

*New York State Assembly*  
**2011 ANNUAL REPORT**

*committee on*  
**HIGHER  
EDUCATION**

*Deborah J. Glick*  
*Chair*



*Sheldon Silver*  
*Speaker*



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THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

CHAIR  
Higher Education

COMMITTEES  
Environmental Conservation  
Governmental Operations  
Rules  
Ways & Means

December 15, 2011

The Honorable Sheldon Silver, Speaker  
New York State Assembly  
State Capitol, Room 349  
Albany, New York 12248

Dear Speaker Silver:

On behalf of the members of the Assembly Committee on Higher Education, I respectfully submit to you the Committee's 2011 Annual Report which highlights our activities over the past year.

The 2011 Legislative Session was a productive one. The 2011-12 Legislative budget for higher education provided \$86 million in additional funding by partially restoring cuts proposed by the Executive. The Executive proposal decreased State support for community colleges from \$2,260 for each full-time equivalent (FTE) student to \$2,034 for each FTE or a \$226 reduction per FTE student. The Legislature restored \$23.2 million to the Executive's proposed cuts of \$46.4 million, bringing funding levels from \$2,034 to \$2,122 per FTE student at SUNY and CUNY community colleges. The Executive also proposed a total elimination of the State subsidy for the three SUNY Health Science Centers and the Long Island Veterans Home. The Legislature successfully restored \$60 million of operating support to the SUNY Health Science Centers and \$3.8 million in operating support to the Long Island Veterans Home.

The 2011-12 Executive budget proposal maintained funding levels for opportunity programs like the Education Opportunity Program (EOP), Higher Education Opportunity Program (HEOP), the Science and Technology Entry Program (STEP), and the Collegiate Science and Technology Entry Program (CSTEP). Following the enacted 2011-12 budget, \$955,000 in additional funds was provided to EOP; \$1 million to the Search for Education, Elevation, and Knowledge (SEEK) program; \$55,000 to College Discovery; \$3.48 million to HEOP; \$1.02 million to STEP; and \$778,000 to CSTEP in a December 2011 extraordinary

session. The Executive proposal eliminated funding to the Teacher Opportunity Corps and the High Needs Nursing Program. The Legislature fully restored funding to the High Needs Nursing Program to prior year funding levels and partially restored funding to the Teacher Opportunity Corps. The Legislature accepted, with modifications, the Executive proposal that authorizes SUNY and CUNY to purchase goods and execute contracts for construction, construction-related services, and printing contracts without prior approval of the Comptroller and Attorney General. The Legislature also accepted, with modifications, the Executive proposal to authorize the State University Construction Fund (SUCF), and the City University Construction Fund (CUCF) to execute all contracts without prior approval. Finally the Legislature accepted, with modifications, the Executive proposal that authorizes SUNY hospitals to purchase goods and to enter into joint and group purchasing arrangements for goods without prior approval. Contracts entered into by the aforementioned entities will still be subject to post-audit review.

The Committee's efforts were not limited to fiscal concerns. In fact, the 2011 Legislative session addressed several pressing issues that reflect the varied priorities of the Higher Education Committee. The Legislature passed legislation that was enacted into law: authorizing the SUNY Board of Trustees to lease lands at SUNY Purchase in order to develop a senior learning community; authorizing the SUNY and CUNY Board of Trustees to set tuition over the next five years, requiring New York State to maintain funding for SUNY and CUNY unless there is a fiscal emergency, creating a tuition credit for TAP eligible students and establishes the NY-SUNY 2020 Challenge Grant Program; authorizing the SUNY Board of Trustees to lease lands at SUNY Farmingdale to develop, construct and operate a biotechnology and technology office, research and manufacturing park; creating a collaborative drug therapy management (CDTM) demonstration program between licensed physicians and pharmacists; authorizing certified public accountants (CPAs) licensed in another state to practice in New York without having to obtain a New York license if they have substantially equivalent qualifications; and authorizing a waiver from corporate practice prohibitions to entities providing services to children with disabilities.

As you can see, much has been accomplished this year, but much still remains to be done. Thank you for your leadership and steadfast support of our State's higher education community. I am proud of my fifth year as Chair of the Higher Education Committee and thank you for the opportunity to continue working with you and my colleagues toward our shared goal of ensuring that our systems of public and private higher education remain the best in the nation.

Sincerely,



Deborah J. Glick

Chair

Higher Education Committee

**2011 ANNUAL REPORT**

**NEW YORK STATE ASSEMBLY**

**STANDING COMMITTEE ON HIGHER EDUCATION**

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Laura Inglis, Program and Counsel Executive Secretary

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## I. COMMITTEE JURISDICTION

The Committee on Higher Education is responsible for the initiation and review of legislation relevant to higher education and the professions in New York State. It is primarily concerned with policy initiatives affecting the State University of New York (SUNY), the City University of New York (CUNY), the independent colleges and universities of New York, proprietary vocational schools, student financial aid, and the licensed professions. However, because of the complex and comprehensive nature of New York's system of higher education, the Committee has also been involved in shaping legislation in such diverse public policy fields as health care, economic and workforce development, technology, capital financing, and elementary and secondary education.

The New York State system of higher education has been heralded for decades for its quality and comprehensive service to the public with a full range of academic, professional, and vocational programs. The three components of this system include the State University of New York (SUNY), the City University of New York (CUNY), and the numerous independent colleges and universities, proprietary colleges and schools located within New York State.

In addition to providing support to the state-operated campuses of SUNY and the senior college programs of CUNY, New York State contributes financially to community colleges and provides direct aid to independent colleges and universities. The State also demonstrates its commitment to higher education through funding one of the country's largest state-supported Tuition Assistance Program (TAP), a need-based grant program that helps eligible New York State residents pay tuition at approved higher education schools in the State (both public and private institutions).

The Committee on Higher Education also monitors the ongoing activities of the 48 professions, which the State Education Department (SED) is charged with licensing and regulating. Through careful consideration of legislation affecting the professions and through the monitoring of the professional discipline functions of the State Education and Health Departments, the Committee endeavors to protect the health, safety, and welfare of the public and to ensure the maintenance of high standards and competence within the professional realm.

This report summarizes the activities and achievements of the Assembly Committee on Higher Education in each of its major areas of responsibility during the 2011 Legislative Session.

## II. HIGHER EDUCATION

### A. Budget Highlights

The 2011-12 Legislative budget for higher education provided \$86 million in additional funding above the Executive proposal by restoring \$63.8 million in cuts to the three SUNY Health Science Centers and the Long Island Veterans Home, \$18 million for SUNY and CUNY community college base aid restorations and \$941,000 to continue the High Needs Nursing Program.

#### 1. *Community Colleges*

This year, the Executive proposal decreased State support for community colleges from \$2,260 for each full-time equivalent (FTE) student to \$2,034 for each FTE or a \$226 reduction per FTE student. Base aid is the State's responsibility for its share of community college budgeted operating costs. The State, the sponsoring locality, and the students share in the operational costs of community college and therefore the level of State support that community colleges receive directly affects tuition rates and local contributions. Statutorily the State is obligated to pay one-third of a community college's operating costs and up to forty percent of these costs for full opportunity schools. Recognizing the State's shortfall in its funding obligation and the importance of preserving the State's support of community colleges as much as possible, the Legislature proposed restoring academic year funding of \$12.9 million for SUNY and \$5.1 million for CUNY community college base aid. The Executive accepted the restoration of funding of the State's share of community college financing from \$2,034 per FTE student to \$2,122, as recommended by the Legislature.

#### 2. *SUNY State Operated Colleges and CUNY Senior Colleges*

The Legislature accepted cuts in operating aid of \$83.2 million for CUNY and \$150.0 million for SUNY.

The Legislature accepted, with modifications, the Executive proposal that authorizes SUNY and CUNY to purchase goods and execute contracts for construction, construction-related services, and printing contracts without prior approval of the Comptroller and Attorney General. Additionally the Legislature accepted, with modifications, the Executive proposal to authorize the State University Construction Fund (SUCF), and the City University Construction Fund (CUCF) to execute all contracts without prior approval. Contracts entered into by the aforementioned entities will still be subject to post-audit review.

The Legislature rejected the Executive proposal that would authorize the SUNY

trustees to lease real property upon the approval of a newly created State University Asset Maximization Review Board. The Legislature also rejected the Executive proposal that would authorize SUCF to utilize any project delivery method, including design/build and construction manager at risk, as well as authorize SUCF to award construction bids pursuant to a request for proposals.

### ***3. SUNY Health Science Centers***

The 2011-12 Executive budget proposed a total elimination of the State subsidy for the three SUNY Health Science Centers and the Long Island Veterans Home, representing a reduction of \$128.7 million. The Legislature successfully restored \$60 million in operating support to the SUNY Health Science Centers at Stony Brook, Syracuse, and Brooklyn and \$3.8 million in operating support to the Long Island Veterans Home.

The Legislature accepted, with modifications, the Executive proposal that authorizes SUNY hospitals to purchase goods and to enter into joint and group purchasing arrangements for goods without prior approval of the Comptroller and Attorney General. The Legislature also accepted the Executive proposal to authorize SUNY Downstate Hospital to enter into a long-term lease for use of facilities at Long Island College Hospital and further authorized a merger between SUNY Upstate Hospital and Community General Hospital of Greater Syracuse.

### ***4. Independent Colleges and Universities***

This year, the Legislature maintained funding to the Higher Education Opportunity Program (HEOP) in the amount of \$20.8 million in order to keep its commitment to help disadvantaged students gain access to private colleges. The Legislature accepted the Executive's proposal of a \$3.9 million reduction in funding for Bundy Aid. Bundy Aid, formally known as Unrestricted Aid to Independent Colleges and Universities, provides direct support to higher education institutions based on the number and type of degrees conferred by the college or university.

### ***5. Financial Aid***

#### **Tuition Assistance Program**

New York State is fortunate to have one of the most comprehensive systems of financial aid in the United States. At the forefront is the Tuition Assistance Program (TAP), New York's largest grant program that helps eligible New York residents pay tuition at approved schools in the State. Award amounts are determined by net taxable income (up to \$80,000) and financial status (independent or dependent). Depending on income, TAP awards can range from \$500 to \$5,000 with low-income students receiving

larger awards. The TAP program helps keep college accessible and affordable for students who would otherwise not be able to attend.

The Legislature accepted the Executive's proposal to: remove TAP eligibility for students in default on any state or federal student loans not guaranteed by the Higher Education Services Corporation (HESC) until they cure their default (\$5.2 million); decrease TAP awards for married students without children (\$7.8 million); reduce the maximum TAP award for students attending two-year degree granting institutions, excluding public two-year colleges and nursing programs, which do not offer four-year degrees (\$16.0 million); increase minimum academic standards and GPA requirements for non-remedial students (\$4.4 million); create parity between private and public pension when determining TAP eligibility by no longer excluding the first \$20,000 from private pension income (\$4.2 million); and eliminate TAP for graduate students (\$2.0 million). The Executive and Assembly also accepted the Senate proposal to provide TAP awards to students attending non-SED supervised institutions (\$9.2 million cost).

#### Scholarships/Loan Forgiveness Programs

The Legislature accepted the Executive's proposal to extend the Patricia K. McGee Nursing Faculty Scholarship/Nursing Faculty Loan Forgiveness Program, the Regents Physician Loan Forgiveness Program, and the Social Worker Loan Forgiveness Program for five years. The Legislature also accepted extending the Higher Education Capital Matching Grant Program (HECAP) for one year.

#### Access Programs

Access to higher education has been a long-standing concern of this Committee. Over the years, the Legislature has created programs which provide special assistance to educationally and economically disadvantaged students, underrepresented groups, and "at-risk" youth (students who require additional support in order to achieve academic success). The Assembly has been committed to ensuring that all students have access to higher education and can enhance their academic success through the support of access programs.

Through counseling, remedial coursework, financial assistance, drop-out prevention, and skills training, these programs are dedicated not only to encouraging enrollment in college, but also helping to ensure success in the postsecondary academic environment. New York's Access Programs include:

\*The Higher Education Opportunity Program (HEOP) provides critical access programs for educationally and economically disadvantaged students who attend independent institutions of higher education. HEOP programs serve approximately 3,700 students through 58 programs including pre-freshman summer programs, remedial and

developmental courses, tutoring, and counseling. HEOP students, who do not meet the traditional academic criteria when they are admitted to college, typically earn their degrees at rates that equal or exceed other students. With mentoring and support, 55% of HEOP students graduate within five years of enrolling. There are over 30,000 HEOP alumni. The Legislature accepted the Executive proposal to maintain funding for HEOP at \$20.8 million. Following the enacted 2011-12 budget, \$3.48 million in additional funds was provided in a December 2011 extraordinary session.

\*The Education Opportunity Program (EOP) provides academic support and financial aid to approximately 21,427 students who attend public institutions of higher education and show promise for mastering college-level work, but who may otherwise not be admitted. EOP support programs include special tutoring, and academic, career, and personal counseling. EOP services are available at most SUNY schools, at all CUNY senior colleges through the Percy Ellis Sutton Search for Education, Elevation, and Knowledge (SEEK) program, and at all CUNY community colleges through the College Discovery program. The Legislature accepted the Executive proposal to maintain funding for EOP at \$19.5 million and SEEK at \$17.4 million. Following the enacted 2011-12 budget, \$955,000 in additional funds was provided to EOP, \$1 million to SEEK and \$55,000 to College Discovery in a December 2011 extraordinary session.

\*The Liberty Partnerships Program (LPP) serves approximately 12,203 middle, junior, and senior high school students who are at risk of dropping out. LPP also assists students in completing high school, preparing for and entering college, and obtaining meaningful employment. LPP has a retention rate of 99% and a graduation rate of 80%. The Legislature accepted the Executive proposal to maintain funding for LPP at \$10.8 million. Following the enacted 2011-12 budget, \$1.7 million in additional funds was provided in a December 2011 extraordinary session.

\*The Teacher Opportunity Corps (TOC) has the goal of attracting more African-Americans, Hispanics, and Native Americans to the teaching profession and to prepare these individuals to work effectively with students who are at risk of academic failure and dropping out of school. TOC is also considered to be a model of excellence for teacher education programs. The Legislature rejected the Executive proposal to eliminate TOC and restored funding of \$450,000, a \$221,000 reduction from the prior year.

\*The Science and Technology Entry Program (STEP) and Collegiate-STEP (CSTEP) was created to encourage the attendance of more students of underrepresented and economically disadvantaged populations by helping these students to enter collegiate study and careers in scientific, technical, and health-related fields. The Legislature accepted the Executive proposal to maintain funding for STEP at \$9.8 million and CSTEP at \$7.4 million. Following the enacted 2011-12 budget, \$1.02 million in additional funds was provided to STEP and \$778,000 to CSTEP in a December 2011

extraordinary session.

\*The State provides small awards for Native Americans pursuing post-secondary study in New York. This access program offers financial aid to eligible Native Americans and has been critical in addressing the under representation of this population in New York State's higher education system. The Legislature accepted the Executive proposal to maintain funding for post-secondary aid to Native Americans at \$598,000.

## **B. Legislative Highlights**

### **1. *Community Colleges***

New York State has 37 public community colleges: 30 within the State University system and 7 within the City University system. With an enrollment of approximately 342,693 students, community colleges provide a primary source of access to higher education opportunities. The community colleges of SUNY and CUNY are referred to as "full opportunity" institutions, accepting all recent high school graduates and returning residents from the colleges' sponsorship areas.

Community colleges are unique in that they are financed cooperatively by three partners: the State, a local sponsor, and the students. Community colleges are primarily governed by the local sponsor, assuring that these institutions have greater flexibility to respond to the local educational needs of their unique student population. Many community college students are non-traditional students who return to college later in life, attend part-time and/or combine work and family responsibilities with study.

### **2. *City University of New York***

Founded as the Free Academy in 1847, the City University of New York (CUNY) has grown into the largest urban university in the nation. CUNY is also the third largest university in the country and is comprised of twenty-three campuses throughout Queens, Brooklyn, Manhattan, the Bronx, and Staten Island. It includes 11 senior colleges, a two-year preparatory medical program, an honors college, a journalism school, a school of professional studies, a law school, a graduate center, and 7 community colleges. Through this network, CUNY provides educational opportunities and skills training to an ethnically and culturally diverse population of approximately 270,952 students annually: 174,418 at the senior colleges and 96,534 at the community colleges.

### **3. *State University of New York***

The State University of New York (SUNY) is the largest public university system

in the nation, embracing 64 distinct individual campuses located in urban, suburban, and rural communities across New York State. These 64 campuses offer a full range of academic, professional, and vocational programs through their university centers, comprehensive colleges, colleges of technology, and community colleges. SUNY enrolls approximately 467,845 students in over 7,500 programs of study.

#### ***4. Independent Colleges and Universities***

New York State is fortunate to have the most diversified and largest independent sector of higher education in the nation. According to the Commission on Independent Colleges and Universities (CICU), in 2009 twenty-eight percent of the students enrolled in the independent sector in New York State were minorities. The independent colleges and universities of the State enroll nearly 486,000 students. New York not only boasts the nation's largest private university, New York University, it also prides itself on numerous outstanding small colleges as well. Independent campuses throughout New York State have a collective annual economic impact of \$47.5 billion, employ 372,000 New Yorkers, and have a \$17.5 billion payroll.

#### **Authorizing the Lease of Lands at SUNY Purchase**

**A.340-A Paulin, Chapter 405 of the Laws of 2011.** This law authorizes the SUNY Board of Trustees to lease 40.5 acres of land to the Purchase College Advancement Corporation (the corporation), a not-for-profit corporation, to develop a senior learning community for an initial term to not exceed 40 years.

No less than 20 percent of the 385 units in the senior learning community must be available to individuals or families whose incomes at the time of initial occupancy do not exceed 80 percent of the median household income for Westchester County, as determined by the Census Bureau. In addition, a minimum of 80 acres of real property on the campus is to be designated and maintained for permanent preservation as open space lands.

All proceeds relating to this lease must be allocated by the SUNY Purchase Board of Trustees for the following academic purposes:

- 75% for scholarships for students who are eligible to receive a tuition assistance award or supplemental tuition assistance; and
- 25% for creating additional full-time faculty positions.

Furthermore, the SUNY Board of Trustees are required to submit an annual report to the Executive and the Legislature that would outline how many faculty positions were created and how many students receive scholarships, including a breakdown of students receiving scholarships by income levels, as a result of the allocations from

proceeds of the lease by the corporation.

### **Increasing the SUNY Board of Trustees Membership**

**A.2718 Canestrari, Chapter 268 of the Laws of 2011.** This law adds the president of the faculty council of community colleges as a non-voting member to the Board of Trustees of the State University of New York (SUNY), increasing the membership of the SUNY Board of Trustees from seventeen to eighteen members.

### **Authorizing the Lease of Lands at SUNY Farmingdale**

**A.5664 Sweeney, Chapter 13 of the Laws of 2011.** This law authorizes the SUNY Board of Trustees to lease 38.5 acres of land at SUNY Farmingdale to the Broad Hollow Bioscience Park, Inc., a not-for-profit corporation, in order to develop, construct and operate a biotechnology and technology oriented office, research and manufacturing park for a term not to exceed 35 years.

### **Authorizing the Transfer of Funds to Support the Oversight of Proprietary Schools**

**A.7073 Glick, Chapter 430 of the Laws of 2011.** This law extends, until December 1, 2015, the authorization of the transfer of funds from the Tuition Reimbursement Account (TRA) to the Bureau of Proprietary School Supervision (BPSS) Account once the TRA reaches \$1.5 million in order to assist in funding the State Education Department's oversight of the proprietary school sector.

### **Authorizing HESC to Obtain Employee Background Checks**

**A.8159-A Glick, Chapter 184 of the Laws of 2011.** This law authorizes the Higher Education Services Corporation (HESC) to request and receive, from the New York State Division of Criminal Justice Services (DCJS) or a federal government agency, criminal background checks and credit information of current and prospective HESC employees who access federal databases for the purposes of federal student loans or other federal programs under the federal direct loan program (FDLP). The employee will be provided with a copy of any criminal history record and information regarding his or her right to seek correction of any false information. Furthermore, the criminal history records and other background information is to be kept confidential under applicable federal and state laws.

### **Authorizing the SUNY and CUNY Board of Trustees to Set Tuition and Establishing the NY-SUNY 2020 Challenge Grant Program**

**A.8519 Glick, Chapter 260 of the Laws of 2011.** This law authorizes the SUNY and CUNY Board of Trustees to increase tuition for resident undergraduate students up to \$300 over the previous year, starting with the 2011-12 academic year and ending in the

2015-16 academic year. The SUNY Trustees are further authorized to increase out-of-state undergraduate tuition at the university centers at Albany, Binghamton, Buffalo and Stony Brook up to 10% over the previous year, subject to the approval of their NY-SUNY 2020 proposal by the Governor and the SUNY Chancellor. On or before November 30<sup>th</sup>, 2011, the SUNY and CUNY Trustees are required to approve and submit to the Legislature and the Director of the Budget a master tuition plan setting forth the tuition rates for resident undergraduate students for the authorized five years. Any amendment to the master plan must be submitted by November 30<sup>th</sup> of each subsequent year.

The state is required to maintain general fund operating support for both SUNY and CUNY at the 2011-12 levels unless the Governor declares a fiscal emergency in which case operating support for SUNY and CUNY may be reduced proportionate to one another.

This law creates a new tuition credit for resident undergraduate students. This credit takes effect when a student's tuition exceeds \$5,000 (the maximum TAP amount for dependent students) and is provided at the same proportion as the amount of tuition under \$5,000 covered by a student's TAP award. The tuition credit is applied for each semester, quarter or term and a student's tuition is not be due until the credit is applied. The tuition credit is funded by a portion of SUNY and CUNY's increased revenue.

The SUNY Board of Trustees is required to create guidelines in order for campus foundations and affiliated corporations to adopt a conflict of interest policy. This policy will include that service on a foundation board cannot be used for private benefit either incurred for the board member, his or her relative, or any associated business; a board member cannot vote or participate in any transaction between the foundation and a vendor with whom the board member has a business interest; and a board member must advise the chair of the foundation of any business interest that exists.

Additionally this law authorizes the Empire State Development Corporation to issue bonds to fund projects that are approved by the Governor and the SUNY Chancellor as part of a university center's NY-SUNY2020 plan. A total of \$80 million in bonds would be authorized, over the next five years, to fund approved capital project costs.

Finally this law requires SUNY and CUNY to issue a study on the student costs of pursuing higher education as well as review the current TAP award levels and eligibility criteria and make recommendations on how to improve the TAP program to meet the future financial aid needs of students. SUNY and CUNY will also be required to report on how each campus implements cost saving measures and increases fundraising efforts for the duration of the five year tuition plan. Other annual reporting requirements for SUNY will provide information on how the revenue generated by the tuition increase has helped retain and grow full-time faculty and increase program

availability; how research revenue yields quantifiable results at the four university centers; and what the University of Buffalo and Stony Brook University are doing to maintain their Association of American Universities (AAU) status.

### III. LICENSED PROFESSIONALS

#### A. Legislative Highlights

New York State currently licenses 48 professions under Title VIII of the Education Law. Legislation to license a new profession or to alter the practice of an existing profession falls under the jurisdiction of the Committee on Higher Education. The State Education Department (SED), through its Office of the Professions, regulates the practice of the licensed professions on an ongoing basis.

An essential component of the monitoring process is to ensure that existing standards and qualifications reflect current practices and needs, especially in light of shifting demographics and rapidly changing technologies. Each year, the Committee reviews numerous pieces of legislation which propose to change the scope of practice of currently licensed professions. Ensuring that any modification to current professional standards is thoroughly examined and appropriately executed provides a means by which the Committee fulfills its obligations to protect the well-being of the public.

#### Authorizing Polysomnographic Technology Services

**A.354-B Hoyt, Chapter 262 of the Laws of 2011.** This law authorizes individuals to practice polysomnographic technology services (sleep lab services) through a specific authorization obtained by the State Education Department (SED). In order for an individual to receive authorization to practice sleep lab services, he or she must be under the direction and supervision of a licensed physician. In addition, an authorized individual is required to meet standards, including those relating to education, experience, examination, and character, to be promulgated in regulations by the commissioner.

Each authorization holder is subjected to the full disciplinary and regulatory authority of the Board of Regents and SED. Furthermore, the application fee for authorization is \$300 and each authorization holder is required to register with SED every three years and pay a registration fee of \$300.

### **Authorizing Professionals Appointed by the World Triathlon Corporation**

**A.1635 Sayward, Chapter 12 of the Laws of 2011.** This law authorizes physicians, physician assistants, massage therapists, physical therapists, chiropractors, dentists, optometrists, nurses, nurse practitioners or podiatrists who are licensed in another state or territory, who are in good standing in such state or territory and who have been appointed by the World Triathlon Corporation, to provide services to athletes participating at the Ironman triathlon held in Lake Placid on July 20 to July 25, 2011.

### **Authorizing Nurse Practitioners to Issue Death Certificates**

**A.1747 Gunther, Chapter 153 of the Laws of 2011.** This law authorizes licensed nurse practitioners to sign medical death certificates, including certifying to the facts of the death and providing the medical information required by the certificate.

### **Requiring a Master's Degree for Physical Therapy Licensee Applicants**

**A.2502-A Canestrari, Chapter 410 of the Laws of 2011.** This law requires physical therapists who are new licensees, to obtain a master's degree or higher in physical therapy, in order to obtain a professional license.

### **Authorizing Electronic Prescriptions**

**A.3334 Gottfried, Chapter 590 of the Laws of 2011.** This law sets forth criteria that allows authorized prescribers to complete and transmit medical prescriptions electronically to a pharmacy to be dispensed.

### **Requiring Dental Facilities to Possess Automatic External Defibrillators**

**A.3778 Farrell, Chapter 65 of the Laws of 2011.** This law requires all dental facilities in New York State to possess an automatic external defibrillator (AED) or other type of defibrillator for emergency purposes.

### **Authorizing the Practice of Occupational Therapy Assistant Services and Updating the Scope of Practice of Occupational Therapy**

**A.4296-A Canestrari, Chapter 460 of the Laws of 2011.** This law authorizes the practice of occupational therapy assistants (OTAs) and subjects these individuals to the full disciplinary and regulatory authority of the Board of Regents and SED. Each OTA is required to obtain an authorization to practice by registering with SED every three years and pay a fee as determined by the Board of Regents. In order for an individual to receive an authorization to be an OTA, he or she is required to meet standards, including those relating to education, experience, examination, and character, to be

promulgated in regulations by the Commissioner of SED and be under the direction and supervision of a licensed occupational therapist or a licensed physician. In the case of OTAs practicing under the supervision of a physician, this authorization only applies within public, voluntary, or proprietary hospitals or health or home care agencies.

Finally, this law refines the scope of practice for licensed occupational therapists in order to reflect current standards of practice and revises the composition of the State Board for Occupational Therapy.

### **Authorizing Pharmacists to Perform Collaborative Drug Therapy Management with Physicians in Certain Settings**

**A.4579 Canestrari, Chapter 21 of the Laws of 2011.** This law authorizes a collaborative drug therapy management (CDTM) demonstration program between licensed physicians and qualified pharmacists. CDTM is the performance of services by a pharmacist relating to the review, evaluation, and management of drug therapy to a patient, who is being treated by a physician for a specific disease or disease state, in agreement with policies, procedures, and protocols of a healthcare facility. Under this law, pharmacists and physicians would manage and adjust the drug regimen of a patient, pursuant to a required patient specific written agreement or protocol. This written agreement or protocol is a written document that addresses the specific disease or disease state being treated and describes the nature and scope of CDTM to be undertaken by the qualified pharmacist, in collaboration with the participating physician. CDTM is limited to teaching hospital settings, including any diagnostic center, treatment center, or hospital-based outpatient department and does not include residential health care facilities and nursing homes.

Additionally, the existence of a written agreement or protocol on CDTM and the patient's right to choose to not participate in CDTM would be disclosed to any patient that is eligible for CDTM. CDTM will not be utilized unless the patient or patient's authorized representative consents, in writing, to such management. If there is consent, it would be noted in the patient's medical record and the patient's primary physician and any other treating physician or healthcare provider would be notified. A patient may cancel CDTM at any time during treatment, and this is noted in the patient's medical record. Participation in CDTM is completely voluntary, and no patient, physician, pharmacist, or facility is required to participate.

Finally, this law sets forth specific education and experience requirements for pharmacists participating in CDTM, including prior experience in consulting with physicians with respect to drug therapy and requires any pharmacist participating in CDTM to complete at least five hours of continuing education in the areas of practice generally related to CDTM in each triennial licensing registration period.

## **Authorizing Design Professional Service Corporations to Offer Certain Ownership Interests to Non-Licensee Employees**

**A.4581 Canestrari, Chapter 550 of the Laws of 2011.** This law authorizes design professional corporations (a corporation practicing professional engineering, architecture, landscape architecture, land surveying, or a combination of such professions) to offer an ownership interest or stock of up to 25% in the corporations to employees who are not licensed as design professionals. This law requires that greater than 75% of the corporation be owned by licensed design professionals, greater than 75% of the directors and officers be design professionals, and that the largest shareholder of the corporation be a licensed design professional.

## **Public Accountancy Mobility**

**A.4881-B Glick, Chapter 456 of the Laws of 2011.** This law authorizes certified public accountants (CPAs) licensed and having a principal place of business in another state to practice in New York without having to obtain a New York license if they have qualifications that are substantially equivalent to the qualifications required of New York licensed CPAs. This practice privilege allows an out-of-state CPA to practice in New York, without a fee, and without notice being provided to the State Education Department (SED). The Board of Regents is authorized to determine which states have CPA licensure requirements that are substantially equivalent to New York's requirements and would have the ability to determine that nationally-recognized CPA licensure requirements are substantially equivalent to those in New York.

In order to enjoy this practice privilege, out-of-state CPAs are subjected to the Board of Regent's personal and subject matter jurisdiction and disciplinary authority. If the out-of-state CPA's license is no longer valid or if they have had disciplinary action taken against their license resulting in the suspension or revocation of his or her license or had other disciplinary action taken relating to the practice of public accountancy arising from gross negligence, recklessness or intentional wrongdoing, fraud or misappropriation of funds, or preparation, publication or dissemination of false, fraudulent or materially incomplete or misleading financial statements, then the out-of-state CPA must cease practicing in New York and may not resume practicing in New York until obtaining written permission from SED following a moral character review. This written permission requirement and moral character review is also applicable to any out-of-state CPA wishing to practice in New York that, within the previous seven years, has been subject to any final disciplinary action against his or her license, has any charges of professional misconduct pending, has had his or her license reinstated after a suspension or revocation or been denied issuance or renewal of a license, or has been convicted of a crime or has criminal charges pending.

An out-of-state CPA that wishes to enjoy New York's practice privileges must do so

through a firm registered in New York if he or she intends to perform attest or compilation services or services incident to attest or compilation in New York State. Finally, this law clarifies that an out-of-state CPA who signs the accountant's report on the financial statements on behalf of a firm must meet the competency requirements set out in the professional standards for such services as provided in the rules of the Board of Regents.

#### **Authorizing Professionals Sanctioned by the New York Road Runners**

**A.4884-B Bing, Chapter 192 of the Laws of 2011.** This law authorizes physicians, physician assistants, massage therapists, physical therapists, chiropractors, dentists, optometrists, nurses, nurse practitioners, certified athletic trainers, or podiatrists who are licensed in another state or territory, are in good standing in such state or territory, and have been appointed by New York Road Runners, to provide services in New York to participating athletes beginning four days before through one day after the following events: the Queens half marathon (July 30, 2011); the Bronx half marathon (August 27, 2011); the Staten Island half marathon (October 9, 2011); the ING New York City marathon (November 6, 2011); and the Manhattan half marathon (January 21, 2012).

#### **Authorizing Professionals Appointed by the World Police and Fire Games Federation**

**A.7936-B Abbate, Chapter 204 of the Laws of 2011.** This law authorizes physicians, physician assistants, massage therapists, physical therapists, chiropractors, dentists, optometrists, nurses, nurse practitioners or podiatrists who are licensed in another state or territory, are in good standing in such state or territory, and have been appointed by the World Police and Fire Games Federation, to provide services to athletes participating at the 2011 World Police and Fire Games held in New York City on August 26, 2011 to September 5, 2011.

#### **Extending the Authorization for Pharmacists to Administer Immunizing Agents**

**A.8030 Paulin, Chapter 316 of the Laws of 2011.** This law extends the authorization for pharmacists to administer influenza and pneumococcal vaccines to adults until March 31, 2016.

#### **Authorizing a Waiver from Corporate Practice Prohibitions to Entities Providing Services to Children with Disabilities**

**A.8282 Glick, Chapter 581 of the Laws of 2011.** This law provides a waiver to special education schools (including 4410 pre-school programs, approved private residential and non-residential schools, a child care institution that operates a private school, and state operated schools for the deaf and blind) and early intervention (EI) agencies (birth-3 years of age), upon an application and consent of the Commissioner, from corporate

practice prohibitions. Once the waiver is obtained, the special education school or EI provider is authorized to provide multi-disciplinary evaluations and related special education services either through employing licensed professionals or contracting with individual licensed professionals.

Current programs have a provisional waiver until July 1, 2013 and are required to apply for a waiver from the State Education Department (SED) within 120 days after SED prescribes a waiver application and posts notice of its availability on its website. Upon submission of a waiver application, the school or agency is able to continue to operate and provide services until SED approves or denies their application. After SED receives all necessary information for the waiver, it would be required to approve or deny the waiver within 90 days. This law authorizes a \$345 fee for the initial application for a waiver and a \$260 fee for each renewal which would be required every three years. Organizations that operate both a special education school and an EI program only have to pay one fee.

An approved school or EI agency operating under a waiver is required to display a waiver certificate at each site where services are provided to the public. If any information provided in the waiver application changes, then the entity would be required to provide updated information to SED within 60 days. In the event that the main office of a program or agency is planning to change locations, the owner would be required to notify SED at least 30 days prior to the relocation. Approved schools or EI agencies operating under a waiver are under the supervision of the Regents and subject to disciplinary proceedings and penalties. Waivers for schools and agencies would be subject to suspension, revocation or annulment for cause.

This law also requires approved pre-school 4410 programs to be formed as one of the following entities:

- An education corporation (which are not-for-profit);
- A not-for-profit corporation;
- A for-profit corporation that has the operation of an approved 4410 program or another special education school as its primary purpose; or
- A professional corporation in the form of a limited liability company (LLC), a professional service limited liability company (PLLC), a foreign PLLC, registered limited liability partnership (RLLP), or a foreign RLLP.

A group of appropriately licensed professionals that only provide multi-disciplinary evaluations is required to form as a professional services corporation, a PLLC, a foreign PLLC, a RLLP, or a foreign RLLP in order to obtain a waiver.

Finally, this law provides that center-based 4410 programs, which provide on-site services, are exempted from professional licensure requirements for speech-language pathology, audiology and psychology.

**Extending the Waiver Application Deadline for Not-for-Profit Entities Providing Mental Health Services**

**A.8298 Glick, Chapter 187 of the Laws of 2011.** This law extends the current corporate practice waiver application process for not-for-profits providing mental health services until February 1, 2012, instead of June 16, 2011, providing entities with more time to come into compliance. This law also clarifies that an entity that was in existence prior to June 18, 2010 (effective date of Chapter 130 of 2010) and applied to SED for a waiver by February 1, 2012 would be allowed to continue to practice until the waiver was approved.

## IV. PUBLIC HEARINGS

### Financing Public Higher Education in New York State

October 26, 2011  
Hamilton Hearing Room B, LOB  
Albany, New York

The Higher Education Committee convened a hearing and sought testimony on the impact of the 2011-12 State Budget and subsequent tuition policy (Chapter 260 of the Laws of 2011) on the academic missions of New York's public university systems.

During an economic downturn, balancing the priorities of keeping our public university systems both accessible and affordable while maintaining quality academic programs is an increasingly difficult task. In 2011-12, and in prior fiscal years, the New York State Budget has contained reductions in state spending for higher education. Chapter 260 of 2011 provided additional funding to both public university systems through increases in student tuition along with a commitment for the state to maintain its funding efforts in future years. Adequately funding higher education, even during tough times, is one of the most crucial investments that can be made for the future of New York State as our economy depends on a well-educated and highly skilled workforce to compete in a global economy.

Individuals who testified at the hearing include: David K. Lavalley, Senior Vice Chancellor for Academic Affairs and Provost, State University of New York (SUNY); Johanna Duncan-Poitier, Vice Chancellor for Community Colleges and the Education Pipeline, SUNY; Brian Hutzley, Interim Vice Chancellor for Financial Services and Chief Financial Officer, SUNY; Allan H. Dobrin, Executive Vice Chancellor and Chief Operating Officer, City University of New York (CUNY); Matthew Sapienza, Associate Vice Chancellor for Budget and Finance, CUNY; Gillian Small, Vice Chancellor for Research, CUNY; Eduardo J. Martí, Vice Chancellor for Community Colleges, CUNY; Andrew Pallotta, Executive Vice President, New York State United Teachers (NYSUT); Phillip H. Smith, President, United University Professions (UUP); Arthurine DeSola, Secretary, Professional Staff Congress (PSC); Charles J. Kruzansky, Assistant Vice President of Government Relations, Cornell University; Zoë M. Nelson, Legislative Associate, Cornell University; and Russ Haven, Legislative Counsel, New York Public Interest Research Group (NYPIRG).

## V. OUTLOOK FOR 2012

As the Committee looks ahead to the upcoming 2012 Legislative Session, many of the traditional goals relative to higher education and the professions will continue to take precedence.

Foremost among the Committee's priorities for the 2012 session will be to secure financing for the coming fiscal year sufficient to meet the needs of SUNY, CUNY and the independent sector and to support their unique educational missions. The broader goal of preserving access opportunities to higher education for students across New York State is also critical. By continuing to fight for increased funding for access programs, the Committee will promote the recognition of these highly successful educational services and assist more students in realizing their higher education aspirations. Another priority of the Committee will be to provide capital funding for SUNY and CUNY. Campuses throughout the state are in need of funding for critical maintenance as well as the expansion of academic and residence facilities. As always, the Committee will continue to focus on TAP and ensure the availability of the program at current or enhanced levels. The Assembly Higher Education Committee is proud of this comprehensive financial aid program and will fight to continue its success in opening doors to college students throughout the State.

In 2012, the Committee will also address several important legislative issues. Among these will be measures relating to the licensed professions overseen by the Department of Education's Office of the Professions. Chief among these will be initiatives aimed at preserving the integrity of the individual professions and ensuring that professional competence translates into increased public protection and safety. The Committee will continue to study the evolution of existing professions to assess the possible need for statutory changes to reflect the changing needs of consumers.

APPENDIX A

**PROFESSIONS LICENSED, CERTIFIED OR AUTHORIZED BY THE BOARD OF REGENTS**

Acupuncture	Midwifery
Architecture	Nursing
Athletic Training	<ul style="list-style-type: none"> <li>• Nurse Practitioner</li> </ul>
Audiology	<ul style="list-style-type: none"> <li>• Registered Professional Nurse</li> </ul>
Certified Shorthand Reporting	<ul style="list-style-type: none"> <li>• Licensed Practical Nurse</li> </ul>
Chiropractic	Occupational Therapy
Clinical Laboratory Technology	<ul style="list-style-type: none"> <li>• Occupational Therapist</li> </ul>
<ul style="list-style-type: none"> <li>• Clinical Laboratory Technologist</li> <li>• Cytotechnologist</li> </ul>	<ul style="list-style-type: none"> <li>• Occupational Therapy Assistant</li> </ul>
<ul style="list-style-type: none"> <li>• Clinical Laboratory Technician</li> </ul>	Ophthalmic Dispensing
<ul style="list-style-type: none"> <li>• Certified Histological Technician</li> </ul>	Optometry
Dentistry	Pharmacy
<ul style="list-style-type: none"> <li>• Dentist</li> </ul>	Physical Therapy
<ul style="list-style-type: none"> <li>• Dental Hygienist</li> </ul>	<ul style="list-style-type: none"> <li>• Physical Therapist</li> </ul>
<ul style="list-style-type: none"> <li>• Certified Dental Assistant</li> </ul>	<ul style="list-style-type: none"> <li>• Physical Therapist Assistant</li> </ul>
Dietetics and Nutrition	Podiatry
Engineering	Polysomnographic Technician
Interior Design	Psychology
Land Surveying	Public Accountancy
Landscape Architecture	<ul style="list-style-type: none"> <li>• Certified Public Accountant</li> </ul>
Massage Therapy	<ul style="list-style-type: none"> <li>• Public Accountant</li> </ul>
Medical Physics	Respiratory Therapy
Medicine	<ul style="list-style-type: none"> <li>• Respiratory Therapist</li> </ul>
<ul style="list-style-type: none"> <li>• Physician</li> </ul>	<ul style="list-style-type: none"> <li>• Respiratory Therapy Technician</li> </ul>
<ul style="list-style-type: none"> <li>• Physician Assistant</li> <li>• Specialist's Assistant</li> </ul>	Social Work
Mental Health Practitioners	<ul style="list-style-type: none"> <li>• Licensed Master Social Worker</li> <li>• Licensed Clinical Social Worker</li> </ul>
<ul style="list-style-type: none"> <li>• Creative Arts Therapist</li> </ul>	Speech-Language Pathology
<ul style="list-style-type: none"> <li>• Marriage and Family Therapist</li> </ul>	Veterinary Medicine
<ul style="list-style-type: none"> <li>• Mental Health Counselor</li> </ul>	<ul style="list-style-type: none"> <li>• Veterinarian</li> </ul>
<ul style="list-style-type: none"> <li>• Psychoanalyst</li> </ul>	<ul style="list-style-type: none"> <li>• Veterinary Technician</li> </ul>

APPENDIX B

2011 SUMMARY SHEET

Summary of Action on All Bills Referred to the Committee on Higher Education

<u>Final Action</u>	<u>Assembly Bills</u>	<u>Senate Bills</u>	<u>Total Bills</u>
<b><u>Bills Reported With or Without Amendment</u></b>			
To Floor; not returning to Committee	5		5
To Floor; recommitted and died			
To Ways and Means Committee	9		9
To Codes Committee	9		9
To Rules Committee	3		3
To Judiciary Committee			
Total	26	0	26
<b><u>Bills Having Committee Reference Changed</u></b>			
To Consumer Affairs Committee	1		1
To Education Committee	3		3
To Governmental Operations Committee	1		1
To Social Services Committee	2		2
To Veteran Affairs Committee	1		1
To Ways and Means Committee	1		1
Total	9		9
<b><u>Senate Bills Substituted or Recalled</u></b>			
Substituted		2	2
Recalled		2	2
Total		4	4
<b><u>Bills Defeated in Committee</u></b>			
<b><u>Bills Never Reported, Held in Committee</u></b>	249	22	271
<b><u>Bills Never Reported, Died in Committee</u></b>			
<b><u>Bills Having Enacting Clauses Stricken</u></b>	12		12
<b><u>Motion to Discharge Lost</u></b>			
<b><u>Total Bills in Committee</u></b>	296	26	322
Total Number of Committee Meetings Held	9		9