

**Testimony before the Joint Fiscal Committees  
on the SFY 2009-10 *Executive Budget*  
Higher Education Hearing  
January 15, 2009**

**Submitted by  
Karen Schimke, President and CEO  
Schuyler Center for Analysis and Advocacy**



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for people in need since 1872*

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My name is Karen Schimke and I am President and CEO of the Schuyler Center for Analysis and Advocacy (SCAA). The Schuyler Center for Analysis and Advocacy (SCAA) has provided a strong advocacy voice for our state's most vulnerable citizens for over 135 years.

Last spring, SCAA, the New York Association of Training and Employment Professionals, and a wide-ranging coalition of organizations sent a letter to Governor David Paterson. The letter urged the state Commission on Higher Education to "place greater emphasis on the needs of the New York workforce." The 34 co-signers of this letter included the New York State Business Council, the Manufacturers Association of Central New York, The Hospital Association of New York State, the New York State AFL-CIO, and 11 Workforce Investment Boards around the state.

Why did such a wide range of organizations consider the connection between higher education and the workforce of such great importance? Quite simply, because the current policy framework for supporting higher education in New York fails to support students with work and family responsibilities, and these students represent the future of New York's economy. In areas such as financial aid, non-credit education, remedial and developmental education, transitions from adult and vocation education, and accountability, New York needs to substantially rethink its policies. Employer demand may be low today, but the employers we are counting on to lift New York out of its recession will rely on skilled employees in many occupations and fields.

That brings us to the Executive Budget. The fundamental effect of the Governor's higher education proposal will be to reduce funding for grants that go to low-income students attending both public and private colleges, and transfer that funding to a loan program designed primarily for upper- and middle-income students attending private colleges. We are not against improving access to low-interest student loans, or making marginal changes in TAP where merited. But paying for a student loan program with reductions to a need-based grant program would be a serious mistake. In the current economy, going to college already represents a gamble for low-income New Yorkers – let's not load the dice against them.

In today's testimony, I will identify changes in TAP and community college tuition that we consider to be negative; I will suggest revenue sources to maintain funding in these areas; and I will suggest some questions the state should ask about the proposed NYHELPS initiative to ensure that whatever is enacted meets the needs of students.

## ***I. THREE PROPOSALS THE STATE LEGISLATURE SHOULD REJECT***

### **1. Reduce base funding to community colleges by \$60 million.**

We urge the Legislature to protect funding for community colleges. Community colleges are the most essential educational opportunity for low-income and minority youth and adults, and they are never more essential than in a recession. Demand is reportedly surging at community colleges, and the state should be expanding support to meet that demand. Furthermore, improving opportunity at community colleges will lead to expanded availability of skilled workers, an important asset for businesses in New York.

New York's community college tuition and fee levels are already 30% above the national average. Raising tuition further will put the state's low-cost option for higher education out of reach for many students. Some community colleges that have already reached their tuition cap will have to reduce their operating budgets, which will involve cutting muscle and bone, not fat. These colleges are already extremely cost-efficient, and there are no reserves out of which they could take further budgetary cuts.

### **2. Increase academic standards for non-remedial TAP recipients.**

The "academic standards" requirement is comprised of two proposals: 1) an "academic progress" proposal that raises the number of credits a non-remedial student must earn each semester to maintain TAP eligibility; and 2) a "minimum GPA" proposal that raises the grade point average a non-remedial student must have to maintain TAP eligibility.

- The academic progress proposal contradicts Part-Time TAP and undermines programs to support part-time students. Should the academic progress proposal pass, it will create an absurd catch-22: all non-remedial students in four-year colleges would be required to accumulate 45 credit hours by the end of the fourth semester. But a student who qualifies for and enrolls in Part-Time TAP will accumulate no more than 42 credits by the end of the fourth semester, thereby losing TAP eligibility. Furthermore, the state Aid To Part-Time Students and other programs to support part-time students would now become harmful, since they would subsidize students to enroll part-time, thereby permanently eliminating those students' TAP eligibility.
- The academic progress proposal hurts working students and undermines New York State's workforce development needs. Many college students must work full-time to afford college. Working students cannot realistically enroll at a 12-hour or 15-hour level. To strip these students of TAP eligibility because of their need to work outside of college is unfair and discriminatory. Further, such a standard makes it more difficult for employers to encourage their employees to attend college, because the student will have less ability to cover educational costs while continuing to work. This would cut off a crucial avenue for the development of workforce skills.

- The minimum GPA proposal overrides the best judgment of college administrators. TAP should not be used to support students who are doomed to fail. But the best judges of a student's prospects for success are college administrators who work directly with students and set rules for their colleges. Setting a 2.0 standard by the fourth semester in college threatens to put students out of college who still have a chance to get back on track. The state should defer to college administrators unless it has evidence to suggest that they are failing to do their jobs effectively.

**3. Pro-rate TAP awards for students enrolled in between 10 and 14 credits per semester, using 15 credit hours per semester as the basis for full TAP awards.**

The stated goal of the TAP proration proposal is to improve on-time graduation by TAP recipients. The administration proposes to raise the full-time enrollment standard to 15 credit hours. Thus, a student who takes 12 credit hours in a semester will receive only 80% of the TAP benefit. There are some mitigating factors, such as the ability to extend eligibility by another semester or two, but the primary effect of this proposal will be to slash TAP payments to the low-income and minority students who need them most.

The proration proposal cuts TAP aid when it is most needed: the first year of college. The administration believes that students should take a course load of 15 hours per semester so that they can complete college on time. But for working students, that is not a realistic option. According to federal data, almost half of all adult full-time community college students in New York also work full-time. The same is true for four in ten adult students pursuing a bachelors degree at SUNY and CUNY colleges. Many working college students are also parents. These working parents may well look at the cut in TAP, the impending tuition hikes and say, forget college. I can't risk borrowing money in this economy. They are also more likely to drop out in the first year of college.

Combined with expected tuition hikes, the proration proposal would raise annual tuition costs by approximately \$1200 annually for the average TAP recipient. To put this sum in context, one respected study found that each \$1000 tuition increase reduces college enrollment among low-income students by 16%.<sup>1</sup> Can this state risk a 16% drop in college attendance among low-income New Yorkers?

## ***II. TWO POTENTIAL REVENUE SOURCES FOR HIGHER EDUCATION***

Ideally, the Legislature could protect all valuable programs from budget cuts. In the face of a \$15 billion deficit, this is obviously not possible. Therefore we are biting the bullet to suggest two key areas where funding can be cut to offset increased funding for TAP and community colleges.

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<sup>1</sup> Michael B. Paulsen and Edward P. St. John, "Social Class and College Costs: Examining the Financial Nexus between College, Choice and Persistence," *The Journal of Higher Education*, Vol. 73, No. 2. (Mar. - Apr., 2002), pp. 189-236.

These two programs are of some value, but not sufficient value to justify funding by the state in their current form.

### **Eliminate the Empire Zone Program**

The task of the Assembly and Senate Higher Education committees is to decide where to apportion harsh cuts to higher education. They must choose between worthy programs like parents forced to choose to give up one of their children. This is the traditional dilemma of higher education policy in a bad budget year – and it is a false dilemma.

Our state’s colleges and universities are a vital component of the state’s economic development system. The Governor’s Commission on Higher Education stated this point with great eloquence in its final report:

“In the coming age of ideas, institutions of higher education are the key. The quality of life of the citizens of New York State – the quality of our jobs, businesses, culture, and environment – will, most certainly, depend upon the extent to which our citizens of today and tomorrow are educated.”<sup>2</sup>

If higher education is central to New York’s economic prosperity, it should be viewed in the context of the state’s economic development strategy. Frankly, the state is funding economic development programs of much less importance to the economy than its colleges and universities.

We would focus your attention specifically on the Empire Zone program. Originally created to assist low-income communities in attracting new investment and jobs, Empire Zones have become a costly untargeted subsidy lacking any real accountability for results. Instead of reducing the size of the Empire Zone program and devoting the savings to other tax breaks, as the Governor proposes, the state should simply abolish the Empire Zone program altogether. Half of the savings could be used to support higher education, which will benefit the state’s employers far more than Empire Zones do, and the other half could be used to reduce the deficit. As the economy recovers, New York should replace the Empire Zone program with an assortment of programs that integrate economic and workforce development initiatives.

### **Reduce Bundy Aid**

The Governor proposes spending \$42 million on Bundy Aid in 2009-10, \$2 million less than last year. We propose cutting Bundy Aid by \$22 million and significantly restructuring it. As the state faces a huge fiscal shortfall, it should cause us some concern that in 2007 the state spent \$10 million to support three private colleges – Columbia, NYU and Cornell – whose endowments were collectively valued at more than \$11 billion.<sup>3</sup> We recognize that college

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<sup>2</sup> *Final Report of Findings and Recommendations*, New York State Commission on Higher Education, June 2008, p. 15.

<sup>3</sup> SCAA calculation based on data released by the New York State Education Department and the National Association of College and University Business Officers.

endowments have dropped since 2007 due to the financial crisis, but we are still talking about prosperous institutions with many financial resources.

Bundy Aid is often justified as a support to fiscally strapped colleges lacking large endowments. These colleges are not as glamorous as Columbia or Cornell, but they graduate many students from modest backgrounds and play an important role in our society's economic mobility. However, half of all Bundy Aid funding goes to only 12 colleges, of whom eight have endowments above the statewide median.

This imbalance results largely from Bundy Aid's regressive distribution formula. Bundy Aid is distributed according to degrees conferred in the previous year, with a special premium for doctoral degrees. Colleges do not receive additional funding based on serving low-income students. Indeed, colleges receive less funding for Associate degrees, which primarily go to low-income students, and more funding for doctoral degrees, which are issued largely to prosperous students attending large, well-funded institutions.

We would be pleased to discuss alternative funding systems with the Legislature that would decrease Bundy Aid expenses while minimizing the blow to colleges with smaller endowments.

### ***III. QUESTIONS ABOUT NYHELPS***

SCAA opposes funding any new student loan program with reductions to TAP. Frankly, the state's need-based aid program should be strengthened before we consider expanding state involvement in the student loan market.

But our position is not a judgment on the value of the New York Higher Education Loan Program (NYHELPS). SCAA has not yet taken a position on this proposal. For some students, grant aid will not suffice, and dependence on the private lending market could be unwise. However, the Governor's proposal is complex. We have some basic concerns, as well as a set of questions we believe the State should answer before going down this road.

Our primary concerns are these:

- Need: we have seen no independent estimate as to the need for lending to students not served by Federal Stafford and Parent PLUS loans, and not served or poorly served by the private lending market. We might help students more effectively through a public education campaign about Stafford and PLUS loans, both of which are severely underutilized.
- Financial viability: Lacking a feasibility analysis, we are unsure whether the proposed default reserve pools would be financially sound. A few years ago, the public believed that Fannie Mae and Freddie Mac were financially sound. The cost of that mistake is still being reckoned. Furthermore, the cost of financial viability may be paid by students rather than taxpayers.

- Consumer protection: All key repayment terms, including interest rates, deferment and forbearance criteria, and collection fees “shall be established in rules and regulations promulgated by the corporation,” meaning the Higher Education Services Corporation. So far as we know, that agency is not required to hold public hearings during the promulgation of its regulations.

A more extensive list of our questions about NYHELPS is attached. In addition, the National Consumer Law Center has asked that we attach their comments regarding the NYHELPS proposal. Please note, however, that their position does not represent that of SCAA.

I thank the members for their interest and will be pleased to take any questions you may have.

## APPENDIX: QUESTIONS ON NYHELPS PROPOSAL

- What students does NYHELPS seek to help? Students who currently take out private loans – mostly those who attend private colleges and universities – could benefit from lower interest rates. However, the federal government can meet the needs of most college students for low-interest loans. In addition to the need-based Stafford loan program, the PLUS loan program (also known as Parent Loans) provides loans at either 7.8% or 8.5% for all dependent students. These loans are not need-based or capped. The populations not served by the combination of NYHELPS and PLUS would appear to be relatively small.
- What is the business plan for NYHELPS? Under the governor’s proposal, the state would set up default reserve pools to finance large loan portfolios. These “self-guaranteed” pools will essentially become quasi-governmental companies. As such, they must perform the same actuarial analyses that private lenders do. This creates a dilemma. If a self-guaranteed pool lends to students with poor credit and offers humane repayment terms (including forbearance and deferral), it will lose money and possibly fold. If it lends to students with good credit (e.g., by competing with PLUS for student lending business) and imposes harsh repayment terms, it will remain fiscally viable at the price of becoming similar to the private lenders to which it was supposed to provide an alternative.
- Are the default reserve pools really self-guaranteed? In theory, the default reserve pools do not count against the state’s debt limit because they are self-guaranteed. That is, the state does not guarantee any debts outside the actual cash balance of the default reserve pools. But if the pools’ fiscal solvency were to deteriorate, it would seem likely that the state would be forced to bail them out, just as the federal government has been forced to bail out quasi-governmental entities such as Fannie Mae. It seems possible that the pools would be guaranteed *de facto* by the full faith and credit of the state, even if they are not guaranteed *de jure*.
- What protections will student borrowers have? NYHELPS loans appear to have no cancellation options other than death and total and permanent disability. All key repayment terms, deferment and forbearance criteria, collection fees and borrowing caps “shall be established in rules and regulations promulgated by the corporation,” meaning the Higher Education Services Corporation. That agency is not required to hold public hearings during the promulgation of its regulations. As noted above, its fiduciary interest will be the default reserve pool, not the best interests of the student.

# NATIONAL CONSUMER LAW CENTER

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Boston Office:  
7 Winthrop Sq., 4<sup>th</sup> Fl.  
Boston, MA 02110  
Phone: 617-542-8010  
Fax: 617-542-8028  
Washington Office:  
1001 Connecticut Ave., NW, Ste. 510  
Washington, DC 20036-5528  
consumerlaw@nclc.org  
www.ConsumerLaw.org

The proposed New York program sets a dangerous precedent by assigning unprecedented collection powers to a state private loan program. The consequences for borrowers could be dire. These powers would be authorized without any statutory cap on fees or interest rates. Further, the program would include students at all types of institutions, including for-profit vocational schools, which have a track record of poor performance and high student loan default rates.

The federal government has extraordinary powers to collect federal student loans. These powers have been expanded over time, particularly in the last decade. As a result, it is nearly impossible for borrowers who encounter financial difficulties to get out from under student loan debt. Although we continue to oppose these extraordinary and unprecedented federal powers, at least borrowers in the federal loan programs have access to certain flexible repayment options (including the new income-based repayment program) and loan terms that are set by law, including moderate fixed interest rates and some caps on fees.

As experts on consumer rights and the risks of non-federal student loans, we are particularly concerned that the proposed NYHELP program:

- Is funded, in part, through collection fees charged to financially distressed borrowers. No statutory cap is set on the amount of collection fees;
- Allows the state to garnish borrower wages without first going to court, an extraordinary power for a state loan program. In addition, the wage garnishment provisions may conflict with federal wage garnishment protections;
- Allows the state to offset state tax refunds from financially distressed borrowers;
- Eliminates the statute of limitations for collection of these state loans. The elimination of the statute of limitations for federal student loans in 1991 placed struggling borrowers in unenviable, rarified company with murderers, traitors, and only a few violators of civil laws. Even rapists are not in this category since there is a statute of limitations for rape prosecutions, at least in federal law and in most states.
- Eliminates the contract defense of infancy for no other reason than that this is done in the federal loan programs;
- Explicitly exempts itself from any applicable state usury laws;

- Sets an unreasonably high bar for disability discharges, similar to the federal loan programs, requiring total and permanent disability in order to discharge loans;
- Provides no guidance on the types of forbearances and deferments available, other than stating that borrowers in default will not be eligible for such relief;
- Sets a default period that is shorter than the default period for most federal loans;
- Attempts to eliminate potential borrower defenses against lenders if borrowers are the victims of fraudulent schools, as too often occurs in the proprietary school context;
- Unlike the federal student loan programs, provides no explicit avenue for a borrower to get out of default and back into repayment;
- May increase the availability and use of the risky, high-interest variable rate student loans that the program is ostensibly designed to reduce.

For more information, please contact Deanne Loonin, Director of NCLC's Student Loan Borrower Assistance Project ([dloonin@nclc.org](mailto:dloonin@nclc.org), 617-542-8010). The National Consumer Law Center, Inc. is a nonprofit Massachusetts corporation, founded in 1969, specializing in consumer issues, with an emphasis on consumer credit. NCLC's Student Loan Borrower Assistance Project provides information about student loan rights and responsibilities to borrowers and advocates. See [www.studentloanborrowerassistance.org](http://www.studentloanborrowerassistance.org). We submit these comments on behalf of our low-income clients.