's review must consider the assessment, documentation, and determination made by the Qualified Individual who approved the placement. It also establishes criteria the Family Court must use to determine whether continuation of the QRTP placement is both appropriate and consistent with the long-term permanency goals of the child.

- Amends permanency hearing requirements held for children placed in a QRTP. Agencies with custody of a child placed in a QRTP must provide evidence that support continued placement in that QRTP. This evidence includes the efforts made by the agency to prepare the child to return home, be placed with a willing relative, a legal guardian or adoptive parent or in a foster home.

- Creates a new definition of "supervised setting" as a residential placement in the community approved and supervised by an authorized agency or the local social services district to provide a transitional experience for older youth in which such youth may live independently in order to maximize potential federal funding.

These changes implement compliance with the federal law which is necessary to receive additional federal funds for evidence-based preventive services to keep children safely with their families and out of foster care. These changes will also strengthen the foster care system by permitting federal reimbursement for care in family-based settings and certain residential treatment programs for children with emotional and behavioral issues requiring such care.

Budget Implications:

Enactment of this bill is necessary to implement in the FY 2022 Executive Budget because failure to comply with the Federal Family First Prevention Services Act would place New York at risk of losing up to $600 million in Federal IV-E reimbursement for foster care and adoption costs.

Effective Date:

The effective date of this bill is contingent on Federal approval of the Title IV-E State plan. Upon Federal approval, this bill would take effect on September 29, 2021.

PART M – Require Differential Response Programs for Child Protection and Assessments or Investigations

Purpose:

This bill would require local social services districts to establish differential response programs that would serve as an alternative to child protective services for select allegations of maltreatment.

Summary of Provisions and Statement in Support:

This bill would amend the Social Services law to require local departments of social services to:

- Operate differential response programs.

- Submit a plan to the Office of Children and Family Services (OCFS) by January 1, 2023 for authorization of a differential response program prior to January 1, 2024.

- Set forth criteria to determine which cases will be tracked to the differential response and that these criteria include protocols to reduce implicit bias, and to clarify that these criteria must conform with standards set forth by OCFS.

It would also require OCFS to post each approved plan on its website.

The Family Assessment Response (FAR) process is a differential response model that promotes the well-being of children by utilizing a collaborative approach to meeting the needs of families, where there is an accepted report of child abuse or maltreatment, but no immediate or impending danger to the safety of the child or family has been identified.

This program is focused on providing tailored services and identifying supports through family engagement. Cases that are successfully resolved through the FAR process are not indicated as reports of child abuse or maltreatment. FAR is a particularly strong tool for local districts to employ for families that need services and supports but where the circumstances do not impose an immediate or impending danger to the safety of the child(ren) or members of the family.

As reports of abuse and maltreatment in the Statewide Central Register are successfully resolved through the FAR process, this proposal will reduce the number of reports indicated for abuse or maltreatment, which can harm the employment prospects of parents. This approach also addresses racial disproportionality by requiring decisions regarding what cases are sent to FAR be based on protocols meant to eliminate implicit bias.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2022 Executive Budget because it supports the State's child welfare programs.

Effective Date:

This bill would take effect 180 days following enactment, provided however, that the office of children and family services is authorized to adopt regulations necessary for the implementation of this legislation on or before the effective date.

PART N – Ensure Statewide Access to Veterans Treatment Courts

Purpose:

This bill would help provide statewide access to veterans' treatment courts for qualified veterans facing criminal charges.

Summary of Provisions and Statement in Support:

The major provisions of this bill would:

- Allow for the establishment of veterans' treatment courts.

- Authorize the removal of a misdemeanor or felony action from a local criminal court to a human trafficking court or veteran's treatment court in an adjoining county, with the consent of the District Attorney from the receiving county.

- Authorize the removal of an action from a superior court to a human trafficking or veterans treatment court in an adjoining county, with the consent of the District Attorney from the receiving county.

- Clarify that matters where the accused and the person alleged to be the victim of an offense charged are members of the same family or household shall not be removed to a veterans treatment court.

Veterans face unique challenges that result from the trauma they may have endured in service to their country. Veterans treatment courts recognize these unique challenges and help ensure that veterans receive appropriate services and that their cases are resolved in a fair and just manner.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2022 Executive Budget because the Budget includes appropriation authority for this program, which will allow for the establishment of veterans' treatment courts, peer-to-peer programs and peer mentoring program in the veterans' treatment court.

Effective Date:

This bill would take effect immediately.

PART O – Authorize Mortgage Insurance Fund (MIF) and Housing Finance Agency Resources (HFA) Utilization

Purpose:

This bill would provide utilization of $63.4 million projected to be available in the MIF excess balance and/or reserves, and $65.6 million of available resources from HFA, one of the Homes and Community Renewal's (HCR) public authorities.

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 2021 Budget, excess revenues were used for community development and other programs.

The MIF is currently projected to have $63.4 million comprised of (i) excess revenues through FY2021 and (ii) reserves that can be accessed without negatively impacting the MIF's credit rating. As set forth in sections 1 through 3 of the bill, these funds would be used to support the following programs:

- Neighborhood and Rural Preservation Programs ($18.2 million), which support community-based housing corporations across the State that provide various housing related services for low- and moderate-income populations; and

- Homeless housing programs ($45.2 million), including the Solutions to End Homelessness Program, the New York State Supportive Housing Program, and the Operational Support for AIDS Housing Program.

HFA is a public benefit corporation created by statute in 1960. HFA has reported a net positive balance of resources that are proposed to support Adult Shelter costs in New York City.

New York City has a mandate to provide shelter to all individuals and families regardless of Public Assistance eligibility. As set forth in section 4 of this bill, HFA's available resources would be used to pay this reimbursement for FY 2022 at $65.6 million.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2022 Executive Budget, which assumes MIF revenues and HFA's available resources for the aforementioned programs.

Effective Date:

This bill would take effect immediately.

PART P – 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 2022 by the percentage of any SSI Cost of Living Adjustment (COLA).

Summary of Provisions and Statement in Support:

Section 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 2021 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 2022 by the percentage of any Federal SSI COLA that becomes effective within the first half of the calendar year 2022.

Budget Implications:

If the pass-through of the Federal SSI COLA is not enacted in the FY 2022 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, 2021.

PART Q – Align the Gifts to Food Banks Tax Check-Off Fund with Related Programming

Purpose:

This bill would transfer administration of the Gifts to Food Banks funds from the Office of Temporary and Disability Assistance (OTDA) to the Department of Health (DOH).

Summary of Provisions and Statement in Support:

In 2018, §82 of State Finance Law was added to establish a tax check-off and associated fund for gifts to food banks. Taxpayers may elect to make a contribution to regional food banks around New York State by selecting the appropriate check-off box on their tax return. While food bank programs are administered by DOH, OTDA was designated as the administering agency to distribute grants to regional food banks with the revenue.

This bill will change the administering agency from OTDA to DOH. As the administering agency, DOH will be best positioned to determine the most impactful distribution of the revenues received from tax returns. This will lead to a more efficient, effective, and equitable distribution of these revenues.

Budget Implications:

Enactment of this bill is necessary to implement the FY2022 Executive Budget because it will distribute financial support for regional food banks in a more efficient manner.

Effective Date:

This bill would take effect immediately.

PART R – Expand the Human Rights Law to Include For-Profit Schools

Purpose:

This proposal would extend the Human Rights Law's anti-discrimination provisions, which afford protection against discrimination, harassment, and bullying for members of protected groups, to include for-profit educational institutions. This addition would make the Human Rights Law applicable to all non-sectarian educational institutions, public and private, within New York State.

Summary of Provisions and Statement in Support:

The Human Rights Law currently provides anti-discrimination protections to all public schools, as well as not-for-profit educational institutions which are not religious in nature. Currently, students and applicants of for-profit educational institutions are not covered by those protections. As for-profit institutions, including various private career schools, have an increasing role in today's education system, the lack of enforceable anti-discrimination protections for those seeking to better themselves through this pathway is a significant concern. Applying anti-discrimination provisions of the Human Rights Law to for-profit schools would ensure that more New Yorkers are afforded the basic right of protection against discrimination.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2022 Executive Budget as agency operations for DHR depend upon a clear definition of jurisdiction.

Effective Date:

This bill would take effect immediately.

PART S – Prohibit Discrimination Based on Citizenship

Purpose:

This proposal would amend the Human Rights Law to make explicit that discrimination on the basis of citizenship and immigration status is unlawful in New York State.

Summary of Provisions and Statement in Support:

The Division of Human Rights investigates cases in which individuals have been discriminated against because of their citizenship or immigration status and considers such cases to be unlawful national origin discrimination under current law. This proposal would expand protections, and make clear to employers, housing providers, places of public accommodation, and others that discrimination because of citizenship and immigration status is unlawful in New York State.
Additionally, this proposal would make technical corrections to the Human Rights Law.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2022 Executive Budget as agency operations for DHR depend upon a clear definition of jurisdiction.

Effective Date:

This bill would take effect immediately.

PART T – Encourage Part-Time Work through Partial Unemployment Insurance Benefits

Purpose:

This bill would change the calculation for Unemployment Insurance (UI) benefits paid to 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, regardless of the amount paid or hours worked. As a result, there is a disincentive for workers to try to return to the workforce through part-time work which can otherwise serve as a bridge to full-time employment.

This proposal would permit a claimant who is partially unemployed and eligible for benefits to be paid a reduced benefit amount equal to the difference between the claimant's benefit amount and that part of the claimant's wages for such week in excess of one hundred dollars or forty percent of the claimant's weekly benefit amount, whichever is greater. If the partial benefit amount is not a multiple of one dollar, the amount would be reduced to the nearest lower full dollar amount.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2022 Executive Budget as it will allow the Department of Labor to create systems changes to enact a partial unemployment system to continue to incentivize unemployed New Yorkers to assume a part-time job as they search for full-time work.

Effective Date:

This bill would take effect one year from the date of enactment.

PART U – Clarify Sales Tax Exemptions for Affordable Housing Development

Purpose:

This bill would codify the eligibility of not-for-profit Housing Development Fund Corporations (HDFCs) that enter into a regulatory agreement with Homes and Community Renewal (HCR) or the NYC Department of Housing Preservation and Development (HPD) for a sales tax exemption to support the development of affordable housing.

Summary of Provisions and Statement in Support:

Currently, the Tax Law exempts companies and corporations organized exclusively for charitable purposes from the requirements to pay and charge sales tax. This bill clarifies that this exemption applies to not-for-profit HDFCs, regardless of whether the affordable housing project is affiliated with a for-profit, special purposes vehicle.

Without this change, a narrow interpretation of existing exemptions could jeopardize several affordable housing projects financed by HCR and NYC HPD and create an additional subsidy need.

Affordable and supportive housing projects financed by HCR and HPD are increasingly complex due to the policies and objectives of mixed income housing, as well as the inclusion of necessary adjacent services like parking, medical facilities, and retail stores. Depending on the financing, market rate housing or adjacent services could be owned by a separate special purpose vehicle, rather than the LLC or LP which owns the affordable housing, and their presence should not be interpreted to mean that the affordable housing is not being provided for "exclusively" charitable services, and therefore, not eligible for State sales tax exemption.

The proposed amendments would create this exemption specifically for HDFCs in law, ensuring their affordable housing projects are exempt from sales tax.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2022 Executive Budget because it supports the continued development of affordable housing.

Effective Date:

This bill would take effect immediately.

PART V – Streamline Administrative Process for Transfer of Unclaimed Child Support Collections

Purpose:

This bill would streamline the process by which unclaimed Child Support funds are transferred to the Office of the State Comptroller (OSC) to follow the public claims process.

Summary of Provisions and Statement in Support:

This bill would amend the Social Services and Abandoned Property laws to modernize existing Child Support processes to establish an efficient, streamlined administrative process by which local social services districts transfer undisbursed child support collections to OSC's Office of Unclaimed Funds.

Enactment of this bill would make it easier for parents to claim child support payments or overpayments due by utilizing the established public claims process available on the OSC website. Additionally, this bill would provide administrative relief for social services districts by simplifying the process.

The current process is overly cumbersome, as it requires a court order prior to turning the funds over to the county treasurer/commissioner of finance, where they are held for five years. Should the funds remain unclaimed after this period, they are then transferred to OSC.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2022 budget as it will make it easier for parents to claim child support payments and lessen the burden on social service districts.

Effective Date:

This bill would take effect immediately, provided that any funds which were previously deposited with the county treasurer or the Commissioner of Finance of the City of New York prior to the effective date of this act would be delivered to OSC no later than April 1, 2022, in accordance with the newly enacted SSL §111-h(7).

PART W – Provide Paid Leave for COVID-19 Vaccination

Purpose:

This bill would require public and private employers to provide up to four hours of paid leave for up to two COVID-19 vaccinations for each employee.

Summary of Provisions and Statement in Support:

The COVID-19 vaccine will protect New Yorkers and allow them to safely return to the workforce, which will help grow the economy of the State. Employers must provide paid time off to employees to obtain the critical COVID-19 vaccine.

This proposal would require all public and private employers to provide up to four hours of paid leave, at the employee's regular rate of pay, for up to two COVID-19 vaccinations for each employee. An employer that provides or arranges to provide a COVID-19 vaccination at the employee's workplace would need only to provide sufficient time for an employee to obtain the vaccine. Employers would be prohibited from taking retaliatory actions against any employee who would utilize this leave, but they may request relevant documentation from an employee.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2022 Executive Budget as it will create an incentive for New Yorkers to promptly obtain a COVID-19 vaccination and fully return to the workforce, making workplaces safer and healthier while moving the economy of the State forward.

Effective Date:

This bill would take effect immediately.

PART X – Expand Homeownership through SONYMA Mortgage Programs

Purpose:

This bill would expand the State of New York Mortgage Agency's (SONYMA) authority to (i) purchase mortgage loans from a broader pool of non-discretionary lenders, (ii) purchase mortgages secured by new construction loans, and (iii) expand SONYMA's authority to modify its mortgages to assist financially distressed SONYMA mortgagors.

Summary of Provisions and Statement in Support:

Existing law does not allow SONYMA to: (i) purchase mortgages from non-for-profit organizations or Community Development Financial Institutions (CDFI) which limits the communities SONYMA is able to serve; (ii) purchase new construction loans other than as take-out financing; or (iii) modify mortgage terms for distressed borrowers, except in very limited circumstances.

This bill would amend the SONYMA statute to (i) eliminate the requirement that non-depository SONYMA participating lenders be approved by Fannie Mae or Freddie Mac and substitute supervision by federal and State government; (ii) expand the agency's purchase powers to include construction loans; and (iii) provide broader authority to SONYMA's ability to complete loan modifications for distressed borrowers.

These amendments are necessary as several not-for-profit housing agencies lack the net worth to be approved by Fannie Mae or by Freddie Mac, as currently required under the SONYMA statute, and their participation as SONYMA lenders is critical to increase homeownership for very low-income borrowers. Additionally, an expansion of SONYMA's authority to purchase mortgages secured by construction loans, targeted to the modular/manufactured home market, will fund the new construction of these modular/manufactured residences and enable SONYMA to better meet the legislative goal of supporting the purchase of newly constructed residences in New York State. Finally, this proposal would allow SONYMA to renegotiate, waive any default, or consent to the modification of the terms of any mortgage in a manner that would further the purposes of the agency—but would not violate any existing agreements or contracts SONYMA has with the holders of its bonds and notes—which would serve to assist homeowners who are delinquent on their mortgage payments or in danger of going into default so foreclosure or abandonment may be avoided, while still protecting the interests of holders of SONYMA bonds.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2022 Executive Budget as it will expand homeownership across the State and promote economic benefits.

Effective Date:

This bill would take effect immediately.

PART Y – Protect Tenants through the COVID-19 Emergency Residential Tenant Late Fee Suspension and Security Deposit Utilization Act of 2021

Purpose:

This bill would temporarily allow people impacted by COVID-19 to use their security deposits to make rent payments, as well as prevent property owners from imposing late fees upon tenants who are unable to make timely rent payments.

Summary of Provisions and Statement in Support:

The COVID-19 Emergency Residential Tenant Late Fee Suspension and Security Deposit Utilization Act of 2021 would prohibit residential landlords from charging or collecting late payments or fees until May 1, 2021. Landlords and tenants or licensees would be permitted to enter into a written agreement enabling security deposits and any interest to be used to pay any future rent or rent that is in arrears. If the security deposit is less than a full month's payment of rent, the tenant will still owe that remaining month's payment balance. Any security deposit used as a payment of rent will be required to be replenished by the tenant or licensee at a rate of one-twelfth the amount used as rent per month. Payments to replenish the security deposit will be due no earlier than April 1, 2022 and no landlord will be permitted to require interest payments to be made as part of or in addition to the repayment schedule.

Landlords will provide such relief to tenants or licensees who request for it by May 1, 2021, provided that such tenants or licensees complete a "Hardship Declaration" as defined by Part A of the "COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020."

Budget Implications:

Enactment of this bill is necessary to implement the FY 2022 Executive Budget as it will help provide housing stability for people experiencing a financial hardship during the COVID-19 pandemic and assist property owners in receiving rent payments in a more timely manner.

Effective Date:

This bill would take effect immediately.

PART Z – Expand Child Care Affordability and Ease Administrative Burdens on Child Care Providers

Purpose:

This bill would make child care more affordable for low income families and reduce administrative burdens on child care providers.

Summary of Provisions and Statement in Support:

This bill amends Social Services Law to expand child care affordability by limiting the co-payment of a family receiving child care services to no more than 20 percent of their income above the poverty level. Limiting the cost of parent subsidy copays will make child care more affordable to approximately 32,000 working families.
In addition, the bill removes several unnecessary or duplicative administrative burdens on child care providers. Reducing administrative burdens will make it easier and less costly to provide child care services and help improve the availability of such services.

- Remove requirements that applicants to be a child care employee provide personal and employment references and an attestation stating that to the best of his or her knowledge the individual has not been convicted of a crime. Such requirements are redundant and unnecessary given the comprehensive background checks implemented with the Child Care Development Block Grant (CCDBG).

- Allow OCFS to approve applications for child care employment when such applications would be approved regardless of the resolution of any pending criminal charge. The current requirement to hold all applications pending resolution, including when the application would be approved regardless of the resolution, unnecessarily delays approvals for the applicants.

- Eliminate additional Statewide Central Register (SCR) for child abuse and maltreatment background clearances for child care providers to be consistent with federal law. It would allow, but not require, a licensing agency to rescreen a provider through the SCR, if the provider has been cleared within the last five years and has maintained a role in one or more child care programs for the last five years without a break of more than 180 days.

- Remove the October 1, 2020 implementation date for background check procedures and reflect that the effective date will correspond to the Child Care Development Block Grant implementation date, as set forth by federal guidelines.

The changes in this bill draw on recommendations from the Child Care Availability Task Force.

Budget Implications:

The financial plan impact of limiting parent copays is estimated to be $40 million, supported by federal resources. There is no cost to the bill’s other provisions.

Effective Date:

This bill would take effect immediately.

PART AA – Extend Prevailing Wage to Covered Renewable Energy Projects

Purpose:

This bill would create prevailing wage requirements for covered renewable energy projects, defined as construction work and engineering and consulting services performed in connection with either the installation of a renewable energy system, as such term is defined in section 66-p of the public service law, with a capacity over 25 megawatts alternating current and with a total project cost of over ten million dollars; or the installation of a solar energy system with a capacity over 5 megawatts alternating current and with a total project cost of over five million dollars.

Summary of Provisions and Statement in Support:

The transition to the green economy and creating good paying jobs is a priority for New York State. In order to make this transition and achieve the ambitious goals set forth in the Climate Leadership and Community Protection Act, a focus on renewable energy sources is necessary. A commitment to workers who will build the infrastructure of the green economy must be paramount. Setting clear standards for job quality will ensure the creation of good jobs, protect workers in the ongoing transition of our energy sector, and result in positive economic impacts. This bill would mandate prevailing wage for construction work and engineering and consulting services performed in connection with the installation of renewable energy systems.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2022 Executive Budget as it will ensure good paying jobs for workers constructing alternative energy projects as New York State makes the transition to the green economy.

Effective Date:

This bill would take effect on January 1, 2022.

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.