

# **SUMMARY OF 2008 SENATE LEGISLATIVE ACTION**

## **2008-09 NEW YORK STATE BUDGET**

The 2008-09 budget spends hundreds of millions of dollars less than former Governor Spitzer proposed in January. The Senate insisted on \$800 million in across-the-board spending cuts to the State bureaucracy, as well as additions to the State's reserve funds.

The Senate also stopped hundreds of millions of dollars in tax hikes proposed in the Executive Budget including proposed increases in the gas tax, as well as a car tax and new taxes on family health care policies. The Senate fought to reject any increases in broad based taxes, and was successful in stopping an Assembly plan to raise income taxes that would have added to what is already one of the highest tax burdens in the nation. The Senate also fought to maintain more than \$5 billion in property tax relief.

Highlights of the 2008-09 State budget include:

### **ECONOMIC DEVELOPMENT**

The Senate passed a resolution authorizing the investment of more than \$217.9 million in State capital funds for 97 economic development and job creation projects across the State. The funds are part of more than \$1.2 billion set aside for capital economic development investments as part of the 2008-09 State budget.

### **EDUCATION**

The budget includes a record increase of \$1.8 billion in school aid that will ensure important state resources are distributed fairly and equitably to every school district. Total State aid to education will total more than \$21 billion.

In addition to school aid, the budget rejected a plan to shift \$46 million in additional costs to school districts, a mandate that would have added to the local property tax burden.

### **ENVIRONMENT AND PARKS**

The Environmental Protection Fund receives an historic level of funding of \$255 million in the 2008-09 State budget. The EPF provides \$450,000 for the Breast Cancer Environmental Risk Factor Program; \$1 million for the Hudson River Park; an additional \$1 million for the Pollution Prevention Institute; \$2 million for solar energy initiatives and \$1 million for water projects on Long Island.

The Budget also includes \$95 million in new funding for various New York State Parks capital projects, as well as funds for improvements at the Department of Environmental Conservation facilities and the State Fair.

### **HEALTH CARE**

The 2008-09 budget restores \$245 million in health care funds, including \$168.9 million to hospitals, nursing homes, and home care, to ensure that all New Yorkers have access to quality, affordable health care in their communities.

The Senate also fought to restore \$35.9 for hospital inpatient services and implemented a proposal that would -- over the course of a four year period -- shift Medicaid dollars from hospital inpatient services to more cost-effective outpatient settings.

The 2008-09 State budget restores \$85 million in state funds for nursing homes and includes \$15 million for nursing home recruitment and retention programs, that were cut in the Executive Budget.

In addition, the budget restores \$25 million in cuts to home care and provided \$8 million for the rural home care program. In addition, the State budget:

- > Rejects the HMO premium tax proposed in the Executive Budget;
- > Invests \$56 million into outpatient and ambulatory care;
- > Makes restorations to the Early Intervention Cost of Living Adjustment;
- > Includes \$34.2 million for public health initiatives; and
- > Expands the State's Children's Health Insurance Program from 250% to 400% of the Federal Poverty Level, ensuring all uninsured children have access to quality, affordable care.

## **HIGHER EDUCATION**

The budget restores \$15.4 million to maintain the Tuition Assistance Program (TAP) at current levels, restores \$15 million to the SUNY Community College Base aid reduction, and provides \$28.6 million above the Executive Budget for SUNY operating aid.

The Budget also includes more than \$1 billion for new capital investments for our public colleges and universities -- as well as investments in businesses to create jobs across the State -- especially in Upstate New York where they are critically needed.

## **LOCAL GOVERNMENT ASSISTANCE**

The budget ensures local governments receive more State funding than they did last year, even in these challenging economic times, by rejecting a plan to force counties to pick up \$83 million in new costs. The Budget increases AIM funding (outside of NYC) by \$72 million or 10 percent to help relieve the financial pressure on municipalities.

The Budget reforms the Wick's Law by raising school district and municipal construction projects thresholds to \$500,000 in Upstate communities, \$1.5 million in Westchester County and Long Island, and \$3 million in New York City. This is the first change in the Wick's Law since the 1970s.

## **PUBLIC PROTECTION**

The budget restores \$10.7 million for the full and continued operations of Camp Pharsalia in Chenango County (\$1.8 million), the Camp at Mount McGregor located in Saratoga County (\$1.1 million), Camp Gabriels in Franklin County (\$2.8 million) and the Hudson Correctional Facility, a medium security facility in Columbia County (\$5 million).

In addition, the Senate fought to reject the proposal in the Executive Budget that would have removed 92 State Troopers from more than 100 school districts across New York State.

## **TRANSPORTATION**

The State budget provides for an additional \$60 million in CHIPS capital funding over the Executive level and \$51 million over the SFY 2007-08 level. The total SFY 2008-09 CHIPS funding is \$363 million. The budget also provides \$39.7 million in Marchiselli funding for roads and bridges.

## **AGRICULTURE**

The agriculture portion of the 2008-09 budget includes important funding for the New York Farm Viability Institute, Center for Dairy Excellence, Cornell Quality Milk Production Services, the New York Wine and Grape Foundation, New York State Apple Growers and Maple Associations, along with Taste New York.

## **CHILDREN AND FAMILIES**

### **Family Court Act**

The Senate approved legislation, known as the “Family Court Act,” to expand the state’s Family Court protections to all victims of domestic violence. The legislation reflects an agreement among the Senate, Assembly and Governor. It extends access to civil orders of protection and other safety benefits offered to domestic violence victims through the state’s Family Court to dating couples or any other individuals who are or have been involved in a non-family, intimate relationship.

By including unrelated persons who are or who have been in an intimate relationship in the same household for purposes of family and criminal court jurisdiction, the bill extends to them the strengthened protections we have afforded to other domestic violence victims since the enactment of the 1994 Family Protection and Domestic Violence Intervention Act. (PBH, S.8665, Senator George Winner (R-C-I, Elmira))

### **Expansion of Family Health Plus**

The Senate passed legislation that would make more lower-income families eligible for the Family Health Plus program by removing depreciation of business assets from income eligibility calculations.

Currently, when a family applies for insurance through the Family Health Plus program, the family income must be below a certain threshold (150 percent of the federal poverty level) for eligibility.

Many families who are self-employed seemingly meet this threshold, yet are prevented from accessing the program as the family income, as stated on the program application forms, because they are required to include depreciation of business assets. (PBH, S.7472, Senator Betty Little (R-C-I, Queensbury))

### **Strengthening Home Visitation Programs**

The Senate passed legislation that would strengthen State support for home visitation programs that send trained child care experts into the homes of families at risk of abuse and neglect. The bill requires half of the savings achieved in certain areas in the budget of the Office of Children and Family to be reinvested in home visitation programs.

Research in the last decade has highlighted the effectiveness of home visitation programs in the prevention of child abuse and neglect. The programs involve direct, face-to-face visits made by trained professionals to the homes of families that are considered to be at risk of abuse and neglect. To determine which families are considered to be “at risk” of maltreatment, New York State has a screening process that uses a number of variables including Medicaid births, infant mortality and teen pregnancy rates. (S.7227, Senator Martin Golden (R-C, Brooklyn))

### **Crack Down on Video Game Violence**

The Senate gave final legislative approval to a bill sponsored by that would take steps to crack down on video game violence and combat and reduce children’s exposure to violent and inappropriate materials within these games. The legislation would:

- > Establish an Advisory Council on Interactive Media and Youth Violence
- > Require Rating System Labeling
- > Require Parental Controls on Gaming Consoles (S.6401-A, Senator Andrew Lanza (R-I, Staten Island))

### **Nixzmary’s Law**

The Senate passed “Nixzmary’s Law” to establish the class A-I felony of aggravated murder of a child and the class B felony of aggravated manslaughter of a child. (S.675-B, Senator Mary Lou Rath (R-C-I, Amherst))

### **Protecting Children in Day Care Centers**

The Senate passed legislation to prohibit individuals who have been convicted of a serious crime from working or volunteering in a day care center. The bill also calls for an employee’s termination and license revocation upon such convictions.

Under current law, convicted felons are permitted to work in a daycare center if the State Office of Children and Family Services feels the individual’s criminal background does not jeopardize the health and safety of the children.

In addition, the Senate passed the “Child Assault Reform Act” (CARE) which would increase the penalties for those who kill or injure children. (S.6449-A, S.8424, Senator Serphin Maltese (Queens))

### **Strengthening Child Protective Services**

The Senate passed legislation that would provide child protective services units with the ability to access criminal history reports of adults residing with children who are alleged or suspected to be abused, neglected, or mistreated.

The bill would improve investigations by providing certain child protective services personnel with access to the New York State Police Information Network (NYSPIN) that is currently used by law enforcement officials and district attorneys to review criminal records. Access to criminal history records of persons in a residence will assist CPS workers in making appropriate assessments about the safety of the children in question, and would reveal persons who have violent criminal histories, or have previously committed crimes against children. (PBH, S.2978-A, Senator Joseph Robach (R-C-I, Rochester))

## **Protect Children from Sexual Abuse and Exploitation over the Internet**

The Senate passed a comprehensive plan that would enact aggressive measures to protect children from the dangers posed by Internet predators, child pornography and child sexual abuse.

This comprehensive legislation will:

- > Toughen penalties for promoting child prostitution;
- > Increase penalties for producing child pornography;
- > Provide enhanced penalties where a sex crime against a child has been committed using a computer or computer service;
- > Increase the penalty for persons who permit their premises to be used for child prostitution;
  
- > Allow the admission of business records into evidence in child pornography grand jury proceedings via affidavit;
- > Allow a “non-judicial” subpoena to be issued by a district attorney or the Attorney General for child pornography via the internet; and
- > Require local social services districts, when possible, to establish safe houses for sexually abused children. (S.6747-A, Senator Dale Volker (R-C-I, Depew))

## **Require NYS DCJS to Post Information on all Registered Sex Offenders**

The Senate approved legislation to require the State’s Division of Criminal Justice Services (DCJS) to post critical information regarding every registered sex offender in New York State, and provide immediate email notification to local residents when a sex offender moves into a specific community.

The bill is part of the Senate Majority’s comprehensive effort to combat dangerous sexual predators, and keep children and families safe.

Under the bill New Yorkers can access information about every registered sex offender in New York State, regardless of how much of a risk the offender is believed to pose to the public, while having the ability to sign up for urgent email alerts that notify specific zip codes of the presence of a sex offender in real time. (S.3713, Senator Dean Skelos (R-Rockville Centre))

## **Pay Equity Legislation**

The Senate passed legislation that would address the issue of pay equity in New York State. The proposal specifically calls on the Department of Labor to issue a report on wage differential and increases penalties on employers who practice wage discrimination.

The legislation would require the Commissioner of Labor to commission a study to the State Legislature on the causes of wage differential between men and women and minorities and non-minorities by May 1, 2009. The study will analyze laws and policies in other states that deal with wage differential and wage discrimination and provide legislative and policy recommendations regarding wage differential sanctions and penalties. (S.7521, Senator Joseph Robach (R-C-I, Rochester))

# **CONSUMER PROTECTION**

## **Crack Down on Film Piracy**

The Senate passed the “Piracy Protection Act,” to crack down on the creation, distribution and sale of illegally recorded movies in New York State. The legislation was advanced by the Attorney General.

In order to bring the existing anti-camcorder statute up to date, this bill creates the new crimes of unlawful operation of a recording device in the first and second degrees. A person would be guilty of unlawful operation of a recording device in the second degree, a misdemeanor, if they knowingly record material without written permission for financial profit or commercial purposes; if the material is more than 15 minutes long; and he or she has committed the same offense within the last five years. (PBH, S.8201, Senator Frank Padavan (R-C Bellerose))

## **Protecting Victims of Identity Theft and Increasing Prevention**

The Senate passed legislation that would strengthen New York State’s identity theft laws in a variety of ways, including the enhancement of privacy protection in the work place and programs to aid those who have had their identities stolen. The legislation is part of a three-way agreement among the Governor, Senate and Assembly.

The legislation will restrict the ability of employers to use an employee's personal information, including prohibitions against posting or displaying more than the last four digits of an employee's social security number or placing social security numbers in files with open access.

Additionally, the bill outlaws the possession of "skimmer" devices, which can obtain personal identifying information from credit cards, under circumstances where there is an intent to use the device to commit identity theft.

The legislation also enables victims of identity theft to obtain restitution equal to the value of the time they spend fixing the damage of identity theft.

Additionally, the bill enhances aspects of the security freeze law – a 2006 law that gives consumers the choice to "freeze" or lock access to their credit file against anyone trying to open up a new account or to get new credit in their name – and extends important confidentiality protections to public entities, preventing the intentional communication of social security numbers to the public. (PBH, S.8376-A, Senator Charles Fuschillo (R, Merrick))

## **Strengthening of Identity Theft Law**

The Senate passed legislation that would toughen the state’s law against the crime of identity theft by expanding the types and amount of personal identification that would be needed to charge someone with identity theft, as well as increasing criminal penalties for the crime.

Under current law, a person has to unlawfully possess at least 250 pieces of personal identification to be charged with identity theft. This bill decreases that number to a much more reasonable ten pieces. In addition, the bill expands the list of personal identification information to

include such things as an individual's driver's license number, social security number, Internet account number and taxpayer ID numbers. (S.1651, Senator Stephen Saland (R-C-I, Poughkeepsie))

### **Protecting Credit Card Holders**

The Senate passed legislation that would prohibit universal default, a practice allowing credit card companies to increase interest rates if a cardholder makes a late payment to another credit card company or even pays a phone or utility bill late.

While credit card companies have always had default interest rates, late fees or other charges imposed on cardholders who fail to make timely minimum payments, with universal default, a company views a default to any creditor as a default to itself and then penalizes the cardholder. Information about universal default is usually buried in the fine print of a credit card agreement. (PBH, S.7339, Senator Charles Fuschillo (R, Merrick))

### **Toy Safety Legislation**

The Senate passed legislation that would keep dangerous toys and other products out of the hands of children

The legislation requires that manufacturers of "durable juvenile products" (which as defined include cribs, car seats, high chairs, playpens and other similar durable products for children under five years old) must include a "product safety owner card" with the product at the time of original purchase by consumers. It also would require manufacturers and importers of children's products and durable juvenile products to notify consumers, distributors, retailers, the State Attorney General and the CPB of any recalls or warnings. (PBH, S.8297-A, Senator Charles Fuschillo (R, Merrick))

## **CRIME AND CORRECTIONS**

### **Parole Reform**

The Senate passed legislation to address a court ruling that could have freed hundreds of prisoners without parole and affected thousands more who have been freed after serving their terms. The bill reflects a three-way agreement among the Senate, the Assembly, and the Governor. The legislation would:

- > Require those courts which failed to properly impose sentences as required by law to resentence those inmates affected by the courts' errors;

- > Establish a procedure for DOCS and Parole to identify these cases and to cause the courts to initiate resentencings;

- > Impose a prescribed time frame within which the courts are mandated to perform the resentencings;

- > Allow District Attorneys to preserve existing convictions in those cases where the defendant would have otherwise have a right to vacate his plea and demand a new trial by allowing the district attorney to consent to the original sentence imposed without the imposition of a period of post release supervision. (PBH, S.8714-A, Senator Michael Nozzolio (R-C, Fayette))

## **Prison Closure Notification**

The Senate passed legislation to require the Commissioner of the New York State Department of Correctional Services to provide notice at least 24 months prior to a correctional facility closing, and to report on an adaptive reuse plan for the facility at the time of such notice.

Under current law, the commissioner of corrections must give notice of a correctional facility closure 12 months prior to such closure, and must provide for a plan of adaptive reuse of the facility only 6 months prior to the closure. (S.7467, Senator Betty Little (R-C-I, Queensbury))

## **Death Penalty Legislation**

The Senate passed legislation that would amend the state's death penalty law to fix a provision that was ruled invalid by the state Court of Appeals.

In 2004, the Court of Appeals overturned death penalty sentences, saying that judges were improperly required to instruct jurors in capital cases that if they deadlocked and failed to reach a verdict during the penalty phase of a trial, the judge would impose a sentence that would leave the defendant eligible for parole after 20 to 25 years.

This bill would require that in addition to capital punishment or life in prison without parole, juries would be given a third option of imposing a sentence of life in prison with the possibility of parole when sentencing convicted murderers.

Also, the bill requires that, if a jury is deadlocked, a sentence of life without parole would be imposed, and juries would be told of that provision before sentencing. All pending capital cases, as well as crimes committed prior to the effective date of any change in the law, would be affected by the changes included in this bill. (S.4632, Senator Dale Volker (R-C-I, Depew))

## **Death Penalty for Cop Killers**

The Senate passed legislation that would establish the death penalty for criminals who kill police officers.

The legislation would establish the death penalty for the intentional murder of a police officer, peace officer or an employee of the Department of Correctional Services. (S.6414, Senator Martin Golden (R-C, Brooklyn))

## **DNA Collection**

The Senate passed legislation that would allow for the collection of DNA samples upon an individual's arrest.

Under current law, only persons convicted of a designated offense must provide a sample for the State's DNA databank. This bill would ensure that law enforcement officials can collect DNA samples from "designated offenders" upon their arrest. The bill would also expand the definition of "designated offender" to include anyone who is arrested for an offense where fingerprints are required to be taken, adjudicated as a youthful offender or compelled to register as a sex offender. (S.6726-A, Senator John A. DeFrancisco (R-I-C-WF, Syracuse))

## **Expansion of DNA Databank**

The Senate passed legislation that would require anyone convicted of a crime for which a fingerprint is required to submit a DNA sample for inclusion in the state's DNA databank.



In 2006, the Senate successfully fought for an historic expansion of the DNA databank to include samples from all felony convictions and seventeen common misdemeanors. There are over 200,000 recorded misdemeanor convictions in New York State each year, and many serious felony offenders have a long history of convictions of petty crimes. Getting DNA samples for offenses for which fingerprinting is required will allow subsequent crimes to be solved more quickly, and help prevent future crimes. (S.2375, Senator Dean Skelos (R, Rockville Centre))

### **Crack Down on Online Videos Depicting Violence**

The Senate passed legislation designed to crack down on the alarming trend of recording criminal acts of violence with the intent of distributing them on the Internet for entertainment purposes.

The legislation responds to an increasing number of violent attacks orchestrated and recorded by individuals who want to post the videos on Internet sharing sites, such as YouTube.com and MySpace.com. (S.8207, Senator Serphin Maltese (Queens))

### **Targeting Cyber-Terrorism and other Computer Crimes**

The Senate passed legislation that would crack down on computer crime by creating the new crimes of cyber-terrorism; computer intrusion; aggravated computer intrusion; and use of a minor in the commission of a computer offense.

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The bill creates the new crime of cyberterrorism when a criminal, with intent to intimidate the population or influence the policy of a unit of government, commits any of the computer crimes contained within article 156 of the penal code. (S.3811-A, Senator Vincent Leibell (R-C-I, Patterson))

### **Increased Penalties for Impostor Cops**

The Senate passed legislation that would increase penalties for crimes committed while impersonating a police officer and expand criminal impersonation to include the impersonation of any law enforcement officer.

The legislation creates the crime of committing an offense while impersonating a police officer or peace officer by: displaying a uniform, badge, or insignia; expressly claiming to be a police officer or peace officer; displaying a forward facing red light on the person's vehicle or displaying other markings which give the appearance that the vehicle is a police vehicle.

For crimes up to class B felony (15 to 25 years in prison), such offenses would be bumped-up one category higher than the specified offense would have been, had the person not impersonated a police officer. (PBH, S.3079, Senator Charles Fuschillo (R, Merrick))

In addition, the Senate passed legislation to expand the scope of the crime of Criminal Impersonation in the first degree to include impersonation of not only a police officer but of any law enforcement officer, whether the title of such office or employment exists or is fictitious. (S.3080, Senator Fuschillo)

### **Protecting Victims of Domestic Violence**

The Senate passed legislation that would allow victims of alleged domestic violence to testify in court via closed-circuit television. This bill amends the current law to include victims of domestic

violence as a vulnerable person who may testify in a criminal proceeding via closed-circuit television. (S.4875, Senator Cathy Young (R-C-I, Olean))

### **Parole Notification Reform**

The Senate passed legislation that would allow crime victims, upon request, to be notified of a parole hearing involving the perpetrator of the crime. The bill would ensure that victims, and in some cases family members, are given every opportunity to participate in the parole process.

Current law only allows crime victims to submit a victim impact statement to the Parole Board, there is no provision to notify the crime victim when the parole hearing will be held. This bill corrects that situation by requiring a notice be sent by first class mail to certain crime victims at least 60 days prior to the hearing. (S.268-A, Senator Jim Alesi (R-C, Perinton))

### **Domestic Violence Notification**

The Senate passed legislation that requires the Board of Parole to notify victims of domestic violence when the convicted inmate is to be released.

Under the provisions of the bill, victims would be notified of their attackers' impending release via certified mail. If the victim's location is a shelter, the notification will be sent directly to the shelter. (S.5324, Senator Carl L. Marcellino (R, Syosset))

### **Sex Offender Legislation Package**

The Senate passed a package of bills that would make it more difficult for sex offenders to evade tracking by law enforcement and work in jobs that include substantial contact with children.

The legislation would strengthen the current monitoring of Level 3 sex offenders, as designated under Meghan's Law, by requiring they be tracked using GPS technology. The legislation would require members of the Division of Criminal Justice Services to monitor the GPS devices and notify necessary law enforcement officials. (S.479, Senator John Bonacic (R-C-I, Mount Hope))

The Senate also passed a bill that would prohibit Level 3 sex offenders from moving to a residence that is within 500 feet of any school building regularly used for instructional purposes. (S.172-B, Senator Jim Alesi (R-C, Perinton))

The Senate also passed legislation that would make it a class A misdemeanor for first-time sex offenders to apply for a job that would allow them to have access to children, perform for children, be alone with children or participate in any other activity involving children. Repeat sex offenders would be guilty of a class D felony if they are found guilty of violating the law. (S.44, Senator George Maziarz (R-C, Newfane))

In addition, the Senate passed a bill that would increase the number of times a sex offender has to verify their registration with the Division of Criminal Justice Services. (S.434, Senator Dean Skelos (R, Rockville Centre))

A separate piece of legislation would make it a class E felony for any Level 3 sex offender who fails to register or report a change of address. (S.2458-A, Senator Skelos)

In addition, the Senate passed a bill that would require convicted sex offenders to register their Internet related information. This bill makes it a class D felony for a convicted sex offender to lie about their age while disseminating indecent material to minors. (S.5917-A, Senator Stephen Saland (R-C-I, Poughkeepsie))

A separate piece of legislation would prevent sex offenders from knowingly stepping within 1000 feet of a public or private school, child care center, or place where children congregate, in cities with a population of one million or more; and within 1500 feet in all other counties. (S.3432-A, Senator Kenneth LaValle (R-C-I, Port Jefferson))

An additional bill would provide medical treatment for repeat and some first time sexual offenders in order to help control their sexual behavior. The legislation provides for an evaluation of the offender by a medical expert to determine appropriate candidacy for treatment. (S.2680, Senator LaValle)

### **Protecting New Yorkers from Sexual Predators on the Internet/ E-Stop**

The Senate passed legislation to dramatically enhance protections for New Yorkers, especially children, from sexual predators on the Internet.

The new and comprehensive Electronic Security and Targeting of Online Predators Act (e-STOP), introduced at the request of Attorney General Andrew Cuomo, establishes vital protections against sexual predators so users of the Internet - especially children - can more safely surf the Web. The legislation will restrict certain sex offenders' use of the Internet and updates Megan's Law for the Internet age.

#### **The Electronic Security and Targeting of Online Predators (e-STOP) Act:**

- Requires that sex offenders register all of their Internet accounts and Internet identifiers (e-mail addresses and designations used for chat, instant messaging, social networking or other similar Internet communication) with the State Division of Criminal Justice Services.

- Authorizes the Division of Criminal Justice Services to release state sex offender Internet identifiers (e-mail addresses and designations used for chat, instant messaging, social networking or other similar Internet communication) to social networking sites and certain other online services, that may be used to prescreen or remove sex offenders from using the site's services, and notify law enforcement authorities and other government officials of potential violations of law and threats to public safety.

- Requires, as a condition of probation or parole, mandatory restrictions on a sex offender's access to the Internet where the offender's victim was a minor, the Internet was used to commit the offense or the offender was designated a level 3 (highest level) offender. Such offenders would be banned from accessing social networking web sites, accessing pornographic materials, communicating with anyone for the purpose of promoting sexual relations with a minor, and communicating, in most circumstances, with anyone under the age of 18. (Chapter 67, S.6875-A, Senator Dean Skelos (R, Rockville Centre))

The Senate also passed legislation that would increase criminal penalties for using a computer to commit a sex crime against a child. (S.1921-A, Senator Joe Robach (R-C-I, Rochester))

## **Keeping Violent Felons Behind Bars**

The Senate passed legislation that would require judges to sentence persistent violent felons to life in prison without the possibility of parole.

This legislation will require that a defendant who has been separately convicted and sentenced to three or more violent felonies, and who is determined by a court to be a persistent violent felony offender, be sentenced to life imprisonment without parole. (S.435-A, Senator Dean Skelos (R, Rockville Centre))

## **Increased Penalties for Leaving the Scene of a Boating Accident**

The Senate passed legislation that would increase the penalties for boaters who leave the scene of a boating accident, making them consistent with the penalties imposed for leaving the scene of a motor vehicle accident. This bill increases the penalties for leaving the scene of a boating accident when a person knows, or should know, there has been an injury to another person. (S.6657, Senator John DeFrancisco (R-C-I-WF, Syracuse))

## **Cracking Down on Animal Fight Spectators**

The Senate passed legislation that would help discourage animal fighting by penalizing anyone who knowingly attends an animal fight. Currently those who attend an animal fight in New York State without placing a wager or paying an admission fee cannot face criminal penalties.

Under this bill, any individual who knowingly attends an animal fight would be guilty of a violation. Those who are convicted of attending an animal fight a second time, within five years of their first offense, would be guilty of a misdemeanor. (PBH, S.6466-A, Senator John DeFrancisco (R-C-I-WF, Syracuse))

# **ECONOMIC DEVELOPMENT**

## **Upstate Now Legislative Package**

The Senate passed Upstate Now, a comprehensive job creation and economic growth plan that will transform and revitalize the upstate economy, generate billions of dollars in new investment, and create thousands of new jobs for New Yorkers.

The ten-point plan would invest a total of more than \$3.7 billion into economic development initiatives over the next three years, including new tax relief and incentives, new and existing capital investments and private sector matching funds. More than \$2 billion would be invested in the first year of the program.

The Senate's Upstate Now plan includes more than \$2.6 billion in tax cuts and incentives, when fully implemented in three years; as well as \$300 million in existing venture capital funds that will generate an additional \$300 million in private sector matching funds; \$300 million in capital monies originally proposed in the Executive Budget, but not included in the adopted budget; \$155 million in new capital investment funds; and \$58 million in new economic development program investments.

From tax cuts, to the JOBS NOW and Pipeline for Jobs initiatives, to the Jobs 2000 Plan (J2K), Gen\*NY\*sis, and Centers of Excellence programs, the Senate Majority has always been the principal driving force in Albany behind efforts to promote economic growth and job creation for New Yorkers.

The Upstate Now package would build on this legacy with a broad, comprehensive and integrated ten-point plan:

1. Reducing Taxes for Small Businesses, Manufacturers and Key Industries
  2. Building and Investing in a 21st Century Infrastructure for the Upstate Economy
  3. Making Upstate an International Powerhouse in New and Emerging Technologies
  4. Reducing Energy Costs for Employers and Promote Energy Independence
  5. Reducing Health Care Costs for Small Businesses to Insure More Families
  6. Creating Thriving Main Streets
  7. Winning the Global Competition for Manufacturing Plants
  8. Preparing the Finest Workforce in the Nation
  9. Providing Around the Clock Access to the State's Economic Development Programs
  10. Marketing Upstate's Outstanding Recreational, Cultural and Tourism Opportunities
- (S.5953, Senator Joseph L. Bruno (R-I, Brunswick))

## **EDUCATION**

### **Taxpayer Empowerment and Accountability Plan**

The Senate passed the “Taxpayer Empowerment and Accountability (TEA) Plan,” a comprehensive reform package designed to rein in runaway school spending and pension benefits, and to protect taxpayers from being forced to pick up the rising costs. The Senate plan will eliminate waste, increase transparency of school district expenses, and reduce costs so historic State aid is driven into the classroom where it can help students the most.

As part of the TEA plan, the Senate approved the following bills:

\* Restricts “Golden Parachutes” for school superintendents. (S.1094-A, Senator Stephen Saland (R-C-I, Poughkeepsie))

\* Prohibits lawyers from being listed as employees of school districts for the purpose of earning additional pension and health benefits that drive up costs for taxpayers, and increase civil and criminal penalties for pension fraud. (S.8530, Senator Dean Skelos (R, Rockville Centre))

\* Protects local school property taxpayers by prohibiting "double-dipping", whereby independent contractors receive payment as both a school district employee and an independent contractor for services provided to the school district, has passed the Senate. The legislation addresses a recent series of incidents on Long Island where attorneys who were employed by both school districts and private law firms received duplicate payment for their services and became eligible for public pension and health care benefits. (S.6996-A, Senator Skelos)

\* Requires that school districts to maintain an electronic checking transaction register and publish it on the district’s web site. The register must include the transaction amount, check number, name of the payee, and the purpose for which each check was written. (S.8307-A, Senator Caesar Trunzo (R, Brentwood))

\* Strengthens the process governing the approval of a “211 waiver” to further restrict retirees from holding public service positions at taxpayer expense. The measure would require employers to

demonstrate a good faith effort to recruit a qualified candidate who is not a retired person. In addition, it would require employers to publicly announce the open position at least thirty days prior to filing a written request for a 211 waiver and advertise the position for 30 days. (S.8000-A, Senator John Flanagan (R-C-I, East Northport))

- \* Prohibits unfunded mandates on school districts. (S.8519, Senator Saland)

- \* Encourages school consolidation and superintendent sharing. (S.8531, Senator Saland)

- \* Requires schools to post percentage spent on instruction. (S.607-A, Senator Carl Marcellino (R, Syosset))

- \* Requires every school districts to compile, publish, and update in a timely manner, information about the school district budget, and include an itemized summary of all expenditures and revenue.

The information must be made available to the public in printed form and on the school district's website. (S.5830-B, Senator Flanagan)

### **Tax Deduction for Teachers**

The Senate passed legislation that would provide a personal income tax deduction, up to \$450, for K-12 teachers, instructors, counselors, principals, or aides in public and nonpublic schools for supplies paid for out-of-pocket. (S.6792-A, Senator Andrew Lanza (R-I, Staten Island))

### **Taking Aim at Pension Abuse**

The Senate passed comprehensive legislation introduced at the request of Attorney General Andrew Cuomo to crack down on school pension abuses that have forced taxpayers to pick up the rising costs.

The Attorney General's legislation builds on the Senate's Taxpayer Empowerment and Accountability (TEA) plan to rein in runaway school spending and pension benefits, and to protect taxpayers. In conjunction with the TEA plan, the Attorney General's bill will eliminate waste, increase transparency of school district expenses, and reduce costs so historic State education aid is driven into the classroom where it can help students the most.

The Attorney General's program bill accomplishes the following:

- \*Strengthens the Attorney General's civil authority by providing his office with an additional new mechanism to recoup funds and impose penalties on attorneys who are not employees of school districts or BOCES, but who improperly receive compensation or benefits.

- \*Enhances the penalty for pension fraud from a misdemeanor to a felony and creates a new criminal penalty for lawyers who improperly receive compensation or benefits.

- \*Prohibits lawyers from simultaneously being an employee and an independent contractor for a school district or BOCES for the purpose of providing legal service to the same school or BOCES.

- \*Closes "double dipping" loopholes statewide by tightening the 211 waiver process for hiring retirees and prohibits retirees from returning to the same or a similar position for one year following retirement.

>Waivers will be only granted when there is an urgent need for the retiree's services in a particular position because of an unplanned, unpredictable and unexpected vacancy where sufficient time is not available to recruit a qualified individual, and such hiring shall be deemed as non-permanent, or,

>If the employer has undertaken extensive recruitment efforts to fill a vacancy and has determined that there are no available qualified non-retired candidates, and the employer must prepare a detailed recruitment plan to fill the vacancy on a permanent basis.

\*Requires schools to publicly list all compensation, including salary and benefits, for all administrators. The list will be posted on the school's web site and at public libraries within the school district.

\*Adds new levels of transparency for schools and BOCES which must now submit an annual list reporting the position and compensation of all employees granted 211 waivers, and a list of all lawyers providing services and whether they are employees or independent contractors to the State Education Department, Comptroller and the Attorney General. (PBH, S.8699, Senator Dean Skelos (R, Rockville Centre))

## **Keeping Convicted Felons Out of Schools**

The Senate passed legislation to automatically decertify teachers and school officials who are convicted of a sex offense, and automatically revoke an administrator's license upon a felony fraud conviction. The bills reflect a three-way agreement between the Senate, the Assembly and the Governor.

The legislation requires District Attorneys to promptly notify the State Education Department (SED) when school teachers or officials are convicted of a sexual offense that requires them to register on the State's sex offender registry.

Under current law, when a school official is convicted, they are entitled to an administrative hearing to determine whether they should keep their certification. Since the convicted individual has already been given due process in the court system, another hearing is redundant and a waste of taxpayer money. (PBH, S.8553, S.8554, Senator Stephen Saland (R-C-I, Poughkeepsie))

## **Making School Buses Safer**

The Senate passed a bill to protect the safety and security of our children by prohibiting individuals with a history of certain serious crimes from operating school buses.

Currently, individuals with a history of crimes against children can operate a school bus if the crime happened more than 5 years ago. This bill would close this loophole so that individuals convicted of certain serious and violent felonies are prohibited from operating school buses. Under current law, the following crimes do not automatically disqualify an individual from being hired as school bus drivers: murder, kidnapping; rape; and child sexual abuse. (S.4579-A, Senator Serphin Maltese (Queens))

The Senate also passed legislation that would require placement of video monitoring systems on school buses in the City of New York.

Video records will be stored in a secure location for at least 90 days, unless there is report of an incident, in which case the records will be kept for a period determined by the Education Commissioner.

The records will be reviewed only by designated personnel when an incident is reported, and on a regular basis using random selection. Records will remain confidential and will only be used for the purpose of disciplinary and enforcement proceedings. (S.4157-E, Senator Martin Golden (R-C, Brooklyn))

### **Keeping Sex Offenders off College Campuses**

The Senate passed legislation to prohibit level three sex offenders from living in student housing on college campuses. According to the United States Department of Education, in 2004 there were 2,673 sex offenses and 3,009 assaults on college campuses. These numbers include only reported cases, so most likely represent only a portion of all sex offenses on campus. (S.8500, Senator Joseph Robach (R-C-I, Rochester))

### **Strengthening Campus Security**

The Senate passed legislation that would require the development of a campus security plan to include test drills and evaluations to determine effectiveness and compliance in responding to emergency situations. The measure also calls for improved communications among campus security, local law enforcement, and emergency medical personnel. (S.6264-A, Senator Kenneth LaValle (R-C-I, Port Jefferson))

### **Banning the Unlawful Sale of Dissertations, Theses and Term Papers**

The Senate passed legislation which removes the ambiguity in current state law banning the sale of dissertations and term papers, by making it clear that documents obtained over the Internet are included in the ban. (S.1527, Senator Kenneth LaValle (R-C-I, Port Jefferson))

### **Educating Children and Parents on Safe, Responsible Internet Use**

The Senate passed legislation that would ensure students, parents, and teachers have the resources they need to keep children safe while using the Internet. The bill directs the State Education Commissioner to work with the New York State Office for Technology and other appropriate resources to develop software and a handbook of guidelines concerning safe and responsible use of the Internet. The materials will be provided to students in grades three through twelve, as well as their parents or legal guardians. (PBH, S.7051, Senator Stephen Saland (R-C-I, Poughkeepsie))

### **Requiring Random Steroid Testing for High School Athletes**

The Senate passed legislation that would require random testing for anabolic steroids in high school athletes in public and private schools. The bill mirrors a bill passed in the Texas Legislature and requires athletes to agree not to use illegal steroids and to submit to random testing if selected. (S.6769-A, Senator Andrew Lanza (R-I, Staten Island))

### **Transparency in School District Expenditures**

The Senate passed legislation which requires school districts to include the percentage of its budget spent on classroom expenses in its school district report card.

New York State school districts lead the nation with an average classroom expenditure number of 68 percent according to First Class Education, a national group seeking to increase the amount of



dollars spent in the classroom. Classroom expenses include curriculum development and supervision, research, planning and evaluation, as well as inservice training, teaching and programs for children with disabilities to name a few. (S.607-A, Senator Carl L. Marcellino (R, Syosset))

### **Helping Schools on Contingency Budgets Pay for Fuel Costs**

The Senate passed legislation that will help school districts on contingency budgets afford ever-increasing fuel costs. The legislation excludes from the contingency cap the amount of the increase in fuel costs over the prior school year. Contingency budgets are utilized when a school district's budget is not approved by local voters. School districts operating on a contingency budget may not exceed the previous year's budget by 4 percent, or 120 percent of the Consumer Price Index (CPI), whichever is less. (PBH, S.7025, Senator Steve Saland (R,I,C Poughkeepsie))

### **"I Live New York" Student Loan Program**

The Senate passed a bill that would create the "I Live New York" student loan program to provide low interest loans to New York State residents who enroll full-time at a college or university in New York State.

The Dormitory Authority of the State of New York (DASNY) would issue bonds for the purpose of providing student loans through the "I Live New York" program. The Higher Education Services Corporation would assist DASNY. (S.7624, Senator Kenneth LaValle (R-C-I, Port Jefferson))

### **Benefit Improvements to New York City School Teachers**

The Senate gave final legislative approval to a bill that would allow certain members of the New York City Teachers' Retirement System to retire early without a reduction in benefits. The legislation reflects an agreement between New York City Mayor Michael Bloomberg and the United Federation of Teachers after several years of negotiation. The improved benefits provided under this legislation would be absorbed entirely by participants in the new plan, with at no additional costs to the City of New York. (Chap. 19, S.6689-A, Senator Serphin Maltese (Queens))

### **Textbook Access Act**

The Senate passed legislation aimed at curbing ever-increasing textbook prices for college students. The legislation would put an end to unfair tactics, such as book bundling, and would create a more fiscally sensible market for college textbooks. (PBH, S.3063-A, Senator Kenneth P. LaValle (R-C-I, Port Jefferson))

### **Disclosure of Institutional Aid Awards**

The Senate passed legislation that requires institutions of higher education to disclose the average dollar amount of institutional aid awarded to students with annual incomes of less than \$200,000.

Tuition discounting is the practice of using institutional aid to adjust tuition levels to best match what students and families are willing to pay. Almost half of private, four-year institutions with at least 1,000 students provide discounts to 90% or more of their students. Financial aid awards for a student can vary dramatically between colleges, and it is nearly impossible for students who are evaluating a particular institution to predict the amount of institutional aid that they may receive. Unless this information is provided to them, prospective students are unable to obtain a realistic idea of the financial aid package. (S.7215-A, Senator Kenneth LaValle (R-C-I, Port Jefferson))

## **ENERGY**

### **Net Metering - Encouraging Alternative Energy**

The State Senate approved legislation that will allow an expanded number of customers to take part in net metering for renewable electric generating systems and will expand current net metering laws for solar, wind and farm waste technologies.

Net metering allows a utility customer with an on-site electric generating system to send excess power that they generate back to the utility grid, receiving a credit on future electric bills. If after one year there is a positive balance, the corporation will pay residential and agricultural customer-generators the balance.

Net metering is currently allowed for residential and farm service generators. The new legislation would expand net metering for these customers and allow for commercial customers to net meter with wind and solar electric generating equipment located and used on their property. Commercial customers would be allowed to net meter using solar and wind technologies up to 2MW or the customers' historic peak load, whichever is less. Net metering for farmers utilizing wind and farm waste technologies is increased to 500 kw. (PBH, S.8481, Senator Maziarz (R-C, Newfane))

The Senate also passed legislation to allow net energy metering for non-residential solar electric generating systems. The bill would allow non-residential solar electric generators to net meter systems up to either 2MW or peak load, whichever is less. It would also increase the size of farm waste electric systems that can be net metered from 400 kW to 500 kW. Additionally, the legislation increases the size of a residential solar electric system that could be net metered to 25 kW, up from 10 kW. (PBH, S.7171-B, Senator Owen H. Johnson, (R-C, Babylon))

### **Tax Credits for Businesses Using Alternative Energy Sources**

The Senate passed legislation that would provide tax credits to New York businesses that install alternative energy and electric systems. The tax credit would help offset purchase and installation costs for businesses that utilize solar energy or wind energy system equipment, and/or fuel cell or geothermal resource transfer system equipment. Under current law, homeowners are already eligible for a personal income tax credit when they invest in solar technologies. (S.1634-B, Senator Charles J. Fuschillo, Jr. (R, Merrick))

## **ENVIRONMENTAL CONSERVATION**

### **Brownfields Reform**

The Senate passed legislation to reform the state's Brownfield Cleanup Program to better target financial incentives for the cleanup and redevelopment of contaminated sites across the State.

The Brownfields reform bill, which reflects an agreement between the Governor and the Legislature, will help revitalize New York's urban areas while ensuring that the program is more accountable to taxpayers and:

\* In some cases, provide more than double the current tax incentives for site cleanup, up to 50 percent of cleanup costs.

\* Limit redevelopment credits for non-manufacturing projects to \$35 million or 3 times the cost of site cleanup, whichever is less.

\* Limit redevelopment credits for manufacturing projects to \$45 million or six times the cost of site remediation, whichever is less.

\* Streamline administration of the Brownfield Opportunity Area Program. (PBH, S.8717, Senator Carl Marcellino (R, Syosset))

## **Cancer Mapping Program**

The Senate passed legislation to create a Cancer Mapping Program in New York State in order to determine whether or not there are environmental, occupational, or social factors influencing the rate of cancer.

The legislation would require the Department of Health (DOH) and Department of Environmental Conservation (DEC) to team up to collect information about New Yorkers suffering from cancer and potential reasons for that cancer, such as employment history, genetics, environmental sources, or pollution. That information would then be used by scientists and health professionals to draw conclusions about the causes of cancer clusters.

The legislation also requires the Health Science Research Board, which has expertise in health issues, to report within 180 days after the bill is signed into law on how the database and maps will be set up. After a Public Review, the Department of Health will have 90 days to release the final report to the public on areas included within the Cancer Mapping project. DOH would then be required to prepare quarterly reports for the Governor and Legislature on progress in completing the maps and database. The Cancer Maps would be posted on DOH's website for the public to review. (PBH, S.1592-B, Senator Thomas Libous (R-C-I, Binghamton))

## **Green Building Standards for State Construction**

The Senate passed legislation that would require all new construction and substantial renovation projects undertaken by the State to comply with green building principles. The Department of Environmental Conservation, working with the New York State Energy Research and Development Authority (NYSERDA), will develop regulations on the green building standards. The Department will base the regulations on the Green Building Tax Credit, the LEED (Leadership in Energy and Environmental Design) green building rating system criteria developed by the United States Green Building Council), and the Building Initiative's Green Globes rating system. (PBH, S.5442-B, Senator Carl Marcellino (R, Syosset))

## **Green Building Standards for Home Construction**

The Senate passed legislation that encourages the construction of new homes and the renovation of existing homes to meet "green building" standards.

The bill authorizes the New York State Energy Research and Development Authority (NYSERDA) to create a program that will provide financial incentives to New Yorkers who comply with these standards by conserving energy, water and natural resources; improving indoor air quality; and utilizing renewable building products that strengthen the environment.

Energy and water use in residential buildings have a significant impact on the environment, making incentives a smart investment for New Yorkers. Nationally, residential buildings account for approximately 22 percent of energy use and greenhouse gas emissions, and 74 percent of water use. Homeowners and builders who take advantage of these new incentives will help reduce the energy, carbon and environmental footprints of homes across New York. (PBH, S.8134-B, Senator George Maziarz (R-C, Newfane))

### **Plastic Bag Recycling**

The Senate passed legislation that would require stores establish a recycling program to take back consumers plastic bags. Under the bill, stores must sell reusable bags, make collection bins visible and accessible, and keep records on their bag collection. (PBH, S.8643-A, Senator Carl Marcellino (R, Syosset))

### **Great Lakes—St. Lawrence River Basin Water Resources Compact**

The Senate passed legislation which was signed into law, allowing New York State to approve the Great Lakes—St. Lawrence River Basin Water Resources Compact. This comprehensive multi-state, international agreement will help manage and protect our state’s precious freshwater resources. (Chap. 27, S.4324-B, (Senator George Maziarz (R-C, Newfane))

### **Sales Tax Exemption for purchase of Energy Star Appliances**

The Senate passed legislation that would grant a State sales tax exemption on the purchase of the following ENERGY STAR qualified appliances; clothes washers, dishwashers, refrigerators, room air conditioners, ceiling fans, dehumidifiers, freezers, programmable thermostats, and ventilating fans. The exemption will be available until April 1, 2014. (S.6944-B, Senator Carl Marcellino (R, Syosset))

## **GOVERNMENT REFORM**

### **Public Expenditure Reports**

The Senate passed legislation to require, for the first time ever, all Executive State government entities and the Judiciary to compile and release public expenditure reports. These reports must include information detailing personnel costs, equipment purchases, postage costs, travel costs and other expenditures.

The Legislature has compiled and publicly released such expenditure reports since 1996, a fact that has enabled the legislative branch to more effectively monitor and control its internal operations and budgeting practices. (S.6358, Senator DeFrancisco (R-C-I-WF, Syracuse), Senator Griffo (R-C, Rome))

### **Repair Act**

The Senate passed the “New York State Responsibility, Performance, Accountability, Initiative and Results (REPAIR) Act” of 2008. This comprehensive measure would require all state agencies to develop long-term strategic plans, follow performance budgeting principles, and enable the public, the Division of Budget and the Legislature to better evaluate the fiscal management and actual performance of virtually all State government programs. (S.154-B, Senator Martin Golden (R-C, Brooklyn))

### **Establishing Website to Increase State Agency Accountability**

The Senate passed legislation to create a new website, ResultsNY.gov, that would enable the public to review the performance of government programs to see how effectively agencies are spending tax dollars. People visiting the site could also submit their own suggestions and recommendations on how to stop government waste and reduce State spending.

The ResultsNY.gov initiative is patterned after the Federal Office of Management and Budget's ExpectMore.gov website. This proposal would establish a new, user-friendly website that provides the public – at the touch of a keyboard – with the ability to review government expenditures, as well as the performance of State government agencies and programs in areas including the economy, education, public safety, energy, health, housing, and the environment. (S.5899-A, Senator Joseph Griffo (R-C, Rome))

### **Constitutional State Spending Cap**

The Senate passed legislation to enact a constitutional spending cap that would prevent the Executive from submitting a Budget that increases spending by more than four percent over the previous year's Budget and force both houses of the Legislature to live within reasonable spending limits.

The constitutional spending cap proposal would give the Executive the authority to exceed the cap in the event of a fiscal emergency or other extraordinary circumstances, however, the Comptroller would be required to independently certify the financial crisis. (S.7134, Senator Joseph L. Bruno (R, Brunswick))

### **Strengthening the Freedom of Information Law**

The Senate approved legislation that would require State government entities to make available public records subject to FOIL which are expected to be discussed at an open meeting at least seventy-two hours prior to that meeting. The measure would apply to any public body that meets subject to the Open Meetings Law, and mirrors recommendations advanced by the State's Committee on Open Government. (PBH, S.7042, Senator John DeFrancisco (R-C-I-WF, Syracuse))

The Senate also passed legislation to direct State agencies to consider FOIL when designing their information retrieval systems whenever practical and reasonable to increase public access to government documents. Under this legislation, agencies will be encouraged to implement and compile information in a way that satisfies this new requirement. (PBH, S.3850, Senator John Flanagan (R-C-I, East Northport))

### **Voter Registration**

The Senate passed legislation that would require an individual to provide proof of citizenship, age and residency in order to register to vote. (S.6543-A, Senator John Flanagan (R-C-I, East Northport))

### **Honesty in Permitting Act**

The Senate passed legislation that would require permitting agencies to process applications on time, or refund the fee to the applicant.

The bill requires State Agencies that process 100 or more permits in a year to report annually to the Governor and Assembly on the number of permits processed, the average processing time, and the shortest and longest times to process permits. This information will also be required to be posted on the Agencies' websites and on the covers of all permit applications. The bill also requires the Agencies to

refund the permit fee if it takes more than 134 percent than the average time to process. (S.7132, Senator Tom Libous (R-C-I, Binghamton))

## **HEALTH CARE & INSURANCE**

### **Health Insurance Reform Package**

The Senate passed legislation that offers a comprehensive approach to reforming health insurance.

**Medical loss ratios** -- Under the measure, the medical loss ratio would be raised from 75 to 80 percent for the small group market, requiring that at least 80 cents of every premium dollar be used to pay for health care services. The higher ratio is an important way of ensuring a greater amount of the premium dollar is returned in health care benefits as opposed to administrative overhead costs or profits for the price sensitive small group market. The bill also establishes clear definitions and standards for calculating medical loss ratios. The change in the medical loss ratio is intended to discourage miscalculation of minimum loss ratios.

The bill further strengthens certification requirements, by requiring insurers to affirm, under penalty of perjury, that their rate filing was prepared in accordance with generally accepted actuarial principles.

**Prior approval -- ‘two strikes’** -- The measure would reinstate prior approval for insurers who “materially misrepresent” their medical loss ratios two consecutive years. Prior approval would then take effect and be in place for up to three years. The component is intended to penalize any insurer who deliberately play games and misrepresent their loss ratios to the insurance department.

**Network issues** -- The legislation prohibits health insurers from charging a patient higher nonparticipating rates for hospital services in a participating hospital, even when the physician performing the service may be out-of-network. As long as a patient is being treated in a participating hospital, he must be charged the lower in-network rates for the hospital services he receives. Similarly, if the physician is in-network but the hospital is out-of-network, the patient must be charged in-network rates.

**Prompt payment** -- The legislation reduces the required time from 45 days to 21 days that an insurer must pay claims to health care providers when the claim is submitted electronically. Claims that are submitted in written form would remain unchanged, at 45 days.

By reducing the time for electronic claims filing, the state is providing an incentive for providers to submit claims electronically, and offers the additional benefit of ensuring that local health care providers will receive their reimbursements in a more timely fashion. (S.8354-B, Senator James L. Seward (R-C-I, Oneonta))

### **Medical Malpractice Insurance Legislation**

The Senate passed legislation that would lower the required level of primary medical malpractice coverage that a physician or dentist must have in order to qualify for the New York Excess Medical Malpractice Liability Insurance Coverage Program.

This change would ease the burden that these providers are bearing due to rapidly escalating medical malpractice premiums. In 2007, the New York State Insurance Department approved a 14 percent rate increase which followed increases of over 7 percent in every year since 2003. (S.7038, Senator John Flanagan (R-C-I, East Northport))

### **Updating “Healthy New York”**

The Senate approved changes to the state's "Healthy New York" program, which coordinates with health maintenance organizations across the state to provide health insurance for small businesses, sole proprietors and uninsured workers.

Currently, a business with fewer than 50 employees is not eligible for the Healthy New York program if it has offered health insurance within the past 12 months. The new change erases that requirement. By removing the requirement more small businesses will be able to offer affordable health care to their employees. (PBH, S.6385-A, Senator Alesi (R-C, Perinton))

## **HOUSING**

### **Addressing Subprime Mortgage Crisis**

The Senate passed comprehensive legislation to address the subprime mortgage crisis in New York by immediately assisting homeowners who are facing foreclosure from losing their homes while implementing critical reforms designed to help prevent them from losing their homes in the future. The legislation is the result of an agreement reached between the Governor, the Senate and the Assembly

The bill requires lenders to send a pre-foreclosure notice to borrowers at least 90 days before foreclosure proceedings may be initiated. This will encourage homeowners to seek help prior to the initiation of foreclosure proceedings. The bill would also require lenders to list in the notice government approved housing counselors serving the borrower's area.

- The bill includes provisions to address foreclosure rescue scams intended to take advantage of borrowers when they are most vulnerable. This bill will prohibit upfront fees and require a written contract from so-called “distressed property consultants.”
- Mortgage fraud would be classified as a crime under the Penal Law, making it easier for prosecutors to pursue cases. As the magnitude of the fraud increases, so would the criminal penalty.
- Mortgage fraud would be classified as a crime under the Penal Law, making it easier for prosecutors to pursue cases. As the magnitude of the fraud increases, so would the criminal penalty.

In addition, a number of new programs to fund homeowner counseling have already been established in New York State, including the Subprime Foreclosure Prevention Services Program, a \$25 million statewide program approved by the Legislature. (PBH, S.8143-A, Senator Hugh Farley (R-C, Schenectady))

## **LABOR**

## **WTC Worker's Health Bill**

The Senate passed legislation enabling certain World Trade Center workers, who are currently ineligible for presumptive eligibility for accidental disability benefits, to become eligible.

The legislation was inspired by the hardworking members of the September 11th Worker Protection Task Force; which was created in 2005 to examine the limitation of any existing laws, regulations, programs and services regarding coverage and treatment of specific types of disabilities for WTC workers and to make recommendations to address any identified problems. (PBH, S.8676, Senator Martin Golden (R-C, Brooklyn))

## **Prohibiting Mandatory Overtime for Nurses**

The Senate passed legislation to prohibit mandatory overtime for nurses in hospitals and other health care facilities, including State-operated facilities. The bill reflects an agreement among the Senate, the Assembly, and the Governor.

The legislation prohibits health care facilities from requiring nurses to work more than their regularly scheduled work hours, but does not place a specific cap on the number of hours that can be worked per day or week.

The prohibition on mandatory overtime would not apply in the following circumstances: natural or other types of disasters that increase the need for nursing services; a federal, state or county declaration of emergency; a nurse engaged in an ongoing medical or surgical procedure; when necessary to provide safe patient care where no other alternative staffing is available; and when nurse voluntarily agrees to work overtime. (PBH, S.8637, Senator Tom Morahan (R-C, New City))

## **Workers' Compensation Expansion**

The Senate passed legislation including Lyme Disease as an occupational disease which is compensable under the workers' compensation law. The legislation is in response to the growing incidence of Lyme Disease in workers across New York State. (PBH, S.2038, Senator Kenneth LaValle (R-C-I, Port Jefferson))

## **Regulating Self-Insured Trusts**

The Senate passed legislation, that would strengthen and increase transparency of self-insured trusts who offer workers' compensation benefits to employees.

Currently, in New York State there are 47 self-insured trusts in the states. Over half of them are undefended and two have defaulted. This legislation would increase oversight of self-insured trusts, increase penalties for misconduct, and put procedures in place to ensure undefended trusts are fully funded. (PBH, S.8708, Senator Joseph Robach (R-C-I, Rochester))

## **Agency Shop Legislation**

The Senate gave final legislative passage today to legislation that would make the agency shop fee permanent for public employee unions under the Taylor Law.



This bill would continue to provide a system for agency shop fee deductions only in favor of employee organizations which offer rebates for a percentage of dues used for political and ideological purposes. (PBH, S.7272, Andrew Lanza (R-I, Staten Island))

## **LOCAL ASSISTANCE**

### **Protecting Local Governments from Unfunded Mandates**

The Senate approved a constitutional amendment that would make compliance with unfunded mandates voluntary for local governments, school districts and special districts.

An unfunded mandate is defined in the proposed resolution as a provision of law that requires affected local jurisdictions, in the statewide aggregate, to spend more money to provide services. Any associated increases in cost would be offset by (1) funding to carry out the new mandate and (2) savings associated with other mandate relief. (S.1140-A, Senator Betty Little (R-C-I, Queensbury))

## **MENTAL HEALTH**

### **Protecting Children in Residential Care**

The Senate passed legislation, to provide enhanced protections to children in residential care facilities and clarify and strengthen the process used to investigate and respond to cases of alleged abuse and neglect.

The bill outlines actions that constitute abuse or neglect, even if no harm is done to the child, including physical violence, being threatened with pain or injury through the display of a weapon or dangerous instrument, the use of corporal punishment, and withholding food, water or medication as a form of punishment.

Within sixty days of a report of neglect or abuse, the Office of Children and Family Services will be required to determine four things: if the reported is indicated or unfounded; if there is reasonable cause to suspect a person responsible for the child abused or mistreated the child; if it's likely a crime was committed against the child; and if it appears a violation of statutory, regulatory, or other requirements of the state oversight agency has occurred. (PBH, S.8534-A, Senator Tom Morahan (R-C, New City))

### **Protecting the Disabled**

The Senate passed legislation that would make it a felony to endanger the welfare of an incompetent or physically disabled person. The legislation is related to Jonathan's Law which was enacted last year. (S.3894, Senator Tom Morahan (R-C, New City))

## **SENIORS & RETIREES**

### **Omnibus Alzheimer's Services Act**

The Senate passed legislation that would help families locate their loved ones. The bill would establish the Silver Alert system to help locate missing seniors and ensure that they are returned safely to their families.

The Silver Alert system would operate similar to the “Amber Alert” system which helps law enforcement officials locate missing children.

In addition, the bill would authorize the Office of Aging to train law enforcement personnel on issues related to persons with cognitive impairments, and require the Coordinating Council for Services Related to Alzheimer’s Disease and Other Dementia to make recommendations on technology that can be used to locate individuals with cognitive impairments. (PBH, S.7585-C, Senator John DeFrancisco (R-C-I-WF, Syracuse))

### **Protecting Senior Assistance Programs**

The Senate passed legislation that would protect service programs that help senior citizens in New York City and throughout the State and ensure proper community input on any planned changes to the services, such as meals-on-wheels, that millions of seniors depend on.

The bill would require that any changes in senior assistance and service programs include community input; impact studies to determine the number of seniors affected; the long term projections for the number of seniors to be served by these programs; and whether there would be any reduction in services as a result of the proposed changes. (S.8457, Senator Serphin Maltese (Queens))

### **Granny’s Law**

The Senate gave final legislative passage to a bill that would impose stiffer penalties for physical attacks on senior citizens. This bill would elevate the assault of a person sixty-five years of age or older when the perpetrator is more than ten years younger than the victim to Assault in the Second Degree, a Class D violent felony punishable by up to seven years in prison. (Chap. 68, S.6979, Senator Martin Golden (R-C, Brooklyn))

## **TAX RELIEF**

### **NY-STOP - Eliminating Property Taxes**

The Senate passed major property tax relief legislation that would result in the complete elimination of school property taxes in school districts that vote to phase them out over five years, with revenue replaced by additional State funding.

The plan, known as New York STOP TAXING OUR PROPERTY, would reduce school property taxes by 20 percent a year until they are eliminated after five years, rather than simply capping property tax increases at 4 percent or 120 percent of the inflation rate.

The **STOP TAXING OUR PROPERTY** plan would: give school district voters the authority to eliminate residential property taxes over five years, with revenue replaced by additional State funding; and allow localities the option to put a local tax cap in place if district residents voted to do so through a petition and voting process. (S.8522, Senator Bruno (R, Brunswick))

### **Gas Tax Suspension**

The Senate approved legislation to provide much needed relief at the gas pump by suspending New York State’s gasoline and diesel taxes during the summer travel season. The bill would have

eliminated the New York State taxes on gasoline and diesel taxes from Memorial Day weekend through Labor Day.

Under the Senate Majority proposal, New Yorkers would save approximately 32 cents per gallon in state gasoline and diesel taxes, including 16 cents from the State's Petroleum Business Tax, 8 cents from the State sales tax, and 8 cents from the State's Motor Fuel Excise Tax. If the federal, State and local governments all temporarily suspended their taxes, New Yorkers would save 65 cents per gallon at the pump.

The bill also authorizes strict anti-price gouging penalties for gas station owners and gasoline distributors who don't pass along the savings from this initiative so New Yorkers get the relief they need and deserve. (S.7594-B, Senator Andrew Lanza (R-I, Staten Island), Senator Charles Fuschillo (R, Merrick) and Senator Joe Robach (R-C-I, Rochester)

While the plan to suspend the State's gas taxes provides immediate relief from high costs at the pump, Senate Republicans also approved a number of bills to encourage alternative energy use and development, including:

- \* Removes the State sales tax on hybrid and alternative fuel vehicles. (S.3947-B, Senator Dean Skelos (R, Rockville Centre)

- \* Provides an EZ-Pass discount for fuel efficient vehicles. (S.4363, Senator Carl Marcellino (R, Syosset)

- \* Provides tax credits for biodiesel and ethanol storage facilities. (S.6160-B Senator Skelos)

- \* Amends the current bio-fuel production credit to provide for a forty cent per gallon incentive specific for cellulosic ethanol production. A tax credit equal to 15 cents per gallon already exists for biofuel production. (S.7932, Senator George Maziarz (R-C, Newfane)

## **Home Heating Relief Act**

The Senate passed the "Home Heating Relief Act" which would provide a one thousand dollar tax deduction to homeowners who purchase heating oil, natural gas and propane during the winter heating season.

Any taxpayer filing as an individual earning \$75,000 or less or any taxpayers filing a joint returning earning \$150,000 or less would be eligible for this tax deduction. (S.8173-A, Senator Carl Marcellino (R, Syosset)

## **Relieve Farmers of Fuel Tax Burden**

The New York State Senate today passed legislation to reverse the unintended consequence of a federal regulation that forces farmers and other small businesses to pay taxes upfront for tax-free fuel sold in New York State.

The legislation would provide fuel distributors with an upfront exemption from the petroleum business, excise and state and local sales taxes for lower sulfur diesel fuel that will be sold to qualified farmers and other exempt users. The legislation provides the Commissioner of Taxation and Finance the ability to request reasonably necessary forms from the fuel distributors to ensure the integrity of the new exemption system. (S.7947-B, Senator Betty Little (R-C-I, Queensbury)

## **Help for Families Caring for Elderly Relatives**

The Senate passed legislation that would provide a personal income tax exemption to an individual taxpayer who cares for a parent or immediate family member, seventy years of age or older, residing in the household of the taxpayer. Individuals would be allowed an additional tax exemption of \$1,000 for each elderly dependent, whose gross income does not exceed \$5,000 or in the case of a husband and wife with joint income, does not exceed \$7,500. (S.2060, Senator John A. DeFrancisco (R-I-C-WF, Syracuse))

## **Establishing a Fixed School Tax Rate for Seniors**

The Senate passed legislation that would establish a fixed real property school tax rate for seniors who are eligible for the enhanced STAR exemption, providing much needed tax relief to hundreds of thousands of seniors throughout New York State.

Under the bill homeowners aged seventy or older and meet the eligibility requirements for the enhanced STAR exemption would be eligible to apply annually for the fixed real property school tax rate at local option. The State would reimburse school districts for lost revenue caused by freezing the tax rates for seniors. (S.3533, Senator Kenneth LaValle (R-C-I, Port Jefferson))

# **TRANSPORTATION**

## **Ignition Interlock for DWI Offenders**

The Senate approved legislation that would mandate probation and the installation of ignition interlock devices for all convicted drunk drivers in Nassau, Suffolk, Albany, Erie, Onondaga, Monroe and Westchester counties.

Under the bill, all those convicted of DWI, including first time offenders, would be placed on mandatory probation and have to install and use, at their own cost, an ignition interlock device in all vehicles that they drive including those owned, leased, rented or loaned.

Ignition interlocks are devices installed in vehicles that measure alcohol in the breath and immobilize the car if levels exceed set limits. A similar law enacted in the State of New Mexico in 2005 has led to a more than 60 percent drop in the recidivism rate among drunk drivers. (S.8036, Senator Charles J. Fuschillo, Jr. (R, Merrick))

## **Snowmobile Fund Restoration**

The Senate passed legislation to restore \$1 million in funds dedicated for the development and maintenance of snowmobile trails previously removed by the Division of Budget earlier this year.

The legislation would require all monies in the Snowmobile Trail Development and Maintenance Fund to be available for the payment of costs associated with the work required to maintain the trail system and authorizes the State Comptroller to transfer \$1 million into the fund. The \$1 million represents money that was paid for by snowmobile registrations throughout New York State and was intended to be used for trail maintenance but was raided by the Division of Budget and put into the state's General Fund. (S.8144, Senator Joseph Griffo (R-C, Rome))

## **Making Roads Safer and Easier to Travel**

The Senate passed two bills that will help make New York's roads and bridges safer and easier to travel. One bill would change the way New York numbers highway exit signs to a mileage-based system, making it easier for travelers to tell how much distance is between exits.

In addition, the Senate passed a bill known as the BRIDGE Reform Act, that would fix the State's Dedicated Highway and Bridge Trust Fund by providing more funding for the construction and repair of our states bridges and roads. (S.5358-A, S.6516-A, Senator Tom Libous (R-C-I, Binghamton))

## **Comprehensive Legislative Packaged Aimed at Keeping Young Driver's Safe**

The Senate passed SAFE-TEEN New York, a comprehensive package of legislation designed to keep New York's younger, less experienced drivers safe. .

The SAFE-TEEN New York driver safety package includes legislation to:

> Require parents or legal guardians to attend court appearances when teen drivers are issued traffic violations (S.8018, Senator Andrew Lanza (R-I, Staten Island));

> Authorize DMV to produce a SAFE-TEEN NY sticker and make the sticker available to all parents and legal guardians. These optional stickers, which could be placed on certain vehicles, would help alert law enforcement and other drivers to the fact that a car is being driven by a young, and potentially inexperienced, driver (S. 8017, Senator Lanza);

> Establish the SAFE-TEEN New York Driver Safety Commission, a 12-member panel of experts who would examine a wide array of factors that contribute to the high rate of car accidents involving teen drivers and make recommendations for new programs, policies, and statutes to improve teen driver safety (S.8019 , Senator Lanza);

> Limit the number of non-family member passengers under the age of 21 that can be riding in a car when the driver holds a class DJ or class MJ learners permit or license (S.8124 , Senator Lanza);

> Prohibit drivers from writing, sending or reading text messages while driving (S.3195-C, Senator Carl Marcellino (R, Syosset);

> Prohibit the use of any and all electronic devices for drivers under the age of eighteen, including but not limited to iPods, texting devices and cell phones, including hands-free cell phones (S.8332, Senator Martin Golden (R-C, Brooklyn) and;

> Increase the penalties for street racing from a misdemeanor offense to a felony for repeat offenders. (S.8020-A, Senator Lanza)

## **Strengthening DWI Laws**

The Senate passed a package of bills to combat the growing problem of driving while intoxicated, creating tough new penalties for the crimes of aggravated vehicular assault and vehicular murder, increasing the license revocation period for persons convicted of DWI offenses, and curbing underage consumption of alcoholic beverages:

### **Aggravated Vehicular Assault and Vehicular Murder**

The Senate passed legislation that creates stronger penalties for those who severely injure, or kill people driving while intoxicated.

The legislation establishes the new crime of “Aggravated Vehicular Assault,” a class C felony. A person would be guilty of this crime if he or she recklessly caused serious physical injury to another person while operating a motor vehicle, vessel or public vessel, snowmobile or all terrain vehicle while intoxicated or under the influence of drugs.

The bill also establishes the new crime of “Vehicular Murder,” a class B felony, for anyone who recklessly causes the death of another person while operating a motor vehicle, vessel or public vessel, snowmobile, or all terrain vehicle while intoxicated or under the influence of drugs. (S.1697, Senator Joseph Robach (R-C-I, Rochester))

### **Increased License Revocation Period for DWI Offenses**

The Senate passed legislation that would create a mandatory minimum period of license revocation of one year upon the first conviction of driving while intoxicated. (S.4735, Senator Kenneth P. LaValle (R-C-I, Port Jefferson))

### **Consumption of Alcohol by Children Under 21**

Additionally, the Senate passed legislation that creates “social host” liability for individuals who permit the consumption of alcoholic beverages on their property by persons under 21 years of age.

The bill adds penalties of \$250 for a first offense, \$500 for a second offense, and for the third offense and any subsequent offense a fine of \$1,000 or imprisonment for a term not to exceed one year, or both fine and imprisonment. The bill also permits local governments to enact and enforce local laws or ordinances which contain stricter restrictions than those contained in this proposal. (S.7577-A, Senator Charles Fuschillo (R, Merrick))

## **VETERAN’S ASSISTANCE**

### **Helping Returning Disabled Veterans Find Jobs**

The Senate passed legislation that expands employment opportunities for veterans with disabilities and further enhances diversity in the workplace.

The legislation permits the New York State Department of Civil Service to increase the number of entry-level competitive class positions from 300 to 500 that it can reclassify to noncompetitive class positions to promote the appointment of veterans with disabilities.

The increase in available noncompetitive positions ensures those who have sacrificed in service to their nation will be able to explore all available job opportunities when they return from military service. (PBH, S.7791, Senator Vincent Leibel (R-C-I, Patterson))

### **Increasing Benefits for Veterans and Current Military Members**

The Senate passed several bills to provide greater benefits and protections to New York's military personnel including bills that would:

- > Allow members of the armed forces to take special military make up civil service exams (PBH, S.7792, Senator Vincent Leibell (R-C-I, Patterson))

- > Authorize State and Municipal employees to be paid for up to 45 days of military deployment each year, up from 30 days (S.7830-A, Senator Leibell)

- > Amend the domestic relations law to state that a parent's military status shall not affect his or her parental rights during custody proceedings (S.5863, Senator John DeFrancisco (R-C-I-WF, Syracuse))

- > Add two members to the mental health services council -- one from the Division of Veterans Affairs and one from the Division of Military and Naval Affairs (PBH, S.7183-A, Senator Thomas Morahan (R-C, New City))

- > Unify New York's dates for authorized action in Lebanon to match the federal government's start date for purposes of pension credit (S.7956, Senator John Flanagan (R-C-I East Northport))

- > Establish the Veterans Memorial Preservation Act (S.7879-A, Senator Leibell)

- > Extend the statute of limitations for actions involving exposure to Agent Orange for two years (PBH, S.7832, Senator Leibell)