

2010-11 NEW YORK STATE EXECUTIVE BUDGET
PUBLIC PROTECTION AND GENERAL GOVERNMENT
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 executive law, the vehicle and traffic law, the state finance law, the labor law, the public health law, the social services law, the criminal procedure law, the family court act, the public officers law, the general municipal law, the penal law, the correction law, the surrogate's court procedure act, the court of claims act, the civil practice law and rules, the real property tax law, the administrative code of the city of New York, the environmental conservation law, the parks, recreation and historic preservation law and the mental hygiene law, in relation to merging the crime victims board, the division of probation and correctional alternatives and the office for the prevention of domestic violence into the division of criminal justice services; and to repeal certain provisions of the executive law and the judiciary law relating thereto (Part A); to amend the executive law, in relation to disaster preparedness; in relation to the intrastate mutual aid program; to amend the executive law, the state finance law, the county law and the tax law, in relation to consolidating the office of homeland security, the state emergency management office, and the office of fire prevention and control within the department of state; to amend the executive law, in relation to duties of the division of homeland security and emergency services, the state fire administrator and the office of fire prevention and control; to amend the county law, in relation to fire training and mutual aid programs; to amend the general business law, in relation to approval of electrical devices; to amend the general municipal law, in relation to duties of the fire chief, and the fire mobilization and mutual aid plan; to amend the insurance law, in relation to information in reports of fire losses; to amend the state finance law, in relation to reimbursement for firefighting costs and funds for volunteer firefighting and emergency service providers; to amend the vehicle and traffic law, in relation to vehicles operated by officials of the office of fire prevention and control; to amend the criminal procedure law, in relation to arson investigation; and to amend the executive law, in relation to fire safety

standards of cigarettes, and to repeal certain provisions of the county law and the executive law relating thereto (Part B); to amend the executive law and the civil practice law and rules, in relation to establishing a rape crisis program in the division of criminal justice services and remove the program from the department of health; and to repeal subdivision 15 of section 206 and article 6-A of the public health law relating thereto (Part C); to amend the criminal procedure law and the penal law, in relation to terms of probation; to amend the criminal procedure law, in relation to probation mandate relief; to amend the executive law, in relation to the manner in which probation aid is distributed; to amend the penal law and the criminal procedure law, in relation to warrants, the probation detainer warrant pilot project and modification and extension thereof, waiver of extradition, conditions of probation, and restitution; and to amend chapter 377 of the laws of 2007 amending the correction law and the criminal procedure law relating to establishing a probation detainer warrant pilot project, in relation to the effectiveness thereof (Part D); to amend the executive law, in relation to creating in the division of criminal justice services the office of indigent defense; and to amend the state finance law, in relation to the distribution of monies from the indigent legal services fund (Part E); to amend the county law, in relation to permitting counties to establish an office of conflict defender and providing for the repeal of such provisions upon expiration thereof (Part F); to amend the executive law, in relation to the collection of DNA; and to amend the penal law, in relation to conditions of probation and conditional discharge and refusal to provide a DNA sample (Part G); to amend the vehicle and traffic law, in relation to the denial of registration or renewal for certain violations; in relation to the suspension of registration for failure to answer or pay penalties with respect to certain violations; and in relation to establishing a photo-monitoring program to impose fines for failing to obey work zone speed limits and for failing to obey certain posted speed limits (Part H); to amend the executive law, in relation to reducing the board of parole maximum membership from nineteen to thirteen and to reduce the term of office from six to five years (Part I); to amend the correction law, in relation to the housing of persons nineteen,

twenty and twenty-one years of age with the department of correctional services; to amend the criminal procedure law, in relation to permitting electronic appearances in certain court proceedings; and to amend the correction law, in relation to permitting the commingling of inmates in local correctional infirmaries and to allow prisoners to voluntarily work for nonprofit organizations (Part J); to amend the judiciary law, the civil practice law and rules, the uniform district court act, the uniform city court act, and the New York city civil court act, in relation to the increase of certain civil court fees (Part K); to amend the uniform justice court act, in relation to improving the process for the merging of town and village courts (Part L); in relation to requiring the judiciary to publicly account for the impact on local governments from any new program or expanded program to be required by its rules and regulations (Part M); to amend the public authorities law, in relation to certain bonds authorized to be issued or purchased by the municipal bond bank agency and to certain financing agreements authorized to be executed in connection therewith (Part N); to amend the civil service law, the labor law and the executive law, in relation to abolishing the state employment relations board and shift responsibilities to the public employment relations board; and to repeal certain provisions of the labor law relating thereto (Part O); to repeal section 163-c of the state finance law, relating to imposition of a centralized procurement contract fee (Part P); to collect surplus funds from workers' compensation insurance carriers and to prevent such surpluses from recurring (Part Q); to amend the workers' compensation law and the insurance law, in relation to providing the workers' compensation board with the powers needed to protect injured workers' benefits (Part R); to establish a joint appointing authority for the state financial system project (Part S); to amend the civil service law, the state finance law and the insurance law, in relation to allowing the New York state employee health insurance plan to have the option to be self insured; and to amend the parks, recreation and historic preservation law, in relation to the health benefit plan for employees (Part T); to amend the civil service law, in relation to reimbursement for medicare premium charges (Part U); to amend the retirement and social security law, in

relation to payment by the state of certain employer retirement contributions (Part V); to amend the executive law, the real property tax law, and the tax law, in relation to merging the state office of real property services and the state board of real property services into the department of taxation and finance; and to repeal certain provisions of the real property tax law and the tax law relating thereto (Part W); to amend the real property tax law, the real property law and the tax law, in relation to establishing a property taxpayers' disclosure and assessment transparency act and simplifying the reporting of data relating to real estate transfers (Part X); to amend the real property tax law, in relation to restructuring the current aid program to encourage full value reassessments (Part Y); to amend the state finance law, in relation to aid and incentives for municipalities (Part Z); to amend the state finance law, in relation to a program of aid to municipalities in which a video lottery gaming facility is located (Part AA); to amend the legislative law, in relation to unfunded mandates on local governments and school districts; and providing for the repeal of certain provisions upon expiration thereof (Part BB); to amend the general municipal law, the education law, the public authorities law and chapter 738 of the laws of 1988 amending the administrative code of the city of New York, the public authorities law and other laws relating to the New York city school construction authority, in relation to separate specifications for public works contracts (Part CC); to amend the general municipal law, the public housing law, the state finance law and chapter 585 of the laws of 1939, relating to the rate of interest to be paid by certain public corporations upon judgments and accrued claims, in relation to interest rates paid by certain public corporations (Part DD); to amend the agriculture and markets law and the county law, in relation to the sharing of the duties of weights and measures between municipalities; to amend the town law, in relation to residency requirements of fire districts and fire companies; and to amend the real property tax law, in relation to entering into contracts for tax collection (Part EE); to amend the general municipal law, the economic development law, the state finance law and the public buildings law, in relation to procurements by local governments; and providing for the repeal of certain provisions upon

expiration thereof (Part FF); to amend the town law, in relation to eliminating compensation for town improvement district commissioners, in relation to the provision of sanitary services in the areas of towns outside of villages, and in relation to abolishing the offices of improvement district commissioners (Part GG); to amend the public officers law, in relation to fees for accident reports; to amend the general municipal law and the banking law, in relation to permitting local governments to make deposits in credit unions and savings banks; to amend the general municipal law, in relation to authorizing fees for ambulance service provided by a fire department or fire company; to amend the general municipal law, in relation to authorizing municipalities to charge for the cost of providing additional police protection to paid-admission events; to amend the general city law and the village law, in relation to increasing the rate of tax authorized to be imposed by local gross receipts taxes; and to repeal certain provisions of the public officers law relating thereto (Part HH); to amend the public authorities law, in relation to federal subsidy bonds of the New York city transitional finance authority (Part II); and to provide for the administration of certain funds and accounts related to the 2010-2011 budget; to authorize certain payments and transfers; to amend the state finance law, in relation to the school tax relief fund; to amend the state finance law, in relation to the expiration of certain provisions thereof; to amend the state finance law, in relation to notes and bonds of the environmental facilities corporation; to amend the state finance law, in relation to the general debt service fund; to amend the state finance law, in relation to the issuance of revenue bonds; to amend part RR of chapter 57 of the laws of 2008 providing for the administration of certain funds and accounts related to the 2008-2009 budget, in relation to effectiveness of certain provisions thereof; to amend the state finance law, in relation to variable rate bonds; to amend the state finance law, in relation to mental health service facilities financing; to amend the state finance law, in relation to the sale of state bonds; to amend the state finance law, in relation to the sale of housing bonds and urban renewal bonds; to amend the state finance law, in relation to federal interest subsidy payments; to amend the public authorities law, in relation to cultural

education facilities; to amend the public authorities law, in relation to library construction; to amend the public authorities law, in relation to voting of directors of the local government assistance corporation; to amend part P of chapter 57 of the laws of 2005, amending the education law relating to establishing a program of capital financing for public broadcasting stations, in relation to the effectiveness of certain provisions thereof; to amend the public authorities law, the judiciary law, the education law, the state finance law, chapter 57 of the laws of 2004, amending the education law and other laws relating to the calculation and payment of state aid to school districts and boards of cooperative educational services, chapter 57 of the laws of 2005, amending the labor law and other laws relating to implementing the state fiscal plan for the 2005-2006 state fiscal year, chapter 83 of the laws of 1995, amending the state finance law and other laws relating to state finances, chapter 7 of the laws of 1989, authorizing the New York state urban development corporation to assist the state in restructuring certain payment requirements, chapter 190 of the laws of 1990, amending the tax law relating to certain taxes, fees and other impositions, chapter 61 of the laws of 2005, providing for the administration of certain funds and accounts related to the 2005-2006 budget, chapter 81 of the laws of 2002, providing for the administration of certain funds and accounts related to the 2002-2003 budget, chapter 60 of the laws of 2006, relating to providing for administration of certain funds and accounts related to the 2006-2007 budget, chapter 389 of the laws of 1997, providing for the financing of the correctional facilities improvement fund and the youth facility improvement fund, chapter 18 of the laws of 2008, amending the racing, pari-mutuel wagering and breeding law and other laws relating to racing corporations and associations, chapter 432 of the laws of 1997, amending the state finance law and other laws relating to the transportation, economic development and environmental conservation budget, chapter 796 of the laws of 1992, providing for enhancements to the center for science and technology on the campus of Syracuse University and the Cornell super computer center on the campus of Cornell University, chapter 684 of the laws of 1986, relating to providing for the construction of the center for computers,

microelectronics and telecommunications on the campus of Columbia University in the city of New York, chapter 839 of the laws of 1987, constituting the omnibus economic development act of 1987, chapter 258 of the laws of 1993, relating to the development of sports facilities, chapter 61 of the laws of 2000, authorizing bonds for the strategic investment program, chapter 84 of the laws of 2002, chapter 3 of the laws of 2004, chapter 59 of the laws of 2004, chapter 58 of the laws of 2006, and chapter 56 of the laws of 2009, authorizing the New York state urban development corporation and the dormitory authority of the state of New York to issue bonds and notes, chapter 59 of the laws of 2005, relating to the urban development corporation bonding authority and relating to the authority of the urban development corporation and the dormitory authority to issue bonds, chapter 62 of the laws of 2003 and chapter 161 of the laws of 2005, authorizing the urban development corporation to issue bonds, chapter 35 of the laws of 1979, relating to appropriating funds to the New York state urban development corporation, the New York state urban development corporation act, the New York state medical care facilities finance agency act, chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund; and to amend part R-1 of chapter 109 of the laws of 2006 relating to dormitory authority bonds, in relation to state-supported debt; and providing for the repeal of certain provisions upon the expiration thereof (Part JJ)

PURPOSE:

This bill contains provisions needed to implement the Public Protection and General Government portions of the 2010-11 Executive Budget.

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

Part A – Merge the operations of the Crime Victims Board, Office for the Prevention of Domestic Violence, and the Division of Probation and Correctional Alternatives into the Division of Criminal Justice Services.

Purpose:

This bill would consolidate the operations of the Crime Victims Board (CVB), the Office for the Prevention of Domestic Violence (OPDV), and the Division of Probation and Correctional Alternatives (DPCA) into the Division of Criminal Justice Services (DCJS).

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

DCJS shares many of the same functions carried out by CVB, OPDV and DPCA, including data collection and analysis, administration of Federal and State criminal justice funds, grant-making, and support of criminal justice-related agencies across the State. Consolidating these agencies within DCJS will create operational efficiencies, foster improved coordination of policies and programs, and provide for the more efficient and cost-effective delivery of the programs and services for which the agencies are responsible.

This bill would restructure CVB, OPDV and DPCA as specialized offices under the umbrella of DCJS. Each of these new offices will be headed by a director who will report to the Commissioner of DCJS and oversee the activities of the office. Each director will also coordinate and recommend policy in their program area. The bill would also provide for the transfer of employees and records, continuity of authority, continuation of rules and regulations, and the transfer of assets and liabilities from the agencies to DCJS.

This specific proposal has no legislative history. Other proposals have recommended merging one or more of these agencies into DCJS in the past.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget as it is expected to produce savings of \$1 million in 2010-11, growing to \$1.9 million annually thereafter. These savings will be achieved through the elimination of positions providing duplicative functions.

Effective Date:

This bill takes effect April 1, 2010.

Part B – Merge the Office of Homeland Security, the State Emergency Management Office, the State 911 Board, the Office of Cyber Security and Critical Infrastructure Coordination, and the Office of Fire Prevention and Control into a re-constituted agency named the Division of Homeland Security and Emergency Services.

Purpose:

This bill would merge the Office of Homeland Security (OHS), the State Emergency Management Office (SEMO), the State 911 Board, the Office of Cyber Security and Critical Infrastructure Coordination (CSCIC), and the Office of Fire Prevention and Control (OFPC) into the newly created Division of Homeland Security and Emergency Services (HSES).

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

Consolidating these agencies and functions into the newly created HSES would allow the State to operate a single, multi-purpose agency focused on first responders and responsible for intelligence gathering and analysis, information sharing, disaster preparedness and relief, fire safety, and emergency response.

This bill would also improve the statutory framework for disaster preparedness by expanding membership on the Disaster Preparedness Commission (DPC) and clarifying gubernatorial powers in times of disaster, creating an intrastate mutual aid program designed to enable localities to assist each other in times of declared emergencies, authorizing the Statewide Public Safety Communications Account to be used to support development of interoperable communications through local county consortiums and establishing a statewide coordinator for enhanced 911 services and interoperable communications.

The provisions set forth in this bill would transfer the duties, functions, and responsibilities of OHS, SEMO, CSCIC and OFPC to HSES and change references to the agencies or offices in current law to HSES. These provisions would also establish rules concerning the transfer of employees, assets and funding from the respective agencies or offices to HSES.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget as it provides General Fund savings of approximately \$16.5 million in 2010-11, including \$1.5 million directly associated with the merger and \$15 million in support from cellular surcharge revenues for the new agency.

Effective Date:

This bill takes effect April 1, 2010, with the exception of section 11 which takes place one year after the bill becomes law and sections 35 and 36 which may take effect on the general effective date so long as funding for counties is undisturbed.

Part C – Establish the Division of Criminal Justice Services as the administrating agency for the Rape Crisis Program and remove the Department of Health from this responsibility.

Purpose:

This bill would establish the Division of Criminal Justice Services (DCJS) as the agency that oversees the Rape Crisis Program and would remove the Department of Health (DOH) as the administrating agency. This bill would also authorize DCJS to promulgate rules and regulations for the approval of rape crisis programs. These programs will, in turn, certify rape crisis counselors who have completed approved training programs.

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

Rape crisis centers are crucial for providing counseling as well as advocacy and information to victims of sexual assault. These centers have been approved by DOH since 1993. However, DCJS administers the Federal Violence Against Women Act grant funds, which support many of these same centers. Relocating the authority to approve rape crisis centers to DCJS will help streamline the funding to these grantees and improve the management of the programs.

This bill would:

- Repeal Public Health Law § 206(15) which authorizes the Commissioner of Health to promulgate rules and regulations for the approval of rape crisis programs;
- Repeal Public Health Law Article 6-A concerning the Rape Crisis Intervention and Prevention Program;
- Add a new subdivision (19) to Executive Law § 837 authorizing DCJS to promulgate rules and regulations pertaining to the training of rape crisis counselors and certification;
- Re-create the Rape Crisis Intervention and Prevention Program within the Executive Law; and
- Amend Civil Practice Law and Rules (CPLR) 4510(a) to repeal the reference to Public Health Law §206(15) and replace it with a reference to Executive Law §837(19).

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget because funding for the Rape Crisis Program is being transferred from DOH to DCJS.

Effective Date:

This bill takes effect April 1, 2010 and further provides that rape crisis programs approved by DOH prior to the repeal of Public Health Law §206(15) shall remain certified unless such approval is terminated by DCJS and that rape crisis counselors certified by such programs shall remain certified for purposes of CPLR 4510.

Part D – Relieve local probation departments of certain mandates and change the method of distributing State probation aid.

Purpose:

In the interest of facilitating the efficient operations of county probation programs, this bill would eliminate certain mandates and change the method of distributing State probation aid.

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

Probation departments currently supervise 125,000 adults and 17,000 juveniles and produce over 100,000 pre-sentence reports for the courts each year. Over the years, probation departments have been asked to take on an increasing number of responsibilities. The demanding workload of probation departments has been recently assessed for opportunities to provide relief through statutory and/or regulatory means, providing such measures do not jeopardize public safety.

This bill would make two statutory changes to reduce the number of pre-sentence investigations and reports that probation departments conduct and prepare for criminal courts, in cases where the need for such reports is minimal. Currently, probation departments are required to conduct investigations and prepare pre-sentence reports in all misdemeanor cases in which the term of imprisonment is more than 90 days. The bill would increase this term to 180 days. The reason for the change is that many people who receive a misdemeanor sentence of between 90 and 180 days satisfy those sentences by time served while awaiting sentencing, making a pre-sentence report unnecessary.

In addition, current State law requires that a pre-sentence investigation and report are done for every potential youthful offender. Frequently, however, a plea agreement is reached in which the youth will receive a sentence that does not involve incarceration or probation and the sole issue is whether the youth is a youthful offender, an issue that depends on the offender's age and criminal history. The prosecutor and the court can

obtain this information from a criminal history report and appropriate documentation of age provided by the youth. Under this bill, a presentence investigation and report for such offenders would not be required, unless the sentence imposed includes more than 180 days of imprisonment or probation. These two changes to the laws governing presentence investigations and reports would afford some relief to probation departments and give them greater opportunities to manage their finite resources in a more efficient manner.

Current law also requires probation departments to submit a copy of a presentence report for individuals licensed by certain professional licensing agencies. This bill would permit probation departments to make such a submission electronically.

This bill would also expand the Probation Detainer Warrant Pilot Project, increasing the ability of probation officers to quickly respond to and, if necessary, detain sex offenders, violent sex offenders, domestic violence offenders, and those who fail to register as sex offenders who are alleged to have violated the conditions of probation. Four counties now participate in the Pilot Project. This bill would authorize the Project to be operational statewide. The Program would also be expanded to include individuals who are convicted of Criminal Contempt in the first degree or aggravated Criminal Contempt in connection with violating an order of protection, where the conduct underlying the conviction is related to a sex offense, violent sex offense, family offense or failure to register as a sex offender.

Further, this bill would establish that in instances where a sentence of probation has been agreed upon by the parties and the court, and the defendant is given permission to move or travel outside this state, the defendant shall agree to sign a waiver of extradition as a condition of his or her probation. By signing such a waiver, the defendant would agree to waive extradition proceedings and not to contest any effort by any jurisdiction to return the defendant to the State. Where any county or the City of New York incurs costs associated with the return of any probationer, the jurisdiction may collect the expenses involved in connection with his or her return, from the probationer.

Finally, this bill would change the manner in which probation aid is distributed to counties and the City of New York. Instead of a reimbursement method, aid will be distributed in the form of a grant, which will be consolidated with several other funding streams into a consolidated grant program, as part of the 2010-11 Executive Budget.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget because it will produce savings for local probation departments by eliminating certain mandates.

Effective Date:

This bill takes effect ninety days after it becomes law, except for section 10 which takes effect on April 1, 2010.

Part E – Create a State entity to oversee the delivery of indigent defense services statewide.

Purpose:

This bill would create the Office of Indigent Defense within the Division of Criminal Justice Services, governed by a board and charged with identifying ways to improve the delivery of indigent defense services statewide, in partnership with counties.

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

This bill would establish an Office of Indigent Defense and charge it with examining, evaluating and collecting information on the existing county-based public defense system in the counties. The Office would prepare findings and make recommendations to a nine-member board, but could not take steps to implement those recommendations absent approval by a board. The Director of the Office would be an attorney appointed by the Governor who has had at least five years' professional experience in the area of indigent defense. The board would be led by the Chief Judge, with representatives appointed by the Governor upon the recommendation of the houses of the Legislature, the New York State Association of Counties, the New York Bar Association, and the public defense community.

In addition, the existing formula for distributing funding to counties from the Indigent Legal Services Fund would be eliminated, along with the associated Maintenance of Effort (MOE) requirements. The current process did little to promote improved services, and the restrictive nature of the MOE jeopardized funding to counties, threatening to cause further deterioration in services. New York City would receive \$40 million dollars annually, with all remaining funds distributed to counties based on recommendations made by the Indigent Defense Office and approved by the Board.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget, which includes \$3 million to establish the Office of Indigent Defense. Another \$7 million will be available to make additional grants to counties to supplement the \$70 million currently distributed from the Indigent Legal Services Fund to the counties and New York City for the cost of indigent defense services. Each county distribution for 2011 is expected to be equal to or more than the amount received in March 2010.

Effective Date:

This bill takes effect immediately.

Part F – Authorize counties to create an office of conflict defender as part of a plan to provide representation for indigent defendants.

Purpose:

This bill would authorize counties to create an office of conflict defender in order to provide representation to indigent defendants who qualify for representation by the public defender's office, but who cannot be represented by the public defender due to the public defender's conflict of interest.

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

This proposal would provide local mandate relief by offering counties the flexibility to create cost-effective representation for indigent defendants who cannot be represented by the public defender's office due to a conflict of interest. Such conflicts often arise in multi-defendant cases.

Currently, County Law § 722 requires counties to establish a plan for providing indigent representation services and sets forth four ways in which counties may implement such a plan. One such way is by the creation of a public defender's office. In recent years, several counties have established, in addition to a public defender's office, a conflict defender's office to represent eligible indigent persons in situations in which the public defender's office has a conflict of interest. This bill would amend § 722 to explicitly authorize conflict defender offices as part of a county's plan for indigent representation. The bill also creates a new County Law § 716(2), which would authorize counties to create a conflict defender's office independent of the public defender's office, and to appoint a conflict defender who is duly licensed to practice law in the State of New York. New County Law § 717(2) sets forth the duties of a conflict defender's office, which are the same as the current duties of the office of public defender, except that the conflict defender would represent eligible defendants only where representation by the public defender is precluded by a conflict of interest.

A conflict defender's office could be used by counties to lower the cost of indigent defense, as it would remove the need to hire assigned counsel in particular cases.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget as it provides local mandate relief.

Effective Date:

This bill takes effect immediately and expires on March 31, 2012.

Part G – Expand the number of offenders that must submit a DNA sample to the State.

Purpose:

This bill would expand the number of offenders that must submit a DNA sample to include all individuals convicted of a felony or misdemeanor defined in the Penal Law, adjudicated a Youthful Offender (YO) or required to register as a sex offender.

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

New York's DNA Databank began limited operations in 1996, when individuals convicted of homicide and certain sex-related crimes were required to submit a DNA sample. Since then, the Databank has become one of the State's most powerful and accurate crime-fighting tools. There have been more than 7,100 hits against the Databank to date and, during the last nine years, the Databank has been used to assist more than 9,000 law enforcement investigations. The number of crimes for which a sample must be given was expanded in 1999, 2004, and 2006; nonetheless only 46 percent of offenders convicted of a Penal Law offense in New York are currently required to give a sample.

This bill would amend Executive Law § 995 to require that everyone convicted of a Penal Law felony or misdemeanor, adjudicated a youthful offender or required to register as a sex offender must provide a DNA sample. Requiring more criminals to provide a sample will both solve crimes and help prevent future ones. This is because criminals do not specialize: of the 2,917 offenders linked to sexual assault cases through DNA, 88 percent were in the Databank for a non-sex-related crime.

This bill would also clarify who, from the various criminal justice agencies in the State, is responsible for the collection of DNA samples from designated offenders and make it a class A misdemeanor for an individual to knowingly refuse to submit a required sample.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget, because the Budget includes \$400,000 for the estimated cost of implementing the bill. The full annual cost, beginning in 2011-12, will be \$1.7 million.

Effective Date:

This bill takes effect January 1, 2011.

Part H – Establish a program for photo-monitoring enforcement of speed limits in work zones and designated stretches of highway.

Purpose:

This bill would establish a program for photo-monitoring enforcement of speed limits in work zones and designated stretches of highway.

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

This bill would authorize the Division of Criminal Justice Services (DCJS), in conjunction with the Division of State Police and the Department of Transportation, to implement a program utilizing automated photo-monitoring equipment for the purpose of imposing a monetary penalty on the registered owners of vehicles that exceed the posted speed limits in work zones and designated stretches of highways. There would be a limit of 50 cameras, with 40 being placed in work zones and 10 on designated stretches of highways. Signs alerting motorists to the presence of photo-monitoring devices would be posted at least 300 yards in advance of the devices.

Under this bill, a \$100 monetary penalty would be imposed upon the registered owner of the vehicle found to be in violation of the posted speed limit in work zones and a \$50 monetary penalty would be imposed on those found to be in violation of the posted speed limit in designated stretches of highway. A registered owner found liable for a violation of the provisions of this bill would not be deemed convicted as an operator, and would not be assessed points against his or her driver's license, nor be subject to increased automobile insurance premiums. Adjudication of contested violations would be accomplished by a process established by the DCJS. The Department of Motor Vehicles will be directed to deny the renewal or suspend the registration of owners who repeatedly fail to respond to a Notice of Violation or fail to pay the penalty.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget as it improves public safety while generating approximately \$25 million in net revenue in 2010-11 and \$71 million in 2011-12.

Effective Date:

This bill takes effect immediately.

Part I – Reduce the Board of Parole from 19 to 13 members.

Purpose:

This bill would reduce the maximum number of members of the Board of Parole from 19 to 13. The bill would also decrease the term of office of a member of the Board of Parole from six years to five years.

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

This bill would bring the membership of the Board of Parole to a level that appropriately reflects its current and projected workload. Determinate sentencing of violent drug offenders has significantly reduced the workload of the Board of Parole, which currently consists of 16 members. In 1995, which was prior to impact from determinate sentencing, 36,046 Board of Parole hearings were conducted; in 2008, there were just 24,662 hearings – a drop of 32 percent.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget. An estimated \$600,000 in recurring annual savings would be achieved.

Effective Date:

This bill would take effect immediately, provided that for any current member that has served five years or more of their current term of office, his or her current term of office would expire on the effective date of this bill. This would reduce the current membership to thirteen or less, as required by the bill. All other current members would serve no more than five years of their current term, except that such members would continue to discharge their duties even after the expiration of their term until a successor is chosen and confirmed.

Part J – Provide greater flexibility in the administration of local jails by altering segregation rules for certain inmates, authorizing broader use of video conferencing, authorizing men and women to share infirmaries, and permitting voluntary inmate work at not-for-profit corporations.

Purpose:

This bill would provide county jails with options to reduce their operating costs.

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

County jail administrators and sheriffs continue to face serious challenges in operating their facilities and controlling costs. This bill would provide relief to county jails by eliminating mandates that restrict the flexibility of county jail administrators and by providing options for the development of further efficiencies.

This bill would:

- Provide flexibility to county correctional facilities that experience capacity problems by allowing jail administrators to house inmates who are 19, 20 and 21 years of age with the general population;
- Allow a judge in any criminal case in any county to dispense with the need for a personal appearance by a defendant, except for an appearance at a hearing or trial or a plea or sentence in circumstances set forth in Criminal Procedure Law § 182.30, and instead allow the defendant to appear electronically via videoconferencing. This would allow counties to save on transportation and personnel costs and will enhance security by lowering risk of escape;
- Authorize the State Commission of Correction to adopt rules and regulations to permit male and female inmates in local jails to share the same infirmaries when certain precautions are in place; and
- Allow inmates to voluntarily leave a facility under guard to perform work for a non-profit organization. This clear authorization removes any potential ambiguity regarding this activity and is consistent with a recent change to the State Constitution allowing prisoners to perform volunteer work for a non-profit organization.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget because it would provide relief to local county jail administrators and sheriffs and generate cost savings for county governments.

Effective Date:

This bill takes effect immediately with the exception of section three, which deals with jail infirmaries. Section three becomes effective upon the adoption of rules and regulations to be promulgated by the State Commission of Correction.

Part K – Authorize increases to Judiciary civil fees to support indigent legal services for both criminal and civil matters and for the rising costs of court operations.

Purpose:

This bill would authorize increases to certain civil fees in order to support criminal and civil legal services for the indigent and rising costs of court operations.

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

This bill would allow for the increase in certain court fees, that would compensate for recent declines in interest earnings on the escrow accounts which traditionally serve as the core source of funding for civil legal services. Additionally, funds would be used to oversee the reform and transformation of the indigent defense system through supplemental funding to the Indigent Legal Services Fund (ISLF).

Sections one and two of the bill would provide for an increase in the State's portion of the index number fee. The index number fee is paid when a case is first filed in Supreme Court and was last raised in 2003. The State portion will be increased from \$165 to \$215.

Section three and four of the bill would provide for an increase in Motion and Cross Motion fees in Supreme and Appellate courts. Motion and Cross Motion fees are associated with the filing of an application with a judge requesting a ruling in favor of the applicant. These fees, established in 2003, would be increased from \$45 to \$120. This significant increase is expected to deter the use of excessive motions as a legal tactic and encourage the movement of cases through the courts.

Sections five, six and seven of the bill would provide for the increase of the First Paper Fee in City, District and New York City Civil Court. The First Paper Fee is similar to the index number fee and is paid when a case is first filed in City, District, or NYC Civil courts and was last raised in 2003. The fee would increase from \$45 to \$60. The difference between the magnitude of the increase to the index fee and the First Paper Fee reflects the fact that Supreme Court cases usually involve substantially higher monetary values than cases filed in the other courts.

These provisions would be effective July 1, 2010 in order to provide the Office of Court Administration sufficient time to adjust its financial systems to accommodate the increased fees.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget and will generate \$41 million in additional revenue, growing to \$54 million when fully

implemented. Of this revenue: \$15 million will be used to fund a Civil Legal Services' appropriation in the Judiciary's 2010-11 budget request; \$10 million will be used to reform the indigent defense system and provide additional grant support to local defense services; and \$16 million will be generated for the Court Facilities Incentive Aid Program (CFIA) and will offset a projected \$46 million transfer to CFIA from the General Fund in 2011. CFIA provides reimbursement to local governments for court cleaning and minor repairs among other expenses.

Effective Date:

This bill takes effect July 1, 2010.

Part L – Provide additional flexibility for towns and villages to consolidate justice courts and their facilities.

Purpose:

This bill would provide fiscal relief to towns and villages by allowing them to share justice court facilities as well as make technical changes to the current process for reducing the number of justices in adjacent towns.

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

This bill would provide fiscal relief to local governments by allowing municipalities to share court facilities upon the election of a single town justice in two or more towns, as provided for by Uniform Justice Court Act § 106-b, or pursuant to an intermunicipal agreement.

It would also make a number of technical corrections to the current process for reducing the number of justices in adjacent towns. Chapter 237 of the Laws of 2007 expanded the number of towns that could use the process provided for by Uniform Justice Court Act § 106-a from two to two or more. This bill would make a number of technical corrections to reflect this increase in the number of towns able to participate.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget because it would provide fiscal relief to towns and villages by giving them increased flexibility to share court facilities and reduce the number of justices.

Effective Date:

This bill takes effect immediately.

Part M – Require the Judiciary to provide a public accounting of the expected impact on local governments of any new or expanded program mandated by its rules and regulations.

Purpose:

This bill would increase the transparency of the Judiciary’s rule-making that impacts local governments.

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

In order to increase the transparency of State governmental actions, this bill would ensure that local governments and the public are fully informed of the costs of any rule or regulation issued by the Judiciary that mandates a new service or an increased level of service. The provisions of this bill are comparable to those contained in the State Administrative Procedure Act (SAPA), from which the Judiciary is exempt.

The Chief Judge of the Court of Appeals or the Chief Administrative Judge would be required to make a public accounting of the expected impact on local governments of any rule or regulation under which a local government must create a new program or provide a higher level of service. The public accounting must include the fiscal impact of such mandate, a cost-benefit analysis, documentation of input sought and received from the affected local government, and any proposed source of revenue to fund such mandate.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget, because it would improve the transparency of State government actions that impact local governments.

Effective Date:

This bill takes effect immediately.

Part N – Enable local governments to finance costs associated with the development of public safety communications systems through the Municipal Bond Bank Agency.

Purpose:

This bill would enable municipalities to finance costs associated with the development of a public safety communications system through the Municipal Bond Bank Agency.

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

This bill would authorize municipalities to utilize pooled financing through the Municipal Bond Bank Agency (MBBA) to finance the development of regional communications networks – one of the most pressing capital costs facing counties. Many public safety networks are becoming outdated, and new systems will be needed to comply with federal standards for the use of narrow-band frequencies by public safety organizations. Further, the State would benefit by the development of these new regional networks, as they can be linked together to form a single statewide interoperable communications system for use by all first responders.

In the absence of this mechanism, local governments will be forced to issue traditional municipal bonds or create new credits, driving higher costs for both issuance fees and ongoing interest costs. The authorization builds upon Chapter 494 of the Laws of 2009, which authorized municipalities to issue American Recovery and Reinvestment Act (ARRA) bonds. Bonds issued under this mechanism are capped at \$1 billion, and local governments are permitted to re-finance bonds previously issued to support development of public safety communications systems within this cap.

Any debt issued under this mechanism would not be a debt of the State, but rather the responsibility of the municipality. In an instance in which a municipality fails to make a required debt service payment, its State aid would be intercepted to make the payment. Separate legislation advanced with the Budget permits the new Division of Homeland Security and Emergency Services to fund up to thirty percent of the costs borne by a municipality associated with the issuance of bonds under this mechanism as part of annual grants they may make to the municipality.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget as it will provide fiscal relief for local governments planning to develop interoperable public safety communications systems.

Effective Date:

This bill take effect immediately.

Part O – Abolish the State Employment Relations Board and shift its responsibilities to the Public Employment Relations Board.

Purpose:

This bill would abolish the State Employment Relations Board (SERB) and expand the responsibilities of the Public Employment Relations Board (PERB) for providing labor

mediation and other services for public employers and their employee unions to include the private sector responsibilities of SERB.

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

Abolishing the State Employment Relations Board (SERB) and transferring its responsibilities to the Public Employment Relations Board (PERB) would create a single entity with an appropriately broad policy perspective in the critical area of labor relations and responsibility for assisting both the public and private sectors in resolving labor disputes. Further, the volume of union certifications and improper practice charges filed with SERB is extremely limited, and its resources are therefore greatly underutilized. As a result, the merger would generate economies of scale and eliminate duplicative efforts that will create \$1,200,000 in annual savings.

This bill amends the Civil Service Law, the Labor Law and the Executive Law to abolish SERB and shift its responsibilities related to the private sector and the Indian Nations to PERB.

PERB, established in Article 14 of the Civil Service Law, is currently charged with assisting State and local governments and public employee unions in resolving labor impasses by providing mediation services. The Board also certifies unions and reviews improper labor practices. SERB, created by Article 20 of the Labor Law, provides mediation and related services to private employers and their unions, and certifies unions and resolves certain improper labor practices that do not fall within the jurisdiction of the National Labor Relations Board.

Bills to merge SERB into PERB have been proposed several times in the past, most recently as part of the 2009-10 Executive Budget.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget, which includes savings of \$1,200,000 resulting from the abolition of SERB.

Effective Date:

This bill takes effect 30 days after enactment.

Part P – Repeal the requirement that contractors collect a fee on sales from centralized contracts administered by the Office of General Services.

Purpose:

This bill would repeal State Finance Law § 163-c which requires contractors to collect a fee on sales from centralized contracts administered by the Office of General Services.

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

State Finance Law § 163-c requires contractors to include a surcharge of one-half of one percent on the purchase price charged to entities (State agencies, local governments, public authorities, not-for-profits and school districts) utilizing centralized contracts. Contractors must remit such amounts to the Department of Taxation and Finance for purchases against contracts with bids awarded after June 30, 2008.

The procurement contract fee was included as part of the 2008-09 Enacted Budget, and was intended to reimburse the State for the cost of developing centralized contracts. At the time of enactment, it was estimated that this fee would generate approximately \$8 million in 2008-09, growing to \$20 million annually thereafter.

The revenue produced by this fee has been far lower than originally projected. Moreover, counties and small businesses have derided the fee as burdensome and costly.

Budget Implications:

This bill is necessary to implement the 2010-11 Executive Budget.

Effective Date:

This bill takes effect immediately.

Part Q – Collect surplus funds from Workers Compensation insurance carriers.

Purpose:

This bill would require workers compensation insurance carriers to remit to the Workers' Compensation Board any New York State Assessment Surcharge funds, as defined by the New York State Compensation Insurance Rating Board, collected from policyholders attributable to State Fiscal Year 2008-09 in excess of amounts billed to the insurance carriers by the Workers' Compensation Board during State Fiscal Year 2008-09.

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

Over the past several years, carriers as a group have collected over \$100 million from their policyholders in excess of what the Workers' Compensation Board has billed them. This was due in part to a disconnect in the Workers' Compensation Law that required the carriers to apply the surcharge to its policyholders based on standard premium whereas the bills sent out by the Board were based on written premium.

The purpose of this bill is to require the carriers to remit their surplus, by mandating that they provide to the Workers' Compensation Board any funds collected in excess of what was billed by the Board for the time period attributable to State Fiscal Year 2008-09.

The surcharge charged by carriers is set each year by the New York State Compensation Insurance Rating Board to cover all costs of the Workers' Compensation Board, with the exception of the costs of the group self insurance program. All insurance carriers writing coverage in New York State are required to collect the surcharge from their policyholders and each carrier is billed by the Board for a share of its costs. The insurance carriers remit the amount the Board has billed to them from the surcharge collected from policyholders. The accounting for this process has not yet closed for SFY 2008-09, and this legislation would ensure that insurers could not keep the excess they had collected, and which would not serve the purpose of the surcharge in the first instance.

Chapter 56 of the Laws of 2009 required that both the surcharge and amount collected be based on standard premium beginning with the fiscal year starting January 1, 2010. While the change put in place by Chapter 56 should lessen the disconnect going forward, SFY 2008-09 still falls under the old methodology.

Budget Implications:

Under this legislation, anticipated additional revenue in the amount of \$23.6 million will be collected, remitted to the Board and subsequently transferred to the General Fund.

Effective Date:

This bill takes effect immediately.

Part R – Protect injured workers' benefits and ensure that employers who participate in self-insured groups and group administrators fully meet their future fiscal responsibilities.

Purpose:

This bill would amend the Workers' Compensation Law and the Insurance Law to authorize the Workers' Compensation Board (Board) to borrow from the Uninsured Employers Fund; enforce judgments against employers who fail to honor their workers' compensation obligations as a member of a group self-insured trust (GSIT); require the custodians of records pertaining to insolvent group self-insurers to turn such records over to the Board upon demand; and allow the Board to recognize insurance products which transfer the long term workers' compensation obligations from a former self-insurer or group self-insurer to an authorized workers' compensation carrier.

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

The Workers' Compensation Law permits employers to insure their workers' compensation obligations by purchasing a policy from a private carrier or the State Insurance Fund, or to self-insure via a GSIT. An employer who chooses the latter option must commit to being jointly and severally liable for the GSIT's debts. When a GSIT defaults, the Board must take possession of its assets and insure that the injured workers who were employed by its members receive the payments to which they are entitled.

In the past several years, numerous GSITs have defaulted, and the Board has taken over their operation. This has resulted in the billing of trust members for hundreds of millions of dollars; imposition of substantial assessments on healthy self-insurers; the commencement of substantial litigation; and the closing of numerous additional GSITs. To address these problems, Chapter 139 of the Laws of 2008 allowed the Board to engage in limited borrowing of money from the Uninsured Employers Fund (UEF) to make payments to these claimants and offset assessments. That borrowing authority has expired, however, and the amount which may be borrowed substantially exhausted. Further steps are now needed to limited assessments to a manageable level.

This bill would extend the provisions of Chapter 139 to allow the Board to borrow additional funds from the UEF, up to a maximum total borrowing of \$75 million. This would mitigate the impact of the defaults on the healthy self-insurers while ensuring benefit payments to claimants. It would also delay the need for healthy self-insurers to begin repayment of funds already borrowed, which would only add to the assessment burden.

This bill not intended as a substitute for collections from the members of the defaulted GSITs and from third parties responsible for their defaults. Indeed, this proposal would clarify that the Board has authority to enforce judgments against the former members of an insolvent GSIT who have failed to pay their lawful workers' compensation obligations, in addition to commencing collection actions against them. This clarification would enable the Board to enhance its collection efforts and thus mitigate the burden placed on the healthy self-insurers. This bill would also clarify that records pertaining to the insolvent GSIT become the property of the Board, thereby speeding up the time in which the Board is able to issue final bills to former members of insolvent GSITs and accordingly reduce the time period, and thereby amount, of assessments on the self-insurance community.

In addition, this bill would amend the Insurance Law to allow individual self-insurers or group self-insurers to purchase an insurance product and transfer its long term workers' compensation obligations to an authorized workers' compensation carrier. This would allow the Board to facilitate arrangements under which terminated self-insurers could efficiently and consensually transfer their obligations.

The bill would also mitigate the burden the defaulted group self-insured trusts place on the large individually self-insured employers in New York as well as the small businesses that remain in the other healthy group trusts. Unless measures are taken to limit this burden, private businesses will be closing operations or moving to other states due to excessive self-insurance assessments which could also reduce the Board's flexibility in its collection efforts against the former members of the defaulted group trusts. Moreover, unless such costs are contained they may drive other GSITs to close, thereby initiating a vicious circle that complicates the Board's ability to collect sufficient funds to aid injured workers.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget, as it would authorize borrowing from the UEF, and will help the Board limit assessments on self-insured businesses. The bill is also a necessary complement to appropriations to provide additional resources to the Board to address the obligations of defaulted GSITs.

Effective Date:

This bill takes effect immediately.

Part S – Establish joint appointing authority for the Statewide Financial System Project.

Purpose:

This bill would amend Unconsolidated Law to authorize joint appointments to the State Financial System project by the Division of the Budget and the Office of the State Comptroller.

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

This bill would create and define the Joint State Financial System Project and allow for the appointment of employees to this project by the Division of the Budget and the Office of the State Comptroller. It would also set forth that the titles in this project shall be treated as if they were a department for purposes of appointment and promotion under Civil Service Law, granting appropriate rights to the employees.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget as it reflects the merger of two previously independent projects overseen by the Division of the Budget and the Office of State Comptroller into a consolidated Statewide Financial System. This merger is expected to generate savings of \$24 million.

Effective Date:

This bill takes effect immediately.

Part T – Provide the New York State Health Insurance Program the option to operate as a self-insured plan.

Purpose:

This bill would amend the Civil Service Law to allow the New York State Employee Health Insurance Plan (NYSHIP) to operate as a self-insured plan.

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

This bill would permit the State to self-insure for a variety of employee health benefits. Currently, the State contracts with licensed insurance companies for various health benefits and pays all necessary risk charges associated with having insurance. The insurance carriers also pay specialty taxes and insurance assessments which they, in turn, pass along to the State as charges.

Even though the State pays such risk charges and reimbursements for tax assessments, NYSHIP, for all practical purposes, functions like a self-insured plan. Regardless of the premium paid, the State pays the actual billed costs of health benefits. Therefore, the insurance carriers incur a very minimal amount of actual risk, but benefit from risk fees charged to the State. The language change proposed in this bill would not require the State to change the current practice; it simply would give NYSHIP flexibility of choice going forward. Giving the State more choices would create a more competitive environment among the current insurers and would also broaden the field of competition by allowing third-party administrators to bid on contracts.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget. It is estimated that the State could save as much as \$15 million in 2010-11 if this bill is enacted. Moreover, this bill would afford the State more flexibility to enter into contracts for employee health benefits that are in the financial interests of the State and local governments which participate in the Empire Plan.

Effective Date:

This bill takes effect immediately.

Part U – Require State employees and retirees to contribute to Medicare Part B premiums.

Purpose:

This bill would incorporate the Medicare B premium costs into the overall cost of the Empire Plan and HMOs shared by the State (as employer) and State employees and retirees.

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

This bill would recognize Medicare Part B premium costs as an appropriate cost of the Empire Plan and HMO employee/retiree health coverage. The State would continue the current practice of fully reimbursing retirees through pension payments for Medicare Part B premiums deducted from social security checks.

Medicare was established in 1965 as a two-part program. Part A provides insurance coverage of inpatient hospital care. Part B provides coverage for physician services both in and out of the hospital. Medicare benefits are available to individuals over age 65. Most senior citizens pay a monthly premium in order to receive Part B benefits. The State currently reimburses retired State employees \$96 a month for their Medicare Part B premiums (\$138 million annually).

New York State is among only 6 states that reimburse a portion of Medicare Part B premiums. The Empire Plan has benefited from the Federal Medicare reimbursements to physicians resulting in billions in savings - - costs which would have otherwise been incurred by the State, employees and retirees. Under this bill both employees and retirees will pay a portion of Medicare Part B premiums (i.e., 10 percent for individual coverage and 25 percent for dependent coverage) consistent with the longstanding arrangement for Empire Plan health insurance premiums. By blending the Medicare Part B premium costs into the much larger Empire Plan and HMO premium calculations, approximately 14 percent of the costs will be recouped from both State employees and retirees. Employee/retiree health insurance contributions will increase by approximately \$30 a year for individual coverage and \$85 a year for family coverage.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget. The State will save an estimated \$30 million in 2010-11.

Effective Date:

This bill takes effect immediately.

Part V – Provide the State and local governments outside of New York City the option to amortize a portion of pension contribution costs during a six year period, in order to provide substantial financial relief.

Purpose:

This bill would amend the Retirement and Social Security Law (“RSSL”) to permit the State and other participating employers to amortize a portion of their New York State and Local Employees' Retirement System (ERS) and New York State and Local Police and Fire Retirement System (PFRS) contribution costs for the 2010-11 through 2015-16 fiscal years.

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

Enactment of this bill is necessary to provide financial relief to the State and local governments who are facing significant financial pressures during the current economic crisis.

Sections 1-6 of the bill (new RSSL §§ 16-e, 16-f, 16-g, 16-h, 16-i, and 16-j) and sections 8-25 of the bill (new RSSL §§ 316-e, 316-f, 316-g, 316-h, 316-i, 316-j, 17-e, 17-f, 17-g, 17-h, 17-i, 17-j, 317-e, 317-f, 317-g, 317-h, 317-i, and 317-j) would:

- Provide the State and other participating employers with an option to amortize a portion of their ERS and PFRS contribution costs for the 2010-11 through 2015-16 fiscal years.
- Permit the State and participating employers to amortize that portion of their ERS and PFRS contribution costs that exceed 9.5% and 17.5% of salary, respectively, in 2010-11; 10.5% and 18.5% of salary in 2011-12; 11.5% and 19.5% of salary in 2012-13; 12.5% and 20.5% of salary in 2013-14; 13.5% and 21.5% of salary in 2014-15; and 14.5% and 22.5% of salary in 2015-16.
- Establish that such amount eligible for amortization may be amortized over a 10-year period at a fixed rate of interest to be determined by the Comptroller which approximates a market rate of return on taxable fixed rate securities with similar terms issued by comparable issuers, with the first annual installment of the amount eligible for amortization due in the fiscal year ending on March 31, 2012.
- Permit the Comptroller to allow for the pre-payment of the remaining balance of the amortized amounts.

Sections 7 and 26 of the bill would require a minimum annual contribution from the State and every ERS and PFRS participating employer equal to 5.5% of salary or the required annual contribution, whichever is greater.

Budget Implications:

Enactment of this bill is necessary to implement the Executive Budget. It is estimated that the State will save approximately \$217 million in the General Fund in 2010-11 by amortizing the full amount permitted by this bill. In fiscal years 2010-11 through 2015-16 the State and all local governments outside of New York City would save up to an estimated \$3.4 billion and \$6.4 billion, respectively, net of repayments. However, these governments will have to pay additional pension contributions in later years in order to make interest payments on the pension contributions amortized pursuant to this bill.

Effective Date:

This bill takes effect immediately.

Part W – Merge the State Board of Real Property Services and the State Office of Real Property Services into the Department of Tax and Finance.

Purpose:

As an initiative to make State agency operations more efficient and less expensive, this bill would merge the State Board of Real Property Services and the State Office of Real Property Services into the Department of Taxation and Finance.

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

This bill would discontinue the State Board of Real Property Services and the State Office of Real Property Services (ORPS) as independent entities. Their functions would be transferred to a newly-created Office of Real Property Tax Services within the Department of Taxation and Finance, except that the State Board's power to review and determine complaints regarding State equalization rates, special franchise assessments and other matters would be transferred to the Tax Appeals Tribunal (or in the case of local disciplinary actions, to the State Civil Service Commission).

Bill sections 4 through 8 would amend Article 2 of the Real Property Tax Law to effectuate this transfer of authority. The remaining bill sections would make conforming changes to relevant provisions of law.

The merger of the State Board and ORPS into the Tax Department and the Tribunal will produce operational efficiencies by enabling the consolidation of facilities and integration of staff resources, thereby maintaining core services at a lower cost. This initiative expands upon the current "hosting" arrangement between the agencies that has already reduced overall costs for administrative support.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget and Financial Plan, which assumes over \$1.9 million in full annual savings by consolidating these agencies.

Effective Date:

This bill takes effect immediately.

Part X – Authorize electronic reporting of property assessment information and e-filing of real property transfer forms.

Purpose:

As part of a comprehensive mandate reform initiative, this bill would promote more efficient and cost-effective tax administration by authorizing electronic reporting of property assessment information and real property transfer forms.

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

This bill would provide that taxpayers be notified annually, in a timely and cost-effective manner, of their expected property assessments for the coming tax cycle, and what those assessments represent in terms of market value. Property taxes are a major concern for property owners throughout the State; it is important for taxpayers to consistently receive meaningful and timely assessment disclosure about such taxes. Under current law, disclosure is provided only under limited circumstances, such as when a revaluation has occurred (Real Property Tax Law § 511). Taxpayers should receive this information when errors can still be informally rectified and before the deadline for filing complaints. This bill would achieve these critical objectives, while sparing assessing units from any costly new mandates.

This bill would also authorize the electronic submission of real property transfer report data to the Office of Real Property Services (ORPS), and permit ORPS and the Department of Taxation and Finance (DTF) to combine their respective programs for the collection of data relating to real property transfers. Currently, ORPS and DTF separately collect real property transfer data on separate forms. Authorizing a single process for collecting and sharing this data will ease the burden on private buyers and sellers and their attorneys, while creating greater operational efficiencies within and between the agencies. Local governments will also realize savings since their staffs will no longer be required to manually complete and transmit these forms, and postage costs will be eliminated. Finally, centralizing the collection of this data through electronic systems will eliminate the potential for errors resulting from multiple parties being involved in manually completing these transactions. Accurate sales data is crucial to the process of

establishing accurate residential assessment ratios for taxpayers and equalization rates for municipalities.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget because it will reduce the local cost of real property tax administration while simultaneously improving information that is provided to taxpayers.

Effective Date:

This bill takes effect January 1st following enactment.

Part Y – Restructure State aid for local governments to assess real property at full value.

Purpose:

This bill would restructure the State's reassessment aid program to better encourage local governments to maintain updated property assessments within available funding levels.

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

Under existing law, a local assessing unit may receive aid of up to \$5 per parcel for conducting a full value reassessment without making any commitment to reassess again. Since assessment equity can quickly deteriorate if not actively maintained, the State's limited resources should not be used to incentivize "one-shot" reassessments. This bill would restructure the requirements so that to receive aid, an assessing unit would have to adopt a multiyear plan of at least four years that calls for a full value reassessment to be completed in the first and last years of the plan. This will allow the local government to select its own reassessment cycle time frame, while at the same time ensuring that the equity obtained through its reassessment project does not erode. Up to \$5 per parcel would be paid for successful completion of each reassessment conducted in accordance with the plan, and up to \$2 per parcel will be paid in the interim years.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget, which caps total payments for this program at \$6.9 million. This level of funding reflects a \$1.35 million reduction in available appropriation from the 2009-10 Enacted Budget, consistent with savings enacted in the 2009-10 Deficit Reduction Plan.

The restructured aid program also creates the potential for future-year savings to the extent assessing units which now reassess annually move to a three- or four- year

reassessment cycle. As a result, instead of receiving \$5 per parcel every year, they would receive \$5 per parcel in the first and last years of their plan, and \$2 in the interim years. This potential savings would maintain the program at current funding levels by offsetting new costs should additional local governments choose to participate in the program.

Effective Date:

This bill takes effect immediately and is applicable to assessment rolls with taxable status dates occurring on and after March 1, 2010.

Part Z – Reduce funding to local governments under the Aid and Incentives for Municipalities (AIM) Program.

Purpose:

This bill would reduce funding to local governments under the Aid and Incentives for Municipalities (AIM) Program, with such reductions targeted based on the percentage of a municipality's total revenues that AIM represents.

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

This bill would amend State Finance Law §54 to authorize reductions in AIM funding to cities, towns and villages targeted based on each municipality's AIM reliance (i.e., their SFY 2008-09 AIM funding as a percentage of 2008 total revenues). These reductions would apply to SFY 2009-10 aid levels that were scheduled prior to the enactment of the SFY 2009-10 Deficit Reduction Plan at the following levels: 2 percent if AIM reliance was at least 10 percent; and 5 percent if AIM reliance was less than 10 percent.

Payments to New York City and Erie County would be eliminated. Under current law, these payments would total \$301.7 million and \$668,332, respectively. The enacted 2009-10 Deficit Reduction Plan previously reduced funding to the City by \$26.2 million. Both of these municipalities have extremely low reliance on AIM funding.

This bill would authorize AIM funding reductions that are necessary to balance the 2010-11 Budget in a way that would mitigate the impact of those reductions on individual municipalities. The enacted SFY 2009-10 Deficit Reduction Plan used a similar AIM reliance construct, but applied only to 18 cities.

Budget Implications:

Enactment of this bill is necessary to implement the SFY 2010-11 Executive Budget because it achieves \$317.4 million in savings essential to the State's Financial Plan, reducing aid under the AIM program from \$1.052 billion in SFY 2009-10 to \$734.6 million in SFY 2010-11.

Effective Date:

This bill takes effect immediately.

Part AA – Reduce State aid provided to municipalities in which a video lottery gaming facility is located.

Purpose:

This bill would reduce State aid provided to eligible municipalities that host a video lottery gaming facility by 10 percent, while preserving adequate reimbursement for excess burdens incurred by communities where these facilities currently operate.

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

This bill would amend State Finance Law § 54-I, which authorizes a State aid program for the City of Yonkers and 15 other local governments in which a video lottery gaming facility is located, to set payments in SFY 2010-11 and thereafter at 90 percent of the amounts paid in SFY 2009-10. A 10 percent reduction would make the program more affordable for the State and still provide host municipalities with adequate reimbursement for any local costs resulting from the gaming operations in their communities.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget because it reduces the State's annual cost of providing aid to municipalities where video lottery gaming facilities are located by \$2.6 million beginning in SFY 2010-11.

Effective Date:

This bill takes effect immediately.

Part BB – Place a four-year moratorium on new unfunded legislative mandates on local governments and school districts.

Purpose:

As part of a comprehensive mandate reform initiative to minimize the local property tax burden, this bill would enact a four-year moratorium on any new unfunded statutory mandates and require fiscal notes for legislation impacting local governments and school districts.

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

This bill would relieve pressure on local property taxes by prohibiting the enactment of legislation that would: (i) require a local government or school district to undertake a new program, (ii) increase the level of service for an existing program, or (iii) increase the value of any property tax exemption, where any of these would cost one such government or district more than \$10,000, or more than \$1 million statewide. This ban would be subject to certain very narrow exceptions, such as a court ordered requirement or a need to protect against an immediate threat to public health or safety. The duration of this moratorium would be four years.

This bill would also assist local governments and their taxpayers, as well as State officials, in assessing the cost of legislation by requiring a fiscal note for proposed legislation impacting municipalities and school districts. It would require all legislation that would substantially affect the revenues or expenses of a local government or school district to include a fiscal note estimating the local costs associated with the bill.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget because it would provide fiscal relief to local governments and school districts by preventing new unfunded legislative mandates.

Effective Date:

This bill takes effect immediately. The moratorium on unfunded mandates will sunset after four years.

Part CC – Repeal the multiple bidding requirements for schools.

Purpose:

As part of a comprehensive mandate reform initiative to minimize the local property tax burden, this bill would provide fiscal relief to school districts by exempting them from the multiple bidding requirements imposed on public works projects by the Wicks Law.

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

Currently, the Wicks Law requires school districts to solicit and receive separate bids for plumbing, ventilation, electric and other construction work on public works projects over \$3 million in New York City, \$1.5 million in Westchester, Nassau and Suffolk Counties, and \$500,000 in the rest of the state. This bill would permit school districts to use a single contractor for such public works projects. Several studies have found that the use of a single contractor reduces the cost of construction because it results in better coordination

of work and fewer delays. The current thresholds that determine the applicability of the Wicks Law multiple-bidding requirements were enacted in 2008, along with a number of subcontractor protections. This bill will preserve those subcontractor protections and repeal the multiple bidding requirements for schools.

Section one of this bill would amend the General Municipal Law to exempt school districts from the Wicks Law.

Sections two and three of this bill would amend the Education Law to exempt New York City Educational Construction Fund projects and the City of Yonkers Educational Construction Fund projects from the Wicks Law.

Sections four and five of this bill would amend the Public Authorities Law and Chapter 738 of the Laws of 1988 to make the New York City School Construction Authority's exemption from the Wicks Law permanent.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget because it would provide fiscal relief to school districts. It is expected to generate \$200 million in annual capital savings to school districts, and the resulting debt service savings will provide savings to school districts as well as the State, which provides reimbursement through building aid at a statewide average rate of 70 percent.

Effective Date:

This bill takes effect immediately.

Part DD – Set the interest rate paid on judgments by local governments, the State and certain public corporations, at market rates.

Purpose:

As part of a comprehensive mandate reform initiative to minimize the local property tax burden, this bill would set the interest rate paid on judgments by local governments, the State and certain public corporations, at market rates.

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

This bill would facilitate local and state government cost savings efforts by setting the interest paid on judgments by local governments, the State and certain public corporations at the weekly average one year constant maturity treasury yield, capped at 9 percent. This is the same standard used by the federal government. Current law allows the interest rate paid on judgments to be set at any rate up to 9 percent.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget because it would generate \$2.6 million in savings to the State and \$1.5 million in savings to New York City as well as additional savings to other local governments.

Effective Date:

This bill takes effect immediately.

Part EE – Provide local governments with additional flexibility to restructure and share services.

Purpose:

As part of a comprehensive mandate reform initiative to minimize the local property tax burden, this bill will provide local governments with additional flexibility to restructure and share services.

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

Sections one and two of this bill would amend the Agriculture and Markets Law to allow multiple counties to share one Director of Weights and Measures pursuant to an inter-municipal agreement. The Agriculture and Markets Law currently requires each county to have its own Director of Weights and Measures, who must reside in the county. This change has the potential not only to improve the delivery of such services, but also to generate cost savings for counties. The bill also would also amend the County Law to update antiquated “Sealer” references to conform to current terminology. Some counties have explored sharing this position.

Section three of this bill would amend the Town Law to establish an administrative mechanism to permit fire companies and fire districts to elect additional non-resident members, while considering the impact of such membership on adjacent companies/districts. Under current law, fire companies and districts are not permitted to have more than 45 percent of their membership be nonresidents. This bill would allow companies and districts that desire additional nonresident members to apply to the State Fire Administrator for a five-year waiver to exceed the 45 percent threshold. Notice of this application would be published in the State Register, and if no objections were received from neighboring fire districts, the application would be granted. If there is an objection, the State Fire Administrator would be authorized to grant a waiver for an appropriate amount of time taking into consideration: 1) the difficulty of the fire company/district in recruiting and retaining personnel; 2) an alternative means for the fire company/district to address such difficulty; and 3) the impact of the waiver on adjacent companies/districts. This waiver process would provide fire companies/districts with additional flexibility in

recruiting and retaining volunteer firefighters while ensuring that neighboring companies/districts would not be harmed by this additional recruitment.

Section four of this bill would amend the Real Property Tax Law to allow a county to enter into a cooperative agreement with any city, town, village or school district therein, under which the county treasurer will serve as the local government's tax collecting officer. This amendment would expressly provide that such tax collection will be considered a "joint service" under Article 5-G of the General Municipal Law, governing inter-municipal cooperation.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget because it would provide additional flexibility to local governments to restructure and share services, thereby reducing local government costs.

Effective Date:

This bill takes effect immediately.

Part FF – Increase procurement flexibility for local governments and the State.

Purpose:

As part of a comprehensive mandate reform initiative to minimize the local property tax burden, this bill would provide local governments with additional procurement flexibility. In addition, this bill would provide for more efficient procurement by the State.

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

This bill would facilitate local government cost saving and efficiency efforts by providing additional procurement flexibility. Specifically, this bill would:

- Increase the competitive bidding thresholds for public works contracts from \$35,000 to \$50,000 and commodities contracts from \$10,000 to \$20,000, while clarifying the existing rule against artificially dividing a contract to avoid the competitive bidding requirements;
- Allow local governments to require that bids be submitted in an electronic format;
- Provide for submitting the statement of non-collusion electronically;
- Allow local governments to hold reverse auctions;
- Allow local governments to award contracts based on "best value";
- Allow local governments to "piggyback" on certain federal GSA contracts as well as the contracts let by other states and local governments; and
- Provide local governments with the option of advertising for bids in the Contract Reporter instead of their official newspaper.

This bill would provide the State with additional procurement flexibility by allowing for the use of electronic bidding methods, including reverse auctions, for competitive procurements. In addition, this bill would authorize the submission of statements of non-collusion electronically. Finally, this bill would increase from \$50,000 to \$100,000 the threshold under which short form construction contracts (using abbreviated advertising and not requiring a performance bond) may be issued.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget because it would provide fiscal relief and increased operational flexibility for local governments and the State.

Effective Date:

This bill takes effect immediately.

Part GG – Provide additional oversight and accountability for commissioner-run special districts.

Purpose:

As part of a comprehensive mandate reform initiative to minimize the local property tax burden, this bill would provide additional oversight and accountability for commissioner-run special districts.

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

Section one of this bill would amend the Town Law to prohibit special district commissioners (“district commissioners”) from receiving compensation for their services. District commissioners, however, would still receive reimbursement for any actual and necessary expenses they incur in the performance of their official duties. Under current law, district commissioners may receive compensation of up to \$100 for each day spent in the service of the district, as well as health insurance and other perquisites. By eliminating their compensation, this bill would put district commissioners in the same position as school board members and fire district commissioners, who are also barred from receiving compensation. Audits by the Nassau County Comptroller have shown that many district commissioners currently receive significant salaries and benefits.

Sections two and three of this bill would amend the Town Law to address the wide variation in special district sanitation collection costs. This amendment would transfer to town boards most of management responsibilities for town special districts providing sanitary, refuse, or garbage services, but would allow elected district commissioners to continue to hold referenda on whether the level of services provided to district residents

should be changed. As the Nassau County Comptroller has documented, some commissioner-run sanitation districts charge households significantly more than other districts providing substantially the same level of services. These amendments have the potential to improve the management and reduce the costs of these special districts.

Section four of this bill would amend the Town Law to re-establish a process for a town board or citizens to abolish the offices of town improvement district commissioners. Previously, that process was contained in the same section of law as an outdated process for the consolidation of improvement districts, which was repealed by the New York Governmental Reorganization and Citizen Empowerment Act of 2009 (“the Reorganization Act”). This bill restores the process to abolish commissioner offices and modifies it to reflect the new petition process contained in the Reorganization Act. This amendment is necessary to provide towns and their residents with the ability to retain their improvement districts and the services they provide while eliminating the offices of improvement district commissioners, which are vestiges of the Town Law that existed prior to 1932 and exist in less than one percent of improvement districts statewide.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget because it would provide additional oversight to commissioner-run special districts, resulting in reduced costs for taxpayers. The Nassau County Comptroller estimated that the transferring the management of sanitary districts to town boards could save local taxpayers from \$16 to \$38 million annually.

Effective Date:

This bill takes effect immediately, except for the elimination of town improvement district commissioner compensation and the transfer of the management of sanitation districts, which take effect January 1, 2011.

Part HH – Provide local governments with additional revenue options.

Purpose:

This bill would provide local governments with several additional revenue sources that they may be used, at local option, to reduce or contain their property tax levies.

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

Section 1 of this bill would amend the Public Officers Law to permit municipalities, at local option, to charge fees for accident report at rates not to exceed those authorized by the State Police. Since 1994, the State Police have had the authority to charge a \$15 search fee for an accident or investigative report, an additional \$15 fee for a certified copy thereof, and a \$25 fee for any related photographs or contact sheets. In 2000 Nassau

County was authorized to charge such fees, albeit at the lower rates of \$10, \$10 and \$15, respectively. Currently, all other municipalities are limited to the general \$0.25 per page fee set by the Freedom of Information Law. This bill would allow local police departments to charge up to the same fees for certain services as the State Police.

Sections 2 through 7 of this bill would amend the General Municipal Law and the Banking Law to permit local governments to make deposits in credit unions, savings banks and savings and loan associations. Conforming changes permit such institutions to accept such deposits. Currently, local governments may make deposits only in commercial banks and trust companies. Allowing local governments to deposit funds in credit unions, savings banks and savings and loan associations would potentially help them to receive higher interest rates on such deposits. At the same time, these institutions are more likely than larger banks to invest a greater share of their funds in the community.

Section 8 of this bill would amend the General Municipal Law to permit local governments other than the City of New York to charge fees for ambulance services, including emergency medical services, provided by their fire departments or fire companies. Currently, local governments may charge fees for such services only if they have created a freestanding ambulance company separate and apart from their fire department or fire company. However, very few such companies exist due to the difficulty in establishing them and to the historical evolution of the provision of such services. Permitting fees for ambulance services would therefore allow local governments to place the cost of financing such services on the individuals who use them rather than on their property taxpayers. The majority of any such fees would ultimately be borne not by the individuals themselves but by their health insurance companies.

Section 9 of this bill would amend the General Municipal Law to authorize municipalities, at local option, to charge for the provision of additional police protection to paid-admission events. This section would permit municipalities, among other things, to determine which types of paid-admission events would incur such charges and to exempt not-for-profit-corporations. Currently, municipalities lack the authority to impose such charges. This bill would allow municipalities to reduce the burden of paid-admission events place on taxpayers.

Sections 10 and 11 of this bill would amend the General City Law and the Village Law to increase the maximum rate at which cities and villages are authorized to impose local gross receipts taxes on utilities from 1 percent to 3 percent. Under existing law, cities and villages are authorized to impose a tax on utilities that conforms to the tax imposed by Tax Law § 186-a in effect on January 1, 1959. As of 2007, approximately 60 cities and 365 villages impose these taxes, which are locally administered. The cities of Rochester, Buffalo and Yonkers are already authorized to impose this tax at a rate up to 3 percent. This bill would provide local governments with additional fiscal flexibility through a non-property tax revenue source.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget because it would provide local governments with several revenue options that would help to offset proposed reductions in State aid without burdening local property taxpayers.

Effective Date:

This bill takes effect immediately, provided that sections 2 through 7 of this bill, authorizing local government deposits in credit unions and savings banks, would take effect on the 90th day after it becomes law; section 8 of this bill, authorizing ambulance service fees, would take effect on the 30th day after it becomes law; and section 9, authorizing police service charges for paid-admission events, would take effect on the 180th day after it becomes law.

Part II – Allow the New York City Transitional Finance Authority to issue Qualified School Construction Bonds as sinking fund bonds.

Purpose:

This bill would allow the New York City Transitional Finance Authority (TFA) to issue Qualified School Construction Bonds (QSCBs) as sinking fund bonds in order to maximize the Federal subsidy as authorized by the Federal American Recovery and Reinvestment Act (ARRA).

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

The Federal ARRA provided New York City and other municipalities and school districts with the ability to issue tax credit bonds for financing school construction or renovation projects. The bond issuer has no payable interest on these bonds as the bond holder receives a Federal income tax credit in a specified amount. However, Local Finance Law (LFL) requires a municipality in the State to amortize a bond sooner than would otherwise be required by the ARRA.

This bill would amend Public Authorities Law to allow New York City to issue QSCBs as sinking fund bonds through the TFA, which would allow the City to make deposits into a sinking fund for future payment on the bond. This would fulfill amortization requirements in LFL and allow the City to maximize the full benefit of Federal ARRA bonds.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget because it would allow New York City to take advantage of the Federal subsidy provided by ARRA school construction bonds, which would result in savings for the City.

Effective Date:

This bill takes effect immediately.

Part JJ – Provide authorization for transfers, temporary loans and amend miscellaneous capital/debt provisions, including bond caps.

Purpose:

This bill would provide the statutory authorization necessary for the administration of funds and accounts included in the 2010-11 Executive Budget, and make certain modifications to improve the State's General Fund position within the upcoming fiscal year. Specifically, it would (1) authorize temporary loans and the deposits of certain revenues to specific funds and accounts, (2) authorize the transfers and deposits of funds to and across various accounts, (3) continue or extend various provisions of Chapter 56 of the Laws of 2009 in relation to capital projects and certain certifications, (4) authorize modifications to various debt provisions, and (5) consolidate all current and proposed bond authorizations to improve transparency and reform State debt administration.

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

Section 1 of this bill would authorize the Comptroller to make temporary loans to specific State funds and accounts during the 2010-11 fiscal year.

Section 1-a of this bill would authorize the Comptroller to make temporary loans to accounts within specific Federal funds during the 2010-11 fiscal year.

Sections 2 through 5 of this bill would authorize the Comptroller to make transfers between designated funds and accounts.

Section 6 of this bill would authorize the Comptroller to deposit funds into the Banking Services Account.

Section 7 of this bill would authorize the Dormitory Authority of the State of New York (DASNY) to transfer \$22 million to the State University of New York for bondable equipment costs, which in turn would be re-paid to the State General Fund

Section 8 of this bill would authorize the Comptroller to make transfers between the: (1) Miscellaneous Special Revenue Fund, the Patient Income Account, (2) the Miscellaneous Special Revenue Fund, the Mental Hygiene Program Fund Account, or (3) the General Fund in any combination, up to \$350 million.

Section 9 of this bill would authorize the Comptroller to transfer the unencumbered balance of any Special Revenue Fund to the General Fund, up to \$500 million.

Section 10 of this bill would authorize the Comptroller to transfer the unencumbered balance of any non-General fund or account, in any combination, to the General Fund, up to \$75 million.

Section 11 of this bill would authorize the transfer of \$65 million from the Power Authority of the State of New York (NYPA) to the credit of the General Fund by January 31, 2011.

Section 12 of this bill would authorize the New York State Housing Finance Agency (HFA) to deposit funds to the General Fund in an amount to be agreed upon with the Director of the Budget.

Sections 13 and 14 of this bill have been intentionally omitted.

Section 15 of this bill would amend State Finance Law (SFL) § 97-rrr(5) to allow the State Comptroller to make deposits in the School Tax Relief Fund in fiscal year 2010-11.

Section 16 of this bill would amend SFL § 4(6) to authorize the Comptroller to receive for deposit moneys to funds and accounts as identified by the Director of the Budget.

Section 17 of this bill would amend SFL § 40(4) to permit payment of prior years' liabilities.

Section 18 of this bill would authorize reimbursement to the General Fund from the Correctional Facilities Capital Improvement Fund for costs related to capital projects.

Sections 19 through 29 of this bill would authorize the Comptroller to deposit reimbursements for certain capital spending from multiple appropriations contained in various chapters of the laws of 2000 through 2010 into various funds, including the Capital Projects Fund.

Sections 30 through 33 of this bill would authorize the Comptroller to deposit bond-financed funds in the Capital Projects Fund.

Section 34 of this bill has been intentionally omitted.

Section 35 of this bill would amend SFL § 72(4) to authorize a set-aside of monies in the General Debt Service Fund, to ensure that scheduled debt service payments are made on time in the event of further General Fund cash flow difficulties.

Section 36 of this bill would amend SFL § 68-b(8) to extend the ability of the DASNY and the Empire State Development Corporation (ESDC) to issue Personal Income Tax (PIT) Revenue Bonds for any authorized purposes.

Section 37 of this bill would amend § 51 of part RR of chapter 57 of the laws of 2008, to make permanent provisions in existing law relating to the treatment of refundings with variable rate obligations or swaps.

Section 38 of this bill would amend SFL § 68-a(2) to extend the authorization to issue mental health bonds under the PIT credit structure.

Sections 39 and 40 of this bill would amend SFL §§ 57(4) and 60 to remove the 100.5 percent cap on new money and refunded General Obligation (GO) bonds and change the notice period for a change in terms of sale from one day to one hour before pricing.

Section 41 of this bill would create a new SFL § 73 to authorize the Comptroller to deposit federal interest subsidy payments received by the State for Build America Bonds, into specific debt service funds.

Section 42 of this bill would make a technical amendment to Public Authorities Law (PAL) § 1680-m(2) so that the program definition (“cultural education facilities and the St. Regis Mohawk elementary school”) contained in PAL § 1680-m(2) (which authorizes a financing agreement for the program) would be consistent with the program definition in PAL § 1680-m(1) (which authorizes the bonds for the program).

Section 43 of this bill would amend PAL § 1689-i(4) to clarify the ability of DASNY to issue bonds for the library facilities program.

Section 44 of this bill would amend PAL § 3234(5) to change the current unanimous vote requirement for action by the Local Government Assistance Corporation (LGAC), to a majority vote.

Section 45 of this bill would amend PAL §§ 1689-i(6) and 1689-i(8) to allow bonding for EXCEL projects in advance of certification by the State Education Department (SED).

Section 46 of this bill would create a new SFL § 67-c to consolidate all State-supported bond authorizations – current, amended or newly proposed – into a single statute to allow for greater transparency and consistency.

Sections 47 through 129 of this bill would sunset all prior State-supported bonding authorizations, which will now be governed by the provisions of section 46 of this bill, as of April 1, 2010.

Section 130 of this bill would make it effective immediately, deemed in full force and effect on and after April 1, 2010.

This bill is necessary to execute a balanced Financial Plan in accordance with the 2010-11 Executive Budget. Similar legislation is enacted annually to authorize the transfer of funds budgeted in the Financial Plan (such transfers do not have permanent statutory authorization), and to provide for other transactions necessary to maintain a balanced Plan.

In addition, the SFL requires statutory authorization for funds and accounts to receive temporary loans from the State Treasury. Similar provisions were enacted to implement the 2009-10 Budget, and they must be extended to implement the 2010-11 Budget.

Budget Implications:

Enactment of this bill is necessary to implement the 2010-11 Executive Budget. Similar legislation is enacted annually to authorize the transfer of funds budgeted in the financial plan, and to provide for other transactions, including temporary loans from the State Treasury for cash flow purposes. This bill is also necessary to reimburse projected Capital Projects Fund spending with the proceeds of bonds sold by public authorities, to maximize debt service savings from State-supported refundings, to ensure the continued tax-exempt status and reduced borrowing costs for certain State-supported debt, and to permit the State to carry out basic administrative functions.

Effective Date:

This bill takes effect immediately.

The provision 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.