Legislative Bill Drafting Commission
12061-12-1

PROGRAM BILL #11K

IN SENATE

Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed, and when printed to be committed to the Committee on

-------- A. Assembly

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IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the Committee on

*EDUCLA*

(Establishes the NY-SUNY 2020 challenge grant program; appropriation)

Ed L. SUNY 2020 challenge

AN ACT

to amend the education law and the New York state urban development corporation act, in relation to establishing components of the NY-SUNY 2020 challenge grant program; making an appropriation therefor; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1) Single House Bill (introduced and printed separately in either or both houses. Uni-Bill introduced simultaneously in both houses and printed as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 1 signed copies of bill and 4 copies of memorandum in support (single-house); or 4 signed copies of bill and 8 copies of memorandum in support (uni-bill).

LBDI 06/12/11
Section 1. This act shall be known and may be cited as the "NY-SUNY 2020 Challenge Grant Program Act".

§ 2. Section 350 of the education law is amended by adding two new subdivisions 7 and 8 to read as follows:

7. "University centers" shall mean the university centers at Albany, Binghamton, Buffalo and Stony Brook.

8. "NY-SUNY 2020 Challenge Grant Program" ("NY-SUNY 2020") shall mean a long-term economic and academic plan, which shall include a financial aid program, submitted by each state university of New York university center, subject to the approval by the governor and the chancellor of the state university of New York.

§ 3. Subparagraph 4 of paragraph h of subdivision 2 of section 355 of the education law, as amended by chapter 309 of the laws of 1996, is amended to read as follows:

(4) The trustees shall not impose a differential tuition charge based upon need or income. [All] Except as hereinafter provided, all students enrolled in programs leading to like degrees at state-operated institutions of the state university shall be charged a uniform rate of tuition except for differential tuition rates based on state residency. Provided, however, that the trustees may authorize the presidents of the colleges of technology and the colleges of agriculture and technology to set differing rates of tuition for each of the colleges for students enrolled in degree-granting programs leading to an associate degree and non-degree granting programs so long as such tuition rate does not exceed the tuition rate charged to students who are enrolled in like degree programs or degree-granting undergraduate programs leading to a baccalaureate degree at other state-operated institutions of the state university of New York. [The] Except as otherwise authorized in this
subparagraph, the trustees shall not adopt changes affecting tuition charges prior to the enactment of the annual budget, provided however that:

(i) Commencing with the two thousand eleven--two thousand twelve academic year and ending in the two thousand fifteen--two thousand sixteen academic year the state university of New York board of trustees shall be empowered to increase the resident undergraduate rate of tuition by not more than three hundred dollars over the resident undergraduate rate of tuition adopted by the board of trustees in the prior academic year, provided however that if the annual resident undergraduate rate of tuition would exceed five thousand dollars, then a tuition credit for each eligible student, as determined and calculated by the New York state higher education services corporation pursuant to section six hundred eighty-nine-a of this title, shall be applied toward the tuition charged for each semester, quarter or term of study. Tuition for each semester, quarter or term of study shall not be due for any student eligible to receive such tuition credit until the tuition credit is calculated and applied against the tuition charged for the corresponding semester, quarter or term.

(ii) On or before November thirtieth, two thousand eleven, the trustees shall approve and submit to the chairs of the assembly ways and means committee and the senate finance committee and to the director of the budget a master tuition plan setting forth the tuition rates that the trustees propose for resident undergraduate students for the five year period commencing with the two thousand eleven--two thousand twelve academic year and ending in the two thousand fifteen--two thousand sixteen academic year, and shall submit any proposed amendments to such plan by November thirtieth of each subsequent year thereafter through
November thirtieth, two thousand fifteen, and provided further, that
with the approval of the board of trustees, each university center may
increase non-resident undergraduate tuition rates each year by not more
than ten percent over the tuition rates of the prior academic year,
subject to the approval of a NY-SUNY 2020 proposal by the governor and
the chancellor of the state university of New York.

(iii) The state shall appropriate annually and make available general
fund operating support, including fringe benefits, for the state univer-
sity in an amount not less than the amount appropriated and made avail-
able to the state university in state fiscal year two thousand eleven--
two thousand twelve. Beginning in state fiscal year two thousand
twelve-two thousand thirteen and thereafter, the state shall appropriate
and make available general fund operating support, including fringe
benefits, for the state university in an amount not less than the amount
appropriated and made available in the prior state fiscal year;
provided, however, that if the governor declares a fiscal emergency, and
communicates such emergency to the temporary president of the senate and
speaker of the assembly, state support for operating expenses at the
state university and city university may be reduced in a manner propor-
tionate to one another, and the aforementioned provisions shall not
apply.

(iv) For the state university fiscal years commencing two thousand
eleven--two thousand twelve and ending two thousand fifteen--two thou-
sand sixteen, each university center may set aside a portion of its
tuition revenues derived from tuition increases to provide increased
financial aid for New York state resident undergraduate students whose
net taxable income is eighty thousand dollars or more subject to the
approval of a NY-SUNY 2020 proposal by the governor and the chancellor
of the state university of New York. Nothing in this paragraph shall be
construed as to authorize that students whose net taxable income is
eighty thousand dollars or more, but less than one hundred thousand
dollars, are eligible for tuition assistance program awards pursuant to
section six hundred sixty-seven of this chapter.

§ 4. Paragraph (a) of subdivision 7 of section 6206 of the education
law, as amended by chapter 327 of the laws of 2002, the opening para-
graph as amended by section 2 of part O of chapter 58 of the laws of
2006, is amended to read as follows:

(a) The board of trustees shall establish positions, departments,
divisions and faculties; appoint and in accordance with the provisions
of law fix salaries of instructional and non-instructional employees
therein; establish and conduct courses and curricula; prescribe condi-
tions of student admission, attendance and discharge; and shall have the
power to determine in its discretion whether tuition shall be charged
and to regulate tuition charges, and other instructional and non-in-
structional fees and other fees and charges at the educational units of
the city university. The trustees shall review any proposed community
college tuition increase and the justification for such increase. The
justification provided by the community college for such increase shall
include a detailed analysis of ongoing operating costs, capital, debt
service expenditures, and all revenues. The trustees shall not impose a
differential tuition charge based upon need or income. All students
enrolled in programs leading to like degrees at the senior colleges
shall be charged a uniform rate of tuition, except for differential
tuition rates based on state residency[.], provided, however, that:

(i) Commencing with the two thousand eleven--two thousand twelve
academic year and ending in the two thousand fifteen--two thousand
sixteen academic year, the city university of New York board of trustees shall be empowered to increase the resident undergraduate rate of tuition by not more than three hundred dollars over the resident undergraduate rate of tuition adopted by the board of trustees in the prior academic year, provided however that if the annual resident undergraduate rate of tuition would exceed five thousand dollars, then a tuition credit for each eligible student, as determined and calculated by the New York state higher education services corporation pursuant to section six hundred eighty-nine-a of this chapter, shall be applied toward the tuition charged for each semester, quarter or term of study. Tuition for each semester, quarter or term of study shall not be due for any student eligible to receive such tuition credit until the tuition credit is calculated and applied against the tuition charged for the corresponding semester, quarter or term.

(ii) On or before November thirtieth, two thousand eleven, the trustees shall approve and submit to the chairs of the assembly ways and means committee and the senate finance committee and to the director of the budget a master tuition plan setting forth the tuition rates that the trustees propose for resident undergraduate students for the five year period commencing with the two thousand eleven--two thousand twelve academic year and ending in the two thousand fifteen--two thousand sixteen academic year, and shall submit any proposed amendments to such plan by November thirtieth of each subsequent year thereafter through November thirtieth, two thousand fifteen.

(iii) The state shall appropriate annually and make available state support for operating expenses, including fringe benefits, for the city university in an amount not less than the amount appropriated and made available to the city university in state fiscal year two thousand
eleven--two thousand twelve. Beginning in state fiscal year two thousand
twelve--two thousand thirteen and thereafter, the state shall appropri-
ate and make available state support for operating expenses, including
fringe benefits, for the city university in an amount not less than the
amount appropriated and made available in the prior state fiscal year;
provided, however, that if the governor declares a fiscal emergency, and
communicates such emergency to the temporary president of the senate and
speaker of the assembly, state support for operating expenses of the
state university and city university may be reduced in a manner propor-
tionate to one another, and the aforementioned provisions shall not
apply.

(a-l) The trustees shall further provide that the payment of tuition
and fees by any student who is not a resident of New York state, other
than a non-immigrant alien within the meaning of paragraph (15) of
subsection (a) of section 1101 of title 8 of the United States Code,
shall be paid at a rate or charge no greater than that imposed for
students who are residents of the state if such student:
(i) attended an approved New York high school for two or more years,
graduated from an approved New York high school and applied for attend-
ance at an institution or educational unit of the city university within
five years of receiving a New York state high school diploma; or
(ii) attended an approved New York state program for general equival-
ency diploma exam preparation, received a general equivalency diploma
issued within New York state and applied for attendance at an institu-
tion or educational unit of the city university within five years of
receiving a general equivalency diploma issued within New York state; or
(iii) was enrolled in an institution or educational unit of the city
university in the fall semester or quarter of the two thousand one--two
thousand two academic year and was authorized by such institution or
educational unit to pay tuition at the rate or charge imposed for
students who are residents of the state.
A student without lawful immigration status shall also be required to
file an affidavit with such institution or educational unit stating that
the student has filed an application to legalize his or her immigration
status, or will file such an application as soon as he or she is eligi-
ble to do so. [The] Except as otherwise authorized in paragraph (a) of
this subdivision, the trustees shall not adopt changes in tuition charg-
es prior to the enactment of the annual budget. The board of trustees
may accept as partial reimbursement for the education of veterans of the
armed forces of the United States who are otherwise qualified such sums
as may be authorized by federal legislation to be paid for such educa-
tion. The board of trustees may conduct on a fee basis extension courses
and courses for adult education appropriate to the field of higher
education. In all courses and courses of study it may, in its
discretion, require students to pay library, laboratory, locker, break-
age and other instructional and non-instructional fees and meet the cost
of books and consumable supplies. In addition to the foregoing fees and
charges, the board of trustees may impose and collect fees and charges
for student government and other student activities and receive and
expend them as agent or trustee.
§ 5. The education law is amended by adding a new section 689-a to
read as follows:
§ 689-a. Tuition credits. 1. The New York state higher education
services corporation shall calculate a tuition credit for each resident
undergraduate student who has filed an application with such corporation
for a tuition assistance program award pursuant to section six hundred
sixty-seven of this article, and is determined to be eligible to receive
such award, and is also enrolled in a program of undergraduate study at
a state operated or senior college of the state university of New York
or the city university of New York where the annual resident undergradu-
ate tuition rate will exceed five thousand dollars. Such tuition credit
shall be calculated for each semester, quarter or term of study that
tuition is charged and tuition for the corresponding semester, quarter
or term shall not be due for any student eligible to receive such
tuition credit until such credit is calculated, the student and school
where the student is enrolled is notified of the tuition credit amount,
and such tuition credit is applied toward the tuition charged.

2. Each tuition credit pursuant to this section shall be an amount
equal to the product of the total annual resident undergraduate tuition
rate minus five thousand dollars then multiplied by an amount equal to
the product of the total annual award for the student pursuant to
section six hundred sixty-seven of this article divided by an amount
equal to the maximum amount the student qualifies to receive pursuant to
clause (A) of subparagraph (i) of paragraph a of subdivision three of
section six hundred sixty-seven of this article.

§ 6. Section 355 of the education law is amended by adding a new
subdivision 6-a to read as follows:

6-a. The state university trustees shall adopt guidelines for founda-
tions of state-operated campuses that require each foundation to adopt a
conflict of interest policy applicable to such foundation and its affili-
ated corporations. Among other items, the state university trustees'
guidelines shall require such foundation policies to provide: (a) that
service as a board member or officer thereof shall not be used as a
means for private benefit or inurement for the board member or officer,
a relative thereof, or any entity in which the board member or officer,
or relative thereof, has a business interest; (b) no board member or
officer who is a vendor of goods or services to the foundation or its
affiliated corporation, or who has a business interest in such vendor,
or whose relative has a business interest in such vendor, shall vote on,
or participate in the foundation's administration of, any transaction
with such vendor; and (c) a board member or officer shall advise the
chair of the foundation or its affiliated corporation of his or a rela-
tive's business interest in any such existing or proposed vendor with
the foundation or its affiliate. The state university trustees' guide-
lines shall define the nature of a business interest and the closeness
of a personal relation that bring a relationship within the purposes of
this subdivision.
§ 7. Section 1 of chapter 174 of the laws of 1968, constituting the
New York state urban development corporation act, is amended by adding a
new section 45 to read as follows:
§ 45. NY-SUNY 2020. 1. Notwithstanding the provisions of any other
law to the contrary, the urban development corporation of the state of
New York is hereby authorized to issue bonds or notes in one or more
series for the purpose of funding project costs for the implementation
of a NY-SUNY 2020 challenge grant program subject to the approval of a
NY-SUNY 2020 plan or plans by the governor and the chancellor of the
state university of New York. The aggregate principal amount of bonds
authorized to be issued pursuant to this section shall not exceed
$80,000,000, excluding bonds issued to fund one or more debt service
reserve funds, to pay costs of issuance of such bonds, and bonds or
notes issued to refund or otherwise repay such bonds or notes previously
issued. Such bonds and notes of the corporation shall not be a debt of
the state, and the state shall not be liable thereon, nor shall they be
payable out of any funds other than those appropriated by the state to
the corporation for principal, interest, and related expenses pursuant
to a service contract and such bonds and notes shall contain on the face
thereof a statement to such effect. Except for purposes of complying
with the internal revenue code, any interest income earned on bond
proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other law, rule, or regulation to the contrary,
the comptroller is hereby authorized and directed to deposit to the
credit of the capital projects fund, reimbursement from the proceeds of
notes or bonds issued by the urban development corporation of the state
of New York for capital disbursements of up to $80,000,000 from any
appropriation or reappropriation authorized by a chapter of the laws of

3. Notwithstanding any other provision of law to the contrary, in
order to assist the urban development corporation in undertaking the
financing for project costs for the NY-SUNY 2020 challenge grant
program, the director of the budget is hereby authorized to enter into
one or more service contracts with the corporation, none of which shall
exceed thirty years in duration, upon such terms and conditions as the
director of the budget and the corporation agree, so as to annually
provide to the corporation, in the aggregate, a sum not to exceed the
principal, interest, and related expenses required for such bonds and
notes. Any service contract entered into pursuant to this section shall
provide that the obligation of the state to pay the amount therein
provided shall not constitute a debt of the state within the meaning of
any constitutional or statutory provision and shall be deemed executory
only to the extent of monies available and that no liability shall be
incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged to the corporation as security for its bonds and notes, as authorized by this section.

§ 8. SUNY capital commitment. Notwithstanding any provision of law, rule or regulation to the contrary, of the amounts appropriated and designated as university wide within chapter 54 of the laws of 2011 for the state university of New York or the state university construction fund, a total amount of $60,000,000 shall be divided equally amongst the university centers and such allocations shall be made available to each university center, as defined by subdivision 7 of section 350 of the education law, for purposes and projects identified in a plan and approved by the governor and the chancellor of the state university of New York, and filed with the office of the state comptroller for the NY-SUNY 2020 challenge grant program. Such funds shall be available during the 2011-12 academic year and thereafter.

§ 9. University center capital program flexibility. Notwithstanding any provision of law, rule or regulation to the contrary, of the amounts appropriated within chapter 54 of the laws of 2011 for the state university of New York or the state university construction fund:

(1) designated amounts from advances for alterations and improvements to facilities for capital critical maintenance appropriations or reappropriations currently available to the university centers at Albany, Binghamton, Buffalo, and Stony Brook; or

(2) advances to SUNY hospitals, shall be made available, for purposes and projects identified in a plan and approved by the governor and the chancellor of the state university of New York, and filed with the
office of the state comptroller for the NY-SUNY 2020 challenge grant
program. The funding from such appropriations, reappropriations and
advances that are designated to be utilized in such plans shall be
specifically identified and shall be submitted to the majority leader of
the senate and speaker of the assembly at least 15 days prior to the
approval of the plan by the governor and the chancellor. Such funds
shall be available during the 2011-12 academic year and thereafter.
§ 10. (a) The amount specified in this act for state operations, or so
much thereof as shall be sufficient to accomplish the purposes design-
nated by the appropriation, is hereby appropriated and authorized to be
paid as hereinafter provided, to the purposes specified.
(b) No moneys appropriated by this act shall be available for payment
until a certificate of approval has been issued by the director of the
budget, who shall file such certificate with the department of audit and
control, the chairperson of the senate finance committee and the chair-
person of the assembly ways and means committee.
(c) The appropriations contained in this act shall be available imme-
diately.

STATE UNIVERSITY OF NEW YORK

Special Revenue Funds - Other
State University Income Fund
State University Revenue Offset Account

For services and expenses of state universi-
ty operations and activities supported by
tuition ........................................ $52,200,000
§ 11. (a) The amount specified in this act for state operations, or so much thereof as shall be sufficient to accomplish the purposes designated by the appropriation, is hereby appropriated and authorized to be paid as hereinafter provided, to the purposes specified.

(b) No moneys appropriated by this act shall be available for payment until a certificate of approval has been issued by the director of the budget, who shall file such certificate with the department of audit and control, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee.

(c) The appropriations contained in this act shall be available immediately.

CITY UNIVERSITY OF NEW YORK

Fiduciary Funds

CUNY Senior College Operating Fund

CUNY Senior College Operating Account

For services and expenses of city university operations and activities supported by tuition

§ 12. Any contracts awarded or entered into by any State University of New York at Buffalo campus related foundation, alumni association or affiliate thereof, any not-for-profit corporation or association organized by the president of the State University of New York at Buffalo to further its purposes, or any limited liability company whose sole member is any of the foregoing entities, or by the State University of New York, the State University Construction Fund, or the Dormitory Authority
of the State of New York, on behalf of the State University of New York at Buffalo, for construction, reconstruction, renovation, rehabilitation, improvement or expansion at the State University of New York at Buffalo, for any single construction project exceeding $20 million in the aggregate, for which more than twenty-five percent of such aggregate amount is to be paid from appropriations furnished by either the State of New York or the State University of New York, such construction, reconstruction, renovation, rehabilitation, improvement or expansion at the State University of New York at Buffalo shall be undertaken pursuant to a project labor agreement, as defined in subdivision 1 of section 222 of the labor law, provided a study done by or for the contracting entity determines that a project labor agreement will benefit such construction, reconstruction, renovation, rehabilitation, improvement or expansion through reduced risk of delay, potential cost savings or potential reduction in the risk of labor unrest in light of any pertinent local history thereof. For purposes of applying the dollar thresholds set forth in the preceding sentence, the term "single construction project" shall mean any functionally-interdependent construction, reconstruction, renovation, rehabilitation, improvement or expansion activity associated with a single building, structure or improvement, including all directly related infrastructure and site work in contemplation thereof.

§ 13. Notwithstanding the provisions of any general, special, or local law or judicial decision to the contrary:

(a) Any university center campus related foundation, alumni association or affiliate thereof, any not-for-profit corporation or association organized by the president of a university center to further its purposes, or any limited liability company whose sole member is any of
the foregoing entities, or by the State University of New York, the State University Construction Fund, or the Dormitory Authority of the State of New York, on behalf of a university center at Albany, Binghamton, or Stony Brook may require a contractor awarded a contract, subcontract, lease, grant, bond, covenant or other agreement for a project to enter into a project labor agreement during and for the work involved with such project when such requirement is part of any request for proposals on behalf of such university centers for the project. When any such university center campus related foundation, alumni association or affiliate thereof, any not-for-profit corporation or association organized by the president of a university center to further its purposes, or any limited liability company whose sole member is any of the foregoing entities, or the State University of New York, the State University Construction Fund, or the Dormitory Authority of the State of New York, on behalf of a university center at Albany, Binghamton, or Stony Brook determine that the record supporting the decision to enter into such an agreement establishes that the interests underlying the competitive bidding laws are best met by requiring a project labor agreement including: obtaining the best work at the lowest possible price; preventing favoritism, fraud and corruption; the impact of delay; the possibility of cost savings; and any local history of labor unrest.

(b) If any such university center campus related foundation, alumni association or affiliate thereof, any not-for-profit corporation or association organized by the president of a university center to further its purposes, or any limited liability company whose sole member is any of the foregoing entities, or by the State University of New York, the State University Construction Fund, or the Dormitory Authority of the State of New York, on behalf of a university center at Albany, Bingham-
1 ton, or Stony Brook does not require a project labor agreement, then any
2 contractor, subcontractor, lease, grant, bond, covenant or other agree-
3 ments for a project shall be awarded pursuant to section 135 of the
4 state finance law.
5 § 14. Section 359 of the education law is amended by adding a new
6 subdivision 5 to read as follows:
7 5. The state university trustees shall conduct a study regarding the
8 effectiveness and functionality of the New York state tuition assistance
9 program, which shall consider a variety of factors including, but not
10 limited to, the costs associated with pursuing a degree in undergraduate
11 study, current tuition assistance program thresholds and award levels,
12 current eligibility criteria to qualify for an award under the tuition
13 assistance program, and any other information the trustees determine to
14 be relevant. The study shall also include recommendations to improve the
15 tuition assistance program to better meet the future financial aid needs
16 of students who reside in New York state and to ensure continued access
17 and affordability of the state university of New York. The study shall
18 be submitted to the governor, the temporary president of the senate, the
19 speaker of the assembly, the director of the division of the budget, the
20 senate finance committee, the assembly ways and means committee and the
21 higher education committees of the legislature on or before October
22 first, two thousand thirteen. In addition, the state university shall
23 annually examine and report on each state-operated campus' efforts to
24 promote fiscal stability for the duration of the five year tuition plan
25 by implementing cost saving measures and increasing fundraising efforts.
26 Further, the trustees shall periodically review their patent policies to
27 ensure competitiveness, and shall annually report on how the revenue
28 generated by this paragraph has helped retain and grow full-time faculty
and increase program availability. The University Centers shall also report annually to the state university trustees on how research revenue yields quantifiable results for each of the four campuses and state university of New York at Buffalo and state university of New York at Stony Brook shall additionally report on what each campus is doing to maintain their AAU status.

§ 15. Section 6206 of the education law is amended by adding a new subdivision 17 to read as follows:

17. The city university trustees shall conduct a study regarding the effectiveness and functionality of the New York state tuition assistance program, which shall consider a variety of factors including, but not limited to, the costs associated with pursuing a degree in undergraduate study, current tuition assistance program thresholds and award levels, current eligibility criteria to qualify for an award under the tuition assistance program and any other information the trustees determine to be relevant. The study shall also include recommendations to improve the tuition assistance program to better meet the future financial aid needs of students who reside in New York state and to ensure continued access and affordability of the city university of New York. The study shall be submitted to the governor, the temporary president of the senate, the speaker of the assembly, the director of the division of budget, the senate finance committee, the assembly ways and means committee and the higher education committees of the legislature on or before October first, two thousand thirteen. In addition, the city university shall annually examine and report on each state-operated campus' efforts to promote fiscal stability for the duration of the five year tuition plan by implementing cost saving measures and increasing fundraising efforts.
§ 16. This act shall take effect July 1, 2011 and shall expire 5 years after such effective date when upon such date the provisions of this act shall be deemed repealed.