

**2013-14 NEW YORK STATE EXECUTIVE BUDGET**

**PUBLIC PROTECTION AND GENERAL GOVERNMENT**  
**ARTICLE VII LEGISLATION**

**MEMORANDUM IN SUPPORT**

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**CONTENTS**

<b>PART</b>	<b>DESCRIPTION</b>	<b>STARTING PAGE NUMBER</b>
A	Authorize the Governor to close the Bayview and Beacon correctional facilities in State fiscal year 2013-14 with 60 days' notice.	8
B	Transfer the former Fulton Correctional Facility to the Thomas Mott Osborne Memorial Fund.	9
C	Limit plea bargaining of traffic tickets, extend State surcharges to new offenses, and establish minimum fines for traffic violations involving texting and cell phone use.	9
D	Ratify the National Crime Prevention and Privacy Compact, allowing the State to participate in the National Fingerprint File program.	11
E	Extend various criminal justice and public safety programs.	12
F	Continue provisions relating to the disposition of certain monies recovered by county district attorneys.	13
G	Provide the New York State Comptroller and the New York State Teachers' Retirement System Board statutory authority to make a long-term stable pension contribution option available to local governments and school districts.	14
H	Amend the Civil Service Law in relation to the reimbursement of Medicare premium charges.	17

<b>PART</b>	<b>DESCRIPTION</b>	<b>STARTING PAGE NUMBER</b>
I	Create a new account to finance an Administration Program in the New York State Gaming Commission.	19
J	Redirect a portion of purse money to fund costs associated with recommendations by the Task Force on Racehorse Health and Safety.	20
K	Improve the effectiveness of the Local Government Efficiency Grant Program and the Citizens Re-Organization Empowerment Grant Program.	20
L	Eliminate burdensome reporting requirements imposed on school districts and local governments.	22
M	Authorization for transfers, temporary loans, and amendments to miscellaneous capital/debt provisions, including bond caps.	23
N	Support consolidation of IT Functions and Services into the Office of Information Technology Services (ITS).	28
O	Workers Compensation Reform: Business Relief Bill.	29
P	Increase agencies' discretionary authority to purchase food grown, harvested, produced or processed in New York State up to \$200,000.	31
Q	Authorize school districts and Boards of Cooperative Educational Services to participate in the Intrastate Mutual Aid Program.	32
R	Promote continuity of care for individuals and enable direct care employees to have increased flexibility for employment opportunities.	33

<b>PART</b>	<b>DESCRIPTION</b>	<b>STARTING PAGE NUMBER</b>
S	Authorize certain State agencies and authorities to use design-build contracts and design-build-finance contracts for their capital projects.	33

## MEMORANDUM IN SUPPORT

A BUDGET BILL submitted by the Governor in  
Accordance with Article VII of the Constitution

AN ACT authorizing the governor to close correctional facilities; and providing for the repeal of such provisions upon expiration thereof (Part A); authorizing the urban development corporation, the office of general services and the department of corrections and community supervision to transfer and convey certain lands in the county of Bronx, city of New York, to the Thomas Mott Osborne Memorial Fund, Inc. (Part B); to amend the vehicle and traffic law, in relation to plea limitations; in relation to extending surcharges and the crime victim assistance fee for certain violations; in relation to enhanced penalties for multiple violations of the mobile phone and texting prohibitions; to amend the state finance law, in relation to certain payments to the state treasurer; and to repeal section 1101 of the vehicle and traffic law relating thereto (Part C); to amend the executive law, in relation to adopting the national crime prevention and privacy compact (Part D); to amend chapter 887 of the laws of 1983, amending the correction law relating to the psychological testing of candidates, in relation to making the provisions of such chapter permanent; to amend chapter 428 of the laws of 1999, amending the executive law and the criminal procedure law relating to expanding the geographic area of employment of certain police officers, in relation to extending the expiration of such chapter; to amend chapter 886 of the laws of 1972, amending the correction law and the penal law relating to prisoner furloughs in certain cases and the crime of absconding therefrom, in relation to making the provisions of such chapter permanent; to amend chapter 261 of the laws of 1987, amending chapters 50, 53 and 54 of the laws of 1987, the correction law, the penal

law and other chapters and laws relating to correctional facilities, in relation to making the provisions of such chapter permanent; to amend chapter 339 of the laws of 1972, amending the correction law and the penal law relating to inmate work release, furlough and leave, in relation to making the provisions of such chapter permanent; to amend chapter 60 of the laws of 1994 relating to certain provisions which impact upon expenditure of certain appropriations made by chapter 50 of the laws of 1994 enacting the state operations budget, in relation to making certain provisions of such chapter permanent; to amend chapter 3 of the laws of 1995, amending the correction law and other laws relating to the incarceration fee, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 55 of the laws of 1992, amending the tax law and other laws relating to taxes, surcharges, fees and funding, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 907 of the laws of 1984, amending the correction law, the New York city criminal court act and the executive law relating to prison and jail housing and alternatives to detention and incarceration programs, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 166 of the laws of 1991, amending the tax law and other laws relating to taxes, in relation to extending the expiration of certain provisions of such chapter; to amend the vehicle and traffic law, in relation to extending the expiration of the mandatory surcharge and victim assistance fee; to amend chapter 713 of the laws of 1988, amending the vehicle and traffic law relating to the ignition interlock device program, in relation to extending the expiration thereof; to amend chapter 435 of the laws of 1997, amending the military law and other laws relating to various provisions, in relation to extending the expiration date of the merit provisions of the correction law and

the penal law of such chapter; to amend chapter 412 of the laws of 1999, amending the civil practice law and rules and the court of claims act relating to prisoner litigation reform, in relation to extending the expiration of the inmate filing fee provisions of the civil practice law and rules and general filing fee provision and inmate property claims exhaustion requirement of the court of claims act of such chapter; to amend chapter 222 of the laws of 1994 constituting the family protection and domestic violence intervention act of 1994, in relation to extending the expiration of certain provisions of the criminal procedure law requiring the arrest of certain persons engaged in family violence; to amend chapter 505 of the laws of 1985, amending the criminal procedure law relating to the use of closed-circuit television and other protective measures for certain child witnesses, in relation to extending the expiration of the provisions thereof; to amend chapter 3 of the laws of 1995, enacting the sentencing reform act of 1995, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 689 of the laws of 1993 amending the criminal procedure law relating to electronic court appearance in certain counties, in relation to extending the effective date thereof; to amend chapter 688 of the laws of 2003, amending the executive law relating to enacting the interstate compact for adult offender supervision, in relation to making certain provisions of such chapter permanent; to amend part H of chapter 56 of the laws of 2009, amending the correction law relating to limiting the closing of certain correctional facilities, providing for the custody by the department of correctional services of inmates serving definite sentences, providing for custody of federal prisoners and requiring the closing of certain correctional facilities, in relation to the effectiveness of such chapter; and to amend section 3 of part C of chapter 152 of the laws of 2001, amending the military law relating to military funds of the organized

militia, in relation to the effectiveness thereof (Part E); to amend chapter 503 of the laws of 2009, relating to the disposition of monies recovered by county district attorneys before the filing of an accusatory instrument, in relation to the effectiveness thereof (Part F); to amend the retirement and social security law and the education law, in relation to pension contributions paid by local governments and school districts beginning in the 2013-14 fiscal year and certain fiscal years thereafter (Part G); to amend the civil service law, in relation to the reimbursement of medicare premium charges (Part H); to amend the state finance law, in relation to creating a new New York state gaming commission account (Part I); to amend the tax law, in relation to reducing purse amounts paid from the VLT program (Part J); to amend the state finance law, in relation to reforming the local government citizens re-organization empowerment grant program and the local government efficiency grant program (Part K); providing for the elimination of burdensome reporting requirements imposed on school districts and local governments (Part L); to provide for the administration of certain funds and accounts related to the 2013-14 budget; authorizing certain payments and transfers; to amend chapter 59 of the laws of 2012, relating to providing for administration of certain funds and accounts related to the 2013-2014 budget, in relation to the effectiveness thereof; to amend the state finance law, in relation to school tax relief fund; to amend chapter 60 of the laws of 2011, amending the state finance law relating to disbursements from the tribal-state compact revenue account to certain municipalities, in relation to the availability of moneys; to amend the New York state medical care facilities finance agency act, in relation to the deposit of certain funds; to amend the state finance law, in relation to the issuance of revenue bonds; to amend the public authorities law, in relation to the



number of directors required for approval of a resolution authorizing the issuance of bonds or notes; to amend the New York state urban development corporation act, in relation to funding project costs for certain capital projects; to amend chapter 61 of the laws of 2005, relating to providing for the administration of certain funds and accounts related to the 2005-2006 budget, in relation to the Division of Military and Naval Affairs Capital Projects; to amend chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, in relation to the issuance of bonds; to amend the private housing finance law, in relation to housing program bonds and notes; to amend 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, in relation to the issuance of bonds; to amend the public authorities law, in relation to courthouse improvements and training facilities, metropolitan transportation authority facilities, peace bridge projects and issuance of bonds by the dormitory authority; to amend chapter 61 of the laws of 2005, providing for the administration of certain funds and accounts related to the 2005-2006 budget, in relation to issuance of bonds by the urban development corporation; to amend the New York state urban development corporation act, in relation to projects for retention of professional football in western New York; to amend the public authorities law, in relation to the cleaner, greener communities program; to amend the state finance law, in relation to establishing the sales tax revenue bond tax fund and providing for the deposit of revenues therefrom, establishing the sales tax revenue bond financing program; to amend the tax law, in relation to deposit and disposition of revenue; to amend the state finance law, in relation to establishing the New York state transformative capital fund; to amend the New

York state urban development corporation act, in relation to authorizing the urban development corporation to issue bonds to fund project costs for the implementation of a NY-CUNY challenge grant program; to amend chapter 260 of the laws of 2011 amending the education law and the New York state urban development corporation act relating to establishing components of the NY-SUNY 2020 challenge grant program, in relation to the effectiveness thereof; to amend the public authorities law, in relation to dormitories at certain educational institutions other than state operated institutions and statutory or contract colleges under the jurisdiction of the state university of New York; to amend chapter 81 of the laws of 2002, providing for the administration of certain funds and accounts related to the 2002-2003 budget, in relation to increasing the aggregate amount of bonds to be issued by the New York state urban development corporation; to amend the public authorities law, in relation to financing of New York works transportation capital projects; and providing for the repeal of certain provisions upon expiration thereof (Part M); to amend the executive law, the state technology law and the general business law, in relation to providing for the consolidation of certain information technology staff and services within the office of information technology services; and to repeal section 715 of the executive law, relating to the office of cyber security (Part N); to amend the workers' compensation law, in relation to changing the composition of the board's practice committees and to permitting a single arbitrator process; to amend the workers' compensation law, in relation to the collection of assessments for annual expenses and the investment of surplus or reserve; in relation to the representation of funds; in relation to closing the fund for reopened cases; in relation to the termination of payments into the aggregate trust fund; in relation to administration expenses for the

state insurance fund; in relation to requiring self-insured municipal groups and county treasurers to provide certain financial information to the workers' compensation board; to amend the workers' compensation law and the public authorities law, in relation to authorizing the workers' compensation board and the dormitory authority to enter into a self-insured bond financing agreement; to amend the volunteer firefighters' benefit law and the volunteer ambulance workers' benefit law, in relation to the payment of benefits and to the assessment of expenses; to amend the public officers law, in relation to indemnification of state officers and employees; and repealing certain provisions of the workers' compensation law, the volunteer firefighters' benefit law and the volunteer ambulance workers' benefit law relating to assessments for expenses, and relating to the location of the workers' compensation board (Part O); to amend the state finance law, in relation to increasing discretionary thresholds for procurement of food commodities (Part P); to amend the executive law, in relation to including school districts and boards of cooperative educational services in the intrastate mutual aid program (Part Q); to amend the public officers law, in relation to exempting certain state employees from the two-year and lifetime bars (Part R); and to amend chapter 56 of the laws of 2011 relating to permitting authorized state entities to utilize the design-build method for infrastructure projects, in relation to the definition of authorized state entities (Part S)

**PURPOSE:**

This bill contains provisions needed to implement the Public Protection and General Government portions of the 2013-14 Executive Budget.

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

**Part A – Authorize the Governor to close the Bayview and Beacon correctional facilities in State fiscal year 2013-14 with 60 days' notice.**

Purpose:

This bill would expedite the prison closure process by giving the Governor authorization to close the Bayview and Beacon correctional facilities 60 days after notice.

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

The Department of Corrections and Community Supervision's (DOCCS) under-custody population has fallen by more than 15,000 inmates from its peak of 71,600 inmates in December 1999. This has resulted in significant unused prison capacity, and in the 2011-2012 Executive Budget, a similar provision was enacted, which allowed for the closure of seven facilities and the elimination of 3,800 beds during that time period. Since then, the inmate population has continued to decline resulting in additional excess bed capacity.

Under current law, the Commissioner of DOCCS is required to give notice one year before closing a correctional facility, and to prepare an adaptive re-use plan six months before closure. However, the State must be able to act expeditiously to eliminate excess prison capacity in order to use scarce taxpayer dollars as efficiently and prudently as possible. The transfer of inmates into facilities that are more efficient and offer more rehabilitative services will yield significant recurring savings to taxpayers and is consistent with public safety.

This bill would enable the Governor to close the Bayview and Beacon correctional facilities, in 2013-2014 SFY, for the cost-effective and efficient operation of the correctional system, provided that the Governor provides at least 60 days' notice to the Temporary President of the Senate and the Speaker of the Assembly.

Budget Implications:

Enactment of this bill is necessary to implement the 2013-14 Executive Budget as savings will be realized from these closures.

Effective Date:

This bill would take effect immediately upon enactment.

## **Part B – Transfer the former Fulton Correctional Facility to the Thomas Mott Osborne Memorial Fund.**

### Purpose:

This bill would permit the transfer of the former Fulton Correctional Facility to the Thomas Mott Osborne Memorial Fund for the purpose of establishing a center providing opportunities for individuals in conflict with the law through reform and rehabilitation programs, alternatives to incarceration, re-entry services, victim services and related community activities in order to increase public safety in the county of Bronx.

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

The Fulton Correctional Facility was one of seven prisons closed in the state in 2011. The Thomas Mott Osborne Memorial Fund plans to use the property to create a program for Bronx residents involved with the criminal justice system, emphasizing re-entry and alternatives to incarceration, job training, victim services and related community activities. The Osborne Memorial Fund has a long history of providing such services in New York and managing large tangible assets, and has demonstrated fundraising ability to support such a program in the Bronx.

### Budget Implications:

Enactment of this bill is necessary to implement the 2013-14 Executive Budget because the transfer of this property will save the state approximately \$215,000 per year in the cost of maintaining and securing the former Fulton Correctional Facility.

### Effective Date:

This bill would take effect immediately upon enactment.

## **Part C – Limit plea bargaining of traffic tickets, extend State surcharges to new offenses, and establish minimum fines for traffic violations involving texting and cell phone use.**

### Purpose:

This bill would restrict plea bargaining with respect to certain violations of the Vehicle and Traffic Law, to ensure drivers who repeatedly speed do not go unpunished. This bill would also impose \$80 in surcharges on the parking violations to which drivers often plead down from speeding violations. In addition, to discourage distracted driving, this bill sets a minimum fine of \$50 for a first offense of using a cell phone or texting while driving, and enhanced fines for subsequent violations.

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

Speeding is a significant highway safety issue, increasing the frequency and severity of crashes and resulting in a public cost that is high in terms of both human tragedy and economic costs. In 2010, speed related crashes accounted for almost 11% of all police reported motor vehicle crashes, and 47% of all speed related crashes resulted in injury or death. In spite of this public safety cost, it is common practice to allow motorists charged with speeding offenses to plead those charges down to lesser offenses, including parking violations.

Indeed, pleas bargains are often taken without regard to any highway safety considerations. The monetary incentive for a plea is even greater when pleading down to a parking violation. In addition to the applicable fines, moving violations are subject to mandatory State surcharges; but parking violations are excluded from the surcharge. Moreover, while moving violations result in an assessment of points against a driver's license, parking violations do not.

Over time, an accumulation of speeding convictions and/or points can result in license sanctions and imposition of driver responsibility assessments. Pleas to lesser violations either diminish or, in some cases, completely eliminate, the likelihood that such sanctions/assessments will be imposed, and information on pleas does not become part of a driver's history. As a result, if a motorist is convicted of only a parking violation, and subsequently commits a new speeding violation, the prosecutor and the judge have no knowledge that the driver was previously ticketed for speeding, in most instances.

This bill would address these issues in three ways. First, with respect to more serious speeding violations – those that involve a rate of speed of more than 20 miles per hour in excess of the posted speed limit – the ability to plea bargain would be limited. A plea of guilty would have to be to at least a point-bearing violation. In this way, persistent speeders will no longer be able to escape monetary and license sanctions by repeatedly pleading to offenses that do not appear on a driving record.

Second, courts frequently permit pleas to Vehicle and Traffic Law § 1101 despite being advised by the Department of Motor Vehicles and the Office of Court Administration that this is not a chargeable offense. This section is merely definitional, and is not a true violation – carrying neither points nor a fine, and no entry on a driver's record. It is repealed in this bill.

Lastly, in cases where such plea bargains are permitted, there will be mandatory imposition of certain surcharges.

In addition to speeding, using a cell phone and texting while driving also contribute significantly to traffic accidents. By setting a minimum fine for these violations, and establishing graduated fines for subsequent offenses, those convicted of these violations will be highly incentivized to change their behavior, thereby enhancing traffic safety.

Budget Implications:

Enactment of this bill is necessary to implement the 2013-14 Executive Budget, as it is expected to generate \$16 million of new revenue in the 2013-14 and \$25 million each year thereafter.

Effective Date:

This bill takes effect 60 days after enactment.

**Part D – Ratify the National Crime Prevention and Privacy Compact, allowing the State to participate in the National Fingerprint File program.**

Purpose:

This bill would ratify the National Crime Prevention and Privacy Compact Act (Compact) of 1998 thereby allowing New York to participate in National Fingerprint File (NFF) program.

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

Currently, the Division of Criminal Justice Services (DCJS) sends fingerprint images and arrest and disposition data to the FBI for inclusion in the Interstate Identification Index (III). When a fingerprint-based background check conducted by another state indicates that the individual has a criminal history record in New York State, the FBI provides a copy of the data maintained in the III. If New York joins the Compact, it will be able to send criminal history data directly to the requesting state and bypass the FBI. Moreover, New York can similarly access other states' criminal history data.

There are several benefits to becoming a Compact member: (1) Currently, the III record maintained by the FBI may not contain an accurate criminal history. By participating in the NFF, New York will ensure that it is providing and receiving the most complete and comprehensive criminal history record information available thereby ensuring an accurate criminal history; (2) After becoming an NFF state, there is no need to maintain duplicate records at the federal level. Notably, the State will not have to forward expungement notices and disposition information to the FBI. Once a record is initially indexed at the FBI, subsequent arrest submissions are not required. Reduction of these duplicative processes will allow the State to expend its resources in a more efficient manner; (3) Finally, participating in the NFF will allow New York to control the use of its criminal

history records. An NFF participating state is queried directly for its record via III. The III record request identifies the purpose for the request, providing an NFF state the benefit of knowing when its records are being used and for what purpose.

Budget Implications:

Enactment of this bill is necessary to implement the FY 2013-2014 Executive Budget, because appropriated funds will be required to ensure compliance with the Compact. In addition to a \$300,000 Federal grant, DCJS will need to allocate State funds from its 2013-14 budget to implement its participation in NFF.

Effective Date:

This bill takes effect on the one hundred eightieth day after it becomes a law.

**Part E – Extend various criminal justice and public safety programs.**

Purpose:

This bill would extend for two years various criminal justice and public safety programs that would otherwise expire in 2013. It would make six provisions of law permanent and would allow one program, relating to community treatment facilities that have not existed for over two decades to expire.

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

This bill would extend the authorization of various sections of law to ensure the continuation of a host of criminal justice programs -- all of which have been extended previously, and many of which having been extended multiple times.

Key programs and statutory provisions continued for two years by this bill include: expanding the geographic area relating to employment of police officers; determinate sentencing; incarceration, parole and probation fees; mandatory surcharge and crime victim assistance fees; alternatives to incarceration; armory rent; ignition interlock program for individuals convicted of alcohol-related violations; electronic court appearances; mandatory arrest in cases of domestic violence; and protective measures for child witnesses.

Six provisions – relating to the requirement for psychological testing of correctional officer candidates; inmate work release and furloughs; the earned eligibility program; and the interstate compact for adult offender supervision – would be made permanent, and one program – relating to community treatment facilities that have not been used within the State correctional system for over two decades – would be permitted to expire.



Budget Implications:

Enactment of this bill is necessary to implement the 2013-2014 Executive Budget, which relies on continuation of these programs in certain Financial Plan projections.

Effective Date:

This bill would take effect immediately upon enactment.

**Part F – Continue provisions relating to the disposition of certain monies recovered by county district attorneys.**

Purpose:

This bill would continue the existing formula for distribution of certain monies recovered by county district attorneys.

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

This bill would amend Chapter 503 of the Laws of 2009, as amended by Part F of Chapter 55 of the Laws of 2012, to extend that statute by one year. Pursuant to that law, a county district attorney in New York City may retain a portion of recoveries it makes before the filing of an accusatory instrument, and the remaining amount is distributed equally between the State and the City of New York. The existing statute will otherwise expire on March 31, 2013.

For the past five years, the Manhattan District Attorney's Office has recovered significant monies from pre-indictment settlements (i.e., pursuant to deferred prosecution agreements). For the past three years, the State and the City of New York have received equal distributions from the Manhattan District Attorney's recoveries. This equal distribution will not be altered by this bill.

Budget Implications:

Enactment of this bill is necessary to implement the 2013-14 Executive Budget. It is necessary to ensure the receipt of settlement revenues that may become available during the fiscal year. By continuing the distribution rules, this bill ensures that there will be a State share in the event of a recovery in 2013-14.

Effective Date:

This bill would take effect March 31, 2013.

**Part G – Provide the New York State Comptroller and the New York State Teachers’ Retirement System Board statutory authority to make a long-term stable pension contribution option available to local governments and school districts.**

Purpose:

This bill would provide the New York State Comptroller and the New York State Teachers’ Retirement System Board statutory authority to make a long-term stable pension contribution option available to local governments and school districts.

This option would be available, at the discretion of the Comptroller and the Teachers’ Retirement Board, to local governments and school districts participating in the New York State and Local Employees’ Retirement System (ERS), the New York State and Local Police and Fire Retirement System (PFRS), and the Teachers’ Retirements’ System (ERS).

Summary of Provisions

This bill would:

- Provide the New York State Comptroller (“Comptroller”) and the New York State Teachers’ Retirement Board (“Board”) statutory authority to make available, at their discretion, a long-term stable pension contribution option to local governments and school districts. Such option would:
  - Provide local governments and school districts a long-term stable pension contribution rate applied to the employer’s pensionable wage base of 12 percent for ERS, 12.5 percent for TRS, and 18.5 percent for PFRS.
  - Provide a baseline stable pension contribution term of 25 years for ERS, TRS, and PFRS, respectively, to local governments and school districts choosing the option.
- Provide that local governments and school districts may choose the long-term stable pension contribution option in FY 2014 with such option applicable to employer contributions paid in subsequent fiscal years.
- Provide that the long-term stable pension contribution amount for participating local governments and school districts would be calculated by the Comptroller or Board net of group life insurance, deficiency payments, retirement incentive costs, and amortized pension costs.
- Provide that participating local governments and school districts would pay the long-term stable pension contribution amount, plus group term life insurance, deficiency payments, retirement incentive costs, and amortized pension costs, as

appropriate, by the statutory pension payment deadlines set forth in Retirement and Social Security Law (RSSL) and Education Law (EDL).

- Provide that the long-term stable pension contribution amount paid by participating local governments and school districts' would be in lieu of the normal and administrative contributions currently being made under RSSL and EDL.
- Provide that, upon completion of the baseline stable pension contribution term, participating local governments and school districts would resume making the normal and administrative contributions required under current law.
- Preclude participating local governments from amortizing any portion of a future pension bills pursuant to RSSL §§19-a and 319-a .
- Provide that participating local governments and school districts may "un-elect" the long-term stable pension contribution option at any time. Such termination would require participating local governments and school districts to make a reconciliation contribution, as calculated by the Comptroller or Board, equal to what such employers would have owed had they not chosen the stable contribution option.
- Empower the Comptroller and the Board to evaluate the long-term stable pension contribution rates at two points in time. The first evaluation would be five years after implementation and the second evaluation would be ten years after implementation of this option. Such evaluations would be based on long-term projections of assets and liabilities to ensure that contributions made by participating local governments and school districts are sufficient to fund benefits for active and retired members.
  - Following the five-year evaluation, the Comptroller and the Board could increase the long-term stable pension contribution rates by up to two percentage points.
  - Following the ten-year evaluation, the Comptroller and the Board could increase or decrease the long-term stable pension contribution rates, but the adjusted rates may not be decreased lower than the original rates or increased more than four percentage points higher than the original rates (not lower than 12 percent or higher than 16 percent for ERS; not lower than 12.5 percent or higher than 16.5 percent for TRS; and not lower than 18.5 percent or higher than 22.5 percent for PFRS).
- Provide the Comptroller and the Board with discretionary authority to increase or decrease the length of the baseline stable pension contribution term to ensure adequate system funding.

- Empower the Comptroller and the Board to evaluate the stable pension contribution term every five years for the purpose of informing participating local governments and school districts whether the length of the long-term stable pension contribution term is expected to increase or decrease from the original term.

### Statement in Support

Local governments and school districts are facing increased stress from rising costs including employee pension obligations. Local government pension costs associated with ERS and the PFRS have grown from \$190 million in 2002 to \$2.2 billion in 2012. TRS costs have grown from \$52 million to \$1.6 billion.

Although the implementation of Tier VI has diminished the long-term pension affordability problem, local governments and school districts now need assistance with the current pension affordability problem--exorbitant employer contribution rates resulting from the 2008 market crash and the subsequent recession. While pension relief for local governments and schools will continue to grow over time as more employees enter the new Tier VI, these entities continue to face recurring and significant increases in employer contribution rates resulting from the 2008 market crash and the subsequent recession.

The Executive Budget offers local governments and schools a bridge to the long-term savings of Tier VI, as well as greater predictability, through a Tier VI refinancing plan which offers a stable pension contribution option. This bill would provide the New York State Comptroller and the New York State Teachers' Retirement Board (Board) authority to make a stable pension contribution option available, at their discretion, to local governments and school districts.

Such option could be made available to local governments and school districts in ERS, PFRS, and TRS. If the option is made available by the Comptroller or the Board, local governments and school districts would decide whether to "lock-in" a long term stable pension contribution rate of 12 percent for ERS, 12.5 percent for TRS, and 18.5 percent for PFRS in FY 2014. Absent this option, the system average rates would be 20.9 percent for ERS, 16.5 percent for TRS, and 28.9 percent for PFRS in FY 2014.

Selecting this option would provide local governments and school districts stability and predictability for pension obligations, while simultaneously ensuring the adequacy of pension system funding. Local governments and school districts would also achieve significant and immediate budget relief over the next decade.

### Budget Implications:

The stable pension contribution is only available to local governments and school districts, therefore, this bill has no budgetary impact on the State. If this proposal is

enacted, there would be little or no impact on the funded status of ERS, PFRS, and TRS over the full term of the program.

For those local governments and school districts which elect this option, employer pension contributions would be less than the normal employer pension contributions they would otherwise pay in the early years of the long-term stable employer contribution option, but more than the normal employer contributions they would otherwise pay in the later years of the option.

Additionally, impacts will ultimately depend upon actual market return, the number of local governments and school districts who choose the option, and the size of the local governments and schools that choose the option.

Effective Date:

This bill would take effect immediately upon enactment.

**Part H – Amend the Civil Service Law in relation to the reimbursement of Medicare premium charges.**

Purpose:

This bill would amend Section 167-a of the Civil Service Law to cease reimbursement of additional Income Related Medicare Adjustment Amount (IRMAA) premiums paid by higher-income retirees retroactive to January 1, 2013.

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

To minimize employee health benefit costs, the State requires all retirees participating in the New York State Health Insurance Plan (NYSHIP) to enroll in Medicare Part B upon turning age 65. After enrolling in Medicare Part B, the federal government requires enrollees to pay a monthly premium (\$104.90 in 2013). State retirees pay this monthly premium to the federal government (typically taken as a Social Security check deduction), but are later reimbursed the full amount by the State as a credit in their monthly pension allowance.

In 2007, the federal government implemented an additional income-related Part B premium requiring higher income enrollees to pay higher monthly premiums. These higher monthly premiums are called Income Related Medicare Adjustment Amounts (IRMAA). The table below shows the IRMAA levels for the 2013 calendar year.

## Means-Tested 2013 Medicare Part B Premiums (IRMAA)

Income Threshold		Regular Medicare Premium	Additional IRMAA Premium	Total Premium
<u>Single Retirees</u>	<u>Married Retirees</u>			
Up to \$85,000	Up to \$170,000	\$104.90	N/A	\$104.90
\$85,001 - \$107,000	\$170,001 - \$214,000	\$104.90	\$42.00	\$146.90
\$107,001 - \$160,000	\$214,001 - \$320,000	\$104.90	\$104.90	\$209.80
\$160,001 - \$214,000	\$320,001 - \$428,000	\$104.90	\$167.80	\$272.70
Above \$214,000	Above \$428,000	\$104.90	\$230.80	\$335.70

Under the current law, the State also fully reimburses affected retirees if they are required to pay the additional IRMAA premiums. Through September of calendar year 2012, the State reimbursed 3,479 State retirees a total of \$4.0 million in IRMAA premiums.

At a time when the State is facing unprecedented fiscal difficulty, the State can realize savings by ceasing the reimbursement of the additional IRMAA premiums. Indeed, the federal Medicare benefit design change intended that such higher-income retirees bear such cost.

### Budget Implications:

The Department of Civil Service reimburses IRMAA premiums on a yearly lag. By implementing this change retroactively to January 1, 2013, Civil Service would cease reimbursements to higher-income retirees beginning in January of 2014 associated with 2013 IRMAA premiums. This would save approximately \$2.3 million in the FY 2014, but would grow to over \$7 million on a full annual basis.

In addition, the number of IRMAA eligible retirees is expected to significantly increase in upcoming years because of a change included in the federal Patient Protection and Affordable Care Act (PPACA). When IRMAA was first implemented in 2007, the income brackets at which Medicare Part B enrollees were required to pay IRMAA premiums were indexed each year to account for inflation. A provision included in PPACA froze the IRMAA income brackets at their current levels through 2019. This will increase the number of State retirees required to pay the IRMAA premiums, which will result in a commensurate increase in State costs unless action is taken.

The chart below shows that IRMAA savings are forecasted to grow to over \$11 million on an annual basis by FY 2017.

<b>State Fiscal Year</b>	<b>Projected IRMAA Retirees</b>	<b>Annual Savings</b>
2013-14	5,340	\$2.3 M
2014-15	6,687	\$7.5 M
2015-16	8,157	\$9.3 M
2016-17	9,757	\$11.3 M

Effective Date:

This bill takes effect retroactive to January 1, 2013.

**Part I – Create a new account to finance an Administration Program in the New York State Gaming Commission.**

Purpose:

This bill would create a new account to finance an Administration Program in the New York State Gaming Commission.

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

The New York State Gaming Commission was created by merger of the Division of the Lottery and the Racing and Wagering Board and commences operations on February 1, 2013. The newly created agency will be managed by a board consisting of seven members. An Executive Director will carry out the day-to-day administration of the Gaming Commission. This bill would create a new administration account to support the administrative expenses of the Gaming Commission.

Budget Implications:

Enactment of this bill is necessary to implement the 2013-14 Executive Budget since the State Lottery Fund cannot be used to pay for the administrative expenses of the Gaming Commission and racing regulation funds may be used only to pay for the costs of carrying out the purposes of the racing, pari-mutuel wagering and breeding law.

Effective Date:

This bill would take effect on February 1, 2013.

**Part J – Redirect a portion of purse money to fund costs associated with recommendations by the Task Force on Racehorse Health and Safety.**

Purpose:

This bill would redirect one percent of purse enhancements from the VLT program to fund costs associated with recommendations by the Task Force on Racehorse Health and Safety.

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

The Task Force on Racehorse Health and Safety issued its final report on September 28, 2012. The report identified serious shortcomings in protocols for safeguarding race horses and has recommended a series of measures to correct the problems. Specific recommendations include the hiring of an Equine Medical Director, regulatory veterinarians, and inspectors; computerizing test barns; making the drug testing program more efficient; acquiring new and advanced testing equipment; and requiring necropsies to be performed at a veterinary diagnostic laboratory.

To implement these recommendations, one percent of purse enhancements generated by the VLT program will be deposited into the racing regulation account. Amounts collected can only be used to support the recommendations of the Task Force, and any unused amounts are to be returned for purse enhancements in proportion to amounts originally diverted.

Budget Implications:

Enactment of this bill is necessary to implement the 2013-14 Executive Budget because implementation of the Task Force's recommendations requires additional resources. It is estimated that redirecting one percent of VLT purse enhancements will provide an additional \$1.5 million for the racing regulation account in SFY 2013-14 and annually thereafter.

Effective Date:

This bill would take effect immediately upon enactment.

**Part K – Improve the effectiveness of the Local Government Efficiency Grant Program and the Citizens Re-Organization Empowerment Grant Program.**

Purpose:

This bill would reform the Local Government Efficiency Grant Program and Citizens Re-Organization Empowerment Grant Program to incentivize project implementation and



improve the overall effectiveness of the programs, supporting local government efficiency throughout the State.

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

This bill amends State Finance Law to reform the Local Government Efficiency Grant Program and the Citizens Re-Organization Empowerment Grant Program.

Currently the State provides competitive funding under the Local Government Efficiency Grant (LGEG) Program for planning and implementation of efficiency projects, such as functional consolidation (e.g., one municipality taking over provision of a service or services for another municipality). Planning grants support studies and planning for potential efficiency projects, and implementation grants provide support to municipalities in carrying out the projects. Both types of grants cover 90 percent of the costs of the planning or implementation, and the municipalities must cover the remaining ten percent of the costs (the "local match"). Beginning in SFY 2013-14, the local match for planning grants, but not implementation grants, would be increased from 10 percent to 50 percent. However, if a local government goes ahead with implementation of a project that was the subject of a planning grant, the local match for the planning grant would be reduced by up to the amount of the local match. This reform should increase the incentive for local governments to implement efficiency projects studied with the support of a planning grant.

In order to allow the State to support more efficiency projects, this bill would also lower the maximum award for LGEG planning awards. Currently, the State awards up to a maximum of \$25,000 per municipality and \$200,000 per grant. In SFY 2013-14 and beyond, the maximum would be \$12,500 per municipality and no more than \$100,000 total per grant.

The Citizens Re-Organization Empowerment Grant (CREG) Program would also be reformed by this bill. Local Government Re-Organization projects (e.g., consolidation or dissolution) eligible for CREG grants may be initiated by local governments or by voter petitions. Under the proposed reforms, all planning grants for voter-initiated consolidation or dissolution projects would still have a local match of 10 percent, but the local match for government-initiated planning grants for consolidation or dissolution would increase to 50 percent. If the local government proceeds with implementation of a project that was the subject of a CREG planning grant, the local match from the planning grant would be refunded to reduce the local match on the planning grant from 50 to 10 percent. The local match for implementation grants would remain at 10 percent. Again, these modifications to the program should incentivize implementation, in turn increasing local government efficiency.

Budget Implications:

These reforms are not expected to have a fiscal impact on the State Budget.

Effective Date:

This bill takes effect April 1, 2013.

**Part L – Eliminate burdensome reporting requirements imposed on school districts and local governments.**

Purpose:

This bill would eliminate all local government and school district reporting requirements to state agencies unless the Mandate Relief Council votes to continue them.

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

This bill would eliminate all reporting requirements placed on local governments and school districts by state agencies or authorities as of April 1, 2014 unless the Mandate Relief Council approves continuing the reporting requirement.

Every state agency or authority would be required to refer all reporting requirements to the Mandate Relief Council by September 1, 2013. They would also report whether they believe a reporting requirement is necessary and should be continued. The Council would review such requests and may approve the continuation of such reports.

In order to ensure that the Legislative Bill Drafting Commission can maintain an accurate database of effective state laws, the Mandate Relief Council would be required to notify the Commission of all reporting requirements referred to the Council and any requirements approved by the Council for continuation.

Budget Implications:

Enactment of this bill is necessary to implement the 2013-14 Executive Budget, because it would provide local governments and school districts with relief from burdensome reporting requirements.

Effective Date:

This bill would take effect immediately upon enactment.

**Part M – Authorization for transfers, temporary loans, and amendments to 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 fiscal year 2013-14 Executive Budget, and propose certain modifications to improve the State's General Fund position in 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) extend various provisions of Chapter 59 of the Laws of 2012 in relation to capital projects and certain certifications, (4) authorize modifications to various debt provisions, and (5) modify various bond authorizations necessary to implement the budget.

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

This bill is necessary to execute a balanced Financial Plan in accordance with the 2013-14 Executive Budget. Similar legislation is enacted annually to authorize the transfer of funds budgeted in the financial plan (that do not have permanent statutory authorization) and to provide for other transactions necessary to effectuate the provisions of the budget. The bill includes the following provisions:

- Section 1 of this bill would authorize the Comptroller to make temporary loans to specific State funds and accounts during fiscal year 2013-14.
- Section 1-a of this bill would authorize the Comptroller to make temporary loans to accounts within specific Federal funds during fiscal year 2013-14.
- Sections 2 and 3 of this bill would authorize the Comptroller to make transfers between designated funds and accounts.
- Section 4 of this bill would authorize the Dormitory Authority of the State of New York (DASNY) to transfer \$7 million to the Health Care Reform Act (HCRA) Resources Fund - HCRA Resources Account.
- Section 5 of this bill would authorize the Comptroller to deposit funds into the Banking Services Account.
- Section 6 of this bill would authorize DASNY to transfer \$22 million to the State University of New York (SUNY) for bondable equipment costs, which in turn would be re-paid to the State General Fund.

- Section 7 of this bill would authorize SUNY to transfer up to \$16 million to the General Fund for debt service costs related to capital project costs for the NY-SUNY 2020 Challenge Grant program at the University at Buffalo.
- Section 8 of this bill would authorize SUNY to transfer up to \$6.5 million to the General Fund for debt service costs related to capital project costs for the NY-SUNY 2020 Challenge Grant program at the University at Albany.
- Section 9 of this bill would authorize the SUNY Chancellor to transfer the estimated tuition revenue balances from the State University Collection Fund to the State University Fund, State University General Revenue Offset Account.
- Section 10 of this bill would authorize the Comptroller, at the request of the State University Chancellor, to transfer up to \$60 million from the General Fund to the State University Income Fund, State University Hospitals Income Reimbursement Account.
- Section 11 of this bill would authorize the Comptroller to transfer \$969.1 million from the General Fund to the State University Income Fund, State University General Revenue Offset Account.
- Section 12 of this bill would authorize the Comptroller to transfer up to \$50 million from the State University Income Fund, State University Hospitals Income Reimbursable and Long Island Veterans' Home accounts, to the State University Capital Projects Fund.
- Section 13 of this bill would authorize the Comptroller to transfer monies from the State University Collection and the State University Income funds to the State University Income Fund, State University Hospitals Income Reimbursable Account, in amounts sufficient to permit the full transfer of moneys authorized for transfer to the General Fund for SUNY Hospitals debt service.
- Section 14 of this bill would authorize the Comptroller to make up to \$350 million in transfers between the following accounts, in any combination: the Miscellaneous Special Revenue Fund, the Patient Income Account; the Miscellaneous Special Revenue Fund, the Mental Hygiene Program Fund Account; the Miscellaneous Special Revenue Fund, Federal Salary Sharing Account; and the General Fund.
- Section 15 of this bill would authorize the Comptroller to transfer up to \$500 million from the unencumbered balance of any Special Revenue Fund to the General Fund.
- Section 16 of this bill would authorize the Comptroller to transfer up to \$100 million from any non-general fund or account (excluding Federal funds, or any fund in which the eligibility for Federal benefits would be impacted) to the Technology

Financing Account for the consolidation of operational costs related to technology services.

- Section 17 of this bill would authorize the transfer of up to \$90 million from the Power Authority of the State of New York to the credit of the General Fund, with at least \$25 million transferred by June 30, 2013 and the remainder transferred by March 31, 2014.
- Section 18 of this bill would authorize a public benefit corporation to make voluntary contributions to the General Fund or any other public benefit corporation at any time from available public benefit corporation funds.
- Section 19 of this bill would make permanent the current depository provisions of the rainy day reserve fund.
- Section 20 of this bill would amend State Finance Law (SFL) §97-rrr to allow the State Comptroller to increase the deposit to the School Tax Relief Fund.
- Section 21 of this bill would authorize the Comptroller to transfer to the General Fund funding from the Correctional Facilities Capital Improvement Fund.
- Section 22 of this bill would extend until December 2016 the current provision of law concerning the availability of funds within the Tribal State Compact Revenue account.
- Section 23 of this bill would amend SFL §99-h to align the provisions that become effective January 2017, regarding the availability of funds within the Tribal State Compact Revenue account, with the provisions of current law.
- Section 24 of this bill would amend provisions of the Medical Care Facilities Agency Act to allow mortgage loan financing fees to be deposited in the General Fund as opposed to the Hospitals and Nursing Home Management account, pursuant to the elimination and consolidation of Department of Health offset accounts.
- Section 25 of this bill would authorize the transfer of \$15 million from the New York State Energy Research and Development Administration to the General Fund from proceeds collected under the Regional Greenhouse Gas Initiative, contingent on the inclusion of a \$25 million capital appropriation for the Cleaner, Greener Communities program.
- Sections 26 through 40 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 2003 through 2013 into various funds, including the Capital Projects Fund.

- Section 41 would continue the authorization to use excess debt service appropriation for Mental Hygiene facilities to make rebates necessary to protect the tax-exempt status of the bonds.
- Section 42 would continue authorizations for disbursements for hazardous waste site remediation projects.
- Section 43 of this bill would amend SFL §68-a(2) to authorize the issuance of bonds under the PIT credit structure for any State-supported purpose except for general obligation purposes. This is consistent with the authorized purposes for the proposed sales tax revenue bond structure.
- Section 44 would amend SFL § 68-b(8) to make permanent the ability of the DASNY and the Empire State Development Corporation to issue Personal Income Tax (PIT) Revenue Bonds for any authorized purposes.
- Section 45 would make permanent a governance change of the Board of the Local Government Assistance Corporation.
- Section 46 of this bill would establish a new \$1.17 billion bond cap for the proposed transformative capital fund.
- Section 47 of this bill would establish a new \$60 million bond cap for the office of information technology services.
- Section 48 of this bill would increase the bond cap for financing of capital projects for the Division of Military and Naval Affairs from \$24 million to \$27 million.
- Section 49 of this bill would increase the bond cap for financing correctional facilities from \$6.817 billion to \$7.133 billion.
- Section 50 of this bill would increase the bond cap for financing housing programs from \$2.741 billion to \$2.845 billion.
- Section 51 of this bill would increase the bond cap for financing local highway projects from \$7.106 billion to \$7.517 billion.
- Section 52 of this bill would increase the bond cap for financing library facilities from \$98 million to \$112 million.
- Section 53 of this bill would increase the bond cap for financing state police capital projects from \$114.1 million to \$166.3 million.
- Section 54 of this bill would increase the bond cap for financing economic development, including projects from the retention of professional football in western New York, from \$710.6 million to \$1.16 billion.

- Section 55 of this bill would amend the bond cap for financing environmental infrastructure projects to include capital grants for the cleaner, greener communities program as an authorized purpose. Additionally, the bond cap would increase from \$1.12 billion to \$1.27 billion.
- Sections 56 through 63 of this bill would amend multiple sections of SFL and Tax Law to authorize a new sales tax revenue bond financing program and create a sales tax revenue bond tax bond.
- Section 64 of this bill would amend SFL to add §93-a which creates the New York State Transformative Capital Fund. This fund will consist of two accounts: the storm recovery account to finance FEMA reimbursable capital projects for Hurricane Sandy or future natural disasters; and a transformative capital account to finance transformative economic development and infrastructure initiatives.
- Section 65 of this bill would amend the bond cap for financing the NY-SUNY 2020 challenge grant program to include NY-CUNY 2020 as an authorized purpose. Additionally, the bond cap would increase from \$110 million to \$220 million.
- Section 65-a of this would bill would amend the NY-SUNY 2020 challenge grant program to make the bond cap permanent.
- Section 66 of this bill would increase the bond cap for financing SUNY community colleges from \$623 million to \$663 million.
- Section 67 of this bill would increase the bond cap for financing CUNY senior and community colleges from \$6.84 billion to \$6.85 billion.
- Section 68 of this bill would increase the bond cap for financing improvements to State office buildings and facilities from \$205.8 million to \$220.8 million.
- Section 69 of this bill would amend the bond cap for financing peace bridge projects to include capital costs of state and local highways, parkways, bridges, the New York state thruway, Indian reservation roads, and facilities, and transportation infrastructure projects as authorized purposes. Additionally, the bond cap would increase from \$15 million to \$315 million.
- Section 69-a of this bill would increase the bond cap for financing SUNY educational facilities from \$10.3 billion to \$10.42 billion.

All of the sections of this bill would become permanent upon enactment except for sections one through nine and thirteen through eighteen, which would all expire on March 31, 2014.

Budget Implications:

Enactment of this bill is necessary to implement the 2013-14 Executive Budget, including the transfer of funds budgeted in the financial plan and the provision of 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 ensure the continued borrowing necessary for certain State-supported debt issuances to implement the budget, and to permit the State to carry out basic administrative functions.

Effective Date:

This bill would take effect immediately and would be deemed in full force and effect on and after April 1, 2013

**Part N – Support Consolidation of IT Functions and Services into the Office of Information Technology Services (ITS).**

Purpose:

This legislation furthers the streamlining of statewide IT operations begun last year by permitting the reclassification of staff transferred to the Office of Information Technology Services in November of 2012 pursuant to § 70(2) of the Civil Service Law and realigning certain information technology responsibilities to better support the State's cyber-security efforts.

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

The Office of Information Technology Services (ITS) was established by the Governor in 2012 to consolidate statewide IT operations, policies and standards. This streamlining of State IT will allow more efficient delivery of IT services and allow State agencies to focus on and dedicate more of their resources to their core policy missions. When the consolidation is completed in the coming State fiscal year, ITS will be the IT service provider for nearly all State agencies.

As part of the consolidation, IT staff from multiple State agencies were transferred to ITS during 2012. Because of variations in employee titles and classification among agencies, certain individuals' titles and classes, if not changed, would prevent them from being eligible for the same promotional opportunities available to other ITS employees performing the same functions and potentially leave them without certain rights afforded to those other employees. This legislation permits ITS and the Department of Civil Service to reclassify individuals who transferred in 2012 into appropriate IT titles to ensure consistency in rights and opportunities among all ITS employees performing the same functions.



This legislation will also realign certain responsibilities related to cyber-security in order to draw on the expertise of the ITS workforce. Under the provisions of this legislation, ITS will provide support to the State agencies charged with protecting the citizens, businesses, and local governments of New York State from cyber-attacks. ITS will work with State agencies to protect them from cyber-attack as well.

Budget Implications:

Enactment of this bill is necessary to implement the 2013-14 Executive Budget because its provisions further the ongoing consolidation of financial support for ITS.

Effective Date:

This bill would take effect immediately upon enactment.

**Part O – Workers Compensation Reform: Business Relief Bill**

Purpose:

This legislation would dramatically reform the Workers' Compensation Board's (Board) assessment process so that employers would pay their assessments directly to the Board through their carrier. It would also establish a bonding program to address insolvent group self-insured trusts, eliminate mandatory deposits into the aggregate trust fund and close the Reopened Case Fund. Finally, it would provide efficiencies to the Board and result in a significant economic benefit to businesses in the State.

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

The primary provisions of the bill are as follows:

Pass Through Assessments. It would amend the Workers' Compensation Law (WCL) by simplifying the assessment process on employers so that carriers can charge customers directly for the exact amount owed to the Board.

Close the Reopened Case Fund. It would close the Reopened Case Fund (Fund) (WCL § 25-a) to any new claims. Closing the Fund would save New York businesses hundreds of millions of dollars in assessments per year. The Fund provides payments directly to claimants and health providers when the claimant's case is reopened under certain circumstances. The original intent of the Fund was to provide carriers relief in a small number of cases where liability unexpectedly arises after a case has been closed for many years. However, carriers do not need this relief because the premiums they have charged already cover this liability. This reform prevents a windfall for such carriers.

Aggregate Trust Fund (ATF). It would eliminate mandatory deposits to the ATF and close the fund to new deposits. The ATF was originally intended to protect a claimant in the event a carrier defaulted in its payments. The Workers' Compensation Guarantee Fund is now responsible for ensuring such payments, so these transfers are no longer necessary.

Bonding Program. It would establish a program to cover defaults of group self-insured trusts by authorizing the issuance of bonds backed by the new Workers' Compensation Assessment to purchase liabilities resulting from such defaults. Bonding would provide a mechanism to sell these liabilities. The WCL § 50-5 assessment, which is an assessment on the healthy self-insurance community to provide cash to pay claims for defaulted groups, will grow significantly over the next several years. The bonding program would mitigate the impact of defaulted groups on the healthy self-insurance community. The bonds issued for this purpose will not constitute a debt of the State or a State-supported obligation within the meaning of any constitutional or statutory provision.

State Insurance Fund (SIF) Assessment Reserves. It would amend WCL § 151 so that the assessment reserves held by SIF would no longer be necessary and would be transferred to the Board. The Board would be authorized to release up to \$250 million for general operating purposes and up to \$500 million for capital purposes.

Management of the Special Disability Fund. It would confirm the Board's authority to oversee the Special Disability Fund. The bill would give the Chair of the Board the authority to appoint an attorney to represent and defend the fund.

State Insurance Fund (SIF). It would revise the investment authority of SIF to provide greater security for investment of funds held as reserves while permitting greater diversification on investment of funds held as surplus. The bill also repeals an inoperative and superfluous version of WCL § 88.

Minimum Compensation Benefit. It would increase the minimum compensation benefit amount from \$100 per week to \$150 per week. This amount has not changed since 2007, and unlike the maximum benefit amount, it is not tied to an index. Therefore, it is necessary to periodically increase the minimum benefit rate to conform to the automatic increases in the maximum benefit rate. Less than 10% of claims are impacted by the minimum compensation benefit provision.

Miscellaneous Provisions. It would repeal WCL § 146 requiring the Board's principal office to be in the City of Albany; allow for single arbitrator panels in determining medical disputes valued over \$1,000; amend the time period to file a discretionary full board review to thirty days; allow group trusts to post their full security in a 114 trust; and establish a standard of review for appeals in alternative dispute resolution cases.

Budget Implications:

Enactment of this bill is necessary to implement the 2013-14 Executive Budget. This bill would end the disconnect between assessment collections and payments to the Board by carriers and eliminate the long term assessment liability for self-insured employers, providing approximately \$500 million in relief to businesses and municipalities. It offers a bonding solution to the group self-insurance trust problem without placing a \$900 million obligation on the self-insurance community. In addition, the Financial Plan for SFY 2013-14 includes \$250 million for operating purposes and \$500 million for capital purposes from the release of the assessment reserves no longer required to be held by SIF.

Effective Date:

This bill would take effect immediately. However, no application by a self-insured employer or an insurance carrier for transfer of liability of a claim to the fund for reopened cases would be accepted by the Board on or after the first day of January, 2014. The Board would not direct a mandatory deposit into the ATF 30 days after the bill becomes law. Finally, the provision establishing a time period for the filing of full board reviews will take effect 90 days after the bill becomes law.

**Part P – Increase agencies' discretionary authority to purchase food grown, harvested, produced or processed in New York State up to \$200,000.**

Purpose:

This bill would amend State Finance Law Section 163 to allow state agencies to purchase food grown, harvested, produced, manufactured or processed in New York State in an amount not exceeding \$200,000, without a formal competitive process.

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

State Finance Law Section 163 permits state agencies to purchase up to \$50,000 in services and commodities without a formal competitive process. Discretionary limits are increased to \$200,000 when purchasing recycled or remanufactured commodities/technology or from small businesses and MWBE vendors. This bill would add NYS food commodities to the list of authorized commodities subject to the \$200,000 cap.

As sales by local businesses increase due to this bill, the dollars may be reinvested in the community; strengthening its economic base and leading to job growth and increased tax revenues.

Budget Implications:

Enactment of this bill is necessary to implement the 2013-14 Executive Budget. It will increase sales by local businesses thereby increasing tax revenues and job growth.

Effective Date:

This bill would take effect immediately upon enactment.

**Part Q – Authorize school districts and Boards of Cooperative Educational Services to participate in the Intrastate Mutual Aid Program.**

Purpose:

This bill would include school districts and Boards of Cooperative Educational Services (BOCES) in the definition of local governments that are participants in the Intrastate Mutual Aid Program (IMAP).

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

As part of the 2012-2013 Enacted Budget (Chapter 55 of the Laws of 2012), the State created an Intrastate Mutual Aid Program (“IMAP”) to provide better coordination between local governments in preparing for and responding to local disasters. Questions were raised about whether school districts and Boards of Cooperative Educational Services (“BOCES”) should be included as participants in IMAP. To resolve these questions, the Division of Homeland Security and Emergency Services (DHSES) was charged with evaluating the merits of and making recommendations on the inclusion of school districts and BOCES in IMAP. DHSES consulted with the State Education Department (SED), the Council of School Superintendents and the New York State Association for Superintendents of School Buildings and Grounds, all of whom supported inclusion of school districts and BOCES in IMAP, but recommended that participation be limited to short-term immediate disaster response operations, but not long-term recovery issues, such as the moving of teachers and the use of school buildings for educational purposes. The IMAP Committee and DHSES concurred with these recommendations in letters sent to the Governor, the Temporary President of the Senate and the Speaker of the Assembly on October 3, 2012. This bill would implement this recommendation.

Budget Implications:

Enactment of this bill is necessary to implement the 2013-14 Executive Budget because it enables the cost-efficient and effective use of available school district and BOCES resources in the event of a short-term disaster.

Effective Date:

This bill would take effect immediately upon enactment.

**Part R – Promote continuity of care for individuals and enable direct care employees to have increased flexibility for employment opportunities.**

Purpose:

To promote the continuity of care for individuals served by direct care workers employed by State agencies by allowing those workers to seamlessly transition to other employment opportunities that serve the same individuals.

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

This bill exempts State employees serving in positions which provide direct care, clinical care, case management, service coordination or other related support duties to individuals in State-operated programs, from both the two-year and lifetime bars when such employees transition to a job outside of State service and serve the same individuals. This exemption would enable direct care staff to leave State service to work for a not-for-profit provider and support the same individuals they cared for in State service, thereby maintaining continuity of care.

Budget Implications:

Enactment of this bill is necessary to increase operational flexibility and efficiency of direct care services.

Effective Date:

This bill would take effect immediately upon enactment.

**Part S – Authorize certain State agencies and authorities to use design-build contracts and design-build-finance contracts for their capital projects.**

Purpose:

To speed the State's recovery from Superstorm Sandy, this bill would permit State agencies and authorities to use design-build contracts and design-build-finance contracts as alternative project delivery methods -- approaches which have been shown to shorten time to completion for a project, without sacrificing quality.

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

Design-build is a method of project delivery in which a single contract is executed with a single entity or team of entities providing architectural, engineering and construction services. The benefits of the approach include:

- Expedited project completion by grouping multiple responsibilities in a single contract (such as combined design and construction);
- Streamlined procurement process;
- Access to specialized expertise (such as financial management);
- Improved design, thereby reducing flaws and future remediation costs;
- Access to proprietary technology (such as special pavement design); and
- Ability to apply special incentives and disincentives to improve project performance.

Certain state entities were authorized to use this alternative project delivery method pursuant to the Infrastructure Investment Act (L. 2011, c. 56). This bill would permit additional State agencies and authorities to use design-build contracts and would also allow them to use design-build-finance contracts, in which a single contract may be executed with an entity or team of entities for the design, construction, and financing of a capital project. Such financing may consist of private capital or a combination of private and public funds.

These alternative project delivery methods reduce project costs by shortening delivery time and eliminating duplication of efforts. With billions of dollars are expected to be spent in the coming months to recover from Superstorm Sandy, the savings to taxpayers would be substantial.

Budget Implications:

Enactment of this bill is necessary to implement the 2013-14 Executive Budget. Billions of dollars are expected to be spent on the recovery from Superstorm Sandy, and this bill will ensure that the public funds invested are spent wisely, and produce the greatest public benefit.

Effective Date:

This bill would take effect immediately upon enactment.

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.