

FY 2018 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 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 requiring the commissioner of education to include certain information in the official score report of all students; to amend the education law, in relation to textbooks; to amend the education law, in relation to a weapon or firearm on school grounds; to amend the education law, in relation to English language learner pupils; in relation to direct certification data; to amend the education law, in relation to the census count; to amend the education law, in relation to the computation of the state sharing ratio; to amend the education law, in relation to the operating amount per pupil; to amend the education law, in relation to the operating amount per pupil for certain kindergarten programs; to amend the education law, in relation to total foundation aid; to amend the education law, in relation to community school aid; to amend the education law, in relation to building 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 universal pre-kindergarten 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 state aid adjustments; 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 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 suspension of pupils who bring a firearm to or possess a firearm at a school, in relation to the effectiveness thereof; to

amend the education law, in relation to the special needs of gifted students; to amend the general municipal law, in relation to the purchase of food by school districts; 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 82 of the laws of 1995, amending the education law and certain other laws relating to state aid to school districts and the appropriation of funds for the support of government, in relation to the effectiveness thereof; to amend chapter 91 of the laws of 2002 amending the education law and other laws relating to the reorganization of the New York city school construction authority, board of education and community boards, 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 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 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 2017-2018 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 89 of the laws of 2016, relating to supplementary funding for dedicated programs for public school students in the East Ramapo central school district, in relation to reimbursement to such school district 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; relating to school bus driver training; relates to special apportionment for salary expenses and public pension accruals; relates to

suballocations of appropriations; relating to the city school district of the city of Rochester; relates to total foundation aid for the purpose of the development, maintenance or expansion of certain magnet schools or magnet school programs for the 2017-2018 school year; and relates to the support of public libraries (Part A); to amend the education law, in relation to the establishment of Recovery High Schools by boards of cooperative educational services (Part B); to amend the education law, in relation to the education of homeless children (Part C); to amend the education law, in relation to establishing the excelsior scholarship (Part D); 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 such law relating thereto (Part E); to amend the education law, in relation to the tuition assistance program (Part F); to amend the education law, in relation to the NY-SUNY 2020 challenge grant program act; 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 G); to amend the education law, in relation to foundation contributions to the city university of New York (Part H); to amend the limited liability company law and the labor law, in relation to the ability of the state to collect unpaid wages (Part I); to amend the criminal procedure law, the penal law, the correction law, the executive law, the family court act, the social services law, the education law and the state finance law, in relation to proceedings against juvenile offenders and the age of juvenile offenders and to repeal certain provisions of the criminal procedure law, the family court act and the executive law relating thereto (Part J); to amend

chapter 83 of the laws of 2002, amending the executive law and other laws relating to funding for children and family services, in relation to extending the effectiveness thereof (Subpart A); and to amend the social services law and the education law, in relation to restructuring financing for residential school placements (Subpart B) (Part K); to amend the family court act, in relation to the definition of an abused child (Part L); to amend the executive law, the social services law and the family court act, in relation to increasing the age of youth eligible to be served in RHYA programs and to allow for additional length of stay for youth in residential programs (Part M); to amend the public health law, in relation to the licensure of certain health-related services provided by authorized agencies (Part N); to amend the social services law and the tax law, in relation to increasing the amount of lottery winnings that the state can recoup related to current and former public assistance recipients (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 social services law, in relation to expanding inquiries of the statewide central register of child abuse and maltreatment and allowing additional reviews of criminal history information (Part Q); to utilize reserves in the mortgage insurance fund for various housing purposes (Part R); to amend the real property tax law, in relation to the affordable New York housing program and to repeal certain provisions of such law relating thereto (Part S); to amend the criminal procedure law and the judiciary law, in relation to removal of a criminal action to a veterans treatment court (Part T); and to amend the executive law, in relation to creating a division of central administrative hearings within the executive department (Part U).

PURPOSE:

This bill contains provisions needed to implement the Education, Labor and Family Assistance portions of the FY 2018 Executive Budget.

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

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

Purpose:

This bill contains various provisions necessary for implementation of the education portion of the FY 2018 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 \$60 billion, New Yorkers have maintained the highest per-pupil spending levels in the nation – even during difficult financial times. This substantial investment is a reflection of 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 2018 Executive Budget recommends a year-over-year increase of \$961 million in direct aid to school districts; a total of \$25.6 Billion. This represents the highest level of State support to schools in New York’s history.
- **Foundation Aid.** The FY 2018 Executive Budget recommends a Foundation Aid increase of \$428 million. In addition, the Budget recommends updating certain elements of the Foundation Aid formula to more accurately reflect current student poverty and school district income wealth.
- **Community Schools.** The FY 2018 Executive Budget recommends increasing by \$50 million, to a total of \$150 million, the Community Schools set-aside within Foundation Aid. This increase would be targeted to school districts with failing and persistently failing schools as well as districts with significant growth in English language learners.
- **Charter Schools.** The FY 2018 Executive Budget recommends removing the regional cap on charter school growth in New York City. The Budget would also create a new tier of Charter School Transitional Aid to provide school districts with support in making tuition payments to charter schools. Additionally, the Budget would increase support for new and expanding charter schools located in privately-leased space in New York City.

- **Merge Prekindergarten Programs.** The FY 2018 Executive Budget recommends consolidating the State-funded prekindergarten programs, beginning by merging the Priority Full-day Prekindergarten and Expanded Half-day Prekindergarten Grant Program for High Need Students into the Universal Prekindergarten program in the 2017-18 school year.
- **Extend Mayoral Control of New York City Schools.** The FY 2018 Executive Budget recommends extending mayoral control of the New York City School District for an additional three years (through the 2019-20 school year).
- **Other Miscellaneous Provisions.** The FY 2018 Executive Budget also recommends a number of other provisions, including extensions of existing provisions of State law.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget.

Effective Date:

This bill would take effect April 1, 2017, except that selected provisions take effect immediately or on other specified dates.

Part B - Amend the Education Law to create New York State’s first Recovery High School programs

Purpose:

This bill would create New York State’s first Recovery High School programs.

Summary of Provisions and Statement in Support:

This bill would create New York’s first recovery high schools – one in the downstate region and the other in the upstate region.

Research has shown that after treatment for a substance use disorder, approximately 70 percent of students who return to high school relapse within six months to a year. When implemented as a pilot program in other states, Recovery High Schools have proven to be an effective model to help youth in recovery stay healthy and graduate.

This proposal would make statutory changes needed for the creation of Recovery High School programs in New York State. Specifically, this bill would authorize:

- The New York State Office of Alcoholism and Substance Abuse Services (OASAS) to approve two Boards of Cooperative Educational Services (BOCES)

in the state to provide “Recovery High School” programs for students diagnosed with a substance use disorder who have demonstrated a commitment to recovery; Such programs would include:

- a comprehensive high school education;
 - a structured plan of recovery for students;
 - partnership with a local social services agency with expertise in substance use disorder and mental health; and
 - additional program elements adopted in regulations of the commissioner of OASAS.
- Designated Recovery High School programs to be eligible to receive BOCES aid from the state; and
 - Designated BOCES programs to enter into contracts with OASAS or any other organization for the purpose of operating a Recovery High School.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget.

Effective Date:

This bill would take effect immediately.

Part C - Make various changes to State law to align with recent changes to the Federal McKinney-Vento Homeless Assistance Act

Purpose:

This bill would amend the Education Law to conform to recent Federal changes to the McKinney-Vento Homeless Assistance Act. These changes are critical to protecting the rights of students experiencing homelessness, and to ensuring that these students have access to school and the supports necessary to be successful in school.

Summary of Provisions and Statement in Support:

This bill would amend various provisions in Education Law § 3209 relating to definitions, school selection, designation forms, tuition reimbursement and transportation, and would add additional provisions relating to dispute resolution and privacy of homeless records. The changes are as follows:

Definitions:

- Amend § 3209(1)(a)(1)(iv) and (v) to eliminate “awaiting foster care placement” from the definition of homeless and add the definition of an unaccompanied youth.
- Amend § 3209(1)(c) and (d) to include preschool and to clarify the school selection options for children who become homeless before they have started preschool or kindergarten.
- Add § 3209(1)(f) and (h) to include a definition of “feeder school” and “receiving school.”
- Add § 3209(1)(g) to include a definition of “preschool.”
- Add § 3209(1)(i) to include a definition of "school of origin."

School Selection:

- Amend § 3209(2)(b) to specify that the designator shall have the right to designate either the school of origin or any school that non-homeless children and youth who live in the attendance area in which the child or youth is actually living are eligible to attend, including a preschool.
- Amend § 3209(2)(c)(1)-(3);(d) to allow a homeless child to stay in the same school for the duration of homelessness and through the end of the school year in which she/he becomes permanently housed, provided that this placement is consistent with the best interest of the child, and to clarify that a child who has become permanently housed during a school year is allowed to stay in the same school for one additional year if during that school year the child would be attending the terminal grade in such school.

Designation Forms:

- Amend § 3209(2)(e) to require that the completed designation form be given to the local educational agency (LEA) liaison for the LEA in which the designated school is located in a timeframe prescribed by the Commissioner.
- Amend § 3209(2)(f)(1) to require that school districts review completed designation forms to help ensure proper processing of tuition reimbursement requests.
- Amend § 3209(2)(f)(6) to eliminate the requirement that school districts send copies of completed designation forms to the Commissioner.

Missed Application and/or Enrollment Deadlines:

- Amend § 3209(2)(f)(2) to require LEAs to immediately enroll children and youth who are homeless even if they are missing any of the documents normally needed for enrollment, and/or have missed application or enrollment deadlines during any period of homelessness.

Best Interest Determination:

- Amend § 3209(2)(f)(3) to require that LEAs make best interest decisions about where students who are homeless attend school.

Students Attending Charter Schools:

- Amend § 3209(2)(h) to specify which school district is programmatically and fiscally responsible for students who are homeless who attend charter schools.

Tuition Reimbursement:

- Amend § 3209(3)(a) to allow for tuition reimbursement for preschool students who are homeless.

Transportation:

- Amend § 3209(4)(a) to require that where a local department of social services (DSS) is responsible for transportation, a DSS's obligation to transport extends to students in preschool and to students with transportation listed on their Individualized Education Programs (IEPs), and that when a DSS requests that the school district transport a student for whom DSS is responsible, the school district will provide the transportation and DSS will reimburse the school district.
- Amend § 3209(4)(b) to require the designated school district of attendance to be responsible for transporting students in runaway and homeless youth shelters to school.
- Amend § 3209(4)(c) to require students who attend the school of origin to receive transportation, which includes transportation to preschool.
- Amend § 3209(4)(e) and adds (4)(f) to require that transportation be provided if the lack of such transportation poses a barrier to a homeless child's participation in summer school or an extracurricular or academic activity.
- Add § 3209(4)(g) and (h) to allow for continued enrollment and transportation to the school of origin across state boundaries.

- Add § 3209(4)(i) to require that transportation be provided for the duration of homelessness and through the remainder of school year in which the student becomes permanently housed; reflect that the local DSS is only responsible for transportation for the duration of homelessness; and reflect that the school district of attendance is responsible for transportation after the student becomes permanently housed and may bill the new district of residence for the transportation costs.

Dispute Resolution:

- Amend § 3209(5) to ensure that school districts continue enrollment and transportation during any dispute involving eligibility, school selection, or enrollment pending final resolution of the dispute, including all available appeals.

Privacy:

- Add § 3209(8) to require local educational agencies to treat information about a homeless child's living situation (e.g., homeless status, temporary address) as a student education record.

Comparable Services:

- Add § 3209(9) to require students who are homeless to be offered comparable services to those offered to other students.

Budget Implications:

Enactment of this bill is necessary to implement the McKinney-Vento Homeless Assistance Act.

Effective Date:

This bill would take effect immediately.

Part D - Make SUNY and CUNY Tuition-Free for Middle-Class Families

Purpose:

This bill would make college tuition-free for New York's middle-class families at all SUNY and CUNY two- and four-year colleges. This program will help alleviate the crushing burden of student debt while enabling thousands of bright young students to realize their dream of higher education.

Summary of Provisions and Statement in Support:

This bill would create the Excelsior Scholarship, New York's tuition-free college degree program and the first of its kind in the nation. Under the Excelsior Scholarship, more than 940,000 middle-class families and individuals making up to \$125,000 per year would qualify to attend college tuition-free at all public universities in New York State. As a college education is increasingly necessary to succeed in the 21st century workplace, the Excelsior Scholarship program would ensure all of New York's students have access to a quality education and the skills they need to succeed in the global economy.

Tuition-free college would begin immediately for students of families making up to \$100,000 annually and phase in over the next two years to those making up to \$125,000 annually. To qualify for an Excelsior Scholarship, students in both community college and four-year colleges who are residents of New York State must be on track to complete their degree in two or four years, respectively.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget. The program is estimated to cost \$163 million per year once fully phased in.

Effective Date:

This bill would take effect immediately.

Part E - Enact the New York State DREAM Act

Purpose:

This bill would enact the 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 New York State DREAM Act would amend Education Law to make students without lawful immigration status eligible for the Tuition Assistance Program 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 would 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 2018 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.

Part F - Make colleges accountable for exorbitant tuition rates

Purpose:

This bill would hold colleges in New York accountable if they raise tuition and fees above a certain threshold.

Summary of Provisions and Statement in Support:

To help make college more affordable and control excessive costs, this bill would limit annual tuition and fee increases to either \$500 or the three year average of the Higher Education Price Index (HEPI), whichever is greater. Starting in FY 2019, colleges and universities that exceed the tuition and fee increase threshold would disqualify newly enrolled students from receiving a Tuition Assistance Program (TAP) award.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget.

Effective Date:

This bill would take effect July 1, 2018.

Part G - Renew a predictable funding plan for SUNY and CUNY

Purpose:

This bill would renew a predictable funding plan for SUNY and CUNY for an additional five years.

Summary of Provisions:

The last predictable funding plan, NYSUNY 2020 and NYCUNY 2020, was enacted in 2011 for a five-year period to keep tuition increases low and predictable while providing additional resources to New York's public colleges and universities.

The five-year rational tuition plan 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 NYSUNY 2020 and NYCUNY 2020, there were drastic tuition spikes upwards of 45%. These dramatic spikes caused students to suddenly pay significantly more year-to-year. The rational tuition plan replaced this ineffective model with modest 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 one of the lowest in the nation -- \$1,874 below the national average and lower than 38 other states.

NYSUNY 2020 and NYCUNY 2020 also provided 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.

This program also allowed campuses to better plan and leverage the State's investments for student success. SUNY and CUNY have used the proceeds from tuition increases and consistent level of State support to hire additional faculty and establish new degree programs in high-need fields to ensure New Yorkers are prepared for the jobs of the future. In addition, since 2011, the program has provided \$580 million in competitive capital challenge grants to support projects that focus on improving both academic outcomes and economic opportunities.

To keep tuition low and predictable, and to infuse additional funds into New York's public university systems, this bill would renew a predictable tuition plan for an additional five years. Under this new five-year plan, SUNY and CUNY would be authorized, but not required, to raise tuition up to \$250 annually. 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.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget. A \$250 annual tuition increase would raise \$70 million annually for SUNY and \$43 million for CUNY. In addition, the Executive Budget Capital Plan includes \$110 million in new annual funding for the NYSUNY 2020 and NYCUNY 2020 Challenge Grant Program.

Effective Date:

This bill would take effect immediately and sunset on July 1, 2022.

Part H - Use CUNY Foundation Resources to Benefit Students

Purpose:

This bill would enable the City University of New York to utilize additional funds from its affiliated not-for-profit foundations to support tuition assistance initiatives for students in need.

Summary of Provisions and Statement in Support:

The foundations and organizations affiliated with CUNY manage over a billion dollars. This money is intended to benefit students and CUNY. However, a recent interim report of the State Inspector General identified numerous examples of financial waste and abuse, including the expenditure of funds on many questionable activities by CUNY's affiliated not-for-profit foundations.

The Executive Budget advances a series of ethical reforms to the governance and oversight of these organizations. In addition to those reforms, this bill would direct funds from CUNY foundations to fund tuition assistance initiatives for students in need attending CUNY.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget

Effective Date:

This bill would take effect immediately.

Part I - Enhance the State's ability to recover unpaid wages

Purpose:

This bill would extend liability for wage theft to the top ten shareholders of out-of-state limited liability companies (LLCs) and authorize the Department of Labor (DOL) to directly enforce such liabilities.

Summary of Provisions and Statement in Support:

Currently, the LLC Law only provides personal financial liability for wage theft to the top ten members of domestic, or in-state, LLCs. This bill extends this provision to foreign, or out-of-state, LLCs. The personal financial liability of the top ten owners for wage claims has been a core principle in New York for over 150 years, starting with the earliest business corporations law that covered domestic corporations and was later expanded to foreign corporations and this amendment will expand the reach of DOL to

collect wages due to workers from the top ten owners of corporations and LLCs, domestic and foreign.

This bill also authorizes DOL to enforce such liabilities on behalf of workers with unpaid wage claims. Currently, individual workers are left on their own to collect wage claims through judicial action.

Budget Implications:

Enactment of this bill is necessary to implement the 2018 Executive Budget as these measures will substantially enhance DOL's ability to recover wages owed to workers, which is a component of DOL's mission.

Effective Date:

This bill would take effect immediately, with respect to liabilities owed to laborers, servants or employees whose services had not been terminated more than 180 days prior to this act.

Part J - Raise the Age of Juvenile Jurisdiction

Purpose:

This bill would raise the age of juvenile jurisdiction from 16 to 18 years of age and establish the services necessary to improve outcomes for youth.

Summary of Provisions and Statement in Support:

New York is one of only two states that sets its age of juvenile jurisdiction at 16 years of age. This means that all 16 and 17 year olds are processed in the criminal justice system, and not through the Family Courts, no matter their offense. All other states, except for North Carolina, set the age at 17 or 18 years old. Research has shown that incarcerating adolescents in adult jails and prisons has significant negative impacts including higher suicide rates and increased recidivism. Experience in other states, such as Connecticut and Illinois, has shown that raising the age of juvenile jurisdiction can lower recidivism and juvenile crime rates through evidence based interventions designed specifically for adolescents.

In 2014, the Governor established the Commission on Youth, Public Safety and Justice to make recommendations on how best to raise the age of juvenile jurisdiction to age 18, improve outcomes for youth, and promote community safety. The SFY 2018 Executive Budget reflects the most integral steps to implement the Commission's recommendations to plan, create and expand services, including but not limited to diversion and probation services, for 16 and 17 year old youth who will be involved in the juvenile justice system. The age of juvenile jurisdiction will be raised to age 17 on January 1, 2019 and to age 18 on January 1, 2020.

The major provisions of this bill would:

- Raise the age of juvenile jurisdiction from age 16 to age 17 on January 1, 2019 and to age 18 on January 1, 2020; raise the lower age of juvenile jurisdiction from age 7 to age 12 on January 1, 2019 for all offenses except homicide; expand Family Court jurisdiction to include youth ages 16 and 17 charged with non-violent felonies, misdemeanors, or harassment or disorderly conduct violations;
- Create Youth Parts in the Superior Court to process Juvenile Offender cases;
- Originate cases for the following crimes committed at age 16 and 17 in the Youth Part: all violent felony offenses, class A crimes, homicide offenses, sexually motivated felonies, crimes of terrorism, felony vehicular assaults, aggravated criminal contempt in violation of duly served order of protection where the juvenile intentionally or recklessly causes physical injury or serious physical injury to a person for whose protection such order was issued, and conspiracy to commit any of these offenses or tampering with a witness related to any of these offenses;
- Provide current capacity for removal of Juvenile Offender cases to Family Court for 16 and 17 year old cases in the Youth Part and allow for removal to Family Court, upon consent of the District Attorney, for the current juvenile offender crime of second degree robbery and for any violent felony offense that is not a juvenile offender crime for youth age 15 and under;
- Prohibit confinement of any minor in adult jail or prison;
- Prohibit detention and placement for youth who are low risk if they are adjudicated for first or second-time misdemeanors that do not involve harm to another person, and for youth who have technical probation violations and who do not pose an imminent risk to public safety;
- Expand to 16 and 17 year olds the current juvenile practice regarding parental notification of arrest and the use of Office of Court Administration approved rooms for questioning by police;
- Mandate diversion attempts for low-risk (per risk assessment) misdemeanor cases;
- Allow the juvenile, at his or her discretion or at the discretion of their parent or other persons legally responsible for the care of the juvenile, to be accompanied by counsel during the assessment;

- Allow for additional time for probation adjustment in order to access necessary services and create the capacity for probation to obtain an order of protection while adjusting a case;
- Establish probation family engagement specialists to facilitate adjustment, and a continuum of evidenced-based diversion services;
- Establish Family Support Centers to provide comprehensive services to children at risk of person in need of supervision (PINS) adjudications and their families, as well as very young children who are no longer subject to jurisdiction as juvenile delinquents;
- Effective January 1, 2020, prohibit the use of detention in PINS proceedings and only authorize PINS foster care placements, if appropriate, for sexually exploited youth who may be in need of specialized services;
- Provide access to weekend arraignment for Family Court cases;
- Use determinate sentencing for youth sentenced under Juvenile Offender or Youthful Offender statuses, including 16 and 17 year olds with removal of any criminal sentences imposing life imprisonment without parole;
- Require post-release supervision provided by the Office of Children and Family Services (OCFS) for Juvenile Offender youth coming out of OCFS facilities to facilitate better re-entry;
- Expand the presumption for granting Youthful Offender status and provide for confidentiality of felony filings that are eligible for Youthful Offender status;
- Provide for the sealing of records of certain convictions upon application and meeting certain required criteria. Additional grounds for denial include failure to provide sworn statement supporting the relief requested and conviction of two or more felonies or more than two crimes;
- Authorize state reimbursement of local shares for counties that are subject to the property tax cap, upon a showing that (i) any expense incurred as a result of the implementation of raising the age of juvenile jurisdiction above fifteen years of age would result in fiscal hardship (ii) that the county has met the requirement of property tax cap, and (iii) a plan has been developed by the county that shows how the county will appropriately implement the requirements of law.

Budget Implications:

Enactment of this bill is necessary to implement the SFY 2018 Executive Budget as the five year State financial plan includes funding for state share costs associated with the

legislation. It is possible that savings that are not currently assumed may occur as a result of this legislation that would substantially mitigate these costs.

Effective Date:

This act would take effect immediately except as otherwise noted.

Part K - Reauthorize Child Welfare Financing, and restructure financing for Residential School Placements of children with special needs in New York City

Purpose:

This bill would extend the current structure of financing for child welfare services, and also restructure the funding for Committee of Special Education (CSE) residential placements and foster care residential placements in New York City.

Summary of Provisions and Statement in Support:

Part A:

The Child Welfare Financing Reform Act is scheduled to sunset on June 30, 2017. This bill would amend Chapter 83 of the Laws of 2002 to extend the child welfare financing structure through June 30, 2022.

The Child Welfare Financing Reform Act established a financing system that incentivizes preventive services to keep youth unnecessarily out of more expensive institutional settings. Under this system, the State provides 62% open-ended reimbursement to local social service districts (LSSDs) to support child protective and preventive services, as well as after care, independent living costs, and adoption administration costs. Foster Care placements are supported through State allocations to LSSDs from the State Foster Care Block Grant (FCBG), and costs include those related to the maintenance, supervision, and tuition of children in foster care.

The Child Welfare Financing Reform Act also includes CSE funding. CSE is the primary placement system providing special education services to children with educational disabilities. CSEs make placements into day and residential schools, and include programs located both within and outside the State. CSE costs are shared between the State (18.424%), school districts (38.424%), and LSSDs (43.152%).

Enactment of this bill is required to continue the current funding structure that provides open ended funding for preventive services that offer a greater chance of keeping families intact, and block grant funding for more expensive foster care placements. Since the enactment of the Child Welfare Financing Reform Act in 2002, number of children in foster care has declined from 37,000 to 17,500.

Part B:

Section 1 of the bill would change the funding structure of CSE placements in New York City. The Office of Children and Family Services (OCFS) is charged with overseeing the maintenance costs of students who are placed in residential schools by a school district's CSE. This proposal would eliminate the current 18.424% State share for New York City placements, and increase the school district's share by an equal amount from 38.424% to 56.848%. This action would better align fiscal responsibilities with the entity that makes the placement decisions.

Section 2 changes the funding structure of tuition costs associated with foster care placements in New York City. Tuition costs are eligible for reimbursement under the FCBG which covers approximately 50% of tuition and other eligible costs; and LSSDs pay the remaining 50%. This proposal would eliminate the State's share of funding for tuition expenditures for foster children placed by the New York City Social Service District.

Budget Implications:

Enactment of this bill is necessary to implement the SFY 2018 Executive Budget which assumes that the current funding structure for child welfare services is continued. In addition, this bill is necessary to enact Executive Budget proposals to restructure the funding of CSE and foster care tuition costs in New York City, which have an estimated SFY 2018 savings of \$42 million (\$19 million CSE and \$23 million foster care tuition).

Effective Date:

This bill would take effect immediately.

Part L - To clarify the state definition of "abused child" under the Family Court Act

Purpose:

To clarify that the state definition of "abused child" under the Family Court Act (FCA) includes children that are identified as victims of sex trafficking or severe forms of trafficking in persons under the Federal Trafficking Victims Protection Act of 2000.

Summary of Provisions and Statement in Support:

This bill would amend the definition of "abused child" that appears in FCA § 1012 to expressly include children whose parent, or the person legally responsible for their care, permits, encourages, commits or allows any offense that would render the child either a victim of "sex trafficking", or a victim of "severe forms of trafficking in persons," under the Federal Trafficking Victims Protection Act of 2000 (FTVPA) or any successor federal statute.

In order to maintain eligibility for federal Child Abuse and Neglect Prevention Treatment Act (CAPTA) funding, the Federal Justice for Victims of Trafficking Act of 2015 (Pub. L. No. 114-22), as amended by 42 U.S.C. 5106(g), requires states to characterize children that are identified as victims of “sex trafficking” or “severe forms of trafficking in persons” under the FTVPA as abused children, on, or prior to, May 29, 2017. New York receives approximately \$3 million annually in federal CAPTA funding.

This proposal expressly clarifies that New York’s definition of “abused child” includes victims of “sex trafficking” and “severe forms of trafficking in persons.” Although New York’s existing definition of child abuse can be interpreted to include such children, the proposed clarification will protect New York’s ability to continue to receive federal CAPTA funding.

Budget Implications:

There are no costs associated with implementing this proposal, but it is necessary for the State to remain eligible for continued receipt of approximately \$3 million in federal CAPTA funding.

Effective Date:

This bill would take effect immediately.

Part M - Enhance services for runaway and homeless youth

Purpose:

This bill would authorize local governments to provide enhanced services to youth under the Runaway and Homeless Youth Act (RHYA).

Summary of Provisions and Statement in Support:

Youth who are homeless or lack consistent, stable housing are highly vulnerable to violence, crime, human trafficking and sexual exploitation. This bill would better address the service needs of runaway and homeless youth by creating more flexibility for local governments to offer additional lengths of stay in residential RHYA programs, and to address the local availability of services and/or safe, stable and affordable housing for these individuals.

Additionally, it would allow homeless persons between the ages of 21 to 24, when authorized by the municipality, to access age-appropriate RHYA services that may otherwise be unavailable in the adult homeless system. Homeless youth and young adults often lack the life skills needed to live independently and have little or no work experience. Combining shelter with the provision of other age-appropriate services to these individuals, as is done in residential RHYA programs, will facilitate their ability to live self-sufficiently and reduce their need for future services.

Specifically, this bill would allow local governments providing RHYA services the option to make the following enhancements to their programs:

- Raise the maximum eligibility age from 20 to 24 for homeless youth served in transitional independent living support programs (TILSPs).
- Extend the authorized period from 18 to 24 months for residential services so that residential services may be provided to homeless youth in TILSPs for a longer period of time.
- Extend the authorized period for residential services to be provided to runaway youth in residential runaway and homeless youth crisis services programs (RHYCSPs) using a sliding scale that ties the authorized length of stay to the age of the youth and their circumstances.
- Authorize “exigent circumstances requests” to be made to the New York State Office of Children and Family Services (OCFS) to allow for a particular younger homeless youth to be served in a residential RHYA program and/or to allow a particular runaway or homeless youth to be served for an additional length of stay in a residential RHYA program, so long as such request is approved by the municipal runaway and homeless youth coordinator and any other person or entity that may be designated by the local government to grant such approval.

The bill would make other reforms to the RHYA including:

- Rename “approved runaway programs” to “runaway and homeless youth crisis services programs” (RHYCSPs) to better align with the services provided and the populations served by such programs.
- Require RHYA programs to contact the applicable local department of social services (LDSS) if it is believed that a youth being served in the program may be a destitute child, provide information to youth who may be eligible to re-enter foster care in accordance with article 10-B of the family court act, and refer any such youth that may be interested in re-entering foster care to the applicable LDSS.
- Require that residential RHYA programs serving youth under the age of eighteen that are certified by OCFS on or after the bill's effective date be authorized agencies.

Budget Implications:

This bill would authorize enhanced services that local governments may choose to provide. The FY 2018 Executive Budget continues funding for RHYA services at \$4.84 million, which may be used to support the optional enhanced services.

Effective Date:

This bill would take effect January 1, 2018 and authorizes OCFS to promulgate associated regulations on or prior to the effective date.

Part N - Provide health care services to children in foster care through Managed Care plans

Purpose:

To allow Voluntary Foster Care Agencies to transition from a fee-for-service health care model to a managed care plan for certain health care services.

Summary of Provisions and Statement in Support:

There are currently 93 Voluntary Foster Care Agencies licensed by OCFS operating across New York State providing room, board, health and behavioral health services to approximately 15,500 Foster Care children.

As part of Governor Cuomo's Medicaid Redesign Team (MRT), all Foster Care children placed with Voluntary Foster Care Agencies are intended to transition into Managed Care from the current fee-for-service model in January 2019. This transition into Managed Care would represent an opportunity to improve the current system and outcomes for vulnerable children, and would allow foster care providers to be properly reimbursed for health services.

Managed Care plans can only enter into contracts with organizations licensed to provide health-related services. However, the Department of Health (DOH) does not license Voluntary Foster Care Agencies as health care providers. Absent this licensure path, Voluntary Foster Care Agencies will not be able to contract with Managed Care plans for health-related services after Foster Care children transition to Managed Care plans in January of 2019, causing potentially significant fiscal distress to these agencies and diminishing the quality of health care provided to Foster Care children.

This bill would require that any Voluntary Foster Care Agency that provides certain health-related services must obtain a license issued by DOH in conjunction with the Office of Children and Family Services (OCFS). This license would be issued after a determination that the Voluntary Foster Care Agency's equipment, rules, standards of care and services are fit and adequate, and that the health-related services provided are consistent with DOH regulations. The bill would also require DOH and OCFS to administer the licensing process and determine the standards for care and services. Additionally the bill would authorize DOH, in consultation with OCFS, to revoke, suspend, limit, annul, or deny a license in cases of noncompliance with any of the license's requirements, and establishes a hearing process for such cases.

Budget Implications:

The incremental costs to DOH and OCFS of implementing this proposal are anticipated to be minimal.

Effective Date:

This bill would take effect immediately.

Part O - Increase the amount of lottery winnings that the State can recoup, related to current and former public assistance recipients, from fifty percent of such winnings to one-hundred percent

Purpose:

This bill would authorize the State to recoup the entirety of lottery winnings of \$600 or more, up to the amount of assistance rendered, for current and former public assistance (PA) recipients who have received such assistance in the last ten years.

Summary of Provisions and Statement in Support:

Section 131-r of the Social Services Law and Section 1613-b of the Tax Law currently authorize the State to intercept fifty percent of lottery winnings over \$600 for current or former PA recipients, up to the amount of assistance they have received. The bill would allow the State to recoup one-hundred percent of lottery winnings over \$600, up to the amount of assistance the recipient received, within the past ten years.

Budget Implications:

Enactment of this bill would result in reimbursement to the State and local districts for PA costs, resulting in Financial Plan and local district savings. The SFY 2018 savings related to this bill would be approximately \$1.8 million gross with total State savings of \$1 million (\$700,000 Federal Temporary Assistance to Needy Families (TANF) and \$300,000 State General Fund) and associated local district savings of \$750,000 (\$530,000 New York City and \$220,000 rest-of-state districts). The annual gross savings thereafter would be approximately \$3.5 million with total State savings of \$2 million (\$1.4 million TANF and \$600,000 State General Fund) and associated local district savings of \$1.5 million (\$1.1 million New York City and \$400,000 rest-of-state districts).

Effective Date:

This bill takes effect July 1, 2017.

Part P - Authorizes the pass-through of any Federal Supplemental Security Income Cost of Living Adjustment which becomes effective on or after January 1, 2018

Purpose:

This bill would authorize Federal Supplemental Security Income (SSI) benefits to be increased in 2018 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 2017 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 2018 by the percentage of any Federal SSI COLA which becomes effective within the first half of calendar year 2018.

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

Budget Implications:

If the pass-through of the Federal SSI COLA is not enacted in the 2018 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, 2017.

Part Q - Enhance protections for children residing in or visiting publicly-funded emergency family shelters

Purpose:

This bill would require publicly-funded emergency shelters for families with children to perform two enhanced background checks for all prospective employees who will have regular and substantial contact with children residing in or visiting such shelters.

Summary of Provisions and Statement in Support:

This bill would require two background checks for any publicly-funded emergency shelter employees who will have regular and substantial contact with children: one background check against the Statewide Central Register for Child Abuse and Maltreatment (SCR); and a second background check with the Division of Criminal Justice Services (DCJS). The bill would also add family shelter employees to the OCFS list of "mandated reporters" of child abuse or maltreatment.

This bill would amend Sections 412 and 413 of the Social Services Law (SSL) to define publicly-funded emergency shelters for families with children. It would add the employees of such shelters to the list of persons or officials who are required to report cases of suspected child abuse or maltreatment to the SCR. The bill would also modify SSL § 424-a to add such shelters to the list of providers that must perform SCR checks on prospective and certain existing employees.

The bill would also add a new SSL § 460-h to require publicly-funded emergency shelters for families and children to perform criminal record background checks, run through DCJS, of all prospective employees, consultants, assistants, and volunteers who will have regular and substantial contact with the children in such shelters. This section would detail the process for conducting the criminal history background checks and would ensure confidentiality and due process rights are protected.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget.

Effective Date:

This bill would take effect 90 days after enactment.

Part R - Mortgage Insurance Fund Utilization

Purpose:

This bill would provide for the utilization of \$141 million in excess Mortgage Insurance Fund (MIF) reserves.

Summary of Provisions and Statement in Support:

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

The SONYMA statute allows for excess revenues from the MIF, after expenses and the required reserves, to be returned to the State following SONYMA Board approval. The MIF has been previously used to support new housing development or provide relief for budgetary deficits; in the FY 2017 Budget, \$150 million was used for various housing assistance and capital programs.

The MIF is currently projected to have over \$141 million in reserves through FY 2018 that can be accessed without negatively impacting the Fund's credit rating. The funding will be utilized in the following manner, as prescribed in Sections 1-10 of the bill:

- Rural Rental Assistance Program (\$22.9 million): supports rental subsidies for low-income elderly and family tenants residing in federally-funded multifamily projects in rural areas of the State;
- Mitchell-Lama Portfolio (\$41.0 million): supports the initial refinancing and capital repairs of 35 Mitchell-Lama affordable housing projects that Homes and Community Renewal acquired from the Empire State Development Corporation;
- Neighborhood and Rural Preservation Programs (\$12.0 million): supports community-based housing corporations across the State that provide various housing related services for low- and moderate-income populations;
- Various affordable housing capital programs (\$59.0 million): supports the Rural and Urban Community Development Fund Program (\$36.0 million); the Low-Income Housing Trust Fund Program (\$21.0 million); and the Homes for Working Families Program (\$2.0 million) pursuant to the Governor's House New York initiative;
- Homeless Housing Programs (\$6.5 million): supports the OTDA consolidated homeless programs, which include: the New York State Supportive Housing Program, the Solutions to End Homelessness Program, and the Operational Support for AIDS Housing program; and

Budget Implications:

Enactment of this bill is necessary to implement the 2017-18 Executive Budget, which assumes MIF revenue for the aforementioned programs.

Effective Date:

This bill takes effect immediately.

Part S - Creates the Affordable New York Housing Program

Purpose:

This bill would provide tax benefits for the development of affordable housing in New York City through the Affordable New York Housing Program.

Summary of Provisions and Statement in Support:

A tax benefit program for development of housing in NYC has been suspended since January 2016, when the real estate developers and construction unions failed to reach agreement on construction wages, as required by legislation that reformed the program in June 2015. The FY 2018 Executive Budget reinstates the program and includes new reforms that are required for new residential construction with at least 300 units below 96th Street in Manhattan and the waterfront “Gold Coast” in Brooklyn and Queens.

Sections one and two of the bill names the revised program the Affordable Housing NY Program.

Section three amends the Real Property Tax law, specific to developments within the specified geographic region by:

- Creating three new affordability options specifically for these developments;
- Requiring developers to pay an average hourly wage, including benefits and employer-sided taxes, of:
 - \$60 in Manhattan;
 - \$45 in Brooklyn and Queens;
- Providing developments with a 100% abatement on all units, affordable and market rate, for the 35 years following construction. Only affordable units receive the benefit for years 26-35 under current law;
- Extending the regulatory period from 35 to 40 years, thereby restricting rents and occupancy to the designated AMI.

Large developments outside of the geographic region have the option to receive the enhanced abatement by meeting the new requirements.

This section also allows for compliance verification and enforcement provisions. Section 4 of the bill repeals the requirement for a memorandum of understanding between the real estate developers and construction unions within the Real Property Tax Law.

Section 5 contains the severability clause.

Section 6 provides an immediate effective date, retroactive to January 1, 2016.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget as Affordable New York Housing Program benefits may be utilized in conjunction with other funds provided for in the Budget for the development of affordable housing.

Effective Date:

This bill would take effect immediately upon enactment and would be deemed in full force and effect as of January 1, 2016.

Part T - Enhance services provided through veterans' treatment courts and broaden the availability of such courts

Purpose:

To expand the availability of specialized treatment courts for veterans facing criminal charges, and to enhance the services provided through such courts, while continuing to hold defendants accountable for their actions.

Summary of Provisions and Statement in Support:

The major provisions of this bill would:

- Allow that for misdemeanor cases pending in a local criminal court having preliminary jurisdiction, such court may, upon motion of the defendant and with the consent of the district attorney, order that the action be removed to another local criminal court in the same or an adjoining county that has been designated a veterans treatment court by the chief administrator of the courts.
- Allow that for felony cases pending in a local criminal court having preliminary jurisdiction, such court may, upon motion of the defendant and with the consent of the district attorney, order that the action be removed to another local criminal court in the same or adjoining county that has been designated a veterans treatment court by the chief administrator of the courts.
- Allow, to the extent practicable, for the establishment of veterans treatment courts as necessary to fulfill the purposes of this bill.

Veterans' treatment courts apply proven resources to assist veterans facing criminal penalties, including counseling, substance abuse treatment, as well as housing and job training assistance. In 2008, the Nation's first veterans' treatment court was started in the Buffalo city court. While New York now has 29 veterans treatment courts, not all of New York's veterans live in a jurisdiction that has such a court. This bill would broaden the availability of veterans' treatment courts to serve more veterans, including increased availability of the peer mentoring services offered by such veterans' treatment courts.

Budget Implications:

The FY 2018 Executive Budget includes \$1 million in appropriation authority to support the peer mentoring program in the veterans' treatment courts and, as feasible, expand the availability of such courts.

Effective Date:

This bill would take effect immediately.

Part U - Administrative hearings consolidation

Purpose:

This bill would allow for the consolidation of administrative hearings across State agencies.

Summary of Provisions and Statement in Support:

This legislation creates the new Division of Central Administrative Hearings within the Executive Department, led by a Chief Administrative Law Judge (ALJ) who will be appointed by the Governor. The Chief ALJ is authorized to reorganize and consolidate administrative hearing functions within Executive agencies, consistent with a plan approved by the Director of the Budget.

There is a national movement to consolidate State agency hearing processes, with over half of the states participating in some form. Benefits of this consolidation accrue to the public, the State and the impacted employees. An office independent of other agencies can result in a more impartial and efficient hearing process, a more skilled workforce, and possible cost savings in personnel management, administration, and other back-office functions. ALJs will be more adaptable, receiving training in multiple areas of the law, providing flexibility in managing caseloads and addressing backlogs when needed. A corps of ALJs trained as adaptable generalists will have the opportunity to gain expertise in multiple areas resulting in greater advancement opportunities.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2018 Executive Budget, which assumes creation of the new Division.

Effective Date:

This bill would take effect 180 days after enactment; however, any actions necessary for implementation are authorized 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.