



New York State Office of the State Comptroller

Thomas P. DiNapoli

New York State and Local Retirement System

Employees' Retirement System

Police and Fire Retirement System

A MESSAGE FROM COMPTROLLER THOMAS P. DINAPOLI



Every year, the Legislature passes new laws that affect the New York State and Local Retirement System (NYSLRS) and other State public retirement systems.

This publication covers retirement and retirement-related legislation enacted or vetoed during the 2011 Legislative Session. Sections I and II list legislation directly affecting NYSLRS, our participating employers, members, retirees and beneficiaries. Sections III and IV cover legislation affecting the other New York State public retirement systems.

I hope you find this 2011 Retirement Legislation publication to be a useful reference.

Sincerely,

A handwritten signature in black ink that reads "Tom DiNapoli". The signature is written in a cursive, flowing style.

Thomas P. DiNapoli
State Comptroller

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Section I

Legislation Affecting the New York State and Local Retirement System

Chapter No.	Page	Description
62	3	Enacts into law major components of legislation necessary to implement the state fiscal plan for the 2011-2012 state fiscal year (Merges the office of victim services into the division of criminal justice services; merges the department of correctional services and the division of parole into the department of corrections and community supervision and makes conforming technical changes in law; eliminates the NYS foundation for science, technology and innovation and transfers functions to the department of economic development). [S.2812/A.4012]
95	217	Enacts the Marriage Equality Act relating to ability of individuals to marry. [A.8354]
96	220	Chapter amendment to A.8354. [S.5857/A.8520]
97	222	Enacts major components of legislation relating to real property tax levies, rent regulation, exemption from local taxation and mandate relief. Governor's Program Bill (exempt pension increases >2% from cap) [S.5856/A.8518]
161	295	Increases certain special accidental death benefits paid to widows, widowers or the deceased member's children. [S.3994/A.6068]
171	300	Authorizes members of the PFRS in active service to borrow against contributions. [S.5836/A.7561]
206	303	Amends the tax law, in relation to access to the wage reporting system. State Comptroller Bill [S.5460/A.7911]
365	310	Allows the Village of Southampton to reopen the optional retirement plan offered under section 384-d to police officer Theodore Raffel, Jr. [S.3034/A.4737]
368	312	An act to amend the retirement and social security law, in relation to the employment of police officers in the town of Southampton; and to repeal certain provisions of such law relating thereto. [S.3667/A.9976]
369	313	Authorizes the village of Maybrook, in Orange county, to offer an optional 20 year retirement plan to police officer Michael E. Maresca. [S.3505/A.6043]

CHAPTER TITLES

Chapter No.	Page	Description
372	315	Grants retroactive tier IV membership in the ERS to Michelle Merlino. [A.6335/S.4048]
374	317	Authorizes the town of East Greenbush to reopen an optional twenty year retirement plan to police officer Edward A. Miano. [A.7362/S.5072]
375	319	Decreases the minimum amount of time required before a service retirement may become effective and retirees of certain retirement systems may begin to receive their retirement. State Comptroller Bill [S.5651/A.7834]
378	321	Grants Randy Prock tier IV membership in the ERS. [S.5588/A.8201]
387	322	Authorizes the county of Westchester to issue serial bonds to finance certain payments over a period of five years for any costs associated with or related to the 2010 early retirement incentive. [S.2374/A.3403]
399	323	An act in relation to establishing the public integrity reform act of 2011; to amend the RSSL, in relation to pension forfeiture for certain public officials; and to amend the criminal procedure law, in relation to notice of entry of plea involving a public official (Part C). [S.5679/A.8301]
414	379	Authorizes the town of North Greenbush to offer an optional retirement plan to certain police officers. [A.5665/S.3550]
434	381	Authorizes the city of Newburgh to offer an optional 20 year retirement plan, pursuant to section 384-d to certain police officers and firefighters employed by such city. [S.2953/A.7441]
447	383	Relates to disability retirement applications made by or on behalf of certain deputy sheriffs. [S.5655/A.8109]
477	386	Provides for a period of probable usefulness to the payment for separation incentive program by the town of East Hampton, county of Suffolk. [S.4899/A.7298]
482	387	Authorizes the town of Stony Point to amortize the cost of payments to or for the benefit of employees upon separation of service from such town. [S.5362/A.7273]

CHAPTER TITLES

Chapter No.	Page	Description
483	388	Authorizes Michael P. Koval to receive retirement service credit for prior service. [S.5413/A.6747]
491	389	Implements the CSEA/MC collective bargaining agreement. [S.5846/A.8513]
525	415	Relates to treatment of member contributions in accordance with the provisions of the IRC; provides that contributions made by members of the PFRS shall be picked up by their employers and treated as employer contributions for tax purposes; provides that employee salaries shall be reduced by the amount of contributions which would be mandatory without the employer pick up. [S.5837/A.7605]
539	419	Allows the Town of Kent to reopen the optional retirement plan offered under section 384-d of the RSSL to police sergeant Jerry R. Raneri. [A.8270/S.5668]
582	421	Provides death benefits and health insurance coverage to eligible survivors of public employees who die while ordered to service in the uniformed services. State Comptroller Bill [S.5558/A.7835]
587	436	Allows Richard Merrill and Frederick Akshar to join the special retirement plan for sheriffs, undersheriffs and deputy sheriffs. [S.5719/A.8424]

Section II

Vetoed Legislation Affecting the New York State and Local Retirement System

Veto No.	Page	Description
M.48	441	Relates to service retirement benefits for persons engaged in criminal law enforcement and employed in the office of district attorney in Tompkins county. [S.5804/A.8290]
M.62	444	Provides for health insurance and supplemental benefits to retirees of the New York City off track betting corporation. [S.4489/A.5785]

CHAPTER TITLES

Section III

Legislation Affecting Other New York Public Retirement Systems

Chapter No.	Page	Description
180	449	Relates to the rate of regular interest used in the actuarial valuation of liabilities for the purpose of calculating contributions to retirement systems. [S.5485/A.8012]
514	452	Provides that a member with at least 20 years of creditable NYC police or fire service in the retirement system shall not be precluded from any rights he is entitled otherwise to nor upon retirement shall his benefits be in any way diminished as a result of a discharge or dismissal. [S.5653/A.5744]
553	454	Permits certain eligible vested members of the NYSTRS in tiers 3 and 4 who have ceased teaching to withdraw from such system and to transfer such credits to another state's retirement system; requires return of accumulated member contributions. NYSTRS Bill [S.3401/A.5368]
554	456	Increases to 10% the amount of assets in the NYSTRS which may be invested in real estate. NYSTRS Bill [S.3402/A.5369]

Section IV

Vetoed Legislation Affecting Other New York Public Retirement Systems

Veto No.	Page	Description
M.23	461	Allows school districts the option of amortizing future payments to the New York state teachers' retirement system. [S.4067/A.6309]
M.26	465	Permits Triborough bridge and tunnel members of the twenty-year age fifty retirement program who have incurred contribution deficiencies to defer full repayment until 2015. [S.5756/A.8335]

CROSS INDEX

Senate Bills

Assembly Bills

Bill No.	Chapter	Section	Page	Bill No.	Chapter	Section	Page
2812	62	I	3	4012	62	I	3
-	-	-	-	8354	95	I	217
5857	96	I	220	8520	96	I	220
5856	97	I	222	8518	97	I	222
3994	161	I	295	6068	161	I	295
5836	171	I	300	7561	171	I	300
5485	180	III	449	8021	180	III	449
5460	206	I	303	7911	206	I	303
3034	365	I	310	4737	365	I	310
3667	368	I	312	9976	368	I	312
3505	369	I	313	6043	369	I	313
4048	372	I	315	6335	372	I	315
5072	374	I	317	7362	374	I	317
5651	375	I	319	7834	375	I	319
5588	378	I	321	8201	378	I	321
2374	387	I	322	3403	387	I	322
5679	399	I	323	8301	399	I	323
3550	414	I	379	5665	414	I	379
2953	434	I	381	7441	434	I	381
5655	447	I	383	8109	447	I	383
4899	477	I	386	7298	477	I	386
5362	482	I	387	7273	482	I	387
5413	483	I	388	6747	483	I	388
5846	491	I	389	8513	491	I	389
5653	514	III	452	5744	514	III	452
5837	525	I	415	7605	525	I	415
5668	539	I	419	8270	539	I	419
3401	553	III	454	5368	553	III	454
3402	554	III	456	5369	554	III	456
5558	582	I	421	7835	582	I	421
5719	587	I	436	8424	587	I	436

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Section I

Legislation Affecting the
New York State and Local Retirement System

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STATE OF NEW YORK

S. 2812--C

A. 4012--C

SENATE - ASSEMBLY

February 1, 2011

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT relating to constituting chapter 18-A of the consolidated laws in relation to financial services; to amend the insurance law, the banking law, the executive law, the education law, the energy law, the state technology law, the real property law, the general business law, the public authorities law, the public health law, the public service law, the New York state defense emergency act, the state finance law, the criminal procedure law, the tax law, and chapter 784 of the laws of 1951, constituting the New York state defense emergency act, in relation to the creation of the department of financial services; to amend chapter 322 of the laws of 2007, amending the banking law relating to the power of banks, private bankers, trust companies, savings banks, savings and loan associations, credit unions and foreign banking corporations to exercise the rights of national banks, federal savings associations, federal credit unions and federal branches and agencies of foreign banks, in relation to the effectiveness of certain provisions of such chapter; to transfer certain authority with respect to consumer protection from the executive law to the department of state; to amend chapter 3 of the laws of 1997, amending the banking law and the insurance law relating to authorizing the banking board to permit banks and trust companies to exercise the rights of national

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD12576-05-1

banks, in relation to the effectiveness of the provisions of such chapter; and to repeal certain provisions of the banking law, the insurance law, the executive law, the agriculture and markets law, the general business law, the tax law, the criminal procedure law and chapter 610 of the laws of 1995, amending the insurance law relating to investments relating to financial services and to making technical corrections; and providing for the repeal of certain provisions upon expiration thereof (Part A); Intentionally omitted (Part B); to amend the correction law and the executive law, in relation to merging the department of correctional services and division of parole into the department of corrections and community supervision; repealing certain provisions of the executive law relating thereto; and providing for the repeal of certain provisions upon expiration thereof (Subpart A); and to amend the correction law, abandoned property law, alcoholic beverage control law, civil practice law and rules, civil rights law, civil service law, county law, court of claims act, criminal procedure law, education law, election law, environmental conservation law, executive law, facilities development corporation act, family court act, general business law, general municipal law, labor law, legislative law, mental hygiene law, municipal home rule law, penal law, public buildings law, public health law, public officers law, railroad law, retirement and social security law, social services law, state administrative procedure act, state finance law, state technology law, surrogate's court procedure act, tax law, town law, vehicle and traffic law, and the workers' compensation law, in relation to making conforming technical changes; and to repeal certain provisions of the correction law relating thereto (Subpart B) (Part C); to amend the economic development law, in relation to transferring the powers, functions and affairs of the New York state foundation for science, technology and innovation to the division of science, technology and innovation within the department of economic development; and to repeal sections 3151 and 3152 of the public authorities law relating thereto (Part D); and to amend the executive law, in relation to gubernatorial reorganization of governmental agencies and functions; and to amend the legislative law, in relation to formulation of a concurrent resolution; and providing for the repeal of such provisions upon expiration thereof (Part E)

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

1 Section 1. This act enacts into law major components of legislation
 2 which are necessary to implement the state fiscal plan for the 2011-2012
 3 state fiscal year. Each component is wholly contained within a Part
 4 identified as Parts A through E. The effective date for each particular
 5 provision contained within such Part is set forth in the last section of
 6 such Part. Any provision in any section contained within a Part, includ-
 7 ing the effective date of the Part, which makes a reference to a section
 8 "of this act", when used in connection with that particular component,
 9 shall be deemed to mean and refer to the corresponding section of the
 10 Part in which it is found. Section three of this act sets forth the
 11 general effective date of this act.

12

PART A

1 Section 1. Chapter 18-A of the consolidated laws is added to read as
2 follows:

3 CHAPTER 18-A OF THE CONSOLIDATED LAWS
4 FINANCIAL SERVICES LAW
5 ARTICLE 1
6 GENERAL PROVISIONS

7 Section 101. Short title.

8 101-a. Legislative findings and determinations.

9 102. Department of financial services.

10 103. Explanation of order of provisions.

11 104. Definitions.

12 § 101. Short title. This chapter shall be known and may be cited as
13 the "financial services law".

14 § 101-a. Legislative findings and determinations. The legislature
15 finds and determines that the banking, insurance and financial services
16 industries constitute a critical sector of New York state's economy.

17 The legislature also finds and determines that responsive, effective,
18 innovative, state banking and insurance regulation is necessary to oper-
19 ate in a global, evolving and competitive market place.

20 The legislature additionally finds and determines that this legis-
21 lation is necessary to modernize and transform the present state banking
22 department and state insurance department into a new integrated depart-
23 ment of financial services.

24 § 102. Department of financial services. The legislature hereby
25 declares that the purpose of this chapter is to consolidate the depart-
26 ments of insurance and banking, and provide for the enforcement of the
27 insurance, banking and financial services laws, under the auspices of a
28 single state agency to be known as the "department of financial
29 services" and to accomplish goals including the following:

30 (a) To encourage, promote and assist banking, insurance and other
31 financial services institutions to effectively and productively locate,
32 operate, employ, grow, remain, and expand in New York state;

33 (b) To establish a modern system of regulation, rule making and adju-
34 dication that is responsive to the needs of the banking and insurance
35 industries and to the needs of the state's consumers and residents;

36 (c) To provide for the effective and efficient enforcement of the
37 banking and insurance laws;

38 (d) To expand the attractiveness and competitiveness of the state
39 charter for banking institutions and to promote the conversion of banks
40 to such status;

41 (e) To promote and provide for the continued, effective state regu-
42 lation of the insurance industry;

43 (f) To provide for the regulation of new financial services products;

44 (g) To promote the prudent and continued availability of credit,
45 insurance and financial products and services at affordable costs to New
46 York citizens, businesses and consumers;

47 (h) To promote, advance and spur economic development and job creation
48 in New York;

49 (i) To ensure the continued safety and soundness of New York's bank-
50 ing, insurance and financial services industries, as well as the prudent
51 conduct of the providers of financial products and services, through
52 responsible regulation and supervision;

53 (j) To protect the public interest and the interests of depositors,
54 creditors, policyholders, underwriters, shareholders and stockholders;

1 (k) To promote the reduction and elimination of fraud, criminal abuse
2 and unethical conduct by, and with respect to, banking, insurance and
3 other financial services institutions and their customers; and

4 (l) To educate and protect users of banking, insurance, and financial
5 services products and services through the provision of timely and
6 understandable information.

7 § 103. Explanation of order of provisions. In this financial services
8 law, the provisions have been divided in descending order of applica-
9 tion, with illustrations, as follows:

10 Article 1

11 Section 101

12 Subsection (a)

13 Paragraph (1)

14 Subparagraph (A)

15 Item (i)

16 Clause (I)

17 Subitem (aa)

18 Subclause (aaa)

19 § 104. Definitions. (a) In this chapter, unless the context otherwise
20 requires:

21 (1) "Department" shall mean the department of financial services.

22 (2) "Financial product or service" shall mean: (A) any financial prod-
23 uct or financial service offered or provided by any person regulated or
24 required to be regulated by the superintendent pursuant to the banking
25 law or the insurance law or any financial product or service offered or
26 sold to consumers except financial products or services: (i) regulated
27 under the exclusive jurisdiction of a federal agency or authority, (ii)
28 regulated for the purpose of consumer or investor protection by any
29 other state agency, state department or state public authority, or (iii)
30 where rules or regulations promulgated by the superintendent on such
31 financial product or service would be preempted by federal law; and

32 (B) "Financial product or service" shall also not include the follow-
33 ing, when offered or provided by a provider of consumer goods or
34 services: (i) the extension of credit directly to a consumer exclusive-
35 ly for the purpose of enabling that consumer to purchase such consumer
36 good or service directly from the seller, (ii) the collection of debt
37 arising from such credit, or (iii) the sale or conveyance of such debt
38 that is delinquent or otherwise in default.

39 (2-a) A "financial product or service regulated for the purpose of
40 consumer or investor protection": (A) shall include (i) any product or
41 service for which registration or licensing is required or for which the
42 offeror or provider is required to be registered or licensed by state
43 law, (ii) any product or service as to which provisions for consumer or
44 investor protection are specifically set forth for such product or
45 service by state statute or regulation and (iii) securities, commodities
46 and real property subject to the provisions of article twenty-three-a of
47 the general business law, and (B) shall not include products or services
48 solely subject to other general laws or regulations for the protection
49 of consumers or investors.

50 (3) "Person" shall mean any individual, partnership, corporation,
51 association or any other entity.

52 (4) "Regulated person" or "person regulated" shall mean any person (A)
53 operating under or required to operate under a license, registration,
54 certificate or authorization under the insurance law or the banking law,
55 (B) authorized, accredited, chartered or incorporated or possessing or
56 required to possess other similar status under the insurance law or the

1 banking law, or (C) regulated by the superintendent pursuant to this
2 chapter.

3 (5) "Superintendent" shall mean the superintendent of financial
4 services of this state.

5 (b) Whenever the terms "include", "including" or terms of similar
6 import appear in this chapter, unless the context requires otherwise,
7 such terms shall not be construed to imply the exclusion of any person,
8 class or thing not specifically included.

9 (c) A reference in this chapter to any other law or statute of this
10 state, or of any other jurisdiction, means such law or statute as
11 amended to the effective date of this chapter, and unless the context
12 otherwise requires, as amended thereafter.

13 ARTICLE 2

14 ORGANIZATION OF THE DEPARTMENT OF FINANCIAL SERVICES

15 Section 201. Declaration of policy.

16 202. Superintendent.

17 203. Deputies; employees.

18 204. Offices of the department.

19 205. Bureaus.

20 205-a. Report.

21 205-b. State charter advisory board.

22 206. Assessments to defray operating expenses of the department.

23 § 201. Declaration of policy. (a) It is the intent of the legislature
24 that the superintendent shall supervise the business of, and the persons
25 providing, financial products and services, including any persons
26 subject to the provisions of the insurance law and the banking law.

27 (b) The superintendent shall take such actions as the superintendent
28 believes necessary to:

29 (1) foster the growth of the financial industry in New York and spur
30 state economic development through judicious regulation and vigilant
31 supervision;

32 (2) ensure the continued solvency, safety, soundness and prudent
33 conduct of the providers of financial products and services;

34 (3) ensure fair, timely and equitable fulfillment of the financial
35 obligations of such providers;

36 (4) protect users of financial products and services from financially
37 impaired or insolvent providers of such services;

38 (5) encourage high standards of honesty, transparency, fair business
39 practices and public responsibility;

40 (6) eliminate financial fraud, other criminal abuse and unethical
41 conduct in the industry; and

42 (7) educate and protect users of financial products and services and
43 ensure that users are provided with timely and understandable informa-
44 tion to make responsible decisions about financial products and
45 services.

46 § 202. Superintendent. (a) The head of the department shall be the
47 superintendent of financial services, who shall be appointed by the
48 governor, by and with the advice and consent of the senate, and who
49 shall hold office at the pleasure of the governor. The superintendent
50 shall possess the rights, powers, and duties in connection with finan-
51 cial services and protection in this state, expressed or reasonably
52 implied by this chapter or any other applicable law of this state.

53 (b) The superintendent may, in the superintendent's discretion, desig-
54 nate one of the superintendent's deputies to act as superintendent
55 during the superintendent's absence or inability to act. If the office
56 of superintendent is vacant, or if the superintendent's absence or

1 inability to act continues for a period of more than thirty successive
2 days, the governor may designate a deputy to act as superintendent until
3 the filling of the vacancy or the return or recovery of the superinten-
4 dent.

5 (c) Whenever in this chapter, the banking law, the insurance law or
6 any other law the superintendent is authorized but not required to take
7 any action or the superintendent's approval is required as a condition
8 precedent to the doing of any act, the taking of such action and the
9 giving of such approval shall be within the superintendent's sound
10 discretion. In taking any action with respect to any banking organiza-
11 tion, and in approving or disapproving any application made by a banking
12 organization, the superintendent shall give due consideration to the
13 policy of the state of New York as set forth in section ten of the bank-
14 ing law.

15 § 203. Deputies; employees. (a) The superintendent shall appoint a
16 deputy for insurance who shall be the head of the insurance division and
17 a deputy for banking who shall be the head of the banking division. The
18 superintendent may appoint such other deputies as the superintendent
19 deems necessary to fulfill the responsibilities of the department. The
20 superintendent may remove at will any deputy appointed by the super-
21 intendent, except as may be otherwise provided by the civil service law.

22 (b) The superintendent may appoint and remove from time to time, in
23 accordance with law and any applicable rules of the state civil service
24 commission, such employees, under such titles as the superintendent may
25 assign, as the superintendent may deem necessary for the efficient
26 administration of the department. They shall perform such duties as the
27 superintendent shall assign to them. The compensation of such employees
28 shall be determined by the superintendent in accordance with law.

29 (c) Any action that the superintendent is required or authorized here-
30 inafter by this chapter, the banking law, the insurance law or other
31 laws to take may be taken by a deputy or authorized employee to whom the
32 duty of taking such action has been delegated or assigned by the super-
33 intendent.

34 § 204. Offices of the department. Suitable offices for conducting the
35 business of the department shall be located in the cities of Albany and
36 New York, and such other cities as the superintendent deems necessary.
37 Necessary additional office, filing and storage space that cannot be
38 supplied by the state commissioner of general services may be leased by
39 the superintendent, and rent or expenses incurred pursuant to any such
40 lease shall, unless otherwise provided for, be paid on the certificate
41 of the superintendent and the audit and warrant of the comptroller.

42 § 205. Bureaus. The superintendent shall establish an insurance divi-
43 sion and a banking division. The superintendent may establish such other
44 bureaus, divisions, and other units within the department as may be
45 necessary for the administration and operation of the department and the
46 proper exercise of its powers and the performance of its duties, under
47 this chapter, and may, from time to time, consolidate or abolish such
48 divisions, bureaus or other units within the department. Notwithstanding
49 any inconsistent provision of law, the superintendent may determine the
50 official functions of each division, bureau, or other unit within the
51 department. There shall be a head of each bureau, division or other unit
52 to be appointed by the superintendent, who shall serve at the pleasure
53 of the superintendent, except as may be otherwise provided by the civil
54 service law. The heads of bureaus, divisions or units in the banking and
55 insurance departments who are in office when this chapter takes effect

1 shall continue in office at the pleasure of the superintendent, except
2 as may be otherwise provided by the civil service law.

3 § 205-a. Report. The governor shall by June thirtieth, two thousand
4 eleven, create a working group to examine ways to improve the efficiency
5 and effectiveness of banking regulation and insurance regulation,
6 including opportunities to integrate certain regulatory activities
7 prescribed by the banking law and the insurance law. Such working group
8 shall consult, in making its examination, with representatives of the
9 banking, insurance and financial services industries. On or before Janu-
10 ary first, two thousand twelve, the superintendent shall issue a report
11 on the results of this review to the governor, the speaker of the assem-
12 bly and the temporary president of the senate.

13 § 205-b. State charter advisory board. There shall be within the
14 department a state charter advisory board to work with the superinten-
15 dent in retaining state chartered banking institutions, encouraging
16 federally chartered institutions to convert to a state charter and
17 promoting the state banking system. There shall be nine members of the
18 advisory board who shall be appointed by the superintendent. The member-
19 ship shall consist of: (a) one representative of credit unions, (b) one
20 representative of consumers, (c) one representative of foreign banks;
21 and (d) representatives of banks which, to the extent practicable,
22 reflect a range of size and geographical location, provided, however,
23 that at least one shall represent institutions of more than three
24 billion dollars in assets; at least two shall represent institutions of
25 less than five hundred million dollars in assets. The superintendent
26 shall make rules to govern the method by which state chartered insti-
27 tutions may nominate persons to the board and the process for selecting
28 such members, provided that the representative of consumers shall be
29 selected by the superintendent. The term of each member of such advi-
30 sory board shall be three years, or until a successor is appointed and
31 vacancies shall be filled for the unexpired term only. The board shall
32 meet at least three times annually pursuant to the call of the super-
33 intendent. Such meetings may be held by means of a conference telephone
34 or similar communications equipment allowing all persons participating
35 in the meeting to hear each other at the same time. The members of the
36 advisory board shall receive no compensation nor reimbursement for
37 expenses. The advisory board may:

38 (1) consider and recommend ways to maintain the state charter as a
39 viable and attractive option, including bringing to the superintendent's
40 attention issues of concern to state chartered banking institutions;

41 (2) consider and recommend ways to encourage banking institutions to
42 offer a diversity of financial products and services throughout the
43 state;

44 (3) recommend to the superintendent the establishment of such laws as
45 may be deemed necessary, and the amendment or repeal thereof;

46 (4) recommend to the superintendent the promulgation of rules and
47 regulations not inconsistent with the law, as may be deemed necessary,
48 and the amendment or repeal thereof; and

49 (5) report within thirty days after receipt, on any proposed regu-
50 lations, amendments thereto, or repeal thereof, prior to final action
51 thereon by the superintendent.

52 The advisory board shall have no executive, administrative or appoin-
53 tive powers or duties.

54 § 206. Assessments to defray operating expenses of the department.

55 (a) For each fiscal year commencing on or after April first, two thou-
56 sand twelve, assessments to defray operating expenses, including all

1 direct and indirect costs, of the department, except expenses incurred
2 in the liquidation of banking organizations, shall be assessed by the
3 superintendent in accordance with this subsection. Persons regulated
4 under the insurance law shall be assessed by the superintendent for the
5 operating expenses of the department that are solely attributable to
6 regulating persons under the insurance law, which shall include any
7 expenses that were permissible to be assessed in fiscal year two thou-
8 sand nine-two thousand ten, with the assessments allocated pro rata upon
9 all domestic insurers and all licensed United States branches of alien
10 insurers domiciled in this state within the meaning of paragraph four of
11 subsection (b) of section seven thousand four hundred eight of the
12 insurance law, in proportion to the gross direct premiums and other
13 considerations, written or received by them in this state during the
14 calendar year ending December thirty-first immediately preceding the end
15 of the fiscal year for which the assessment is made (less return premi-
16 ums and considerations thereon) for policies or contracts of insurance
17 covering property or risks resident or located in this state the issu-
18 ance of which policies or contracts requires a license from the super-
19 intendent. Persons regulated under the banking law shall be assessed by
20 the superintendent for the operating expenses of the department that are
21 solely attributable to regulating persons under the banking law in such
22 proportions as the superintendent shall deem just and reasonable. Oper-
23 ating expenses of the department not covered by the assessments set
24 forth above shall be assessed by the superintendent in such proportions
25 as the superintendent shall deem just and reasonable upon all domestic
26 insurers and all licensed United States branches of alien insurers domi-
27 ciled in this state within the meaning of paragraph four of subsection
28 (b) of section seven thousand four hundred eight of the insurance law,
29 and upon any regulated person under the banking law, other than mortgage
30 loan originators, except as otherwise provided by sections one hundred
31 fifty-one and two hundred twenty-eight of the workers' compensation law
32 and by section sixty of the volunteer firefighters' benefit law. The
33 provisions of this subsection shall not be applicable to a bank holding
34 company, as that term is defined in article three-A of the banking law.
35 Persons regulated under the banking law will not be assessed for
36 expenses that the superintendent deems to benefit solely persons regu-
37 lated under the insurance law, and persons regulated under the insurance
38 law will not be assessed for expenses that the superintendent deems to
39 benefit solely persons regulated under the banking law.

40 (b) For each fiscal year commencing on or after April first, two thou-
41 sand twelve, a partial payment shall be made by each entity subject to
42 this section in a sum equal to twenty-five per centum, or such other per
43 centum or per centums as the superintendent may prescribe, of the annual
44 expenses assessed upon it for the fiscal year as estimated by the super-
45 intendent. Such payment shall be made on March tenth of the preceding
46 fiscal year and on June tenth, September tenth and December tenth of
47 each year, or at such other dates as the superintendent may prescribe.
48 The balance of assessments for the fiscal year shall be paid upon deter-
49 mination of the actual amount due in accordance with the provisions of
50 this section. Any overpayment of annual assessment resulting from
51 complying with the requirements of this subsection shall be applied
52 against the next estimated quarterly assessment, if less than or equal
53 to such amount, with any excess refunded to the assessed. As an alterna-
54 tive, if the estimated annual assessment for the fiscal year is equal to
55 or less than the annual minimum assessment set by the superintendent,
56 the superintendent may require full payment to be made on or before

1 September thirtieth or such other date of the fiscal year as the super-
2 intendent may determine.

3 (c) The expenses incurred in making examinations of, or for special
4 services performed on account of, any bank holding company, as that term
5 is defined in the banking law, or any regulated person under the banking
6 law, shall be assessed provided, however, that the superintendent, in
7 the superintendent's sole discretion, may determine, with respect to
8 expenses incurred in the making of any specific examination or investi-
9 gation, or the performing of any special services, that any such expense
10 shall be assessed against and paid by the bank holding company or any
11 other regulated person under the banking law for which they were
12 incurred or performed.

13 (d) The expenses incurred in making an examination of any affiliate of
14 a banking organization pursuant to the banking law, and the expenses
15 incurred in making an examination, pursuant to the banking law, of a
16 non-banking subsidiary of a corporation or any other entity that is an
17 affiliate of a banking organization, shall be assessed against and paid
18 by such banking organization if the affiliate cannot be assessed pursu-
19 ant to the provisions of the banking law.

20 (e) The superintendent may, in the superintendent's sole discretion,
21 upon notice, suspend the license, registration, certificate or authority
22 (for purposes of this section, a license) granted to any person pursuant
23 to this chapter, the banking law or insurance law, upon the failure of
24 such person to make any payment required by this section within thirty
25 days after the due date. If the superintendent has suspended any such
26 license, such license may be reinstated if the superintendent determines
27 that such person has made any such payments within ninety days after the
28 date of such notice of suspension. Otherwise, unless the superinten-
29 dent, in the superintendent's sole discretion, has extended such suspen-
30 sion, the license of such person shall be deemed to be automatically
31 terminated by operation of law at the close of business on such nineti-
32 eth day.

33 (f) (1) The expenses of every examination of the affairs of any regu-
34 lated person subject to the insurance law, including an appraisal of
35 such regulated person's real property or of any real property on which
36 such regulated person holds a mortgage, made pursuant to the authority
37 conferred by any provision of this chapter, the insurance law or the
38 banking law, shall be borne and paid by the regulated person so exam-
39 ined, but the superintendent, with the approval of the comptroller, may
40 in the superintendent's discretion for good cause shown remit such
41 charges.

42 (2) (A) For any such examination by the superintendent or a deputy
43 superintendent personally, the charge made shall be only for necessary
44 traveling expenses and other actual expenses. In all other cases, the
45 expenses of examination shall also include reimbursement for the compen-
46 sation paid for the services of persons employed by the superintendent
47 or by the superintendent's authority to make such examination or
48 appraisal.

49 (B) Notwithstanding any provisions of this section to the contrary, in
50 case of an examination or appraisal of a domestic insurer made within
51 this state, the traveling and living expense of the person or persons
52 making the examination shall be considered a cost of operation, as
53 referred to in section three hundred thirty-two of the insurance law and
54 not an expense of examination.

55 (3) All charges, including necessary traveling and other actual
56 expenses, except as hereinabove provided, as audited by the comptroller

1 and paid on the comptroller's warrant in the usual manner by the comp-
 2 troller to the person or persons making the examination or appraisal,
 3 shall be presented to the insurer, or other person whose duty it is to
 4 pay the same, in the form of a copy of the itemized bill therefor as
 5 certified and approved by the superintendent or by any deputy super-
 6 intendent or authorized employee of the department. Upon receiving such
 7 certified copy the insurer or other person whose duty it is to pay such
 8 charges shall pay the amount thereof to the superintendent, to be paid
 9 by the superintendent into the state treasury.

ARTICLE 3

ADMINISTRATIVE AND PROCEDURAL PROVISIONS

- 11 Section 301. Powers of the superintendent.
 12 302. Regulations by superintendent.
 13 303. Orders of superintendent; when writing required.
 14 304. Notice; how given.
 15 304-a. Actions of the department subject to the state adminis-
 16 trative procedure act.
 17 305. Hearings; conduct; findings and report.
 18 306. Attendance of witnesses; production of documents and
 19 records.
 20 307. Intentionally omitted.
 21 308. Judicial review of orders, regulations and decisions of
 22 superintendent.
 23 309. Injunction to restrain violation of this chapter.
 24 310. Certificates as evidence; affirmation of documents and
 25 testimony.
 26

27 § 301. Powers of the superintendent. (a) The superintendent shall
 28 have such powers as are conferred upon the superintendent by this chap-
 29 ter, the banking law, the insurance law or any other law of this state.

30 (b) The superintendent shall have the power to conduct investigations,
 31 research, studies and analyses of matters affecting the interests of
 32 consumers of financial products and services, including tracking and
 33 monitoring complaints.

34 (c) The superintendent shall have the power to protect users of finan-
 35 cial products and services, including:

36 (1) taking such actions as the superintendent deems necessary to
 37 educate and protect users of financial products and services;

38 (2) receiving complaints of consumers of financial products and
 39 services, and where appropriate (A) providing assistance to consumers;
 40 (B) mediating the resolution of such complaints with providers of finan-
 41 cial products and services; or (C) referring such complaints to the
 42 appropriate federal, state or local agency authorized by law for appro-
 43 priate action on such complaints;

44 (3) studying the operation of laws and advising and making recommenda-
 45 tions to the governor on matters affecting consumers of and investors in
 46 financial products and services and promoting and encouraging the
 47 protection of the legitimate interests of users of such financial
 48 products and services;

49 (4) cooperating with, assisting and, when appropriate, referring
 50 matters to the attorney general in the carrying out of the attorney
 51 general's legal enforcement responsibilities for the protection of
 52 consumers of and investors in financial products and services;

53 (5) initiating and encouraging consumer financial education programs,
 54 and disseminating materials to educate users of financial products and
 55 services;

1 (6) providing technical assistance to local governments and not-for-
2 profits in the development of consumer protection measures with respect
3 to financial products and services; and

4 (7) continuing and expanding the detection, investigation and
5 prevention of insurance fraud.

6 § 302. Regulations by superintendent. (a) The superintendent shall
7 have the power to prescribe and from time to time withdraw or amend, in
8 writing, rules and regulations and issue orders and guidance involving
9 financial products and services, not inconsistent with the provisions of
10 this chapter, the banking law, the insurance law and any other law in
11 which the superintendent is given authority:

12 (1) effectuating any power given to the superintendent under the
13 provisions of this chapter, the insurance law, the banking law, or any
14 other law to prescribe forms or make regulations;

15 (2) interpreting the provisions of this chapter, the insurance law,
16 the banking law, or any other applicable law; and

17 (3) governing the procedures to be followed in the practice of the
18 department.

19 (b) The superintendent may promulgate a list of financial products and
20 services excluded from regulation by the superintendent, provided that
21 such exclusion shall not limit in any way the ability of the superinten-
22 dent to take any actions with respect to fraud provided for in this
23 chapter, the insurance law, the banking law or any other applicable law.

24 § 303. Orders of superintendent; when writing required. Whenever by
25 any provision of this chapter, the insurance law, the banking law or any
26 other applicable law the superintendent is authorized to grant any
27 approval, authorization or permission or to make any other order or
28 determination affecting any person subject to the provisions of this
29 chapter, the insurance law, the banking law or any other law, such order
30 or determination shall not be effective unless made in writing and
31 signed by the superintendent or by the superintendent's authority.

32 § 304. Notice; how given. (a) (1) Except when other notice is required
33 by law, whenever the provisions of this chapter, the insurance law, the
34 banking law or any other applicable law require the superintendent to
35 give notice to any person of any authorized action or proposed action,
36 it shall be sufficient to give such notice in writing either by deliver-
37 ing it to such person or by depositing the same in the United States
38 mail, postage prepaid, registered or certified, and addressed to the
39 last known place of business of such person or if no such address is
40 known to the superintendent, then to the residence address of such
41 person.

42 (2) Such notice shall refer to the provisions of this chapter, the
43 insurance law, the banking law or any other applicable law pursuant to
44 which the authorized action was taken or is proposed to be taken and the
45 grounds therefor, but failure to make such reference shall not render
46 the notice ineffective if the person to whom it is addressed is thereby
47 or otherwise reasonably apprised of such grounds.

48 (3) If the person being notified is entitled to a hearing by the
49 provisions of this chapter, the banking law, the insurance law or any
50 other law, the notice of proposed action may specify that such proposed
51 action may be considered, or when authorized, taken on a date specified
52 in the notice unless such person shall notify the superintendent in
53 writing that a hearing is demanded; in such case the superintendent
54 shall give such person a further notice of the time and place of such
55 hearing in the manner stated in this paragraph, and to the address spec-
56 ified by such person if provided.

1 (b) Whenever the provisions of this chapter, the insurance law, the
2 banking law, or any other law require the superintendent to give to any
3 person a hearing on any proposed action, it shall be sufficient compli-
4 ance with such requirement if the superintendent gives to such person:

5 (1) notice of the time and the place at which an opportunity for hear-
6 ing will be afforded, and

7 (2) an opportunity for hearing, if the person appears at the time and
8 place specified in the notice or any adjourned date.

9 (c) Any hearing of which such notice is given may be adjourned from
10 time to time without other notice than the announcement thereof at such
11 hearing.

12 (d) Whenever any person is entitled to a hearing by the provisions of
13 this chapter, the insurance law, the banking law, or any other law
14 before any proposed action is taken, the notice of such proposed action
15 may, if the superintendent deems it expedient, be in the form of a
16 notice to show cause stating that such proposed action may be taken
17 unless such person shows cause at a hearing to be held at a time and
18 place specified in such notice, why such proposed action should not be
19 taken.

20 (e) The statement of any regular salaried employee of the department
21 of financial services, subscribed and affirmed by such employee as true
22 under the penalties of perjury, stating facts which show that any notice
23 referred to in this section has been delivered or mailed as hereinbefore
24 provided, shall be presumptive evidence that such notice has been duly
25 delivered or mailed, as the case may be.

26 § 304-a. Actions of the department subject to the state administrative
27 procedure act. Unless otherwise specifically exempted in this chapter,
28 all rule making and adjudicatory proceedings shall be made in accordance
29 and consistent with the provisions of the state administrative procedure
30 act.

31 § 305. Hearings; conduct; findings and report. (a) Unless otherwise
32 provided in this chapter, the banking law, the insurance law or any
33 other law, any hearing pursuant to any such law may be held before the
34 superintendent, any deputy superintendent, or any designated salaried
35 employee of the department authorized by the superintendent for such
36 purpose. Any adjudicatory proceeding, including any hearings to assess
37 civil penalties under section four hundred eight of this chapter, held
38 pursuant to the provisions of this chapter, the insurance law or the
39 banking law shall be noticed, conducted and administered in compliance
40 with the state administrative procedure act.

41 (b) The person conducting such hearing shall have power to administer
42 oaths, examine and cross-examine witnesses and receive documentary
43 evidence, and shall report his or her findings, orally or in writing, to
44 the superintendent with or without recommendation. Such report, if
45 adopted by the superintendent may be the basis of any determination made
46 by the superintendent. One hundred twenty days after the effective date
47 of a determination of liability for a civil penalty pursuant to section
48 four hundred eight of this chapter or four hundred three, one thousand
49 one hundred two, two thousand one hundred two, two thousand one hundred
50 seventeen, two thousand one hundred thirty-three or seven thousand eight
51 hundred sixteen of the insurance law, such determination of liability
52 for a civil penalty may be entered as a judgment and enforced, without
53 court proceedings, in the same manner as the enforcement of a money
54 judgment in civil actions in any court of competent jurisdiction or any
55 other place provided for the entry of civil judgment within this state.

1 (c) Every such hearing, except for hearings under the banking law,
2 shall be open to the public unless the superintendent or the person
3 authorized by the superintendent to conduct such hearing, shall deter-
4 mine that a private hearing would be in the public interest, in which
5 case the hearing shall be private. Hearings under the banking law shall
6 be as provided for in the banking law.

7 (d) Every person affected shall be allowed to be present during the
8 giving of all the testimony, and shall be allowed a reasonable opportu-
9 nity to inspect all adverse documentary proof, to examine and cross-exa-
10 mine witnesses, and to present proof in support of the person's inter-
11 est.

12 (e) Nothing herein contained shall require the observance at any such
13 hearing of formal rules of pleading or evidence.

14 § 306. Attendance of witnesses; production of documents and records.

15 (a) The superintendent or the person authorized by the superintendent to
16 conduct a hearing or investigation shall have power to subpoena
17 witnesses, compel the attendance of witnesses, administer oaths, examine
18 any person under oath, and to compel any person to subscribe to his or
19 her testimony after it has been correctly reduced to writing, and in
20 connection therewith to require the production of any books, papers,
21 records, correspondence or other documents which the superintendent
22 deems relevant to the inquiry. A subpoena issued under this section
23 shall be regulated by the civil practice law and rules.

24 (b) No person subject to the provisions of this chapter, the insurance
25 law or the banking law whose conduct, condition or practices are being
26 investigated, and no officer, director or employee of any such person,
27 shall be entitled to witness or mileage fees.

28 (c) In addition to the liabilities and punishment prescribed by the
29 civil practice law and rules, any person who, without just cause fails
30 or refuses to attend and testify or to answer any lawful inquiry or to
31 produce any books, papers or records in obedience to a subpoena issued
32 by the superintendent shall be guilty of a misdemeanor.

33 (d) Every regulated person under this chapter, the insurance law or
34 the banking law who is given a notice of hearing pursuant to this chap-
35 ter shall upon the service of a notice to produce books and records,
36 when attached to the notice of hearing or mailed subsequently thereto in
37 the same manner as the notice of hearing, pursuant to such notice,
38 produce at the hearing the books, records and documents enumerated ther-
39 ein.

40 § 307. Intentionally omitted.

41 § 308. Judicial review of orders, regulations and decisions of super-
42 intendent. (a) Notwithstanding the specific enumerations of the right to
43 judicial review in this chapter, the insurance law or the banking law,
44 any order, regulation or decision of the superintendent is declared to
45 be subject to judicial review in a proceeding under article seventy-
46 eight of the civil practice law and rules, provided that nothing in this
47 section or article seventy-eight of the civil practice law and rules
48 shall affect the time period provided in the banking law or the insur-
49 ance law for commencing such proceeding.

50 (b) Except as provided in section two thousand one hundred twenty-four
51 of the insurance law, the commencement of such proceeding shall not
52 affect the enforcement or validity of the superintendent's order, regu-
53 lation or decision under review unless the court shall determine, after
54 a preliminary hearing of which the superintendent is notified at least
55 forty-eight hours in advance, that a stay of enforcement pending the
56 proceeding or until further direction of the court will not unduly

1 injure the interests of the people of the state, in which case a stay of
2 execution may be granted.

3 § 309. Injunction to restrain violation of this chapter. (a) In addi-
4 tion to such other remedies as are provided under this chapter, the
5 superintendent may maintain and prosecute an action against any person
6 subject to this chapter, the insurance law or the banking law, or the
7 person's officers, directors, trustees or agents, for the purpose of
8 obtaining an injunction restraining such person or persons from doing
9 any acts in violation of the provisions of this chapter, the insurance
10 law or the banking law.

11 (b) In such action if the court finds that a defendant is threatening
12 or is likely to do any act in violation of this chapter, the insurance
13 law or the banking law and that such violation will cause irreparable
14 injury to the interests of the people of this state, the court may grant
15 an injunction restraining such violation. The court may on motion and
16 affidavits grant a preliminary injunction and interlocutory injunction,
17 upon such terms as may be just; but the superintendent shall not be
18 required to give security before the issuance of any such injunction.

19 § 310. Certificates as evidence; affirmation of documents and testimo-
20 ny. (a) Every certificate, assignment, conveyance or other paper
21 executed by the superintendent or one of the superintendent's deputies
22 pursuant to law and sealed with the official seal of the department
23 shall be received as evidence in any judicial or other proceeding and
24 may be recorded in the proper recording offices.

25 (b) Any charter, or any certificate or other instrument supplemental
26 to or amendatory of the charter, of any regulated person filed in the
27 office of the superintendent and containing statements of fact required
28 or permitted by law to be contained therein, shall be received in all
29 courts, public offices and official bodies as prima facie evidence of
30 such facts and of the execution of such instrument.

31 (c) Whenever by the laws of any jurisdiction other than this state,
32 any certificate by any officer in such jurisdiction or a copy of any
33 instruments certified or exemplified by any such officer, may be
34 received as prima facie evidence of the incorporation, existence or
35 capacity of any corporation incorporated in such jurisdiction, or claim-
36 ing so to be, such certificate when exemplified, or such copy of such
37 instrument when exemplified shall be received in all courts, public
38 offices and official bodies of this state, as prima facie evidence with
39 the same force as in such jurisdiction. Such certificate or certified
40 copy of such instrument shall be so received, without being exemplified,
41 if it is certified by the secretary of state, or official performing the
42 equivalent function as to corporate records of such jurisdiction.

43 (d) Notwithstanding any provision of this chapter, the insurance law
44 or the banking law requiring an oath as to the proof of a document or
45 the truth of testimony, the affiant may, if the affiant's religious
46 beliefs cause the affiant to object to giving an oath, affirm the docu-
47 ment or the affiant's testimony.

48 ARTICLE 4

49 FINANCIAL FRAUDS PREVENTION

50 Section 401. Intentionally omitted.

51 402. Legislative declaration.

52 403. Financial frauds and consumer protection unit.

53 404. Powers of the financial frauds and consumer protection
54 unit.

55 405. Immunity.

1 406. Other law enforcement authority, powers and duties not
2 affected or impaired.

3 407. Intentionally omitted.

4 408. Civil penalty.

5 409. Reports.

6 § 401. Intentionally omitted.

7 § 402. Legislative declaration. The legislature hereby finds and
8 declares that financial frauds take many forms across multiple indus-
9 tries. The legislature further finds that financial fraud is detrimental
10 to the social and economic well-being of the citizens of this state. In
11 order to more thoroughly uncover, investigate and eliminate the myriad
12 financial frauds that may be perpetrated in, and may involve the people
13 of, New York state, the legislature finds that it is appropriate that
14 the responsibilities of the insurance frauds bureau and the criminal
15 investigations bureau that were administered by the department of insur-
16 ance and the department of banking, respectively, prior to the enactment
17 of this article, be consolidated into a new financial frauds and consum-
18 er protection unit under the supervision of the superintendent.

19 § 403. Financial frauds and consumer protection unit. (a) The super-
20 intendent shall establish a financial frauds and consumer protection
21 unit in the department of financial services.

22 (b) The financial frauds and consumer protection unit shall be a qual-
23 ified agency, as defined in section eight hundred thirty-five of the
24 executive law, to enforce the provisions of this article and article
25 four of the insurance law and article II-B of the banking law.

26 (c) The superintendent shall have the power to designate employees of
27 the unit as peace officers as defined in section 2.10 of the criminal
28 procedure law. Any such designations made by the superintendent of
29 insurance or the superintendent of banks, as they relate to peace offi-
30 cers within the insurance frauds bureau and the criminal investigations
31 bureau, made prior to the effective date of this chapter, shall be
32 deemed continued and will remain effective subject to the discretion of
33 the superintendent.

34 (d) The superintendent is authorized to establish within the financial
35 frauds and consumer protection unit one or more units designated for the
36 purpose of investigating and preventing fraud and other criminal activ-
37 ity in certain specified areas of the banking, finance and insurance
38 industries, as authorized by this chapter.

39 § 404. Powers of the financial frauds and consumer protection unit.

40 (a) The superintendent has authority under this article, the banking
41 law, the insurance law and other applicable laws to investigate activ-
42 ities that may constitute violations subject to section four hundred
43 eight of this article or violations of the insurance law or banking law
44 and to develop evidence thereon.

45 (b) If the financial frauds and consumer protection unit has a reason-
46 able suspicion that a person or entity has engaged, or is engaging, in
47 fraud or misconduct with respect to the banking law, the insurance law,
48 the provisions of this chapter or other laws pursuant to which the
49 superintendent has investigatory or enforcement powers, then the super-
50 intendent, in the enforcement of relevant statutes and regulations, may
51 undertake an investigation thereon, provided, however, that the scope of
52 authority set forth in this section shall not be deemed to otherwise
53 limit or impair the ability of the superintendent to assist any other
54 entity in an investigation involving a violation of law, and provided
55 further that the responsibility and power to investigate any specific
56 frauds or misconduct enumerated in this chapter, the banking law, the

1 insurance law and other laws pursuant to which the superintendent has
2 investigatory or enforcement powers shall be included under the juris-
3 diction of the financial frauds and consumer protection unit.

4 (c) Nothing in this chapter shall be construed to grant or authorize
5 the financial frauds and consumer protection unit the specific powers or
6 responsibilities of the consumer protection division of the department
7 of state.

8 § 405. Immunity. In the absence of fraud or bad faith, no person
9 subject to the provisions of this chapter, the banking law or the insur-
10 ance law shall be subject to civil liability, and no civil cause of
11 action of any nature shall arise against such person for any: (a)
12 information relating to suspected violations of the banking law or the
13 insurance law furnished to law enforcement officials, their agents and
14 employees; (b) information relating to suspected violations of the bank-
15 ing law or the insurance law furnished to other persons subject to the
16 provisions of this chapter; and (c) information furnished in reports to
17 the financial frauds and consumer protection unit, its agents or employ-
18 ees or any state agency investigating fraud or misconduct relating to
19 financial fraud, its agents or employees. The superintendent or any
20 employee of the financial frauds and consumer protection unit, in the
21 absence of fraud or bad faith, shall not be subject to civil liability
22 and no civil cause of action of any nature shall arise against the
23 superintendent or any such employee by virtue of the publication of any
24 report or bulletin related to the official activities of the financial
25 frauds and consumer protection unit. Nothing herein is intended to abro-
26 gate or modify in any way any common law privilege or immunity hereto-
27 fore enjoyed by any person.

28 § 406. Other law enforcement authority, powers and duties not affected
29 or impaired. This article shall not:

30 (a) Preempt the authority or relieve the duty of other law enforcement
31 agencies to investigate and prosecute suspected violations of law;

32 (b) Prevent or prohibit a person from voluntarily disclosing any
33 information concerning violations of this article, the banking law or
34 the insurance law to any law enforcement agency; or

35 (c) Limit any of the powers granted elsewhere in the banking law or
36 insurance law or other laws to the superintendent or the department to
37 investigate possible violations of law and take appropriate action.

38 § 407. Intentionally omitted.

39 § 408. Civil penalty. (a) In addition to any civil or criminal liabil-
40 ity provided by law, the superintendent may, after notice and hearing,
41 levy a civil penalty:

42 (1) not to exceed five thousand dollars per offense, for:

43 (A) any intentional fraud or intentional misrepresentation of a mate-
44 rial fact with respect to a financial product or service or involving
45 any person offering to provide or providing financial products or
46 services; or

47 (B) any violation of state or federal fair debt collection practices
48 or federal or state fair lending laws; and

49 (2) not to exceed one thousand dollars for any other violation of this
50 chapter or the regulations issued thereunder, provided that there shall
51 be no civil penalty under this section for violations of article five of
52 this chapter or the regulations issued thereunder; and

53 (3) provided, however, that:

54 (A) penalties for regulated persons under the banking law shall be as
55 provided for in the banking law and penalties for regulated persons

1 under the insurance law shall be as provided for in the insurance law;
2 and

3 (B) the superintendent shall not impose or collect any penalty under
4 this section in addition to any penalty or fine for the same act or
5 omission that is imposed under the insurance law or banking law; and

6 (C) nothing in this section shall affect the construction or interpre-
7 tation of the term "fraud" as it is used in any other provision of the
8 consolidated or unconsolidated law.

9 (b) Civil penalties received by the superintendent pursuant to this
10 section shall be applied on an annual basis as follows: funds shall be
11 applied first to reduce the assessments charged on persons regulated
12 under the insurance law and the banking law pursuant to section two
13 hundred six of this chapter up to the full amount paid by persons regu-
14 lated under the insurance law and banking law for the operating expenses
15 of the financial frauds and consumer protection unit not attributable to
16 regulation under the insurance or banking law for the fiscal year in
17 which such penalties are received, such amount shall be applied to any
18 assessment in the following year, and any remaining funds shall be paid
19 to the general fund. The superintendent shall have discretion to deter-
20 mine how operating expenses which are not solely attributable to regu-
21 lating persons under either the insurance law or the banking law shall
22 be allocated.

23 § 409. Reports. (a) Whenever the superintendent is satisfied that a
24 violation subject to section four hundred eight of this article or fraud
25 or other criminal activity under the insurance law or banking law has
26 been committed or attempted, the superintendent shall report any such
27 violation of law, as the superintendent deems appropriate, to the appro-
28 priate licensing agency, the district attorney of the county in which
29 such acts were committed, to the attorney general, and where appropri-
30 ate, to the person who submitted the report of fraudulent activity, as
31 provided by the provisions of this article. Within one hundred twenty
32 days of receipt of the superintendent's report, the attorney general or
33 the district attorney concerned shall inform the superintendent as to
34 the status of the reported violations.

35 (b) No later than March fifteenth of each year, beginning in two thou-
36 sand twelve, the superintendent shall furnish to the governor, the
37 speaker of the assembly and the temporary president of the senate a
38 report describing the activities of the financial frauds and consumer
39 protection unit. Such report shall describe (1) the unit's efforts with
40 respect to (A) frauds against entities regulated under the banking and
41 insurance laws; and (B) frauds against consumers; (2) the unit's activ-
42 ities to address consumer complaints; and (3) any recommendations of the
43 superintendent with respect to changes of law that are desirable to
44 address gaps in protection. The report may address such other matters
45 relating to the activities of the financial frauds and consumer
46 protection unit as the superintendent believes will be useful to the
47 governor or the legislature.

48 (c) No later than March fifteenth of each year beginning in the year
49 two thousand twelve, the superintendent shall submit to the governor,
50 the state comptroller, the attorney general, the temporary president of
51 the senate, the speaker of the assembly, the chairpersons of the senate
52 finance and health committees, and the assembly ways and means and
53 health committees, a report summarizing the department's activities to
54 investigate and combat health insurance fraud including information
55 regarding referrals received, investigations initiated, investigations

1 completed, and any other material necessary or desirable to evaluate the
2 department's efforts.

3 ARTICLE 5

4 RESTRICTIONS ON OFFICERS AND EMPLOYEES OF THE DEPARTMENT

5 Section 501. Restrictions on officers and employees of the department;
6 penalty.

7 § 501. Restrictions on officers and employees of the department;
8 penalty. (a) No officer or employee of the department shall obtain a
9 loan or extension of credit from any regulated person or be interested
10 in any such regulated person as a director, partner, owner, officer,
11 attorney, agent, trustee or employee, or own or deal in, either directly
12 or indirectly, the stocks or obligations of any such regulated person.
13 A violation of the provisions of this section by any officer or employee
14 shall constitute sufficient grounds for his or her removal by the super-
15 intendent.

16 (b) Nothing in this section shall be construed to prohibit any officer
17 or employee from obtaining financing from a regulated person upon his or
18 her primary or secondary residence, provided that the premises securing
19 such loan are occupied by such employee, and further provided that such
20 loan is reported to the department, which shall keep a record thereof.
21 The term "residence," for the purposes of this section, shall mean a
22 single family or two family residence, condominium apartment or cooper-
23 ative apartment, occupied in whole or in part, by the officer or employ-
24 ee. The term "cooperative apartment" means a residence where ownership
25 is evidenced by certificates of stock or other evidence of an ownership
26 interest in, and a proprietary lease from, a corporation or partnership
27 formed for the purpose of the cooperative ownership of real estate.

28 (c) Nothing in this section shall be construed to prohibit any officer
29 or employee from: (1) obtaining a loan secured by an assignment of his
30 or her deposit in a banking organization, or an assignment or pledge of
31 his or her shares in a savings and loan association or credit union; (2)
32 accepting financing of an automobile, truck or other personal property
33 from a banking organization or a sales finance company; (3) entering
34 into a premium finance agreement with a premium finance agency; or (4)
35 owning shares of an investment company (mutual fund) that may inci-
36 dentally invest in the securities of any regulated person, provided that
37 the purpose of the investment portfolio of such investment company may
38 not be to invest primarily or exclusively in the securities of banking
39 or insurance entities. For purposes of this section, investment compa-
40 nies include open-end and closed-end investment companies and unit
41 investment trusts as those terms are defined in an Act of Congress enti-
42 tled "The Investment Company Act of 1940," as amended.

43 (d) Nothing in this section shall be construed to prevent any officer
44 or employee from becoming a policyholder of any insurer or from taking
45 out a loan under the officer's or employee's insurance policy, or
46 prevent or impair the ability of the superintendent to act as a liquida-
47 tor, rehabilitator, or conservator pursuant to article seventy-four of
48 the insurance law or article thirteen of the banking law.

49 (e) The superintendent may promulgate policies and procedures for
50 exempting particular employees, or classes of employees, from investment
51 restrictions in subsection (a) of this section as to regulated persons
52 with which such employee or class of employees has no authority or
53 involvement.

54 (f) This section shall not apply to investments held in a blind trust
55 approved by the superintendent or the superintendent's designee.

1 § 2. Article 2-B of the banking law, as added by chapter 321 of the
 2 laws of 1992, section 78 as amended by chapter 472 of the laws of 2008,
 3 is amended to read as follows:

4 ARTICLE II-B

5 FINANCIAL FRAUDS [~~PREVENTION ACT~~]

6 Section [~~76. Short title.~~

7 ~~77. Criminal investigations bureau.]~~

8 78. Powers [~~of the bureau~~] with respect to certain crimes and
 9 frauds.

10 [~~79. Immunity.~~

11 ~~80. Other law enforcement authority, powers and duties not~~
 12 ~~affected or impaired.~~

13 ~~§ 76. Short title. This article shall be known and may be cited as the~~
 14 ~~"financial frauds prevention act".~~

15 ~~§ 77. Criminal investigations bureau. The superintendent shall estab-~~
 16 ~~lish a criminal investigations bureau in the department.]~~

17 § 78. Powers [~~of the bureau~~] with respect to certain crimes and
 18 frauds. If the [~~criminal investigations bureau~~] superintendent has a
 19 reasonable suspicion that a person or entity [~~subject to the jurisdic-~~
 20 ~~tion of the department has, in connection with activities authorized by~~
 21 ~~this chapter, engaged in, or is engaging in an activity which is a~~
 22 ~~misdemeanor or felony under this chapter or under~~] is engaging in or has
 23 engaged in fraud (as interpreted under this chapter, the insurance law
 24 or the financial services law) or a misdemeanor or felony under this
 25 chapter or one of the articles of the penal law enumerated in this
 26 section in connection with activities regulated by the superintendent
 27 pursuant to this chapter or involving a product regulated pursuant to
 28 this chapter, the superintendent may undertake such investigation as is
 29 deemed necessary, and in the enforcement of this chapter, determine
 30 whether any such person or entity has violated or is about to violate
 31 this chapter or any such enumerated articles. The applicable articles of
 32 the penal law are article one hundred fifty-five, one hundred seventy,
 33 one hundred seventy-five, one hundred seventy-six, one hundred eighty,
 34 one hundred eighty-five, one hundred eighty-seven, one hundred ninety,
 35 two hundred, two hundred ten or four hundred seventy [~~of the penal law,~~
 36 ~~the superintendent may undertake such investigation as is deemed neces-~~
 37 ~~sary, and in the enforcement of this chapter, determine whether any such~~
 38 ~~person or entity has violated or is about to violate any of the above~~
 39 ~~referenced laws or articles. Provided, however, that~~]. Notwithstanding
 40 the above-referenced laws or articles, the scope of authority set forth
 41 in this section shall not be deemed to otherwise limit or impair the
 42 ability of the department to assist any other entity in an investigation
 43 involving a violation of law.

44 [~~§ 79. Immunity. In the absence of fraud or bad faith, no person or~~
 45 ~~entity subject to the provisions of this chapter shall be subject to~~
 46 ~~civil liability, and no civil cause of action of any nature shall arise~~
 47 ~~against such person or entity, for providing information to law enforce-~~
 48 ~~ment officials, including persons assigned to the criminal investi-~~
 49 ~~gations bureau, relating to suspected criminal violations of this chap-~~
 50 ~~ter or the affecting entities or persons subject to the jurisdiction of~~
 51 ~~the department.~~

52 ~~§ 80. Other law enforcement authority, powers and duties not affected~~
 53 ~~or impaired. This article shall not:~~

54 1. ~~Preempt the authority or relieve the duty of other law enforcement~~
 55 ~~agencies to investigate and prosecute suspected violations of law.~~

1 ~~2. Prevent or prohibit a person from voluntarily disclosing any infor-~~
 2 ~~mation concerning violations of this article to any law enforcement~~
 3 ~~agency.~~

4 ~~3. Limit any of the powers granted elsewhere in this chapter and other~~
 5 ~~laws to the superintendent or the department to investigate possible~~
 6 ~~violations of law and take appropriate action.]~~

7 § 3. Section 401 of the insurance law is amended to read as follows:

8 § 401. Title; legislative declaration and purpose. This article shall
 9 be known and may be cited as the "insurance frauds prevention act".

10 (a) The legislature finds and declares that the business of insurance
 11 directly and indirectly affects all sectors of the public, business and
 12 government. It further finds that the business of insurance, including
 13 organization and licensing, the issuance of policies, and the adjustment
 14 and payment of claims and losses, involve many transactions which have
 15 potential for abuse and illegal activities.

16 ~~(b) [The superintendent and the department have broad authority under~~
 17 ~~this chapter to investigate activities which may be fraudulent and to~~
 18 ~~develop evidence thereon. This article is intended to permit the full~~
 19 ~~utilization of the expertise of the superintendent and the department so~~
 20 ~~that they may more effectively investigate and discover insurance~~
 21 ~~frauds, halt fraudulent activities and assist and receive assistance~~
 22 ~~from federal and state law enforcement agencies in the prosecution of~~
 23 ~~persons who are parties to insurance frauds.~~

24 ~~(e)]~~ Arson for insurance fraud is a particularly damaging crime
 25 against society, destroying lives, property and neighborhoods. Insur-
 26 ance losses resulting from arson are reflected in higher premiums
 27 charged to residents of this state.

28 ~~[(d)]~~ (c) This article establishes a framework within which the super-
 29 intendent and the department can more effectively assist in the elimi-
 30 nation of arson for insurance fraud. That increased capacity, together
 31 with a more effective monitoring of fire loss claims and payments by the
 32 insurance industry through centralized reporting and oversight, is
 33 intended to make it more difficult to perpetrate the crime of insurance
 34 fraud by arson.

35 § 4. Intentionally omitted.

36 § 5. Intentionally omitted.

37 § 6. Subsection (a) of section 404 of the insurance law, as amended by
 38 chapter 499 of the laws of 2009, is amended to read as follows:

39 (a) If the ~~[insurance frauds bureau]~~ superintendent has reason to
 40 believe that a person has engaged in, or is engaging in, an act defined
 41 in section 155.05 of the penal law, with respect to personal or commer-
 42 cial insurance transactions, the business of life settlements, section
 43 176.05 or section 176.40 of such law, the superintendent may make such
 44 investigation within or without this state as the superintendent deems
 45 necessary to aid in the enforcement of this chapter or to determine
 46 whether any person has violated or is about to violate any such
 47 provision of the penal law.

48 § 7. Section 405 of the insurance law, as amended by chapter 499 of
 49 the laws of 2009, paragraph 11 of subsection (d) as amended by chapter
 50 11 of the laws of 2010, is amended to read as follows:

51 § 405. Reports. (a) Any person licensed or registered pursuant to the
 52 provisions of this chapter, and any person engaged in the business of
 53 insurance or life settlement in this state who is exempted from compli-
 54 ance with the licensing requirements of this chapter, including the
 55 state insurance fund of this state, who has reason to believe that an
 56 insurance transaction or life settlement act may be fraudulent, or has

1 knowledge that a fraudulent insurance transaction or fraudulent life
2 settlement act is about to take place, or has taken place shall, within
3 thirty days after determination by such person that the transaction
4 appears to be fraudulent, send to the [~~insurance frauds bureau~~] super-
5 intendent on a form prescribed by the superintendent, the information
6 requested by the form and such additional information relative to the
7 factual circumstances of the transaction and the parties involved as the
8 superintendent may require. The [~~insurance frauds bureau~~] superintendent
9 shall accept reports of suspected fraudulent insurance transactions or
10 fraudulent life settlement acts from any self insurer, including but not
11 limited to self insurers providing health insurance coverage or those
12 defined in section fifty of the workers' compensation law, and shall
13 treat such reports as any other received pursuant to this section.

14 (b) The [~~insurance frauds bureau~~] superintendent shall review each
15 report and undertake such further investigation as [~~it~~] the superinten-
16 dent deems necessary and proper to determine the validity of the allega-
17 tions.

18 [~~(c) Whenever the superintendent is satisfied that a material fraud,~~
19 ~~deceit, or intentional misrepresentation has been committed in an insur-~~
20 ~~ance transaction or in the business of life settlements or purported~~
21 ~~insurance transaction or business of life settlements, he or she shall~~
22 ~~report any such violation of law to the appropriate licensing agency,~~
23 ~~the district attorney of the county in which such acts were committed,~~
24 ~~when authorized by law, to the attorney general, and where appropriate,~~
25 ~~to the person who submitted the report of fraudulent activity, as~~
26 ~~provided by the provisions of this article. Within one hundred twenty~~
27 ~~days of receipt of the superintendent's report, the attorney general or~~
28 ~~the district attorney concerned shall inform the superintendent as to~~
29 ~~the status of the reported violations.~~

30 (d) No later than March fifteenth of each year, beginning in nineteen
31 hundred ninety four, the superintendent shall furnish to the governor,
32 the speaker of the assembly and the president pro tem of the senate a
33 report containing:

34 (1) a comprehensive summary and assessment of the frauds bureau's
35 efforts in discovering, investigating and halting fraudulent activities
36 and assisting in the prosecution of persons who are parties to insurance
37 fraud or life settlement fraud;

38 (2) the number of reports received from any person or persons engaged
39 in the business of insurance or life settlements, the number of investi-
40 gations undertaken by the bureau pursuant to any reports received, the
41 number of investigations undertaken not as a result of reports received,
42 the number of investigations that resulted in a referral to a licensing
43 agency, a local prosecutor or the attorney general, the number of such
44 referrals pursued by a licensing agency, a local prosecutor or the
45 attorney general, and the disposition of such cases;

46 (3) a delineation of the number of reported and investigated cases by
47 line of insurance and those that relate to life settlements;

48 (4) a comparison of the frauds bureau's experience, with regard to
49 paragraphs two and three of this subsection, to the bureau's experience
50 of years past;

51 (5) the total number of employees assigned to the frauds bureau delin-
52 eated by title and location of bureau assigned;

53 (6) an assessment of the activities of insurance companies and life
54 settlement providers activities in regard to detecting, investigating
55 and reporting fraudulent activities, including a list of companies which
56 maintain special investigative units for the sole purpose of detecting,

1 ~~investigating and reporting fraudulent activities and the number of~~
 2 ~~investigators assigned to such units per every thirty thousand policies~~
 3 ~~or life settlement contracts in force with such company or provider;~~

4 ~~(7) the amount of technical and monetary assistance requested and~~
 5 ~~received by the frauds bureau from any insurance company or companies,~~
 6 ~~any life settlement provider or providers, or any organization funded by~~
 7 ~~insurance companies or life settlement providers;~~

8 ~~(8) the amount of money returned by the frauds bureau to insurance~~
 9 ~~companies pursuant to any fraudulent claims that were recouped by the~~
 10 ~~bureau;~~

11 ~~(9) the number and amount of civil penalties levied by the frauds~~
 12 ~~bureau pursuant to chapter four hundred eighty of the laws of nineteen~~
 13 ~~hundred ninety-two;~~

14 ~~(10) recommendations for further statutory or administrative changes~~
 15 ~~designed to meet the objectives of this article; and~~

16 ~~(11) an assessment of law enforcement and insurance company activities~~
 17 ~~to detect and curtail the incidence of operating a motor vehicle without~~
 18 ~~proper insurance coverage as required by this chapter and the incidence~~
 19 ~~of misrepresentation by insureds of the principal place where motor~~
 20 ~~vehicles are garaged and driven.]~~

21 § 8. Sections 406, 407-a and 410 of the insurance law are REPEALED.

22 § 9. Paragraph 1 of subsection (c) of section 409 of the insurance
 23 law, as added by chapter 635 of the laws of 1996, is amended to read as
 24 follows:

25 (1) interface of special investigation unit personnel with law
 26 enforcement and prosecutorial agencies[~~, including~~ and with the [insur-
 27 ance frauds bureau] financial frauds and consumer protection unit of the
 28 [state insurance department] department of financial services;

29 § 10. Paragraph 1 of subsection (b) of section 411 of the insurance
 30 law, as added by chapter 499 of the laws of 2009, is amended to read as
 31 follows:

32 (1) interface of special investigations unit personnel with law
 33 enforcement and prosecutorial agencies, including the [~~insurance frauds~~
 34 ~~bureau] financial frauds and consumer protection unit in the department;~~

35 § 11. Section 11 of the banking law, as amended by chapter 684 of the
 36 laws of 1938, the section heading as amended by chapter 777 of the laws
 37 of 1939, subdivisions 1 and 4 as amended by chapter 566 of the laws of
 38 2004 and subdivision 3 as amended by chapter 276 of the laws of 1990, is
 39 amended to read as follows:

40 § 11. [~~Banking department; official~~] Department of financial services;
 41 official documents; destruction of documents; official communications.

42 1. The [~~banking~~] department shall be charged with the execution of the
 43 laws relating to the individuals, partnerships, corporations and other
 44 entities to which this chapter is applicable and shall exercise such
 45 powers and perform such duties as are conferred and imposed upon it by
 46 this chapter, or by any law of this state. [~~The principal office of the~~
 47 ~~department shall be in the city of Albany.~~

48 ~~2. Every paper executed by an officer of the department in pursuance~~
 49 ~~of authority conferred by law and sealed with the official seal of the~~
 50 ~~department shall be received in evidence, and may be recorded in the~~
 51 ~~proper recording offices in the same manner and with the same effect as~~
 52 ~~a deed regularly acknowledged.~~

53 ~~3.]~~ 2. (a) Except as specified in paragraph (b) or (c) of this subdi-
 54 vision, any report expressly required to be rendered to the superinten-
 55 dent under any provision of this chapter, any report of an examination
 56 made in accordance with any provision of this chapter, and any oath or

1 declaration of office received by the department shall be retained in
2 such form and for such period as the superintendent finds necessary and
3 proper. After such period the superintendent shall recommend disposal of
4 such material in accordance with the provisions of the arts and cultural
5 affairs law.

6 (b) Reports made in accordance with section twenty-eight-b of this
7 [~~chapter~~] article or pursuant to the rules and regulations of the [~~bank-~~
8 ~~ing board~~] superintendent promulgated in connection with assessing a
9 banking organization's record of performance in meeting the credit needs
10 of local communities within the meaning of section twenty-eight-b of
11 this [~~chapter~~] article, including reports expressly required to be
12 rendered to the superintendent and reports of examinations may be
13 destroyed at the direction of the superintendent and in accordance with
14 the provisions of the arts and cultural affairs law after three years
15 from date of receipt thereof, provided any such report has first been
16 photographed, microphotographed or otherwise reproduced. Each such
17 reproduction shall be retained in the files of the department for a
18 period of at least fifteen years from the date of the last received
19 report, oath or declaration appearing thereon. After the expiration of
20 such period, such reproduction may be destroyed at the direction of the
21 superintendent and in accordance with the provisions of the arts and
22 cultural affairs law. Such reproduction thereof shall be deemed, for any
23 purpose, the equivalent of the original of such report. Any such report
24 not so reproduced shall be retained in the files of the department for a
25 period of at least fifteen years from the date of receipt thereof, after
26 which it may be destroyed at the direction of the superintendent and in
27 accordance with the provisions of the arts and cultural affairs law.

28 (c) This subdivision shall not apply to any records, documents or
29 correspondence referred to in subdivision four of section six hundred
30 twenty-seven of this chapter.

31 4. Any communication from the [~~banking~~] department to any person,
32 partnership, corporation or other entity may contain a direction that
33 such communication shall be presented to the controlling owners or prin-
34 cipal management of such entity, members of such partnership or to the
35 board of directors or trustees of such corporation. A communication
36 containing such direction shall be for the purposes of this chapter an
37 official communication. The superintendent may, in his or her
38 discretion, notify in writing each owner or principal manager of such
39 entity, every member of such partnership and every director or trustee
40 of such corporation of the sending of such a communication and, in that
41 event the notification shall state the date of such communication.

42 § 12. Section 12 of the banking law is REPEALED.

43 § 12-a. Sections 204, 302, 303, 304, 305, 313, 326 and 327 of the
44 insurance law are REPEALED.

45 § 13. Paragraphs 17 and 41 of subsection (a) of section 107 of the
46 insurance law are amended to read as follows:

47 (17) "Department" means the [~~insurance~~] department of financial
48 services of this state.

49 (41) "Superintendent" means the superintendent of [~~insurance~~] finan-
50 cial services of this state.

51 § 13-a. Section 2 of the banking law is amended by adding two new
52 subdivisions 28 and 29 to read as follows:

53 (28) Department. The term "department" means the department of finan-
54 cial services of this state.

55 (29) Superintendent. The term "superintendent" means the superinten-
56 dent of financial services of this state.

1 § 14. Paragraphs (b) and (e) of subdivision 1 of section 169 of the
 2 executive law, paragraph (b) as amended by section 1 of part F of chap-
 3 ter 56 of the laws of 2005, and paragraph (e) as separately amended by
 4 section 11 of part A-1 and section 10 of part O of chapter 56 of the
 5 laws of 2010, are amended to read as follows:

6 (b) commissioner of labor, chairman of public service commission,
 7 commissioner of taxation and finance, superintendent of [~~banks~~] **finan-**
 8 **cial services**, commissioner of criminal justice services, [~~superinten-~~
 9 ~~dent of insurance,~~] and commissioner of parks, recreation and historic
 10 preservation;

11 (e) chairman of state athletic commission, [~~chairman and executive~~
 12 ~~director of consumer protection board,~~] director of the office of victim
 13 services, chairman of human rights appeal board, chairman of the indus-
 14 trial board of appeals, chairman of the state commission of correction,
 15 members of the board of parole, members of the state racing and wagering
 16 board, member-chairman of unemployment insurance appeal board, director
 17 of veterans' affairs, and vice-chairman of the workers' compensation
 18 board;

19 § 15. Section 332 of the insurance law is REPEALED.

20 § 16. Section 17 of the banking law is REPEALED.

21 § 17. Section 13 of the banking law is REPEALED.

22 § 18. Section 201 of the insurance law is REPEALED.

23 § 19. Section 202 of the insurance law is REPEALED.

24 § 20. Article 20 of the executive law is REPEALED.

25 § 21. The executive law is amended by adding a new section 94-a to
 26 read as follows:

27 § 94-a. Consumer protection division. 1. Legislative declaration. The
 28 legislature hereby finds and declares that the consumption of goods and
 29 services is an economic activity that affects the life of every citizen.
 30 The legislature further finds that unscrupulous and questionable busi-
 31 ness practices are detrimental to the economic well-being of the citi-
 32 zens of this state. In order to protect the people of New York state
 33 from economic harm the legislature finds that it is appropriate that the
 34 responsibilities of the consumer protection board be consolidated into a
 35 new consumer protection division under the supervision of the secretary.

36 2. Consumer protection division. (a) The secretary shall establish a
 37 consumer protection division in the department.

38 (b) The secretary is authorized to establish within the consumer
 39 protection division one or more units and assign appropriate functions
 40 to any such unit and may appoint such staff as necessary and prescribe
 41 their duties and fix their compensation within the appropriation
 42 provided by law.

43 (c) The secretary shall establish a public education and outreach
 44 campaign to publicize the consumer protection division so as to maximize
 45 public awareness of, and the services provided by, such division.

46 3. Powers of the consumer protection division. (a) The division shall
 47 have the power and duty to:

48 (1) receive complaints of consumers, attempt to mediate such
 49 complaints where appropriate, and refer complaints to the appropriate
 50 unit of the department, or federal, state or local agency authorized by
 51 law for appropriate action on such complaints;

52 (2) coordinate the activities of all state agencies performing consum-
 53 er protection functions;

54 (3) initiate and encourage consumer education programs;

55 (4) conduct investigations, research, studies and analyses of matters
 56 affecting the interests of consumers;

1 (5) cooperate with and assist the attorney general and the department
2 of financial services in the carrying out of legal enforcement responsi-
3 bilities for the protection of consumers;

4 (6) implement other powers and duties by regulation and otherwise as
5 prescribed by any provision of law;

6 (7) (i) advise and make recommendations to the governor on matters
7 affecting the consumers of the state and promote and encourage the
8 protection of the legitimate interests of consumers within the state;

9 (ii) study the operation of consumer protection laws and recommend to
10 the governor new laws and amendments of laws for consumer protection;

11 (8) represent the interests of consumers of the state before federal,
12 state and local administrative and regulatory agencies;

13 (9) establish a process by which victims of identity theft will
14 receive assistance and information to resolve complaints. To implement
15 the process the secretary shall have the authority to:

16 (i) promulgate rules and regulations to administer the identity theft
17 prevention and mitigation program; and

18 (ii) act as a liaison between the victim and any state agency, public
19 authority, or any municipal department or agency, the division of state
20 police, and county or municipal police departments, and any non-govern-
21 mental entity, including but not limited to, consumer credit reporting
22 agencies, to facilitate the victim obtaining such assistance and data as
23 will enable the program to carry out its duties to help consumers
24 resolve the problems that have resulted from the identity theft. Trade
25 secrets and proprietary business information contained in the documents
26 or records that may be received by the division shall be exempt from
27 disclosure to the extent allowed by article six of the public officers
28 law;

29 (10) undertake activities to encourage business and industry to main-
30 tain high standards of honesty, fair business practices, and public
31 responsibility in the production, promotion and sale of consumer goods
32 and services;

33 (11) conduct product research and testing and, where appropriate,
34 contract with private agencies and firms for the performance of such
35 services;

36 (12) cooperate with and assist local governments in the development of
37 consumer protection activities;

38 (13) establish advisory councils to assist in policy formulation on
39 specific consumer problems;

40 (14) cooperate with and assist consumers in class actions in proper
41 cases; and

42 (15) create an internet website or webpage pursuant to section three
43 hundred ninety-c of the general business law.

44 4. Utility intervention unit. (a) There is established within the
45 division a state utility intervention unit.

46 (b) The utility intervention unit shall have the power and duty to:

47 (i) on behalf of the secretary, initiate, intervene in, or participate
48 in any proceedings before the public service commission, to the extent
49 authorized by sections twenty-four-a, seventy-one, eighty-four or nine-
50 ty-six of the public service law or any other applicable provision of
51 law, where he or she deems such initiation, intervention or partic-
52 ipation to be necessary or appropriate; and

53 (ii) represent the interests of consumers of the state before federal,
54 state and local administrative and regulatory agencies engaged in the
55 regulation of energy services.

1 5. Reports. (a) No later than March fifteenth of each year, beginning
2 in two thousand twelve, the secretary shall furnish to the governor, the
3 speaker of the assembly and the temporary president of the senate a
4 report describing the activities of the consumer protection division.
5 The secretary shall prepare quarterly a report to the governor, the
6 speaker of the assembly and the temporary president of the senate of the
7 category and number of complaints received by the division during the
8 previous quarter in sufficient detail to assist the recipients in deter-
9 mining the need for additional laws for the protection of the consumer.
10 Additionally, all such complaints received by the division shall be
11 maintained on a category by category basis.

12 (b) No later than January first, two thousand twelve, the secretary
13 shall furnish to the governor, the speaker of the assembly and the
14 temporary president of the senate a report describing the activities of
15 the consumer protection division regarding the public education and
16 outreach campaign required pursuant to paragraph (c) of subdivision two
17 of this section.

18 § 21-a. Section 192-d of the agriculture and markets law is REPEALED.

19 § 22. Section 285 of the agriculture and markets law is REPEALED.

20 § 23. Subdivision 1 of section 5010 of the education law, as amended
21 by chapter 604 of the laws of 1993, is amended to read as follows:

22 1. An advisory council for registered business and licensed trade
23 schools is hereby created for the purpose of advising the board of
24 regents and the commissioner as provided herein. The council shall be
25 composed of eleven members appointed by the governor, two of whom shall
26 be upon the recommendation of the temporary president of the senate, two
27 of whom shall be upon the recommendation of the speaker of the assembly,
28 one of whom shall be upon the recommendation of the minority leader of
29 the senate and one of whom shall be upon the recommendation of the
30 minority leader of the assembly. Of the five remaining members, one
31 shall be an owner or director of a school regulated pursuant to this
32 article, one shall be a currently enrolled student at the time of his
33 appointment or a graduate of such a school who graduated within three
34 years of appointment and one shall be a student advocate. The governor
35 shall designate a chairperson from such members. The commissioner of
36 education, the president of the higher education services corporation,
37 the ~~chair of the consumer protection board~~ secretary of state, the
38 comptroller, the director of the division of the budget, and the execu-
39 tive director of the job training partnership council, or their desig-
40 nees, shall serve as ex-officio, non-voting members of the council.

41 § 24. Subdivision 1 of section 6-102 of the energy law, as added by
42 chapter 433 of the laws of 2009, is amended to read as follows:

43 1. There shall be established a state energy planning board, herein-
44 after referred to as the "board", which shall consist of the chair of
45 the public service commission, the commissioner of environmental conser-
46 vation, the commissioner of economic development, the commissioner of
47 transportation, the commissioner of labor, the director of the state
48 emergency management office, ~~the chair of the consumer protection~~
49 ~~board,~~ the commissioner of health, the president of the New York state
50 urban development corporation, the secretary of state and the president
51 of the New York state energy research and development authority. The
52 governor, the speaker of the assembly and the temporary president of the
53 senate shall each appoint one representative to serve on the board. The
54 presiding officer of the federally designated electric bulk system oper-
55 ator (BSO) shall serve as a non-voting member of the board. Any decision
56 or action by the board shall be by majority vote. The president of the

1 New York state energy research and development authority shall serve as
2 chair of the board. Members of the board may designate an executive
3 staff representative to participate on the board on their behalf.

4 § 25. Section 12-101-a of the energy law, as added by chapter 83 of
5 the laws of 1995, is amended to read as follows:

6 § 12-101-a. Administration. Notwithstanding any other provision of
7 law, the [~~state consumer protection board~~] New York state energy
8 research and development authority shall be deemed to have the responsi-
9 bility and authority to implement the provisions of this article.

10 § 26. Section 17-102 of the energy law, as added by chapter 83 of the
11 laws of 1995, is amended to read as follows:

12 § 17-102. Administration. Notwithstanding any other provision of law,
13 the [~~state consumer protection board~~] New York state energy research and
14 development authority shall be deemed to have the responsibility and
15 authority to implement the provisions of this article.

16 § 27. Paragraph (a) of subdivision 7 of section 208 of the state tech-
17 nology law, as amended by chapter 491 of the laws of 2005, is amended to
18 read as follows:

19 (a) In the event that any New York residents are to be notified, the
20 state entity shall notify the state attorney general, [~~the consumer~~
21 ~~protection board,~~] the department of state and the state office of cyber
22 security and critical infrastructure coordination as to the timing,
23 content and distribution of the notices and approximate number of
24 affected persons. Such notice shall be made without delaying notice to
25 affected New York residents.

26 § 28. Article 14-A of the general business law is REPEALED.

27 § 29. Subdivision 1 of section 442-i of the real property law, as
28 added by chapter 248 of the laws of 1995, is amended to read as follows:

29 1. There is hereby established within the department of state a state
30 real estate board which shall consist of the secretary of state, [~~the~~
31 ~~executive director of the consumer protection board~~] superintendent of
32 financial services, and thirteen additional members. At least five of
33 these members shall be "real estate brokers", each of whom, at the time
34 of appointment, shall be licensed and qualified as a real estate broker
35 under the laws of New York state and shall have been engaged in the real
36 estate business in this state for a period of not less than ten years
37 prior to appointment. The remaining members shall be "public members"
38 who shall not be real estate licensees.

39 § 30. Subdivisions 1 and 4 of section 490-a of the general business
40 law are REPEALED and two new subdivisions 1 and 4 are added to read as
41 follows:

42 1. "Department" means the department of state.

43 4. "Secretary" means the secretary of state.

44 § 31. Paragraph (d) of subdivision 1 of section 490-d of the general
45 business law, as added by chapter 553 of the laws of 2008, is amended to
46 read as follows:

47 (d) Provide notification to the [~~board~~] department of such recall or
48 warning.

49 All notices under this subdivision must include in a clear and conspicu-
50 ous fashion a description of the product, the reason for the recall or
51 warning, a picture of the product if available, and instructions on how
52 to return or exchange the recalled product. Such notice shall include
53 only the product recall or warning information and may not include sales
54 or marketing information on that product or any other product, excluding
55 return and exchange policies.

1 § 32. Paragraph (b) of subdivision 2 of section 490-d of the general
2 business law, as added by chapter 553 of the laws of 2008, is amended to
3 read as follows:

4 (b) The commercial dealer shall provide to the [~~board~~] department
5 certification of disposition for such recalled products within ninety
6 days after the issuance of the recall, unless upon written application
7 by such dealer the [~~board~~] department determines an extension of time is
8 warranted.

9 § 33. Sections 490-g and 490-h of the general business law, as added
10 by chapter 553 of the laws of 2008, are amended to read as follows:

11 § 490-g. Enforcement. 1. Where it is determined after a hearing that
12 any person has violated one or more provisions of this article, the
13 [~~director~~] secretary may assess a civil penalty no greater than five
14 thousand dollars for each violation. Any proceeding conducted pursuant
15 to this section shall be subject to the state administrative procedure
16 act. Upon the occasion of a second violation or subsequent violations of
17 this article, a civil penalty no greater than fifty thousand dollars may
18 be assessed.

19 2. The [~~board~~] department shall provide the attorney general any
20 information on recalled or unsafe products, complaints regarding
21 recalled or unsafe products and violations of this section that are
22 necessary for the purposes of enforcement by the attorney general pursu-
23 ant to section sixty-three of the executive law.

24 3. The [~~director~~] secretary or his or her designee may administer
25 oaths and take affidavits in relation to any matter or proceeding in the
26 exercise of the powers and duties under this article. The [~~director~~]
27 secretary or his or her designee may subpoena and require the attendance
28 of witnesses and the production of books, papers, contracts and any
29 other documents pertaining to any investigation or hearing conducted
30 pursuant to this article.

31 4. If any person refuses to comply with a subpoena issued under this
32 section, the [~~board~~] department may petition a court of competent juris-
33 diction to enforce the subpoena and such sanctions as the court may
34 direct.

35 5. Nothing in this section shall be construed to restrict any right
36 which any person may have under any other statute or at common law.

37 § 490-h. Promulgation of rules and regulations. The [~~board~~] department
38 shall promulgate rules and regulations to administer this article.

39 § 34. Subdivision 9 of section 349-d of the general business law, as
40 added by chapter 416 of the laws of 2010, is amended to read as follows:

41 9. The attorney general, upon his or her own motion or upon referral
42 from the public service commission, the Long Island power authority or
43 the [~~state consumer protection board~~] department of state, may bring a
44 civil action against any energy services company that violates any
45 provision of this section and may recover (a) a civil penalty not to
46 exceed one thousand dollars per violation; and (b) costs and reasonable
47 attorney's fees. In any such proceeding the court may direct restitu-
48 tion.

49 § 35. Subdivisions (b) and (c) of section 372 of the general business
50 law, as added by section 6 of part VV of chapter 59 of the laws of 2009,
51 are amended to read as follows:

52 (b) The department shall, in accordance with regulations promulgated
53 by the commissioner of taxation and finance, produce and make available
54 to taxpayers and tax preparers an informational flier regarding consum-
55 ers' rights and laws concerning tax preparers to be called a "consumer
56 bill of rights regarding tax preparers". The department shall consult

1 with the [~~state consumer protection board~~] department of state, to
 2 enhance distribution of fliers to consumers. The flier shall also be
 3 made available on the department and the [~~state consumer protection~~
 4 ~~board's~~] department of state's internet site, and shall contain informa-
 5 tion including, but not limited to, the following:

6 (1) postings required by state and federal laws, such as price posting
 7 and posting of qualifications;

8 (2) explanations of some of the commonly offered services and industry
 9 jargon, such as preparation of short and long federal forms, refund,
 10 electronic filing, express mail, direct deposit, refund anticipation
 11 check, refund anticipation loan, quick, instant, rapid, fast, fee, and
 12 interest;

13 (3) basic information on what a tax preparer is and is not required to
 14 do for a consumer, such as the preparer's responsibility to sign a
 15 return, that a tax preparer may not be required to accompany a consumer
 16 to an audit but the company may have a voluntary policy to accompany
 17 consumers to audits; and

18 (4) the telephone numbers of the department for information and
 19 complaints.

20 The flier shall be in a form which is easily reproducible by photocopy
 21 machine.

22 (c) The department shall coordinate its response to consumer tax
 23 preparer complaints with the [~~state consumer protection board, pursuant~~
 24 ~~to subdivision (b) of section five hundred fifty three of the executive~~
 25 ~~law~~] department of state, as the department deems appropriate.

26 § 36. Subdivision (g) of section 380-t of the general business law, as
 27 amended by chapter 279 of the laws of 2008, is amended to read as
 28 follows:

29 (g) The [~~consumer protection board~~] department of state shall monitor
 30 the state of technology relating to the means available to process
 31 requests for the lifting or removal of a security freeze, and shall
 32 report to the legislature when it is determined that the technology to
 33 process requests for the lifting or removal of a security freeze in a
 34 shorter period of time than that set forth in subdivision (e) of this
 35 section is available.

36 § 37. Subdivision 3 of section 390-c of the general business law, as
 37 added by chapter 509 of the laws of 2007, is amended to read as follows:

38 3. The [~~consumer protection board~~] department of state shall establish
 39 an internet security website or webpage, that includes, but is not
 40 limited to, an explanation of what a firewall is and the importance of
 41 other internet security measures.

42 § 38. Subdivision 2 of section 399-dd of the general business law, as
 43 added by chapter 519 of the laws of 2006, is amended to read as follows:

44 2. The [~~consumer protection board~~] department of state, in consulta-
 45 tion with the office of parks, recreation and historic preservation,
 46 shall promulgate rules and regulations for the design, installation,
 47 inspection and maintenance of playgrounds and playground equipment.
 48 Those regulations shall substantially comply with the guidelines and
 49 criteria which are contained in the handbook for public playground safe-
 50 ty produced by the United States consumer products safety commission or
 51 any successor. The rules and regulations shall include special
 52 provisions for playgrounds appropriate for children within the range of
 53 ages in day care settings.

54 § 39. Paragraphs a and b of subdivision 1 of section 399-z of the
 55 general business law are REPEALED, and two new paragraphs a and b are
 56 added to read as follows:

1 a. "Department" shall mean the department of state.

2 b. "Secretary" shall mean the secretary of state.

3 § 40. Subdivision 4 of section 399-z of the general business law, as
4 amended by chapter 344 of the laws of 2010, is amended to read as
5 follows:

6 4. a. The [~~board~~] department is authorized to establish, manage, and
7 maintain a no telemarketing sales calls statewide registry which shall
8 contain a list of customers who do not wish to receive unsolicited tele-
9 marketing sales calls. The [~~board~~] department may contract with a
10 private vendor to establish, manage and maintain such registry, provided
11 the private vendor has maintained national no telemarketing sales calls
12 registries for more than two years, and the contract requires the vendor
13 to provide the no telemarketing sales calls registry in a printed hard
14 copy format and in any other format as prescribed by the [~~board~~] depart-
15 ment.

16 b. The [~~board~~] department is authorized to have the national "do-not-
17 call" registry established, managed and maintained by the federal trade
18 commission pursuant to 16 C.F.R. Section 310.4 (b) (1) (iii) (B) serve
19 as the New York state no telemarketing sales calls statewide registry
20 provided for by this section. The [~~board~~] department is further author-
21 ized to take whatever administrative actions may be necessary or appro-
22 priate for such transition including, but not limited to, providing the
23 telephone numbers of New York customers registered on the no telemarket-
24 ing sales calls statewide registry to the federal trade commission, for
25 inclusion on the national "do-not-call" registry.

26 § 41. Subdivisions 6, 7 and 8 of section 399-z of the general business
27 law, subdivisions 6 and 8 as amended and subdivision 7 as added by chap-
28 ter 344 of the laws of 2010, are amended to read as follows:

29 6. a. The [~~board~~] department shall provide notice to customers of the
30 establishment of the national "do-not-call" registry. Any customer who
31 wishes to be included on such registry shall notify the federal trade
32 commission as directed by relevant federal regulations.

33 b. Any company that provides local telephone directories to customers
34 in this state shall inform its customers of the provisions of this
35 section by means of publishing a notice in such local telephone directo-
36 ries.

37 7. When the [~~board~~] department has reason to believe a telemarketer
38 has engaged in repeated unlawful acts in violation of this section, or
39 when a notice of hearing has been issued pursuant to subdivision eight
40 of this section, the [~~board~~] department may request in writing the
41 production of relevant documents and records as part of its investi-
42 gation. If the person upon whom such request was made fails to produce
43 the documents or records within thirty days after the date of the
44 request, the [~~board~~] department may issue and serve subpoenas to compel
45 the production of such documents and records. If any person shall refuse
46 to comply with a subpoena issued under this section, the [~~board~~] depart-
47 ment may petition a court of competent jurisdiction to enforce the
48 subpoena and such sanctions as the court may direct.

49 8. a. Where it is determined after hearing that any person has
50 violated one or more provisions of this section, the [~~director~~] secre-
51 tary, or any person deputized or so designated by him or her may assess
52 a fine not to exceed eleven thousand dollars for each violation.

53 b. Any proceeding conducted pursuant to paragraph a of this subdivi-
54 sion shall be subject to the state administrative procedure act.

1 c. Nothing in this subdivision shall be construed to restrict any
2 right which any person may have under any other statute or at common
3 law.

4 § 42. Subdivision 1 of section 791 of the general business law, as
5 amended by chapter 133 of the laws of 1999, is amended to read as
6 follows:

7 1. There is created within the department a hearing aid dispensing
8 advisory board which shall consist of thirteen members to be appointed
9 by the secretary: four of whom shall be non-audiologist hearing aid
10 dispensers who shall have been engaged in the business of dispensing
11 hearing aids primarily in this state for at least five years immediately
12 preceding their appointment, two to be appointed upon the recommendation
13 of the governor, one to be appointed upon the recommendation of the
14 temporary president of the senate and one to be appointed upon the
15 recommendation of the speaker of the assembly; four members shall be
16 audiologists who are engaged in the dispensing of hearing aids for at
17 least five years immediately preceding their appointment, two to be
18 appointed upon the recommendation of the governor, one to be appointed
19 upon the recommendation of the temporary president of the senate and one
20 to be appointed upon the recommendation of the speaker of the assembly;
21 two shall be otolaryngologists; and the remaining three members, none of
22 whom shall derive nor have derived in the past economic benefit from the
23 business of dispensing hearing aids, shall be from the resident lay
24 public of this state who are knowledgeable about issues related to hear-
25 ing loss. At least one lay member shall be an individual representing
26 adults over the age of fifty. At least one of the lay members shall be
27 a hearing aid user. Of the otolaryngologists and lay members, one shall
28 be appointed by the secretary on the recommendation of the minority
29 leader of the senate and one shall be appointed by the secretary on the
30 recommendation of the minority leader of the assembly and three shall be
31 appointed by the secretary on the recommendation of the governor. Each
32 member of the board shall be appointed for a term of two years. Any
33 member may be appointed for additional terms. In the event that any
34 member shall die or resign during his or her term, a successor shall be
35 appointed in the same manner and with the same qualifications as set
36 forth in this section. A member may be reappointed for successive terms
37 but no member shall serve more than a total of ten years. The secretary
38 or the designee of the secretary shall serve in an ex officio non-voting
39 position. The secretary shall serve as chairperson. The commissioner of
40 education, the commissioner of health, ~~[the chair and executive director
41 of the consumer protection board]~~ and the attorney general or their
42 designees shall serve as non-voting ex officio members.

43 § 43. Paragraph (a) of subdivision 8 of section 899-aa of the general
44 business law, as amended by chapter 491 of the laws of 2005, is amended
45 to read as follows:

46 (a) In the event that any New York residents are to be notified, the
47 person or business shall notify the state attorney general, the ~~[consum-
48 er protection board,]~~ department of state and the state office of cyber
49 security and critical infrastructure coordination as to the timing,
50 content and distribution of the notices and approximate number of
51 affected persons. Such notice shall be made without delaying notice to
52 affected New York residents.

53 § 44. Subdivision (c) of section 3217 of the insurance law is amended
54 to read as follows:

55 (c) Prior to the issuance of regulations pursuant to this section,
56 the superintendent shall afford the public, including the companies

1 affected thereby, reasonable opportunity for comment and shall obtain
 2 the views, in writing, of the commissioner of health and the [~~chairman~~
 3 ~~of the consumer protection board~~] secretary of state.

4 § 45. Paragraph (a) of subdivision 1 of section 1898 of the public
 5 authorities law, as added by chapter 487 of the laws of 2009, is amended
 6 to read as follows:

7 (a) the president of the authority; the secretary of state; the
 8 commissioner of housing and community renewal; the commissioner of
 9 labor; the commissioner of temporary and disability assistance; [~~the~~
 10 ~~chair of the consumer protection board,~~] the chair of the department of
 11 public service; the president of the power authority of the state of New
 12 York; the president of the Long Island power authority; the commissioner
 13 of economic development; the commissioner of environmental conservation;
 14 or the designees of such persons; and

15 § 46. Section 2803-s of the public health law, as added by chapter 539
 16 of the laws of 2010, is amended to read as follows:

17 § 2803-s. Access to product recall information. The commissioner shall
 18 require that every hospital and birth center distribute at the time of
 19 pre-booking or admission directly to each maternity patient and, upon
 20 request, to the general public an informational leaflet. Such leaflet
 21 shall be designed by the commissioner in conjunction with the [~~executive~~
 22 ~~director of the state consumer protection board, on behalf of the state~~
 23 ~~consumer protection board,~~] secretary of state and shall contain infor-
 24 mation detailing how parents or guardians of infants and children can
 25 subscribe to the United States consumer product safety commission's
 26 e-mail subscription lists to receive consumer product recall and safety
 27 news by e-mail from the United States consumer product safety commission
 28 and such other material as deemed appropriate by the commissioner. Such
 29 leaflet shall be made available to hospitals and birth centers by the
 30 department on its website and shall be provided in English, as well as
 31 the top six languages other than English spoken in the state according
 32 to the latest available data from the United States Bureau of Census.

33 § 47. Section 24-a of the public service law, as added by chapter 650
 34 of the laws of 1974, is amended to read as follows:

35 § 24-a. [~~1-~~] Notice to be given to [~~board~~] department of state prior
 36 to rate increase.

37 1. Notwithstanding any inconsistent general, special or local law or
 38 rule or regulation to the contrary, the commission shall to the extent
 39 the [~~board~~] department shall so request in any cases or class of cases,
 40 give notice to the [~~board~~] department of any filed statement proposing
 41 to modify or increase rates, services, schedule of rates or any other
 42 rating rule or to adopt or amend any rate or service rules or regu-
 43 lations within five days after the commission shall have received such
 44 statement from any utility subject to its jurisdiction; provided, howev-
 45 er, that in lieu of giving such notice, the commission may direct that
 46 the utility give such notice to the [~~board~~] department.

47 2. In any such case in which the [~~board~~] department shall file with
 48 the commission a statement of intent to be a party, the [~~board~~] depart-
 49 ment shall have and in its discretion may exercise all the rights and
 50 privileges of a party.

51 3. For the purposes of this section, [~~the term "board" shall mean the~~
 52 ~~state consumer protection board,~~] the term "commission" shall mean the
 53 public service commission.

54 § 48. Section 71 of the public service law, as amended by chapter 217
 55 of the laws of 1978, is amended to read as follows:

1 § 71. Complaints as to quality and price of gas and electricity;
2 investigation by commission; forms of complaints. Upon the complaint in
3 writing of the mayor of a city, the trustees of a village, the town
4 board of a town or the chief executive officer or the legislative body
5 of a county in which a person or corporation is authorized to manufac-
6 ture, convey, transport, sell or supply gas or electricity for heat,
7 light or power, or upon the complaint in writing of not less than twen-
8 ty-five customers or purchasers of such gas or electricity, or upon the
9 complaint in writing of the [~~state consumer protection board~~] department
10 of state, or upon a complaint of a gas corporation or electrical corpo-
11 ration supplying or transmitting said gas or electricity, as to the
12 illuminating or heating power, purity or pressure or the rates, charges
13 or classifications of service of gas, the efficiency of the electric
14 incandescent lamp supply, the voltage of the current supplied for light,
15 heat or power, or the rates charged or classification of service of
16 electricity sold and delivered in such municipality, the commission
17 shall investigate as to the cause for such complaint. When such
18 complaint is made, the commission may, by its agents, examiners and
19 inspectors, inspect the works, system, plant, devices, appliances and
20 methods used by such person or corporation in manufacturing, transmit-
21 ting and supplying such gas or electricity, and may examine or cause to
22 be examined the books and papers of such person, or corporation pertain-
23 ing to the manufacture, sale, transmitting and supplying of such gas or
24 electricity. The form and contents of complaints made as provided in
25 this section shall be prescribed by the commission. Such complaints
26 shall be signed by the officers, or by the customers, purchasers or
27 subscribers making them, who must add to their signatures their places
28 of residence, by street and number, if any.

29 § 49. Section 84 of the public service law, as amended by chapter 650
30 of the laws of 1974, is amended to read as follows:

31 § 84. Complaints as to service and price of steam heat; investigation
32 by commission; forms of complaints. Upon the complaint in writing of
33 the mayor of the city, the trustees of a village or the town board of a
34 town in which a person or corporation is authorized to manufacture, sell
35 or supply steam for heat or power, or upon the complaint in writing of
36 not less than fifty customers or purchasers of such steam heat in cities
37 of the first or second class, or of not less than twenty-five in cities
38 of the third class, or of not less than ten elsewhere, or upon the
39 complaint in writing of the [~~state consumer protection board~~] department
40 of state, as to the price, pressure or efficiency of steam supplied for
41 heat or power, sold and delivered in such municipality, the commission
42 shall investigate as to the cause for such complaint. When such
43 complaint is made, the commission may, by its agents, examiners and
44 inspectors, inspect the work, system, plant, devices, appliances and
45 methods used by such person or corporation in manufacturing, transmit-
46 ting and supplying such steam, and may examine or cause to be examined
47 the books and papers of such person or corporation pertaining to the
48 manufacture, sale, transmitting and supplying of such steam. The form
49 and contents of complaints made as provided in this section shall be
50 prescribed by the commission. Such complaint shall be signed by the
51 officers, or by the customers, purchasers or subscribers making them,
52 who must add to their signatures their place of residence, by street and
53 number, if any.

54 § 50. Section 89-i of the public service law, as amended by chapter
55 651 of the laws of 1974, is amended to read as follows:

1 § 89-i. Complaints as to price of water; investigation by commission;
2 forms of complaints. Upon the complaint in writing of the mayor of a
3 city, the trustees of a village or the town board of a town in which a
4 person or corporation is authorized to supply or distribute water for
5 domestic, commercial or public uses, or upon the complaint in writing of
6 not less than twenty-five customers or purchasers of such water in such
7 municipality or upon complaint of a water-works corporation supplying
8 such water, as to the rates, charges or classifications of service for
9 water sold and delivered in such municipality, or upon the complaint in
10 writing of the [~~state consumer protection board~~] department of state, or
11 as to the methods employed in furnishing such service, the commission
12 shall investigate as to the cause of such complaint. When such complaint
13 is made, the commission may, by its agents, examiners and inspectors,
14 inspect the works, system, plant, devices, appliances and methods used
15 by such water-works corporation in supplying and distributing such
16 water, and may examine or cause to be examined the books and papers of
17 such water-works corporation pertaining to the supplying and distribut-
18 ing of such water. The form and contents of complaints made as provided
19 in this section shall be prescribed by the commission. Such complaints
20 shall be signed by the officers, or by the customers, purchasers or
21 subscribers making them, who must add to their signatures their places
22 of residence, by street and number, if any.

23 § 51. Subdivision 3 of section 96 of the public service law, as
24 amended by chapter 650 of the laws of 1974, is amended to read as
25 follows:

26 3. Complaints may be made to the commission by the [~~state consumer~~
27 ~~protection board~~] department of state or by any person or corporation
28 aggrieved, by petition or complaint in writing, setting forth any act
29 done or omitted to be done by any telegraph corporation or telephone
30 corporation alleged to be in violation of the terms or conditions of its
31 franchise or charter or of any order of the commission. Upon the presen-
32 tation of such a complaint the commission shall cause a copy thereof to
33 be forwarded to the person or corporation complained of which may be
34 accompanied by an order directed to such person or corporation requiring
35 that the matters complained of be satisfied or that the charges be
36 answered in writing within a time to be specified by the commission. If
37 the person or corporation complained of shall make reparation for any
38 injury alleged and shall cease to commit or permit the violation of law,
39 franchise, charter or order charged in the complaint, if any there be,
40 and shall notify the commission of that fact before the time allowed for
41 answer, the commission need take no further action upon the charges. If,
42 however, the charges contained in such petition be not thus satisfied
43 and it shall appear to the commission that there are reasonable grounds
44 therefor, it shall investigate such charges in such manner and by such
45 means as it shall deem proper and take such action within its powers as
46 the facts in its judgment justify.

47 § 52. Paragraph 2 of subdivision (n) of section 1817 of the tax law,
48 as amended by section 30 of subpart I of part V-I of chapter 57 of the
49 laws of 2009, is amended to read as follows:

50 (2) The commissioner[, ~~in cooperation with the state consumer~~
51 ~~protection board~~,] shall monitor the prices charged by persons engaged
52 in the retail sale or distribution of motor fuel and diesel motor fuel.

53 § 53. Section 97-www of the state finance law, as added by chapter 547
54 of the laws of 2000, is amended to read as follows:

55 § 97-www. [~~1-~~] Consumer protection account. 1. There is hereby estab-
56 lished in the joint custody of the state comptroller and the commission-

1 er of taxation and finance an account within the miscellaneous special
2 revenue fund to be known as the "consumer protection account."

3 2. Such account shall consist of all [~~fees and~~] penalties received by
4 the [~~state consumer protection board~~] department of state pursuant to
5 [~~article ten-B of the personal property law,~~] section three hundred
6 ninety-nine-z of the general business law and any additional monies
7 appropriated, credited or transferred to such account by the Legisla-
8 ture. Any interest earned by the investment of monies in such account
9 shall be added to such account, become part of such account, and be used
10 for the purposes of such account.

11 3. Monies in the account shall be available to the [~~state consumer~~
12 ~~protection board for the payment of costs of producing and distributing~~
13 ~~educational materials and conducting educational activities relating to~~
14 ~~the promotion of the "unsolicited telemarketing sales call registry" and~~
15 ~~all related costs and expenditures incurred in the administration of~~
16 ~~section three hundred ninety-nine-z of the general business law and~~
17 ~~article ten-B of the personal property law~~] department of state for all
18 costs and expenditures related to consumer protection activities.

19 4. Monies in the account shall be paid out of the account on the audit
20 and warrant of the state comptroller on vouchers certified or approved
21 by the [~~state consumer protection board~~] department of state or any
22 officer or employee designated by the [~~executive director~~] secretary of
23 state.

24 § 54. Intentionally omitted.

25 § 55. Paragraph 1 of subsection (c) of section 109 of the insurance
26 law is amended to read as follows:

27 (1) If the superintendent finds after notice and hearing that any
28 authorized insurer, representative of [~~such~~] the insurer, licensed
29 insurance agent, licensed insurance broker [~~or~~], licensed adjuster, or
30 any other person or entity licensed, certified, registered, or author-
31 ized pursuant to this chapter, has wilfully violated the provisions of
32 this chapter[~~, he~~] or any regulation promulgated thereunder, then the
33 superintendent may order [~~such insurer, representative, agent, broker,~~
34 ~~or adjuster, as the case may be,~~] the person or entity to pay to the
35 people of this state a penalty in a sum not exceeding [~~five hundred~~] one
36 thousand dollars for each [~~such~~] offense.

37 § 56. Section 203 of the insurance law is REPEALED.

38 § 57. Section 209 of the insurance law is REPEALED.

39 § 58. Section 210-a of the insurance law is REPEALED.

40 § 59. Section 211 of the insurance law is REPEALED.

41 § 60. Section 212 of the insurance law is REPEALED.

42 § 61. Section 214 of the insurance law, as added by chapter 77 of the
43 laws of 2008, is amended to read as follows:

44 § 214. Report on insurance agent licensing examinations. The super-
45 intendent shall perform a study of the insurance agent licensure exam-
46 inations required pursuant to section two thousand one hundred three of
47 this chapter. The study shall, at a minimum, include the total number of
48 examinees, the passing rate of all examinees, and the mean scores on the
49 examination. Additionally, the study shall examine the correlation
50 between these statistics and the applicants' native language, level of
51 education, gender, race and ethnicity. The study shall be completed by
52 [~~January first~~] March fifteenth, two thousand [~~nine~~] twelve, and annual-
53 ly thereafter.

54 § 62. Subsection (d) of section 308 of the insurance law is REPEALED.

55 § 63. Sections 498-a and 562 of the banking law are REPEALED.

1 § 64. Section 337 of the insurance law, as added by chapter 647 of
2 the laws of 1992, is amended to read as follows:

3 § 337. Annual consumer guide on automobile insurance. (a) ~~[No later~~
4 ~~than October first of each year, beginning in nineteen hundred ninety-~~
5 ~~three, the]~~ The superintendent shall ~~[publish and make available, free~~
6 ~~of charge to the public,]~~ issue and update, as necessary, a consumer
7 guide on private passenger automobile insurance that shall contain
8 comprehensive ~~[and updated]~~ information written in plain language in a
9 clear and understandable format, including the following:

10 (1) an annual ranking of automobile insurers: (A) including an analy-
11 sis of private passenger insurers in the state which provides, in
12 detail, a ranking of such insurers from best to worst based on each
13 insurer's record of consumer complaints during the preceding calendar
14 year, using criteria available to the department, adjusted for volume of
15 insurance written; and (B) taking into consideration the corresponding
16 total of claims improperly denied in whole or in part, consumer
17 complaints found to be valid in whole or in part, and any other perti-
18 nent data which would permit the department to objectively determine an
19 insurer's performance; and (C) the superintendent may note, to the
20 extent relevant, actions taken by the department against an insurer for
21 violating any law or regulation;

22 (2) a list of makes and models of automobiles that generally do not
23 meet underwriting guidelines of automobile insurers or in regard to
24 which consumers can expect to pay higher premiums as a result of an
25 automobile's style, model type or other distinguishing features, except
26 that specific insurers shall not be identified for purposes of such
27 list;

28 (3) an explanation of all types of automobile insurance required by
29 law and available as optional coverage, including policyholders' rights
30 under these types of coverage and when making claims;

31 (4) an explanation of and information on the automobile insurance plan
32 established pursuant to article fifty-three of this chapter, including
33 how motorists in such plan should proceed in attempting to obtain insur-
34 ance in the voluntary market;

35 (5) ~~[representative information on the availability and costs of auto-~~
36 ~~mobile insurance from insurers for rating territories in the state, for~~
37 ~~classes of drivers, including information on premium credit and~~
38 ~~surcharge practices;~~

39 ~~(6)]~~ recommendations as to how best to shop for and compare prices,
40 service and quality of automobile insurance coverage;

41 ~~[(7)]~~ (6) an explanation of prohibited discriminatory practices apply-
42 ing to insurance companies, agents and brokers; and

43 ~~[(8)]~~ (7) a department toll free consumer hot-line through which
44 consumers may initiate complaints, and request general information,
45 about automobile insurance.

46 (b) The ~~[annual]~~ requirements set forth in subsection (a) of this
47 section may be satisfied by separate or supplemental publications and
48 updates.

49 (c) The superintendent shall ~~[provide for the adequate distribution~~
50 ~~and availability of]~~ post the consumer guide on automobile insurance on
51 the department's website. ~~[Appropriate copies of the guide shall be~~
52 ~~transmitted to the commissioner of motor vehicles for distribution at~~
53 ~~every department of motor vehicle local and district office in the state~~
54 ~~and to the commissioner of education for distribution to every public~~
55 ~~library in the state, where copies of the guide shall be made available~~
56 ~~free of charge to the public.]~~

1 § 65. Section 338 of the insurance law is REPEALED.

2 § 66. Section 339 of the insurance law is REPEALED.

3 § 67. Section 402 of the insurance law is REPEALED.

4 § 68. Intentionally omitted.

5 § 69. Section 2102 of the insurance law is amended by adding a new
6 subsection (g) to read as follows:

7 (g) Any person, firm, association or corporation who or that violates
8 this section shall be subject to a penalty not to exceed five hundred
9 dollars for each transaction, except as provided in paragraph two of
10 subsection (a) of this section.

11 § 70. Subsection (g) of section 2117 of the insurance law is amended
12 to read as follows:

13 (g) Any person, firm, association or corporation violating any
14 provision of this section shall, in addition to any other penalty
15 provided by law, forfeit to the people of the state the sum of five
16 hundred dollars for ~~[the first offense, and an additional sum of five~~
17 ~~hundred dollars for each month during which any such person, firm, asso-~~
18 ~~ciation or corporation shall continue to act in violation of this~~
19 ~~section] each transaction.~~

20 § 71. Subsection (b) of section 2402 of the insurance law, as amended
21 by chapter 499 of the laws of 2009, is amended to read as follows:

22 (b) "Defined violation" means the commission by a person of an act
23 prohibited by: subsection (a) of section one thousand one hundred two,
24 section one thousand two hundred fourteen, one thousand two hundred
25 seventeen, one thousand two hundred twenty, one thousand three hundred
26 thirteen, subparagraph (B) of paragraph two of subsection (i) of section
27 one thousand three hundred twenty-two, subparagraph (B) of paragraph two
28 of subsection (i) of section one thousand three hundred twenty-four, two
29 thousand one hundred two, two thousand one hundred seventeen, two thou-
30 sand one hundred twenty-two, two thousand one hundred twenty-three,
31 subsection (p) of section two thousand three hundred thirteen, section
32 two thousand three hundred twenty-four, two thousand five hundred two,
33 two thousand five hundred three, two thousand five hundred four, two
34 thousand six hundred one, two thousand six hundred two, two thousand six
35 hundred three, two thousand six hundred four, two thousand six hundred
36 six, two thousand seven hundred three, three thousand one hundred nine,
37 three thousand two hundred twenty-four-a, three thousand four hundred
38 twenty-nine, three thousand four hundred thirty-three, paragraph seven
39 of subsection (e) of section three thousand four hundred twenty-six,
40 four thousand two hundred twenty-four, four thousand two hundred twen-
41 ty-five, four thousand two hundred twenty-six, seven thousand eight
42 hundred nine, seven thousand eight hundred ten, seven thousand eight
43 hundred eleven, seven thousand eight hundred thirteen, seven thousand
44 eight hundred fourteen and seven thousand eight hundred fifteen of this
45 chapter; or section 135.60, 135.65, 175.05, 175.45, or 190.20, or arti-
46 cle one hundred five of the penal law.

47 § 72. Section 2706 of the insurance law is REPEALED.

48 § 73. Intentionally omitted.

49 § 74. Intentionally omitted.

50 § 75. Intentionally omitted.

51 § 76. Section 5514 of the insurance law is REPEALED.

52 § 77. Subsection (d) of section 7006 of the insurance law is REPEALED.

53 § 78. Subdivision 47 of section 2.10 of the criminal procedure law, as
54 added by chapter 720 of the laws of 1981, is amended to read as follows:

55 47. Employees of the ~~[insurance frauds bureau of the state]~~ department
56 of ~~[insurance]~~ financial services when designated as peace officers by

1 the superintendent of [~~insurance~~] financial services and acting pursuant
2 to their special duties as set forth in article four of the financial
3 services law; provided, however, that nothing in this subdivision shall
4 be deemed to authorize such officer to carry, possess, repair or dispose
5 of a firearm unless the appropriate license therefor has been issued
6 pursuant to section 400.00 of the penal law.

7 § 78-a. Subdivision 61 of section 2.10 of the criminal procedure law,
8 as added by chapter 321 of the laws of 1992, is REPEALED.

9 § 79. Subdivision 1 of section 1370-b of the public health law, as
10 amended by section 5 of part A of chapter 58 of the laws of 2009, is
11 amended to read as follows:

12 1. The New York state advisory council on lead poisoning prevention is
13 hereby established in the department, to consist of the following, or
14 their designees: the commissioner; the commissioner of labor; the
15 commissioner of environmental conservation; the commissioner of housing
16 and community renewal; the commissioner of children and family services;
17 the commissioner of temporary and disability assistance; the secretary
18 of state; [~~the superintendent of insurance,~~] and fifteen public members
19 appointed by the governor. The public members shall have a demonstrated
20 expertise or interest in lead poisoning prevention and at least one
21 public member shall be representative of each of the following: local
22 government; community groups; labor unions; real estate; industry;
23 parents; educators; local housing authorities; child health advocates;
24 environmental groups; professional medical organizations and hospitals.
25 The public members of the council shall have fixed terms of three years;
26 except that five of the initial appointments shall be for two years and
27 five shall be for one year. The council shall be chaired by the commis-
28 sioner or his or her designee.

29 § 80. Paragraph (b) of subdivision 1 of section 2553 of the public
30 health law, as amended by chapter 231 of the laws of 1993, is amended to
31 read as follows:

32 (b) The council shall consist of [~~twenty-seven~~] twenty-six members,
33 unless otherwise required by federal law, appointed by the governor. At
34 least five members shall be parents, four of whom shall be parents of
35 children with disabilities aged twelve or younger and one of whom shall
36 be the parent of a child with disabilities aged six or younger; at least
37 five shall be representatives of public or private providers of early
38 intervention services; at least one shall be involved in personnel prep-
39 aration or training; at least two shall be early intervention officials;
40 at least two shall be members of the legislature; [~~seven~~] six shall be
41 the commissioner and the commissioners of education, social services,
42 [~~mental retardation and~~] people with developmental disabilities, mental
43 health, alcoholism and substance abuse services [~~and the superintendent~~
44 ~~of insurance~~], or their appropriate designees with sufficient authority
45 to engage in policy planning and implementation on behalf of their agen-
46 cies.

47 § 81. The opening paragraph of subdivision 1 of section 4602 of the
48 public health law, as amended by chapter 401 of the laws of 2003, is
49 amended to read as follows:

50 The continuing care retirement community council is hereby estab-
51 lished, to consist of the following, or their designees: the attorney
52 general; the commissioner; [~~the superintendent of insurance,~~] the direc-
53 tor of the office for the aging; and eight public members appointed by
54 the governor with the advice and consent of the senate. Such public
55 members shall be representative of the public, and have a demonstrated
56 expertise or interest in continuing care retirement communities;

1 provided that no more than one such member shall be a sponsor, owner,
 2 operator, manager, member of a board of directors, or shareholder of a
 3 continuing care retirement community. At least two public members shall
 4 be residents of a continuing care retirement community. At least one of
 5 the public members shall be a representative of an organization with
 6 demonstrated experience in representing the interests of senior citi-
 7 zens. The public members of the council shall have fixed terms of four
 8 years. The council shall be chaired by the commissioner or his or her
 9 designee.

10 § 82. Paragraph 5 of subdivision (a) of section 11 of the tax law, as
 11 amended by section 19 of part A of chapter 63 of the laws of 2005, is
 12 amended to read as follows:

13 (5) "Department" - the department of [~~insurance~~] financial services;
 14 provided, however, that "department" shall mean the department of
 15 economic development with regard to any application, certification,
 16 report, submission, filing or other action required or governed by this
 17 section occurring on or after August first, two thousand eleven.

18 § 83. Paragraph 12 of subdivision (a) of section 11 of the tax law, as
 19 amended by section 19 of part A of chapter 63 of the laws of 2005, is
 20 amended to read as follows:

21 (12) "Superintendent" - the superintendent of [~~insurance~~] financial
 22 services; provided, however, that "superintendent" shall mean the
 23 commissioner of economic development with regard to any application,
 24 certification, report, submission, filing or other action required or
 25 governed by this section occurring on or after August first, two thou-
 26 sand eleven.

27 § 84. Subdivision (j) of section 11 of the tax law is REPEALED.

28 § 85. Subdivision 1 of section 20 of chapter 784 of the laws of 1951,
 29 constituting the New York state defense emergency act, as amended by
 30 chapter 641 of the laws of 1978, is amended to read as follows:

31 1. There is hereby continued in the division of military and naval
 32 affairs in the executive department a state civil defense commission to
 33 consist of the same members as the members of the disaster preparedness
 34 commission as established in article two-B of the executive law. In
 35 addition, the [~~superintendents~~] superintendent of [~~banking and insur-~~
 36 ~~ance~~] financial services, the chairman of the workers' compensation
 37 board and the director of the division of veterans' affairs shall be
 38 members. The governor shall designate one of the members of the commis-
 39 sion to be the chairman thereof. The commission may provide for its
 40 division into subcommittees and for action by such subcommittees with
 41 the same force and effect as action by the full commission. The members
 42 of the commission, except for those who serve ex officio, shall be
 43 allowed their actual and necessary expenses incurred in the performance
 44 of their duties under this article but shall receive no additional
 45 compensation for services rendered pursuant to this article.

46 § 86. Section 4 of chapter 610 of the laws of 1995 amending the insur-
 47 ance law, relating to investments is REPEALED.

48 § 87. Section 3 of the banking law is REPEALED.

49 § 88. Subdivisions 3, 4, 5, 7, 8 and 9 of section 12-a of the banking
 50 law, as added by chapter 322 of the laws of 2007, paragraph (a) of
 51 subdivision 8 as amended by chapter 295 of the laws of 2008, are amended
 52 to read as follows:

53 3. Except with respect to a federally permitted power approved pursu-
 54 ant to subdivision four of this section, prior to any state chartered
 55 banking institution initially exercising any federally permitted power
 56 pursuant to this section, such banking institution shall make an appli-

1 cation individually or with one or more state chartered banking insti-
 2 tutions to the superintendent indicating that such institution or insti-
 3 tutions intend to exercise such federally permitted power and the basis
 4 on which such institution or institutions believe such power is a feder-
 5 ally permitted power. ~~[The]~~ If such application meets the requirements
 6 of this section, the superintendent shall post such application upon the
 7 bulletin board of the department pursuant to section forty-two of this
 8 article. After promptly reviewing such application, the superintendent
 9 shall determine, consistent with the standards set forth in subdivision
 10 five of this section, whether to ~~[recommend to the banking board~~
 11 ~~approval of]~~ approve such application subject to such terms and condi-
 12 tions as ~~[he or she]~~ the superintendent may deem appropriate, in ~~[his or~~
 13 ~~her]~~ the superintendent's sole discretion. Such determination, ~~[and any~~
 14 ~~recommendation to the banking board to approve an application,]~~ shall be
 15 made by the superintendent within forty-five days after the posting of
 16 such application by the superintendent, provided however that the super-
 17 intendent may notify the applicant or applicants that the review of the
 18 application shall be extended for an additional period of time not
 19 exceeding one hundred twenty days after the posting of such application,
 20 and provided further that such period of time may be extended for an
 21 additional period of time with the written consent of the applicant or
 22 applicants. The ~~[banking board]~~ superintendent shall not act upon the
 23 ~~[superintendent's recommendation]~~ application prior to thirty days after
 24 such application has been posted. If the superintendent shall determine
 25 not to ~~[recommend approval]~~ approve of such application, the superinten-
 26 dent shall notify the applicant or applicants in writing that the appli-
 27 cant or applicants may not exercise such federally permitted power. If
 28 the superintendent ~~[determines to recommend approval of such applica-~~
 29 ~~tion, and the banking board approves such application by adoption of a~~
 30 ~~resolution,]~~ approves such application, the superintendent shall notify
 31 the applicant or applicants in writing thereof, and the applicant or
 32 applicants may exercise such federally permitted power subject to such
 33 terms and conditions as the ~~[banking board]~~ superintendent may have
 34 approved. ~~[If the banking board declines to approve such application,~~
 35 ~~the superintendent shall notify the applicant or applicants in writing~~
 36 ~~thereof.]~~ Notwithstanding any other law, the ~~[banking board, upon the~~
 37 ~~recommendation of the]~~ superintendent~~[,]~~ may~~[, by resolution,]~~ make the
 38 approval of an application under this section applicable to one or more
 39 additional state chartered banking institutions that are qualified to
 40 exercise the same federally permitted powers as the applicant or appli-
 41 cants pursuant to subdivision two of this section, subject to such terms
 42 and conditions as the superintendent shall find necessary and appropri-
 43 ate ~~[and as approved by the banking board]~~.

44 4. Notwithstanding any other law, the superintendent, in ~~[his or her~~
 45 ~~sole]~~ the superintendent's discretion, may, when ~~[he or she]~~ the super-
 46 intendent deems it necessary and appropriate after considering the stan-
 47 dards set forth in subdivision five of this section, ~~[recommend to the~~
 48 ~~banking board that it adopt a resolution authorizing]~~ by order, author-
 49 ize one or more state chartered banking institutions to exercise a
 50 federally permitted power, subject to such terms and conditions as the
 51 superintendent shall find necessary and appropriate ~~[and as approved by~~
 52 ~~the banking board]~~. Prior to ~~[making any such recommendation to the~~
 53 ~~banking board]~~ issuing such order, the superintendent shall post ~~[such~~
 54 ~~recommendation]~~ notice of the superintendent's intention to issue such
 55 order upon the bulletin board of the department pursuant to section
 56 forty-two of this article, and ~~[the banking board]~~ shall not act upon

1 such ~~[recommendation]~~ intention prior to thirty days after such ~~[recom-~~
2 ~~mendation]~~ notice has been posted.

3 5. Prior to approving any ~~[recommendation by the superintendent]~~
4 application or proposal pursuant to subdivision three or four of this
5 section, the ~~[banking board]~~ superintendent shall make a finding that
6 the approval of such ~~[recommendation]~~ application or proposal is:

7 (i) consistent with the policy of the state of New York as declared in
8 section ten of this article and thereby protects the public interest,
9 including the interests of depositors, creditors, shareholders, stock-
10 holders and consumers; and

11 (ii) necessary to achieve or maintain parity between state chartered
12 banking institutions and their counterpart federally chartered banking
13 institutions with respect to rights, powers, privileges, benefits,
14 activities, loans, investments or transactions.

15 7. (a) In those instances where state chartered banking institutions
16 are permitted to engage in the business of insurance pursuant to this
17 section, they shall do so subject to ~~[regulation by the department of~~
18 ~~insurance and pursuant to]~~ all insurance laws, rules, and regulations;
19 provided, however, that the superintendent~~[, in consultation with the~~
20 ~~superintendent of insurance,]~~ may exempt state chartered banking insti-
21 tutions from any insurance law, rule or regulation which has been
22 preempted under federal law, rule or regulation for federally chartered
23 banking institutions if such law, rule or regulation has been preempted
24 because it applies to insurance activities of federally chartered bank-
25 ing institutions and not to those of other entities.

26 (b) In those instances where a federally permitted power authorized
27 pursuant to this section is subject to regulation by an agency, as
28 defined in subdivision one of section one hundred two of the state
29 administrative procedure act, other than the superintendent, ~~[banking~~
30 ~~board or superintendent of insurance,]~~ then when a state chartered bank-
31 ing institution exercises such federally permitted power, unless it is
32 so authorized by other New York state law, or a rule, regulation or
33 policy adopted pursuant to such other New York state law, or by a judi-
34 cial decision, it shall do so subject to such regulation to the same
35 extent and in the same manner as such agency regulates entities other
36 than state chartered banking institutions, except to the extent that
37 federally chartered banking institutions are not subject to such regu-
38 lation.

39 ~~[(c) Except with respect to a credit unemployment insurance policy,~~
40 ~~group credit life insurance policy, a group credit health, group credit~~
41 ~~accident or group credit health and accident policy, or similar group~~
42 ~~credit insurance covering the person of the insured, state chartered~~
43 ~~banking institutions, federally chartered banking institutions, and any~~
44 ~~person soliciting the purchase of or selling insurance on the premises~~
45 ~~thereof, must disclose or cause to be disclosed in writing, where prac-~~
46 ~~ticable, in clear and concise language, to their customers and prospec-~~
47 ~~tive customers who are solicited therefor that any insurance offered or~~
48 ~~sold:~~

49 (i) is not a deposit;

50 (ii) is not insured by the federal deposit insurance corporation or
51 the national credit union share insurance fund, as applicable; and

52 (iii) is not guaranteed by the state chartered banking institution or
53 the federally chartered banking institution.

54 ~~(d) Except with respect to a flood insurance policy, or a credit unem-~~
55 ~~ployment insurance policy, group credit life insurance policy, a group~~
56 ~~credit health, group credit accident or group credit health and accident~~

1 ~~policy, or similar group credit insurance covering the person of the~~
2 ~~insured, when a customer obtains insurance and credit from a state char-~~
3 ~~tered banking institution or a federally chartered banking institution,~~
4 ~~then the credit and insurance transactions shall be completed through~~
5 ~~separate documents. The expense of insurance premiums may not be~~
6 ~~included in the primary credit transaction without the express written~~
7 ~~consent of the customer.~~

8 ~~(e) State chartered banking institutions and federally chartered bank-~~
9 ~~ing institutions shall not extend credit, lease or sell property of any~~
10 ~~kind, or furnish any services, or fix or vary the consideration for any~~
11 ~~of the foregoing, on the condition or requirement that the customer~~
12 ~~obtain insurance from the state chartered banking institution or feder-~~
13 ~~ally chartered banking institution, its affiliate or subsidiary, or a~~
14 ~~particular insurer, agent or broker; provided, however, that this prohi-~~
15 ~~bition shall not prevent any state chartered banking institution or~~
16 ~~federally chartered banking institution from engaging in any activity~~
17 ~~described in this subdivision that would not violate section 106 of the~~
18 ~~Bank Holding Company Act Amendments of 1970 (12 USCA §1971 et seq.), as~~
19 ~~interpreted by the Board of Governors of the Federal Reserve System.~~
20 ~~This prohibition shall not prevent a state chartered banking institution~~
21 ~~or federally chartered banking institution from informing a customer~~
22 ~~that insurance is required in order to obtain a loan or credit, that~~
23 ~~loan or credit approval is contingent upon the customer's procurement of~~
24 ~~acceptable insurance, or that insurance is available from the state~~
25 ~~chartered banking institution or federally chartered banking institu-~~
26 ~~tion; provided, however, that the state chartered banking institution or~~
27 ~~federally chartered banking institution shall also inform the customer~~
28 ~~in writing that his or her choice of insurance provider shall not affect~~
29 ~~the state chartered banking institution's or federally chartered banking~~
30 ~~institution's credit decision or credit terms in any way. Such disclo-~~
31 ~~sure shall be given prior to or at the time that a state chartered bank-~~
32 ~~ing institution or federally chartered banking institution or person~~
33 ~~selling insurance on the premises thereof solicits the purchase of any~~
34 ~~insurance from a customer who has applied for a loan or extension of~~
35 ~~credit.~~

36 ~~(f) No state chartered banking institution or federally chartered~~
37 ~~banking institution shall require a debtor, insurer, or insurance agent~~
38 ~~or broker to pay a separate charge in connection with the handling of~~
39 ~~insurance that is required in connection with a loan or other extension~~
40 ~~of credit or the provision of another traditional banking product solely~~
41 ~~because the insurance is being provided by an insurance agent or broker~~
42 ~~which is not the state chartered banking institution or federally char-~~
43 ~~tered banking institution or any subsidiary or affiliate thereof.~~

44 ~~(g)]~~ (c) Any state chartered banking institution or federally char-
45 ~~tered banking institution and any subsidiary or affiliate thereof which~~
46 ~~is licensed to sell insurance in this state shall maintain separate and~~
47 ~~distinct books and records relating to its insurance transactions,~~
48 ~~including all files relating to and reflecting consumer complaints, and~~
49 ~~such insurance books and records shall be made available to the super-~~
50 ~~intendent [of insurance] for inspection upon reasonable notice.~~

51 8. [(a)] On or before June first[, two thousand eight and annually
52 thereafter] of each year, the superintendent shall submit a report to
53 the governor, the speaker of the assembly, the temporary president of
54 the senate, the minority leaders of the senate and assembly, and the
55 chairs and ranking minority members of the senate and assembly banks
56 committees, which shall include, with respect to the authority provided

1 for in this section, with respect to the preceding calendar year, (1) a
 2 listing of state chartered banking institutions that [~~have been~~
 3 ~~retained,~~] were established [~~or that have converted to federally char-~~
 4 ~~tered banking institutions or have been acquired by, or merged with and~~
 5 ~~into another state or out of state state chartered banking institution~~
 6 ~~or federally chartered banking institution and the total employment of~~
 7 ~~the banking sector in this state], (2) a listing of institutions that~~
 8 have converted to a federal charter or have been acquired by, or merged
 9 with, another banking institution, (3) the number of New York banking
 10 institutions exercising the insurance activities authorized by this
 11 section, (4) the total number of New York chartered banking institutions
 12 located in this state, [including branches,] and (5) the total amount of
 13 assets of such chartered [or licensed] banking institutions by type [of
 14 federal, state or out of state state charter.

15 ~~(b) On or before June first, two thousand eight and annually thereaft-~~
 16 ~~er, the superintendent shall, in conjunction with the superintendent of~~
 17 ~~insurance, submit a report to the governor, the speaker of the assembly,~~
 18 ~~the temporary president of the senate and the minority leaders of the~~
 19 ~~senate and the assembly, which assesses the impact of the provisions of~~
 20 ~~this section which apply to the insurance activities of state chartered~~
 21 ~~banking institutions].~~

22 9. Any rules or regulations promulgated by the banking board pursuant
 23 to former sections fourteen-g and fourteen-h of this chapter prior to
 24 September first, two thousand seven, and any resolutions adopted by the
 25 banking board pursuant to this section after September first, two thou-
 26 sand seven and before the effective date of the chapter of the laws of
 27 two thousand eleven which amended this subdivision, including any such
 28 rules [~~and~~], regulations and resolutions which in whole or in part
 29 impose conditions, qualifications or restrictions on any federally
 30 permitted powers authorized thereby which exceed the conditions, quali-
 31 fications or restrictions imposed on the same when exercised by a feder-
 32 ally chartered banking institution, shall remain in full force and
 33 effect on or after such date, unless any such rule [~~or~~], regulation or
 34 resolution is thereafter superseded, modified, or revoked by the [~~bank-~~
 35 ~~ing board~~] superintendent pursuant to the provisions of subdivisions
 36 three and four of this section.

37 § 89. The functions and powers possessed by and all of the obligations
 38 and duties of the banking board, as established pursuant to the banking
 39 law, shall be transferred and assigned to, assumed by and devolved upon
 40 the superintendent.

41 § 90. Section 14 of the banking law, as amended by chapter 684 of the
 42 laws of 1938, the opening paragraph, paragraphs (a), (d), (e), and (f)
 43 of subdivision 1 as amended by chapter 315 of the laws of 2008, para-
 44 graphs (b) and (c) of subdivision 1 as amended by chapter 652 of the
 45 laws of 1988, paragraph (cc) of subdivision 1 as amended by chapter 115
 46 of the laws of 1981, paragraph (g) of subdivision 1 as amended and para-
 47 graphs (h), (i), (ii), (k), (m), (n), (o), (p), (q), and (qq) of subdivi-
 48 sion 1 as relettered by chapter 360 of the laws of 1984, paragraph
 49 (i) of subdivision 1 as amended by chapter 766 of the laws of 1975,
 50 paragraph (ii) of subdivision 1 as added by chapter 226 of the laws of
 51 1943, paragraphs (j) and (l) of subdivision 1 as amended by chapter 154
 52 of the laws of 2007, paragraph (s) of subdivision 1 as amended by chap-
 53 ter 613 of the laws of 1993, paragraph (t) of subdivision 1 as separate-
 54 ly relettered by chapters 360 and 789 of the laws of 1984 and paragraph
 55 (qq) of subdivision 1, as added by chapter 15 of the laws of 1980, is
 56 amended to read as follows:

1 § 14. [~~Powers of the banking board~~] Additional powers of the super-
2 intendent. 1. For the purpose of effectuating the policy declared in
3 section ten of this article, without limiting any other powers that the
4 superintendent is permitted by law to exercise, the [~~banking board~~]
5 superintendent shall have the power[~~, by a three-fifths vote of all its~~
6 ~~members,~~] to make, alter and amend [~~resolutions,~~] orders, rules and
7 regulations not inconsistent with law. Such orders, rules[~~,~~] and regu-
8 lations [~~and resolutions~~] shall be brought to the attention of those
9 affected thereby in a manner [~~to be~~] prescribed by [~~the board~~] law.
10 Without limiting the foregoing power, [~~resolutions~~] orders or rules or
11 regulations may be so adopted for the following specific purposes:
12 (a) To approve organization certificates and articles of association,
13 private bankers' certificates and applications of foreign corporations
14 for licenses to do business in this state, [~~submitted to it by the~~
15 ~~superintendent~~] as provided in this article.
16 (b) To determine the purposes for which and the extent to which capi-
17 tal notes or debentures shall be considered and treated as capital stock
18 of corporate banking organizations; but capital notes or debentures
19 shall not be considered or treated as capital stock for the purposes of
20 sections one hundred ten and one hundred eleven of this chapter.
21 (c) To grant permission to a trust company, including a national bank,
22 to establish one or more common trust funds upon application and after
23 inquiry concerning the qualifications of such trust company to maintain
24 and manage the same, and to regulate the conduct and management of any
25 common trust fund and for such purpose, but not by way of limitation of
26 the foregoing power, to prescribe (1) the records and accounts to be
27 kept of such common trust funds; (2) the procedure to be followed in
28 adding moneys to or withdrawing moneys or investments from any such
29 common trust fund; (3) the methods and standards to be employed in
30 determining the value of such common trust funds and of the assets and
31 investments thereof; (4) the maximum amount of moneys of any estate,
32 trust or fund which may be invested in any common trust fund; and (5)
33 the maximum proportionate share of any such common trust fund which may
34 be apportioned to any estate, trust or fund; and in connection with such
35 powers to classify the corporations maintaining such common trust funds
36 according to the population of the city, town or village in which the
37 principal offices of such corporations are respectively located and to
38 prescribe the minimum total of any such common trust fund and the
39 permissible limits of investment therein in accordance with such classi-
40 fication.
41 (cc) To approve the incorporation by or on behalf of trust companies
42 and national banks with trust powers of a mutual trust investment compa-
43 ny to form a medium for the common investment of funds held by trust
44 companies, including national banks, acting as executors, administra-
45 tors, guardians, inter-vivos or testamentary trustees or committees or
46 conservators either alone or with individual co-fiduciaries, and any
47 amendments of the certificate of incorporation of such mutual trust
48 investment company, and to regulate the conduct and management of such
49 mutual trust investment company and for such purpose, but not by way of
50 limitation of the foregoing power, to prescribe (1) the records and
51 accounts to be kept by such mutual trust investment company; (2) the
52 procedure to be followed in the sale or redemption of stocks or shares
53 therein; (3) the methods and standards to be employed in determining the
54 value of such shares in the mutual trust investment company and the
55 assets and investments thereof; and (4) the maximum proportionate shares

1 of any such mutual trust investment company which may be apportioned or
2 sold to any one trust company or national bank.

3 (d) To authorize a bank or a trust company to invest in the capital
4 stock of, or any other equity interest in, any corporation, partnership,
5 unincorporated association, limited liability company, or other entity
6 not included among the corporations or other entities for which invest-
7 ment in the capital stock or other equity interest is expressly author-
8 ized by this chapter.

9 (e) To authorize a savings bank to invest in the capital stock, capi-
10 tal notes and debentures of a trust company or other corporation, as
11 provided in article six of this chapter.

12 (f) To authorize a savings and loan association to invest in the capi-
13 tal stock, capital notes and debentures of a trust company or other
14 corporation, as provided in article ten of this chapter.

15 (g) To prescribe from time to time: (1) the rates of interest which
16 may be paid on deposits with any banking organization and with any
17 branch or agency of a foreign banking corporation; and (2) the rates of
18 dividends which may be paid on shares of any savings and loan associ-
19 ation or credit union, and to prohibit the payment of such interest or
20 such dividends by any banking organization or by any branch of a foreign
21 banking corporation. Interest or dividend rates so prescribed need not
22 be uniform.

23 (h) To limit and regulate withdrawals of deposits or shares from any
24 banking organization, if the ~~board~~ superintendent shall find that such
25 limitation and regulation are necessary because of the existence of
26 unusual and extraordinary circumstances. ~~[The board shall enter such~~
27 ~~finding on its records.]~~

28 (i) To prescribe from time to time reserves against deposits to be
29 maintained by banks and trust companies pursuant to article three of
30 this chapter; provided that no reserve requirement imposed ~~[by the~~
31 ~~board]~~ against either time or demand deposits shall require any bank or
32 trust company to maintain total reserves in an amount greater than it
33 would be required to maintain if it were at the time a member of the
34 federal reserve system; and provided further, however, that a bank or
35 trust company not a member of the federal reserve system may be author-
36 ized ~~[by the board]~~ to maintain total reserves against deposits in an
37 amount lower than the reserves required by article three of this chapter
38 to be maintained, either in individual cases or by general regulations
39 ~~[of the board]~~ on such basis as the ~~board~~ superintendent may deem
40 reasonable or appropriate in view of the character of the business tran-
41 sacted by such bank or trust company.

42 ~~[(ii) To exempt from reserve requirements prescribed by or pursuant to~~
43 ~~this chapter deposits payable to the United States by any banking organ-~~
44 ~~ization arising solely as a result of subscriptions made by or through~~
45 ~~any such banking organization for United States government securities~~
46 ~~issued under the authority of the second liberty bond act as amended.]~~

47 (j) To grant permission to officers, directors, clerks or employees of
48 banks and trust companies to engage in the issue, flotation, underwrit-
49 ing, public sale or distribution at wholesale or retail, or through
50 syndicate participation of stocks, bonds or other similar securities,
51 and to revoke such permission, both as provided in this chapter.

52 (k) To prescribe the methods and standards to be used (1) in making
53 the examinations provided for in this chapter, and (2) in valuing the
54 assets of banking organizations.

55 (l) To prescribe the form and contents of periodical reports of condi-
56 tion to be rendered to the superintendent by banks, trust companies,

1 private bankers and branches of foreign banking corporations, and the
2 manner of publication of such reports.

3 (m) To postpone or omit the calling for and rendering of reports
4 provided for by this chapter if the [~~board~~] superintendent shall find
5 that such postponement or omission is necessary because of the existence
6 of unusual and extraordinary circumstances. [~~The board shall enter such~~
7 ~~finding on its records.~~]

8 (n) To define what is an unsafe manner of conducting the business of
9 banking organizations.

10 (o) To define what is a safe or unsafe condition of a banking organ-
11 ization.

12 (p) To make variations from the requirements of this chapter, provided
13 such variations are in harmony with the spirit of the law, if the
14 [~~board~~] superintendent shall find that such variations are necessary
15 because of the existence of unusual and extraordinary circumstances.
16 [~~The board shall enter such finding on its records.~~]

17 (q) To establish safe and sound methods of banking and safeguard the
18 interests of depositors, creditors, shareholders and stockholders gener-
19 ally in times of emergency.

20 (qq) To permit any banking organization, national banking association,
21 federal mutual savings bank, federal savings and loan association and
22 federal credit union to offer graduated payment mortgages which shall
23 conform to the provisions of section two hundred seventy-nine of the
24 real property law.

25 (s) To permit authorized lenders, as defined by section two hundred
26 eighty or two hundred eighty-a of the real property law, to offer
27 reverse mortgage loans which shall conform to the provisions of section
28 two hundred eighty or two hundred eighty-a of the real property law.

29 [~~(t) To exercise any other power conferred upon the board by law.~~

30 ~~2. The board shall consider and make recommendations upon any matter~~
31 ~~which the superintendent may submit to it for recommendations, and pass~~
32 ~~upon and determine any matter which he shall submit to it for determi-~~
33 ~~nation.~~

34 ~~3. The board shall submit to the superintendent proposals for any~~
35 ~~amendments to this chapter which it deems desirable.]~~

36 § 91. Whenever the term banking board shall appear in any law, regu-
37 lation, contract or other document other than a section amended in this
38 act, such term shall be deemed to refer to the superintendent. Whenever
39 the banking law authorizes the banking board to act by resolution, with
40 or without a recommendation of the superintendent, the superintendent
41 may act by determination or order.

42 § 92. Section 15 of the banking law is REPEALED.

43 § 93. Section 16 of the banking law is REPEALED.

44 § 94. Section 9-q of the banking law is REPEALED.

45 § 95. Section 6 of chapter 322 of the laws of 2007, amending the bank-
46 ing law relating to the power of banks, private bankers, trust compa-
47 nies, savings banks, savings and loan associations, credit unions and
48 foreign banking corporations to exercise the rights of national banks,
49 federal savings associations, federal credit unions and federal branches
50 and agencies of foreign banks, as amended by chapter 122 of the laws of
51 2009, is amended to read as follows:

52 § 6. This act shall take effect immediately; provided, however that
53 sections one, two, three and four of this act shall take effect Septem-
54 ber 1, 2007; and provided further that sections one, two, three and four
55 of this act shall expire and be deemed repealed September 10, [~~2011~~]
56 2014; and provided further that any federally permitted powers approved

1 under section three of this act shall remain in full force and effect on
2 and after such repeal date and shall not be affected by such repeal.

3 § 95-a. Section 7 of chapter 3 of the laws of 1997, amending the
4 banking law and the insurance law relating to authorizing the banking
5 board to permit banks and trust companies to exercise the rights of
6 national banks, as amended by chapter 122 of the laws of 2009, is
7 amended to read as follows:

8 § 7. This act shall take effect immediately provided that section two
9 of this act shall take effect on the thirtieth day after it shall have
10 become a law and shall apply to violations prescribed in section 44 of
11 the banking law that occur on or after such date; and provided further
12 that sections one, three, four and five shall expire and be deemed
13 repealed September 10, [~~2011~~] 2014; and provided further that any rules
14 and regulations promulgated pursuant to sections one, three, four and
15 five shall remain in full force and effect on and after such expiration
16 date and shall not be affected by such expiration date.

17 § 96. Subdivision 2 of section 75-g of the banking law is REPEALED.

18 § 97. Paragraph b of subdivision 19 of section 42 of the banking law,
19 as added by chapter 322 of the laws of 2007, is amended to read as
20 follows:

21 b. [~~Every recommendation to be made to the banking board pursuant to~~
22 ~~subdivision four of section twelve-a of this article, which shall~~
23 ~~include a description of the recommended federally permitted power, a~~
24 ~~reference to the state chartered banking institutions which shall be~~
25 ~~permitted to exercise such power, and the date of the meeting of the~~
26 ~~banking board at which such recommendation is expected to be considered]~~
27 The intention of the superintendent to issue an order pursuant to subdi-
28 vision four of section twelve-a of this article, which shall include a
29 description of the proposed federally permitted power and a reference to
30 the state-chartered banking institutions which shall be permitted to
31 exercise such power.

32 § 98. Transfer of powers of the banking and insurance departments. The
33 functions and powers possessed by and all of the obligations and duties
34 of the banking and insurance departments, as established pursuant to the
35 insurance law, the banking law and other laws, shall be transferred and
36 assigned to, and assumed by and devolved upon, the department of finan-
37 cial services.

38 § 99. Abolition of the banking and insurance departments and the
39 consumer protection board. Upon the transfer pursuant to this act of the
40 functions and powers possessed by and all of the obligations and duties
41 of the banking and insurance departments and the consumer protection
42 board, as established pursuant to the banking law, the insurance law and
43 other laws, the banking and insurance departments and the consumer
44 protection board shall be abolished.

45 § 100. Continuity of authority of the banking and insurance depart-
46 ments. Except as herein otherwise provided, upon the transfer pursuant
47 to this act of the functions and powers possessed by, and all of the
48 obligations and duties of, the banking and insurance departments as
49 established pursuant to the banking law, the insurance law and other
50 laws, to the department of financial services as prescribed by this act,
51 for the purpose of succession, all functions, powers, duties and obli-
52 gations of the department of financial services shall be deemed and be
53 held to constitute the continuation of such functions, powers, duties
54 and obligations and not a different agency.

55 § 101. Transfer of records of the banking and insurance departments
56 and the consumer protection board. Upon the transfer pursuant to this

1 act of the functions and powers possessed by and all of the obligations
2 and duties of the banking and insurance departments and the consumer
3 protection board as established pursuant to the banking law, the insur-
4 ance law and other laws, to the department of financial services and the
5 department of state, as appropriate, as prescribed by this act, all
6 books, papers, records and property pertaining to the banking and insur-
7 ance departments and the consumer protection board shall be transferred
8 to and maintained by the department of financial services and the
9 department of state, as appropriate.

10 § 102. Completion of unfinished business of the banking and insurance
11 departments and the consumer protection board. Upon the transfer pursu-
12 ant to this act of the functions and powers possessed by and all of the
13 obligations and duties of the banking and insurance departments and the
14 consumer protection board as established pursuant to the banking law,
15 the insurance law and other laws, to the department of financial
16 services and the department of state, as appropriate, as prescribed by
17 this act, any business or other matter undertaken or commenced by the
18 banking and insurance departments and the consumer protection board
19 pertaining to or connected with the functions, powers, obligations and
20 duties so transferred and assigned to the department of financial
21 services and the department of state, as appropriate, may be conducted
22 or completed by the department of financial services and the department
23 of state, as appropriate.

24 § 103. Terms occurring in laws, contracts or other documents of or
25 pertaining to the banking and insurance departments and the consumer
26 protection board. Upon the transfer pursuant to this act of the func-
27 tions and powers possessed by and all of the obligations and duties of
28 the banking and insurance departments and the consumer protection board
29 as established pursuant to the banking law, the insurance law and other
30 laws, as prescribed by this act, whenever the banking and insurance
31 departments and the superintendents thereof or the consumer protection
32 board and the chairperson and executive director thereof, the functions,
33 powers, obligations and duties of which are transferred to the depart-
34 ment of financial services and the department of state, as appropriate,
35 are referred to or designated in any law, regulation, contract or docu-
36 ment pertaining to the functions, powers, obligations and duties trans-
37 ferred and assigned pursuant to this act, such reference or designation
38 shall be deemed to refer to the department of financial services and its
39 superintendent or, as the case may be, the department of state and its
40 secretary. In the case of any boards or other organizations where the
41 superintendents of both the banking department and the insurance depart-
42 ment both sit, the references or designations shall be deemed to refer
43 solely to the superintendent of the department of financial services.

44 § 104. (a) Wherever the terms "insurance department" or "department of
45 insurance" appear in the insurance law, such terms are hereby changed to
46 "department of financial services".

47 (b) Wherever the terms "banking department" or "department of banking"
48 appear in the banking law, such terms are hereby changed to "department
49 of financial services".

50 (c) Wherever the terms "insurance department", "department of insur-
51 ance", "banking department" or "department of banking" appears in the
52 consolidated or unconsolidated laws of this state other than the banking
53 law or the insurance law, such terms are hereby changed to "department
54 of financial services".

1 (d) Wherever the term "superintendent of insurance" appears in the
2 insurance law, such term is hereby changed to "superintendent of finan-
3 cial services".

4 (e) Wherever the term "superintendent of banks" appears in the banking
5 law, such term is hereby changed to "superintendent of financial
6 services".

7 (f) Wherever the terms "superintendent of insurance" or "superinten-
8 dent of banks" appears in the consolidated or unconsolidated laws of
9 this state other than the banking law or the insurance law, such terms
10 are hereby changed to "superintendent of financial services".

11 (g) Wherever the term "banking board" appears in the consolidated or
12 unconsolidated laws of this state, such term is hereby changed to
13 "superintendent of financial services".

14 (h) The legislative bill drafting commission is hereby directed to
15 effectuate this provision, and shall be guided by a memorandum of
16 instruction setting forth the specific provisions of law to be amended.
17 Such memorandum shall be transmitted to the legislative bill drafting
18 commission within sixty days of enactment of this provision. Such memo-
19 randum shall be issued jointly by the governor, the temporary president
20 of the senate and the speaker of the assembly, or by the delegate of
21 each.

22 § 105. Existing rights and remedies of or pertaining to the banking
23 and insurance departments and consumer protection board preserved. Upon
24 the transfer pursuant to this act of the functions and powers possessed
25 by and all of the obligations and duties of the banking and insurance
26 departments and of the consumer protection board as established pursuant
27 to the banking law, the insurance law and other laws, to the department
28 of financial services and the department of state, as appropriate, as
29 prescribed by this act, no existing right or remedy of the state,
30 including the banking and insurance departments and consumer protection
31 board, shall be lost, impaired or affected by reason of this act.

32 § 106. Pending actions and proceedings of or pertaining to the banking
33 or insurance departments or the consumer protection board. Upon the
34 transfer pursuant to this act of the functions and powers possessed by
35 and all of the obligations and duties of the banking and insurance
36 departments and the consumer protection board as established pursuant to
37 the banking law, the insurance law and other laws, to the department of
38 financial services and the department of state, as appropriate, as
39 prescribed by this act, no action or proceeding pending on the effective
40 date of this act, brought by or against the banking or insurance depart-
41 ments or the superintendents thereof or the consumer protection board
42 and the chairperson and executive director thereof shall be affected by
43 any provision of this act, but the same may be prosecuted or defended in
44 the name of the New York state department of financial services and the
45 department of state, as appropriate. In all such actions and
46 proceedings, the New York state department of financial services and the
47 department of state, as appropriate, upon application to the court,
48 shall be substituted as a party.

49 § 107. Continuation of rules and regulations of or pertaining to the
50 banking and insurance departments and the consumer protection board.
51 Upon the transfer pursuant to this act of the functions and powers
52 possessed by and all the obligations and duties of the banking and
53 insurance departments and the consumer protection board as established
54 pursuant to the banking law, the insurance law and other laws, to the
55 department of financial services and the department of state, as appro-
56 priate, as prescribed by this act, all rules, regulations, acts, orders,

1 determinations, decisions, licenses, registrations and charters of the
2 banking and insurance departments and the consumer protection board,
3 pertaining to the functions transferred and assigned by this act to the
4 department of financial services and the department of state, as appro-
5 priate, in force at the time of such transfer, assignment, assumption or
6 devolution shall continue in force and effect as rules, regulations,
7 acts, determinations and decisions of the department of financial
8 services and department of state, as appropriate, until duly modified or
9 repealed.

10 § 108. Transfer of appropriations heretofore made to the banking and
11 insurance departments and the consumer protection board. Upon the
12 transfer pursuant to this act of the functions and powers possessed by
13 and all of the obligations and duties of the banking and insurance
14 departments and the consumer protection board as established pursuant to
15 the banking law, the insurance law and other laws, to the department of
16 financial services and the department of state, as appropriate, as
17 prescribed by this act, all appropriations and reappropriations which
18 shall have been made available as of the date of such transfer to the
19 banking department or the insurance department or the consumer
20 protection board or segregated pursuant to law, to the extent of remain-
21 ing unexpended or unencumbered balances thereof, whether allocated or
22 unallocated and whether obligated or unobligated, shall be transferred
23 to and made available for use and expenditure by the department of
24 financial services and the department of state, as appropriate, and
25 shall be payable on vouchers certified or approved by the commissioner
26 of taxation and finance, on audit and warrant of the comptroller.
27 Payments of liabilities for expenses of personnel services, maintenance
28 and operation which shall have been incurred as of the date of such
29 transfer by the banking and insurance departments or the consumer
30 protection board, and for liabilities incurred and to be incurred in
31 completing its affairs shall also be made on vouchers certified or
32 approved by the superintendent of financial services, and the secretary
33 of state, as appropriate, on audit and warrant of the comptroller.

34 § 109. Transfer of employees. Upon the transfer pursuant to this act
35 of the functions and powers possessed by and all of the obligations and
36 duties of the banking and insurance departments and the consumer
37 protection board as established pursuant to the banking law, the insur-
38 ance law and other laws, to the department of financial services and the
39 department of state, as appropriate, as prescribed by this act,
40 provision shall be made for the transfer of all employees from the bank-
41 ing department and the insurance department into the department of
42 financial services, and provision shall be made for the transfer of all
43 employees from the consumer protection board to the department of state.
44 Employees so transferred shall be transferred without further examina-
45 tion or qualification to the same or similar titles and shall remain in
46 the same collective bargaining units and shall retain their respective
47 civil service classifications, status and rights pursuant to their
48 collective bargaining units and collective bargaining agreements.

49 § 110. No later than the effective date of this section, the director
50 of the budget shall notify the superintendent of the level of the
51 department's expenses that will be incurred for the fiscal year begin-
52 ning April first, two thousand eleven related to the department's regu-
53 lation and supervision of the state's banking and insurance industries.
54 Such notification shall separately detail the department's level of
55 expenses to be incurred with respect to the regulation and supervision
56 of the banking industry, the department's level of expenses to be

1 incurred for regulation and supervision of the insurance industry, and
2 the department's level of general expenses that are allocable to both
3 the insurance and banking industries. The superintendent shall subse-
4 quently employ the provisions of section seventeen of the banking law
5 and section three hundred thirty-two of the insurance law to assess the
6 department's incurred costs in order to appropriately charge persons or
7 entities that are licensed, registered, organized, authorized, incorpo-
8 rated or otherwise formed pursuant to the provisions of the banking law
9 or insurance law.

10 § 111. Coordination of services. In an effort to create greater cost
11 efficiencies and cost savings, the superintendent of financial services
12 shall coordinate administrative, clerical and human resource functions,
13 or any other resources and functions, including but not limited to
14 office space and materials and supplies in accordance with the transfer
15 of powers set forth in this act.

16 § 112. Provision for nomination of superintendent. Upon or prior to
17 the effective date of section one of this act, the governor shall nomi-
18 nate an individual to serve as superintendent of financial services. If
19 such individual is confirmed by the senate prior to such effective date,
20 he or she shall become the superintendent of financial services as of
21 the effective date of section one of this act. Any individual nominated
22 by the governor to become the first superintendent of financial services
23 may serve as acting superintendent beginning on such effective date,
24 until such time as a vote for confirmation is taken by the senate. No
25 individual nominated to serve as superintendent of financial services
26 shall serve as superintendent, or continue to serve as acting super-
27 intendent, if the senate has voted not to confirm such individual's
28 nomination.

29 § 113. Severability. If any clause, sentence, paragraph, section or
30 part of this act shall be adjudged by any court of competent jurisdic-
31 tion to be invalid, such judgment shall not affect, impair or invalidate
32 the remainder thereof, but shall be confined in its operation to the
33 clause, sentence, paragraph, section or part thereof directly involved
34 in the controversy in which such judgment shall have been rendered.

35 § 114. This act shall take effect April 1, 2011; provided, however,
36 that:

37 (a) sections one through fourteen, seventeen through nineteen, fifty-
38 six, sixty-three, sixty-seven, seventy-eight through eighty-five, nine-
39 ty, ninety-one through ninety-three, ninety-eight, one hundred four, one
40 hundred ten and one hundred eleven of this act shall take effect October
41 3, 2011, except that section 205-a of the financial services law as
42 added by section one of this act shall take effect immediately;

43 (b) sections fifteen and sixteen of this act shall take effect April
44 1, 2012;

45 (c) any officer or employee of the department of financial services
46 whose holdings as of the close of business on March 31, 2011 conflict
47 with section 501 of the financial services law, as added by section one
48 of this act, shall have until October 3, 2012 to dispose of non-conform-
49 ing holdings or otherwise bring such non-conforming holdings into
50 compliance with such section 501;

51 (d) the amendments to section 2803-s of the public health law made by
52 section forty-six of this act shall take effect on the same date and in
53 the same manner as chapter 539 of the laws of 2010, takes effect;

54 (e) section 205-b of the financial services law as added by section
55 one of this act shall expire October 3, 2016, when upon such date the
56 provisions of such section shall be deemed repealed;

1 (f) the amendments to subdivisions 3, 4, 5, 7, 8 and 9 of section 12-a
2 of the banking law made by section eighty-eight of this act shall not
3 affect the repeal of such section and shall be deemed repealed there-
4 with;

5 (g) the amendments to paragraph b of subdivision 19 of section 42 of
6 the banking law made by section ninety-seven of this act shall not
7 affect the repeal of such subdivision and shall be deemed repealed ther-
8 ewith;

9 (h) the memorandum provided for in section one hundred four may be
10 prepared before the effective date of such section, provided that it
11 shall not be implemented until such effective date; and

12 (i) whenever the term "superintendent of financial services" appears
13 in any provision of this act effective before October 3, 2011, it shall
14 refer to the superintendent of banks.

15 PART B

16 Intentionally omitted.

17 PART C

18 Section 1. This act enacts into law major components of legislation
19 which are necessary to implement the state fiscal plan for the 2011-2012
20 state fiscal year. Each component is wholly contained within a Subpart
21 identified as Subparts A and B. The effective date for each particular
22 provision contained within such Subpart is set forth in the last section
23 of such Subpart. Any provision in any section contained within a
24 Subpart, including the effective date of the Subpart, which makes a
25 reference to a section "of this act", when used in connection with that
26 particular component, shall be deemed to mean and refer to the corre-
27 sponding section of the Subpart in which it is found. Section three of
28 this act sets forth the general effective date of this act.

29 SUBPART A

30 Section 1. Legislative intent. In 1996, the legislature changed the
31 penal law to include as an express purpose of imprisonment, the
32 promotion of inmates' successful and productive reentry into society.
33 Toward this end, many new responsibilities have been placed on both
34 corrections officials and parole officials to ready inmates for their
35 release into the community such as: obtaining their birth certificates
36 and social security cards prior to release, preparing Medicaid applica-
37 tions as warranted, securing identification cards from the department of
38 motor vehicles, and providing them with voter registration forms. In
39 addition, transitional services programs have now become mandatory for
40 all inmates. Transition accountability plans will be developed for each
41 inmate, starting with their time in general confinement and culminating
42 with the inmate's successful reintegration into the community. Further-
43 more, direct linkages with local agencies have been greatly enhanced
44 with the creation of Re-entry Task Forces throughout the state.

45 As a result of the evolution of the sentencing structure and focus on
46 reentry the historical separation of the department of correctional
47 services and the division of parole is no longer warranted. In view of
48 the commonality of purpose governing the fundamental missions of both
49 agencies, a single new state agency should be created to oversee the
50 combined responsibilities of both and, in effect, provide for a seamless

1 network for the care, custody, treatment and supervision of a person,
 2 from the day a sentence of state imprisonment commences, until the day
 3 such person is discharged from supervision in the community. This not
 4 only will enhance public safety by achieving better outcomes for the
 5 greatest number of individuals being released from prison, but also will
 6 allow for greater efficiencies and the elimination of duplicative
 7 responsibilities, thus resulting in significant savings for the state.

8 However, it is not the intent of the legislature in enacting this
 9 merger, to diminish in any way the significant roles corrections offi-
 10 cers and parole officers serve in the criminal justice system, and it is
 11 not to imply that they are interchangeable. The purpose of this legis-
 12 lation is to recognize where the mission of both entities is similar and
 13 that by combining the administrations of each, not only can fiscal effi-
 14 ciencies be achieved but also that services can be provided on a contin-
 15 uum rather than an abrupt transfer of responsibility.

16 It is fundamental that the board of parole retain its authority to
 17 make release decisions based on the board members' independent judgment
 18 and application of statutory criteria as well as decisions regarding
 19 revocations of release. To this end, the legislation makes clear that
 20 the board shall continue to exercise its independence when making such
 21 decisions. The new agency's provision of administrative support will
 22 not undermine the board's independent decision-making authority.

23 § 1-a. Subdivisions 1, 2 and 18 of section 2 of the correction law,
 24 subdivisions 1 and 2 as separately amended by chapters 475 and 476 of
 25 the laws of 1970 and subdivision 18 as amended by section 1 of part AAA
 26 of chapter 56 of the laws of 2009, are amended and a new subdivision 31
 27 is added to read as follows:

28 1. "Department" means the state department of [~~correctional services~~]
 29 **corrections and community supervision**;

30 2. "Commissioner" means the state commissioner of [~~correctional~~
 31 **services**] **corrections and community supervision**;

32 18. "Alcohol and substance abuse treatment correctional annex." A
 33 medium security correctional facility consisting of one or more residen-
 34 tial dormitories, which provide intensive alcohol and substance abuse
 35 treatment services to inmates who: (i) are otherwise eligible for tempo-
 36 rary release, or (ii) stand convicted of a felony defined in article two
 37 hundred twenty or two hundred twenty-one of the penal law, and are with-
 38 in six months of being an eligible inmate as that term is defined in
 39 subdivision two of section eight hundred fifty-one of this chapter
 40 including such inmates who are participating in such program pursuant to
 41 subdivision six of section 60.04 of the penal law. Notwithstanding the
 42 foregoing provisions of this subdivision, any inmate to be enrolled in
 43 this program pursuant to subdivision six of section 60.04 of the penal
 44 law shall be governed by the same rules and regulations promulgated by
 45 the department, including without limitation those rules and regulations
 46 establishing requirements for completion and those rules and regulations
 47 governing discipline and removal from the program. No such period of
 48 court ordered corrections based drug abuse treatment pursuant to this
 49 subdivision shall be required to extend beyond the defendant's condi-
 50 tional release date. Such treatment services may be provided by one or
 51 more outside service providers pursuant to contractual agreements with
 52 [~~both~~] the department [~~and the division of parole~~], provided, however,
 53 that any such provider shall be required to continue to provide, either
 54 directly or through formal or informal agreement with other providers,
 55 alcohol and substance abuse treatment services to inmates who have
 56 successfully participated in such provider's incarcerative treatment

1 services and who have been presumptively released, paroled ~~[or]~~, condi-
 2 tionally released or released to post release supervision under the
 3 supervision of the ~~[division of parole]~~ department and who are, as a
 4 condition of ~~[their parole or conditional]~~ such release, required to
 5 participate in alcohol or substance abuse treatment. Such incarcerative
 6 services shall be provided in the facility in accordance with minimum
 7 standards promulgated by the department after consultation with the
 8 office of alcoholism and substance abuse services. Such services to
 9 parolees shall be provided in accordance with standards promulgated by
 10 the ~~[division of parole]~~ department after consultation with the office
 11 of alcoholism and substance abuse services. Notwithstanding any other
 12 provision of law, any person who has successfully completed no less than
 13 six months of intensive alcohol and substance abuse treatment services
 14 in one of the department's eight designated alcohol and substance abuse
 15 treatment correctional annexes having a combined total capacity of two
 16 thousand five hundred fifty beds may be transferred to a program oper-
 17 ated by or at a residential treatment facility, provided however, that a
 18 person under a determinate sentence as a second felony drug offender for
 19 a class B felony offense defined in article two hundred twenty of the
 20 penal law, who was sentenced pursuant to section 70.70 of such law,
 21 shall not be eligible to be transferred to a program operated at a resi-
 22 dential treatment facility until the time served under imprisonment for
 23 his or her determinate sentence, including any jail time credited pursu-
 24 ant to subdivision three of section 70.30 of the penal law, shall be at
 25 least nine months. The commissioner shall report annually to the tempo-
 26 rary president of the senate and the speaker of the assembly commencing
 27 January first, ~~[nineteen hundred ninety two as to the efficacy of such~~
 28 ~~programs including but not limited to a comparative analysis of state-~~
 29 ~~operated and private sector provision of treatment services and recidiv-~~
 30 ~~ism. Such report shall also include]~~ two thousand twelve the number of
 31 inmates received by the department during the reporting period who are
 32 subject to a sentence which includes enrollment in substance abuse
 33 treatment in accordance with subdivision six of section 60.04 of the
 34 penal law, the number of such inmates who are not placed in such treat-
 35 ment program and the reasons for such occurrences.

36 31. "Community supervision" means the supervision of individuals
 37 released into the community on temporary release, presumptive release,
 38 parole, conditional release, post release supervision or medical parole.

39 § 2. Subdivision 18 of section 2 of the correction law, as amended by
 40 chapter 738 of the laws of 2004, is amended to read as follows:

41 18. "Alcohol and substance abuse treatment correctional annex." A
 42 medium security correctional facility consisting of one or more residen-
 43 tial dormitories which provide intensive alcohol and substance abuse
 44 treatment services to inmates who: (i) are otherwise eligible for tempo-
 45 rary release, or (ii) stand convicted of a felony defined in article two
 46 hundred twenty or two hundred twenty-one of the penal law, and are with-
 47 in six months of being an eligible inmate as that term is defined in
 48 subdivision two of section eight hundred fifty-one of this chapter
 49 including such inmates who are participating in such program pursuant to
 50 subdivision six of section 60.04 of the penal law. Notwithstanding the
 51 foregoing provisions of this subdivision, any inmate to be enrolled in
 52 this program pursuant to subdivision six of section 60.04 of the penal
 53 law shall be governed by the same rules and regulations promulgated by
 54 the department, including without limitation those rules and regulations
 55 establishing requirements for completion and those rules and regulations
 56 governing discipline and removal from the program. No such period of

1 court ordered corrections based drug abuse treatment pursuant to this
 2 subdivision shall be required to extend beyond the defendant's condi-
 3 tional release date. Such treatment services may be provided by one or
 4 more outside service providers pursuant to contractual agreements with
 5 [~~both~~] the department [~~and the division of parole~~], provided, however,
 6 that any such provider shall be required to continue to provide, either
 7 directly or through formal or informal agreement with other providers,
 8 alcohol and substance abuse treatment services to inmates who have
 9 successfully participated in such provider's incarcerative treatment
 10 services and who have been presumptively released, paroled [~~or~~], condi-
 11 tionally released or released to post release supervision under the
 12 supervision of the [~~division of parole~~] department and who are, as a
 13 condition of [~~their parole or conditional~~] such release, required to
 14 participate in alcohol or substance abuse treatment. Such incarcerative
 15 services shall be provided in the facility in accordance with minimum
 16 standards promulgated by the department after consultation with the
 17 office of alcoholism and substance abuse services. Such services to
 18 parolees shall be provided in accordance with standards promulgated by
 19 the [~~division of parole~~] department after consultation with the office
 20 of alcoholism and substance abuse services. The commissioner shall
 21 report annually to the majority leader of the senate and the speaker of
 22 the assembly commencing January first, [~~nineteen hundred ninety two as~~
 23 ~~to the efficacy of such programs including but not limited to a compar-~~
 24 ~~ative analysis of state operated and private sector provision of treat-~~
 25 ~~ment services and recidivism. Such report shall also include~~] two thou-
 26 sand twelve the number of inmates received by the department during the
 27 reporting period who are subject to a sentence which includes enrollment
 28 in substance abuse treatment in accordance with subdivision six of
 29 section 60.04 of the penal law, the number of such inmates who are not
 30 placed in such treatment program and the reasons for such occurrences.

31 § 3. The article heading of article 2 of the correction law, as
 32 amended by chapter 475 of the laws of 1970, is amended to read as
 33 follows:

34 DEPARTMENT OF [~~CORRECTIONAL SERVICES; STATE BOARD OF PAROLE~~]
 35 CORRECTIONS AND
 36 COMMUNITY SUPERVISION

37 § 4. Section 5 of the correction law, as added by chapter 475 of the
 38 laws of 1970, subdivision 4 as added by chapter 547 of the laws of 1995,
 39 subdivision 5 as added by chapter 448 of the laws of 2000 and subdivi-
 40 sion 6 as added by chapter 7 of the laws of 2007, is amended to read as
 41 follows:

42 § 5. Department of [~~correctional services~~] corrections and community
 43 supervision; commissioner. 1. There shall be in the state government a
 44 department of [~~correctional services~~] corrections and community super-
 45 vision. The head of the department shall be the commissioner of [~~correc-~~
 46 ~~tional services~~] corrections and community supervision, who shall be
 47 appointed by the governor, by and with the advice and consent of the
 48 senate, and hold office at the pleasure of the governor by whom he was
 49 appointed and until his successor is appointed and has qualified.

50 2. The commissioner of [~~correctional services~~] corrections and commu-
 51 nity supervision shall be the chief executive officer of the department.

52 3. The principal office of the department of [~~correctional services~~]
 53 corrections and community supervision shall be in the county of Albany.

54 4. The commissioner is hereby authorized and empowered to convert the
 55 sentence of a person serving an indeterminate sentence of imprisonment,
 56 except a person serving a sentence with a maximum term of life imprison-

1 ment, to a determinate sentence of imprisonment equal to two-thirds of
2 the maximum or aggregate maximum term imposed where such conversion is
3 necessary to make such person eligible for transfer either to federal
4 custody or to foreign countries under treaties that provide for the
5 voluntary transfer of such persons on the execution of penal sentences
6 entered into by the government of the United States with foreign coun-
7 tries.

8 5. The commissioner upon request, may in his or her discretion,
9 authorize the purchase and presentation of a flag of the state of New
10 York to the person designated to dispose of the remains of a deceased
11 correction officer or parole officer.

12 6. The commissioner shall have the discretion to enter into agreements
13 with the commissioner of mental health for the provision of security
14 services relating to article ten of the mental hygiene law.

15 § 5. Section 7 of the correction law, as amended by chapter 519 of the
16 laws of 1980, and subdivision 4 as added by chapter 35 of the laws of
17 1984, is amended to read as follows:

18 § 7. Organization of department of [~~correctional services~~] corrections
19 and community supervision; officers and employees; delegation by commis-
20 sioner. 1. The commissioner of [~~correctional services~~] corrections and
21 community supervision may, from time to time, create, abolish, transfer
22 and consolidate divisions, bureaus and other units within the department
23 not expressly established by law as he or she may determine necessary
24 for the efficient operation of the department, subject to the approval
25 of the director of the budget.

26 2. The commissioner of [~~correctional services~~] corrections and commu-
27 nity supervision may appoint such deputies, directors, assistants and
28 other officers and employees as may be needed for the performance of his
29 or her duties and may prescribe their powers and duties and fix their
30 compensation within the amounts appropriated therefor.

31 3. The commissioner may by order filed in the department of [~~correc-~~
32 ~~tional services~~] corrections and community supervision delegate any of
33 his or her powers to or direct any of his or her duties to be performed
34 by a deputy commissioner or a head of a division or bureau of such
35 department.

36 4. The commissioner shall not appoint any person as a correction offi-
37 cer or parole officer, unless such person has attained his twenty-first
38 birthday.

39 § 6. Section 8 of the correction law, as added by chapter 887 of the
40 laws of 1983, subdivision 2 as amended by chapter 338 of the laws of
41 1984, subdivisions 3, 6, and 7 as amended by chapter 354 of the laws of
42 1986, and subdivision 4 as amended by chapter 205 of the laws of 2002,
43 is amended to read as follows:

44 § 8. Testing of certain applicants for employment. 1. Any applicant
45 for employment with the department as a correction officer at a facility
46 of the department, shall be tested in accordance with the requirements
47 of this section.

48 2. The department is hereby authorized to conduct, or to enter into
49 agreements necessary for conducting tests for psychological screening of
50 applicants covered by this section. Any such tests shall consist of at
51 least three independent psychological instruments and shall meet the
52 level of the art for psychological instruments to be used in a vali-
53 dation study developed for selection of such applicants. Such psycholog-
54 ical instruments shall be used in testing and selection of applicants
55 for positions referred to in subdivision one of this section. Persons
56 who have been determined by a psychologist licensed under the laws of

1 this state as suffering from psychotic disorders, serious character
2 disorders, or other disorders which could hinder performance on the job
3 may be deemed ineligible for appointment; provided, however, that other
4 components of the employee selection process may be taken into consider-
5 ation in reaching the determination as to whether a candidate is deemed
6 eligible or ineligible for certification to a list of eligible candi-
7 dates. The department's testing program shall include a component
8 consisting of criteria related validity studies or other validity
9 studies acceptable under relevant federal law governing equal employ-
10 ment.

11 3. The commissioner or his or her designee shall advise those candi-
12 dates who have been deemed ineligible for appointment through psycholog-
13 ical screening and shall notify such persons of their right to appeal
14 their disqualification. A person so deemed may apply to the commissioner
15 for a review of the findings within thirty days of the date of notifica-
16 tion. The commissioner shall refer the matter to an independent advi-
17 sory board to review any recommendation. A copy of the advisory board's
18 recommendations shall be promptly forwarded to the parties and to the
19 commissioner. If the advisory board's recommendation is rejected by the
20 commissioner, wholly or in part, the commissioner shall state his or her
21 reasons for such rejection in writing.

22 4. The advisory board shall consist of three members who shall be
23 selected by the president of the civil service commission. The member-
24 ship of the board shall consist of: A psychologist[7] and a psychia-
25 trist, both of whom shall be licensed under the laws of this state, and
26 a third member who shall be a representative of the department of civil
27 service. The department of civil service shall maintain a list of alter-
28 nate board members comprised of psychologists and psychiatrists,
29 licensed under the laws of this state, and representatives nominated by
30 the president of the civil service commission, who shall sit on the
31 advisory board in the event a designated member is unable to serve,
32 provided, however, that at all times the advisory board must be
33 comprised of a psychiatrist, a psychologist and a representative of the
34 department of civil service. Each of the members of the advisory board
35 and their alternates so selected shall serve at the pleasure of the
36 president of the civil service commission. Each of the members and
37 alternates so selected shall be reimbursed for services and actual costs
38 at a per diem rate not to exceed nine hundred dollars for the psychia-
39 trist, seven hundred dollars for the psychologist and six hundred
40 dollars for the representative of the civil service department;
41 provided, however, that if any member of or alternate to the advisory
42 board is an employee of the state of New York, then such representative
43 shall only receive reimbursement for actual costs incurred.

44 5. The commissioner or his or her designee shall advise the department
45 of civil service of those persons who have been determined under this
46 section as being eligible for appointment from any list of eligible
47 candidates.

48 6. Notwithstanding any other provision of law, the results of the
49 tests administered pursuant to this section shall be used solely for the
50 qualification of a candidate for correction officer and the validation
51 of the psychological instruments utilized. For all other purposes, the
52 results of the examination shall be confidential and the records sealed
53 by the department of [~~correctional services~~] corrections and community
54 supervision, and not be available to any other agency or person except
55 by authorization of the applicant or, upon written notice by order of a
56 court of this state or the United States.

1 7. Prior to March first of each year, the commissioner of the depart-
2 ment of [~~correctional services~~] corrections and community supervision
3 will report to the governor, president of the senate and speaker of the
4 assembly on the conduct of the psychological testing program and the
5 results of such program in improving the quality of correction officer
6 candidates.

7 § 7. Intentionally omitted.

8 § 8. The correction law is amended by adding a new section 10 to read
9 as follows:

10 § 10. Parole officers. 1. Employees in the department who perform the
11 duties of supervising inmates released on community supervision shall be
12 parole officers.

13 2. No person shall be eligible for the position of parole officer who
14 is under twenty-one years of age or who does not possess a baccalaureate
15 degree conferred by a post-secondary institution accredited by an
16 accrediting agency recognized by the United States office of education,
17 or who is not fit physically, mentally and morally. Parole officer
18 selection shall be based on definite qualifications as to character,
19 ability and training with an emphasis on capacity and ability to provide
20 a balanced approach to influencing human behavior and to use judgment in
21 the enforcement of the rules and regulations of community supervision.
22 Parole officers shall be persons likely to exercise a strong and helpful
23 influence upon persons placed under their supervision while retaining
24 the goal of protecting society.

25 3. The commissioner, acting in cooperation with the civil service
26 commission, shall establish standards, preliminary requisites and requi-
27 sites to govern the selection and appointment of parole officers.

28 4. A parole or warrant officer, in performing or in attempting to
29 perform an arrest pursuant to and in conformance with the provisions of
30 article one hundred forty of the criminal procedure law, shall be deemed
31 to have performed such actions, relating to such arrest, in the course
32 of employment in the department for purposes of disability or death from
33 any injuries arising therefrom. The provisions of this subdivision shall
34 apply whether or not such parole or warrant officer was on duty for the
35 department at the time of performing such actions or performed such
36 actions outside of his or her regular or usual duties within the depart-
37 ment.

38 § 9. Intentionally omitted.

39 § 10. Section 18 of the correction law, as amended by chapter 708 of
40 the laws of 1984 and subdivision 1 as amended by chapter 306 of the laws
41 of 1985, is amended to read as follows:

42 § 18. Superintendents of correctional facilities. 1. Each correction-
43 al facility shall have a superintendent who shall be appointed by the
44 commissioner [~~of correctional services~~]. Each such superintendent shall
45 be in the non-competitive-confidential class but shall be appointed from
46 employees of the department who have at least three years of experience
47 in correctional work in the department and (i) who have a permanent
48 civil service appointment of salary grade twenty-seven or higher or who
49 have a salary equivalent to a salary grade of twenty-seven or higher for
50 correctional facilities with an inmate population capacity of four
51 hundred or more inmates, or (ii) who have a permanent civil service
52 appointment of salary grade twenty-three or higher or who have a salary
53 equivalent to a salary grade of twenty-three or higher for correctional
54 facilities with an inmate population capacity of fewer than four hundred
55 inmates; provided that for correctional facilities of either capacity,
56 the employee shall be appointed superintendent at the hiring rate set

1 forth in section nineteen of this article or such other rate as may be
2 appropriate, subject to the approval of the director of the budget;
3 provided that in no event shall the salary upon appointment exceed the
4 job rate. Such superintendents shall serve at the pleasure of the
5 commissioner and shall have such other qualifications as may be
6 prescribed by the commissioner [~~of correctional services~~], based on
7 differences in duties, levels of responsibility, size and character of
8 the correctional facility, knowledge, skills and abilities required, and
9 other factors affecting the position.

10 2. Subject to the rules and statutory powers of the commissioner [~~of~~
11 ~~correctional services~~], or rules approved by him or her, the superinten-
12 dent of a correctional facility shall have the supervision and manage-
13 ment thereof.

14 3. Subject to the direction of the commissioner [~~of correctional~~
15 ~~services~~], and of the deputy and assistant commissioners in their
16 respective fields of supervision, the superintendent of a correctional
17 facility shall direct the work and define the duties of all officers and
18 subordinates of the facility.

19 § 11. Subdivision 1 of section 24 of the correction law, as added by
20 chapter 283 of the laws of 1972, is amended to read as follows:

21 1. No civil action shall be brought in any court of the state, except
22 by the attorney general on behalf of the state, against any officer or
23 employee of the department, which for purposes of this section shall
24 include members of the state board of parole, in his or her personal
25 capacity, for damages arising out of any act done or the failure to
26 perform any act within the scope of the employment and in the discharge
27 of the duties by such officer or employee.

28 § 12. Section 29 of the correction law, as added by chapter 654 of the
29 laws of 1974, subdivision 1 as amended by chapter 598 of the laws of
30 1990 and subdivision 4 as amended by section 1 of part R of chapter 56
31 of the laws of 2005, is amended to read as follows:

32 § 29. Department statistics. 1. The department shall continue to
33 collect, maintain, and analyze statistical and other information and
34 data with respect to persons subject to the jurisdiction of the depart-
35 ment, including but not limited to: (a) the number of such persons:
36 placed in the custody of the department, assigned to a specific depart-
37 ment program, accorded [~~temporary release, paroled or conditionally~~
38 ~~released, paroled or conditionally released~~] community supervision and
39 declared delinquent, recommitted to a state correctional institution
40 upon revocation of [~~parole or conditional release~~] community
41 supervision, or [~~discharge~~] discharged upon maximum expiration of
42 sentence; (b) the criminal history of such persons; (c) the social,
43 educational, and vocational circumstances of any such persons; and, (d)
44 the institutional[, ~~parole and conditional release~~] and community super-
45 vision programs and the behavior of such persons. Provided, however, in
46 the event any statistical information on the ethnic background of the
47 inmate population of a correctional facility or facilities is collected
48 by the department, such statistical information shall contain, but not
49 be limited to, the following ethnic categories: (i) Caucasian; (ii)
50 Asian; (iii) American Indian; (iv) Afro-American/Black; and (v) Spanish
51 speaking/Hispanic which category shall include, but not be limited to,
52 the following subcategories consisting of: (1) Puerto Ricans; (2)
53 Cubans; (3) Dominicans; and (4) other Hispanic nationalities.

54 2. The commissioner [~~of correctional services~~] shall make rules as to
55 the privacy of records, statistics and other information collected,
56 obtained and maintained by the department, its institutions or the board

1 of parole and information obtained in an official capacity by officers,
2 employees or members thereof.

3 3. The commissioner [~~of correctional services~~] shall have access to
4 records and criminal statistics collected by the division of criminal
5 justice services and the commissioner of criminal justice services shall
6 have access to records and criminal statistics collected by the depart-
7 ment of [~~correctional services~~] corrections and community supervision,
8 as the [~~commissioners~~] commissioner of [~~correctional services~~]
9 corrections and community supervision and the commissioner of criminal
10 justice services shall mutually determine.

11 4. The commissioner [~~of the department of correctional services~~] shall
12 provide an annual report to the legislature on the staffing of
13 correction officers and correction sergeants in state correctional
14 facilities. Such report shall include, but not be limited to the follow-
15 ing factors: the number of security posts on the current plot plan for
16 each facility that have been closed on a daily basis, by correctional
17 facility security classification (minimum, medium and maximum); the
18 number of security positions eliminated by correctional facility since
19 two thousand compared to the number of inmates incarcerated in each such
20 facility; a breakdown by correctional facility security classification
21 (minimum, medium, and maximum) of the staff hours of overtime worked, by
22 year since two thousand and the annual aggregate costs related to this
23 overtime. In addition, such report shall be delineated by correctional
24 facility security classification, the annual number of security posi-
25 tions eliminated, the number of closed posts and amount of staff hours
26 of overtime accrued as well as the overall overtime expenditures that
27 resulted. Such report shall be provided to the chairs of the senate
28 finance, assembly ways and means, senate crime and corrections and
29 assembly correction committees by December thirty-first.

30 § 13. Subdivision 3 of section 40 of the correction law, as amended by
31 chapter 309 of the laws of 1996, is amended to read as follows:

32 3. "Correctional facility" means any institution operated by the state
33 department of [~~correctional services~~] corrections and community super-
34 vision, any local correctional facility, or any place used, pursuant to
35 a contract with the state or a municipality, for the detention of
36 persons charged with or convicted of a crime, or, for the purpose of
37 this article only, a secure facility operated by the [~~state division for~~
38 youth] office of children and family services.

39 § 14. Paragraph 5 of subdivision (a) of section 42 of the correction
40 law, as added by chapter 865 of the laws of 1975, is amended to read as
41 follows:

42 5. No appointed member of the council shall qualify or enter upon the
43 duties of his office, or remain therein, while he is an officer or
44 employee of the department of [~~correctional services~~] corrections and
45 community supervision or any correctional facility or is in a position
46 where he exercises administrative supervision over any correctional
47 facility. The council shall have such staff as shall be necessary to
48 assist it in the performance of its duties within the amount of the
49 appropriation therefor as determined by the chairman of the commission.

50 § 15. Subdivision 4 of section 45 of the correction law, as added by
51 chapter 865 of the laws of 1975, is amended to read as follows:

52 4. Establish procedures to assure effective investigation of griev-
53 ances of, and conditions affecting, inmates of local correctional facil-
54 ities. Such procedures shall include but not be limited to receipt of
55 written complaints, interviews of persons, and on-site monitoring of
56 conditions. In addition, the commission shall establish procedures for

1 the speedy and impartial review of grievances referred to it by the
2 commissioner of the department of [~~correctional services~~] corrections
3 and community supervision.

4 § 16. The opening paragraph of paragraph (a) of subdivision 8 of
5 section 71 of the correction law, as amended by chapter 508 of the laws
6 of 2010, is amended to read as follows:

7 In each year in which the federal decennial census is taken but in
8 which the United States bureau of the census does not implement a policy
9 of reporting incarcerated persons at each such person's residential
10 address prior to incarceration, the department of [~~correctional~~
11 ~~services~~] corrections and community supervision shall by September first
12 of that same year deliver to the legislative task force on demographic
13 research and reapportionment the following information for each incar-
14 cerated person subject to the jurisdiction of the department and located
15 in this state on the date for which the decennial census reports popu-
16 lation:

17 § 16-a. The correction law is amended by adding a new section 71-a to
18 read as follows:

19 § 71-a. Transitional accountability plan. Upon admission of an inmate
20 committed to the custody of the department under an indeterminate or
21 determinate sentence of imprisonment, the department shall develop a
22 transitional accountability plan. Such plan shall be a comprehensive,
23 dynamic and individualized case management plan based on the programming
24 and treatment needs of the inmate. The purpose of such plan shall be to
25 promote the rehabilitation of the inmate and their successful and
26 productive reentry and reintegration into society upon release. To that
27 end, such plan shall be used to prioritize programming and treatment
28 services for the inmate during incarceration and any period of community
29 supervision. The commissioner may consult with the office of mental
30 health, the office of alcoholism and substance abuse services, the board
31 of parole, the department of health, and other appropriate agencies in
32 the development of transitional case management plans.

33 § 17. Subdivision 2 of section 72-b of the correction law, as added by
34 section 48 of part B of chapter 58 of the laws of 2004, is amended to
35 read as follows:

36 2. No inmate about to be paroled, conditionally released, transferred,
37 released or discharged shall be referred to any adult home, enriched
38 housing program or residence for adults, as defined in section two of
39 the social services law, where the department of [~~correctional services~~
40 ~~or state division of parole~~] corrections and community supervision has
41 received written notice that the facility has been placed on the "do not
42 refer list" pursuant to subdivision fifteen of section four hundred
43 sixty-d of the social services law.

44 § 18. Section 75 of the correction law, as added by section 8 of part
45 00 of chapter 56 of the laws of 2010, is amended to read as follows:

46 § 75. Notice of voting rights. Upon the discharge from a correctional
47 facility of any person whose maximum sentence of imprisonment has
48 expired or upon a person's discharge from community supervision, the
49 department shall notify such person of his or her right to vote and
50 provide such person with a form of application for voter registration
51 together with written information distributed by the board of elections
52 on the importance and the mechanics of voting.

53 § 19. Section 112 of the correction law, as amended by chapter 476 of
54 the laws of 1970, is amended to read as follows:

55 § 112. Powers and duties of commissioner [~~of correction~~] relating to
56 correctional facilities and community supervision. 1. The commissioner

1 of [~~correction~~] corrections and community supervision shall have the
2 superintendence, management and control of the correctional facilities
3 in the department and of the inmates confined therein, and of all
4 matters relating to the government, discipline, policing, contracts and
5 fiscal concerns thereof. He or she shall have the power and it shall be
6 his or her duty to inquire into all matters connected with said correc-
7 tional facilities. He or she shall make such rules and regulations, not
8 in conflict with the statutes of this state, for the government of the
9 officers and other employees of the department assigned to said facili-
10 ties, and in regard to the duties to be performed by them, and for the
11 government and discipline of each correctional facility, as he or she
12 may deem proper, and shall cause such rules and regulations to be
13 recorded by the superintendent of the facility, and a copy thereof to be
14 furnished to each employee assigned to the facility. He or she shall
15 also prescribe a system of accounts and records to be kept at each
16 correctional facility, which system shall be uniform at all of said
17 facilities, and he or she shall also make rules and regulations for a
18 record of photographs and other means of identifying each inmate
19 received into said facilities. He or she shall appoint and remove,
20 subject to the civil service law and rules, subordinate officers and
21 other employees of the department who are assigned to correctional
22 facilities.

23 2. The commissioner shall have the management and control of persons
24 released on community supervision and of all matters relating to such
25 persons' effective reentry into the community, as well as all contracts
26 and fiscal concerns thereof. The commissioner shall have the power and
27 it shall be his or her duty to inquire into all matters connected with
28 said community supervision. The commissioner shall make such rules and
29 regulations, not in conflict with the statutes of this state, for the
30 governance of the officers and other employees of the department
31 assigned to said community supervision, and in regard to the duties to
32 be performed by them, as he or she deems proper and shall cause such
33 rules and regulations to be furnished to each employee assigned to
34 perform community supervision. The commissioner shall also prescribe a
35 system of accounts and records to be kept, which shall be uniform. The
36 commissioner shall also make rules and regulations for a record of
37 photographs and other means of identifying each inmate released to
38 community supervision. The commissioner shall appoint officers and other
39 employees of the department who are assigned to perform community super-
40 vision.

41 3. The commissioner [~~of correction~~] may require reports from the
42 superintendent or any other officer or employee of the department
43 assigned to any correctional facility or to perform community super-
44 vision in relation to his or her conduct as such officer or employee,
45 and shall have the power to inquire into any improper conduct which may
46 be alleged to have been committed by any person at any correctional
47 facility or in the course of his or her performance of community super-
48 vision, and for that purpose to issue subpoenas to compel the attendance
49 of witnesses, and the production before him or her of books, writings
50 and papers. A subpoena issued under this section shall be regulated by
51 the civil practice law and rules. [~~The commissioner of correction is~~
52 authorized and empowered to lease the railroad, constructed under and by
53 the authority of the laws of eighteen hundred and seventy-eight, chapter
54 one hundred and forty-eight, for such term of years and upon such terms
55 and conditions as shall be approved of, in writing, by the governor and
56 comptroller of this state.]

1 4. The commissioner and the chair of the parole board shall work
2 jointly to develop and implement, as soon as practicable, a risk and
3 needs assessment instrument or instruments, which shall be empirically
4 validated, that would be administered to inmates upon reception into a
5 correctional facility, and throughout their incarceration and release to
6 community supervision, to facilitate appropriate programming both during
7 an inmate's incarceration and community supervision, and designed to
8 facilitate the successful integration of inmates into the community.

9 § 20. Section 113 of the correction law, as amended by chapter 145 of
10 the laws of 1979, is amended to read as follows:

11 § 113. Absence of inmate for funeral and deathbed visits [~~or to report~~
12 ~~at an induction center for preinduction examination~~] authorized. The
13 commissioner [~~of correctional services~~] may permit any inmate confined
14 by the department except one awaiting the sentence of death to attend
15 the funeral of his or her father, mother, guardian or former guardian,
16 child, brother, sister, husband, wife, grandparent, grandchild, ances-
17 tral uncle or ancestral aunt within the state, or to visit such individ-
18 ual during his or her illness if death be imminent [~~or to report to an~~
19 ~~induction center for the purpose of being examined for possible~~
20 ~~induction into the armed forces of the United States~~]; but the exercise
21 of such power shall be subject to such rules and regulations as the
22 commissioner [~~of correctional services~~] shall prescribe, respecting the
23 granting of such permission, duration of absence from the institution,
24 custody, transportation and care of the inmate, and guarding against
25 escape. Any expense incurred under the provisions of this section, with
26 respect to any inmate permitted to attend a funeral or visit a relative
27 during last illness, shall be deemed an expense of maintenance of the
28 institution and be paid from moneys available therefor; but the super-
29 intendent, if the rules and regulations of the commissioner [~~of correc-~~
30 ~~tional services~~] shall so provide, may allow the inmate or anyone in his
31 behalf to reimburse the state for such expense. [~~Any expense of custo-~~
32 ~~dial officers incurred in delivering and returning inmates to and from~~
33 ~~an induction center shall be deemed an expense of the institution and be~~
34 ~~paid from moneys available therefor but expenses of such inmates shall~~
35 ~~not be defrayed by the institution or department or the state.]~~

36 § 21. Subdivision 2 of section 125 of the correction law, as amended
37 by chapter 55 of the laws of 1992, is amended to read as follows:

38 2. The superintendent of each of said facilities shall furnish to each
39 inmate who shall be discharged or released from said facility by pardon,
40 parole, conditional release or otherwise, except such inmates as are
41 released for return for resentence or new trial or upon a certificate of
42 reasonable doubt, and except such inmates who are released to partic-
43 ipate in a program outside the facility who are required to return to
44 the facility, suitable clothing adapted to the season in which he or she
45 is discharged not to exceed sixty-five dollars in value and transporta-
46 tion to the county of his or her conviction or to such other place as
47 the commissioner [~~of correctional services~~] may designate. In addition,
48 the commissioner shall take such steps as are necessary to ensure that
49 inmates have at least forty dollars available upon release.

50 § 22. Subdivision 6 of section 138 of the correction law, as added by
51 chapter 231 of the laws of 1975, is amended to read as follows:

52 6. All rules and regulations pertaining to inmates established by the
53 department of [~~correctional services~~] corrections and community super-
54 vision and all rules and regulations pertaining to inmates established
55 by any institutional staff at any state correctional facility shall be

1 reviewed annually by the commissioner of the department of [~~correctional~~
2 ~~services~~] corrections and community supervision.

3 § 23. Subdivision 1 of section 170 of the correction law, as amended
4 by chapter 166 of the laws of 1991, is amended to read as follows:

5 1. The commissioner [~~of correctional services~~] shall not, nor shall
6 any other authority whatsoever, make any contract by which the labor or
7 time of any inmate in any state or local correctional facility in this
8 state, or the product or profit of his work, shall be contracted, let,
9 farmed out, given or sold to any person, firm, association or corpo-
10 ration; except that the inmates in said correctional institutions may
11 work for, and the products of their labor may be disposed of to, the
12 state or any political subdivision thereof, any public institution owned
13 or managed and controlled by the state, or any political subdivision
14 thereof.

15 § 24. Subdivision 1 of section 171 of the correction law, as amended
16 by chapter 364 of the laws of 1983, is amended to read as follows:

17 1. The commissioner [~~of correctional services~~] and the superintendents
18 and officials of all penitentiaries in the state may cause inmates in
19 the state correctional facilities and such penitentiaries who are phys-
20 ically capable thereof to be employed for not to exceed eight hours of
21 each day other than Sundays and public holidays. Notwithstanding any
22 other provision of this section, however, the commissioner and super-
23 intendants of state correctional facilities may employ inmates on a
24 volunteer basis on Sundays and public holidays in specialized areas of
25 the facility, including kitchen areas, vehicular garages, rubbish pickup
26 and grounds maintenance, providing, however, that inmates so employed
27 shall be allowed an alternative free day within the normal work week.

28 § 25. Subdivision 3 of section 177 of the correction law, as amended
29 by chapter 166 of the laws of 1991, is amended to read as follows:

30 3. However, for the purpose of distributing, marketing or sale of the
31 whole or any part of the product of any correctional facility in the
32 state, other than by said state correctional facilities, to the state or
33 to any political subdivisions thereof or to any public institutions
34 owned or managed and controlled by the state, or by any political subdi-
35 visions thereof, or to any public corporation, authority, or eleemosy-
36 nary association funded in whole or in part by any federal, state or
37 local funds, the sheriff of any such local correctional facility and the
38 commissioner of [~~correctional services~~] corrections and community super-
39 vision may enter into a contract or contracts which may determine the
40 kinds and qualities of articles to be produced by such institution and
41 the method of distribution and sale thereof by the commissioner of
42 [~~correctional services~~] corrections and community supervision or under
43 his or her direction, either in separate lots or in combination with the
44 products of other such institutions and with the products produced by
45 inmates in state correctional facilities. Such contracts may fix and
46 determine any and all terms and conditions for the disposition of such
47 products and the disposition of proceeds of sale thereof and any and all
48 other terms and conditions as may be agreed upon, not inconsistent with
49 the constitution. However, no such contract shall be for a period of
50 more than one year and any prices fixed by such contract shall be the
51 prices established pursuant to section one hundred eighty-six of this
52 article for like articles or shall be approved by the department of
53 [~~correctional services~~] corrections and community supervision and the
54 director of the budget on presentation to them of a copy of such
55 contract or proposed contract, and provided further that any distrib-
56 ution or diversification of industries provided for by such contract

1 shall be in accordance with the rules and regulations established by the
2 department of [~~correctional services~~] corrections and community super-
3 vision or shall be approved by such department on presentation to it of
4 a copy of such contract or proposed contract.

5 § 26. Subdivision 1 of section 183 of the correction law, as amended
6 by chapter 464 of the laws of 1981, is amended to read as follows:

7 1. It shall be the duty of the commissioner [~~of correctional services~~]
8 to distribute, among the correctional institutions under his jurisdic-
9 tion, the labor and industries assigned to said institutions, due regard
10 being had to the location and convenience of the prisons, and of the
11 other institutions to be supplied, the machinery now therein and the
12 number of prisoners, in order to secure the best service and distrib-
13 ution of the labor, and to employ the prisoners, so far as practicable,
14 in occupations in which they will be most likely to obtain employment
15 after their discharge from imprisonment. The commissioner [~~of correc-~~
16 ~~tional services~~] shall change or dispose of the present plants and
17 machinery in said institutions now used in industries which shall be
18 discontinued, and which can not be used in the industries hereafter to
19 be carried on in said prisons, due effort to be made by full notice to
20 probable purchasers, in case of sales of industries or machinery, to
21 obtain the best price possible for the property sold, and good will of
22 the business to be discontinued.

23 § 27. Subdivision 2 of section 184 of the correction law, as amended
24 by chapter 166 of the laws of 1991, is amended to read as follows:

25 2. All such articles manufactured or prepared in the state correction-
26 al facilities, or by inmates, and not required for use therein, shall be
27 of the styles, patterns, designs and qualities fixed by the department
28 of [~~correctional services~~] corrections and community supervision, except
29 where the same have been or may be fixed by the office of general
30 services in the executive department. Such articles may be furnished to
31 the state, or to any political subdivision thereof, or for or to any
32 public institution owned or managed and controlled by the state, or any
33 political subdivision thereof, government of the United States or to any
34 state of the United States or subdivision thereof or to any public
35 corporation, authority, or eleemosynary association funded in whole or
36 in part by any federal, state or local funds, at and for such prices as
37 shall be fixed and determined as hereinafter provided, upon the requi-
38 sitions of the proper officials thereof. No article so manufactured or
39 prepared shall be purchased from any other source, for the state or
40 public institutions of the state, or the political subdivisions thereof,
41 or public benefit corporations, authorities or commissions, unless the
42 commissioner of [~~correctional services~~] corrections and community super-
43 vision shall certify that the same can not be furnished upon such requi-
44 sition, and no claim therefor shall be audited or paid without such
45 certificate.

46 § 28. Section 185 of the correction law, as amended by chapter 166 of
47 the laws of 1991, is amended to read as follows:

48 § 185. Estimates of articles required to be furnished. On or before
49 July first in each year, the proper officials of the state, and the
50 political subdivisions thereof, and of the institutions of the state, or
51 political subdivisions thereof, shall report to the department of
52 [~~correctional services~~] corrections and community supervision estimates
53 for the ensuing year of the amount of supplies of different kinds
54 required to be purchased by them that can be furnished by the correc-
55 tional facilities in the state. The commissioner of [~~correctional~~
56 ~~services~~] corrections and community supervision is authorized to make

1 regulations for said reports, to provide for the manner in which requi-
2 sitions shall be made for supplies, and to provide for the proper diver-
3 sification of the industries in the correctional facilities.

4 § 29. Subdivision 2 of section 186 of the correction law, as amended
5 by chapter 166 of the laws of 1991, is amended to read as follows:

6 2. The prices established by the commissioner shall be based upon
7 costs as determined pursuant to this subdivision, but shall not exceed a
8 reasonable fair market price determined at or within ninety days before
9 the time of sale. Fair market price as used herein means the price at
10 which a vendor of the same or similar product or service who is regular-
11 ly engaged in the business of selling such product or service offers to
12 sell such a product or service under similar terms in the same market.
13 However, the price established by the commissioner for license plates
14 sold to the New York state department of motor vehicles shall in no
15 event exceed an amount approved by the director of the budget.

16 First instance appropriations to the department of [~~correctional~~
17 ~~services~~] corrections and community supervision for correctional indus-
18 tries shall be reimbursed pursuant to an agreement with the director of
19 the budget. In the absence of a first instance appropriation, costs
20 shall be determined in accordance with an agreement between the commis-
21 sioner of [~~correctional services~~] corrections and community supervision
22 and the director of the budget. Any such agreement shall include, among
23 other provisions deemed necessary by the budget director for the
24 purposes of enabling programmatic overview and fiscal controls, one or
25 more methodologies for the determination of costs attributable to
26 correctional industries or to any product manufactured in the insti-
27 tutions of the department or distributed, marketed or sold by the
28 commissioner pursuant to this section, section one hundred seventy-seven
29 of this article or section one hundred seventy-five of the state finance
30 law.

31 § 30. Section 187 of the correction law, as amended by chapter 166 of
32 the laws of 1991, is amended to read as follows:

33 § 187. Earnings of inmates. 1. Every inmate confined in a state
34 correctional facility, subject to the rules and regulations of the
35 department of [~~correctional services~~] corrections and community super-
36 vision, and every inmate confined in a local correctional facility, in
37 the discretion of the sheriff thereof, may receive compensation for work
38 performed during his or her imprisonment. Such compensation shall be
39 graded by the department of [~~correctional services~~] corrections and
40 community supervision with regard to inmates employed in prison indus-
41 tries, based upon the work performed by such prisoners for prisoners
42 confined in state correctional facilities, and by the sheriffs in all
43 local correctional facilities for inmates confined therein.

44 2. The department of [~~correctional services~~] corrections and community
45 supervision shall adopt rules, subject to the approval of the director
46 of the budget, for establishing in all of the state correctional facili-
47 ties a system of compensation for the inmates confined therein. Such
48 rules shall provide for the payment of compensation to each inmate, who
49 shall meet the requirements established by the department of [~~correc-~~
50 ~~tional services~~] corrections and community supervision, based upon the
51 work performed by such inmates.

52 3. The department shall prepare graded wage schedules for inmates,
53 which [~~schedule~~] schedules shall be based upon classifications according
54 to the value of work performed by each. Such schedules need not be
55 uniform in all institutions. The rules of the department shall also
56 provide for the establishment of a credit system for each inmate and the

1 manner in which such earnings shall be paid to the inmate or his or her
 2 dependents or held in trust for him or her until his or her release.

3 4. Any compensation paid to an inmate under this article shall be
 4 based on the work performed by such inmate. Compensation may be paid
 5 from moneys appropriated to the department and available to facilities
 6 for nonpersonal service.

7 § 31. Section 198 of the correction law, as added by chapter 240 of
 8 the laws of 1974, is amended to read as follows:

9 § 198. Inmate occupational therapy fund. 1. The commissioner of
 10 [~~correctional services~~] corrections and community supervision may
 11 authorize the superintendent or director of any correctional institution
 12 to establish an inmate occupational therapy fund for the receipt of
 13 proceeds from a product sold, as authorized by section one hundred nine-
 14 ty-seven of this article, by one or more inmates as incident to an
 15 avocational or vocational project approved by the commissioner, includ-
 16 ing but not limited to, art, music, drama, handicraft, or sports.

17 2. Pursuant to rules, regulations or directions of the commissioner,
 18 moneys of the fund may: (a) be made available to the superintendent or
 19 director to be used for the general benefit of the inmates of the
 20 correctional institution wherein the product was produced, including but
 21 not limited to, furnishing materials and supplies to an inmate or
 22 inmates for an avocational or vocational project and the transporting of
 23 a product thereof for sale, display or otherwise and for recreational
 24 activities; or (b) be disbursed as follows: (i) an amount equal to the
 25 proceeds from the sale of a product produced by one inmate may be depos-
 26 ited to the account of such inmate pursuant to section one hundred
 27 sixteen of [~~the correction law~~] this chapter; or (ii) an amount equal to
 28 the proceeds from the sale of a product produced by two or more inmates
 29 may be divided equally among such inmates and deposited to their respec-
 30 tive accounts pursuant to section one hundred sixteen of [~~the correction~~
 31 ~~law~~] this chapter.

32 3. In determining the amount of the proceeds from a sale of a product
 33 that may be deposited to the account of an inmate, the commissioner [~~of~~
 34 ~~correctional services~~] may provide for the deduction from the sum of the
 35 proceeds the reasonable expenses of the department of [~~correctional~~
 36 ~~services~~] corrections and community supervision incident to the sale,
 37 including but not limited to, the value of materials and supplies for
 38 the production of the product supplied without financial charge to the
 39 inmate and the expenses of transporting the product for sale or display
 40 or otherwise.

41 § 32. The correction law is amended by adding a new article 8 to read
 42 as follows:

43 ARTICLE 8

44 COMMUNITY SUPERVISION

45 Section 201. Authority and responsibility for community supervision.

46 203. Regulations for release of certain sex offenders.

47 205. Merit termination of sentence and discharge from presump-
 48 tive release, parole, conditional release and release to
 49 post-release supervision.

50 206. Applications for presumptive release or conditional
 51 release.

52 207. Cooperation.

53 208. Deputization of out-of-state officers.

54 § 201. Authority and responsibility for community supervision. 1. The
 55 department shall have responsibility for the preparation of reports and

1 other data required by the state board of parole in the exercise of its
2 independent decision making functions.

3 2. In accordance with the provisions of this chapter, the department
4 shall supervise inmates released to community supervision, except that
5 the department may consent to the supervision of a released inmate by
6 the United States parole commission pursuant to the witness security act
7 of nineteen hundred eighty-four.

8 3. To facilitate the supervision of all inmates released to community
9 supervision, the commissioner shall consider the implementation of a
10 program of graduated sanctions, including but not limited to the utili-
11 zation of a risk and needs assessment instrument that would be adminis-
12 tered to all inmates eligible for community supervision. Such a program
13 would include various components including approaches that concentrate
14 supervision on new releases, alternatives to incarceration for technical
15 parole violators and the use of enhanced technologies.

16 4. The department shall conduct such investigations as may be neces-
17 sary in connection with alleged violations of community supervision.

18 5. The department shall assist inmates eligible for community super-
19 vision and inmates who are on community supervision to secure employ-
20 ment, educational or vocational training, and housing.

21 6. The department shall have the duty to provide written notice to
22 inmates prior to release to community supervision or pursuant to subdivi-
23 sion six of section 410.91 of the criminal procedure law of any
24 requirement to report to the office of victim services any funds of a
25 convicted person as defined in section six hundred thirty-two-a of the
26 executive law, the procedure for such reporting and any potential penal-
27 ty for a failure to comply.

28 7. The department shall encourage apprenticeship training of such
29 persons through the assistance and cooperation of industrial, commercial
30 and labor organizations.

31 8. The department may establish a community supervision transition
32 program, which is hereby defined as community-based residential facili-
33 ties designed to aid community supervision violators to develop an
34 increased capacity for adjustment to community living. Presumptive
35 releasees, parolees, conditional releasees and those under post-release
36 supervision who have either (a) been found pursuant to article twelve-B
37 of the executive law to have violated one or more conditions of release
38 in an important respect, or (b) allegedly violated one or more of such
39 conditions upon a finding of probable cause at a preliminary hearing or
40 upon the waiver thereof may be placed in a community supervision transi-
41 tion facility. Placement in such a facility upon a finding of probable
42 cause or the waiver thereof shall not preclude the conduct of a revoca-
43 tion hearing, nor, absent a waiver, operate to deny the releasee's right
44 to such revocation hearing.

45 9. (a) The department shall collect a fee of thirty dollars per month,
46 from all persons over the age of eighteen who after the effective date
47 of this subdivision are supervised on presumptive release, parole,
48 conditional release or post-release supervision. The department shall
49 wave all or part of such fee where, because of the indigence of the
50 offender, the payment of said fee would work an unreasonable hardship on
51 the person convicted, his or her immediate family, or any other person
52 who is dependent on such person for financial support.

53 (b) The supervision fee authorized by this subdivision shall not
54 constitute nor be imposed as a condition of community supervision.

55 (c) In the event of non-payment of any fees that have not been waived,
56 the department may seek to enforce payment in any manner permitted by

1 law for enforcement of a debt owed to the state; provided, however, such
2 enforcement shall not include use of any private debt collection agency
3 or service.

4 (d) Nothing contained in this subdivision affects or limits the
5 provisions of section two hundred fifty-nine-xxx of the executive law,
6 relating to out-of-state parole supervision. Prior to a transfer of
7 parole supervision to another state, the department shall eliminate any
8 supervision fee imposed pursuant to this subdivision. The department may
9 collect a fee, pursuant to this subdivision and regulations promulgated
10 thereunder, from any person whose parole supervision is transferred to
11 this state from another.

12 10. The department shall have the power to grant and revoke certif-
13 icates of relief from disabilities and certificates of good conduct as
14 provided for by law.

15 11. In any case where a person is entitled to jail time credit under
16 the provisions of paragraph (c) of subdivision three of section 70.40 of
17 the penal law, to certify to the person in charge of the institution in
18 which such person's sentence is being served the amount of such credit.

19 12. The department shall supervise all persons who are released and
20 subject to a regimen of strict and intensive supervision and treatment
21 pursuant to article ten of the mental hygiene law. The department shall
22 issue and periodically update rules and regulations concerning the
23 supervision of such persons in consultation with the office of sex
24 offender management in the division of criminal justice services and the
25 office of mental health.

26 13. The department shall perform such other functions as are necessary
27 and proper in furtherance of the objective of maintaining an effective,
28 efficient and fair system of community supervision.

29 14. The commissioner shall promulgate such regulations as are neces-
30 sary and proper for the efficient performance of the functions set forth
31 in this article. He or she shall have the authority to contract with
32 public or private agencies for the performance of the functions set
33 forth in this section as are necessary or appropriate to promote the
34 efficient performance of such responsibilities, except the functions
35 defined in subdivisions one, two, four, ten and twelve of this section.

36 15. The commissioner shall provide an annual report to the temporary
37 president of the senate, the speaker of the assembly, the minority lead-
38 er of the senate and minority leader of the assembly, commencing January
39 first, two thousand twelve. Such report shall include but not be limited
40 to the number of persons: released to community supervision and the
41 release type; supervised on community supervision during the preceding
42 year; whose community supervision was revoked; returned to incarceration
43 for conviction of a new felony committed while on community supervision;
44 transferred out of state pursuant to the Interstate Compact for Adult
45 Supervision. In addition, the commissioner shall provide other available
46 information regarding community supervision to the temporary president
47 of the senate, the speaker of the assembly, the minority leader of the
48 senate and minority leader of the assembly upon request.

49 § 203. Regulations for release of certain sex offenders. 1. The
50 commissioner shall promulgate rules and regulations that shall include
51 guidelines and procedures on the placement of sex offenders designated
52 as level two or level three offenders pursuant to article six-C of this
53 chapter. Such regulations shall provide instruction on certain factors
54 to be considered when investigating and approving the residence of level
55 two or level three sex offenders released on presumptive release,

1 parole, conditional release or post-release supervision. Such factors
2 shall include the following:

3 (a) the location of other sex offenders required to register under the
4 sex offender registration act, specifically whether there is a concen-
5 tration of registered sex offenders in a certain residential area or
6 municipality;

7 (b) the number of registered sex offenders residing at a particular
8 property;

9 (c) the proximity of entities with vulnerable populations;

10 (d) accessibility to family members, friends or other supportive
11 services, including, but not limited to, locally available sex offender
12 treatment programs with preference for placement of such individuals
13 into programs that have demonstrated effectiveness in reducing sex
14 offender recidivism and increasing public safety; and

15 (e) the availability of permanent, stable housing in order to reduce
16 the likelihood that such offenders will be transient.

17 2. The department shall have the duty, prior to the release to commu-
18 nity supervision of an inmate designated a level two or three sex offen-
19 der pursuant to the sex offender registration act, to provide notifica-
20 tion to the local social services district in the county in which the
21 inmate expects to reside, when information available or any other pre-
22 release procedures indicates that such inmate is likely to seek to
23 access local social services for homeless persons. The department shall
24 provide such notice, when practicable, thirty days or more before such
25 inmate's release, but in any event, in advance of such inmate's arrival
26 in the jurisdiction of such local social services district.

27 § 205. Merit termination of sentence and discharge from presumptive
28 release, parole, conditional release and release to post-release super-
29 vision. 1. The department may grant to any person a merit termination
30 of sentence from presumptive release, parole, conditional release or
31 release to post-release supervision prior to the expiration of the full
32 term or maximum term, provided it is determined by the department that
33 such merit termination is in the best interests of society, such person
34 is not required to register as a sex offender pursuant to article six-C
35 of this chapter, and such person is not on presumptive release, parole,
36 conditional release or release to post-release supervision from a term
37 of imprisonment imposed for any of the following offenses, or for an
38 attempt to commit any of the following offenses:

39 (a) a violent felony offense as defined in section 70.02 of the penal
40 law;

41 (b) murder in the first degree or murder in the second degree;

42 (c) an offense defined in article one hundred thirty of the penal law;

43 (d) unlawful imprisonment in the first degree, kidnapping in the first
44 degree, or kidnapping in the second degree, in which the victim is less
45 than seventeen years old and the offender is not the parent of the
46 victim;

47 (e) an offense defined in article two hundred thirty of the penal law
48 involving the prostitution of a person less than nineteen years old;

49 (f) disseminating indecent material to minors in the first degree or
50 disseminating indecent material to minors in the second degree;

51 (g) incest;

52 (h) an offense defined in article two hundred sixty-three of the penal
53 law;

54 (i) a hate crime as defined in section 485.05 of the penal law; or

55 (j) an offense defined in article four hundred ninety of the penal
56 law.

1 2. A merit termination granted by the department under this section
2 shall constitute a termination of the sentence with respect to which it
3 was granted. No such merit termination shall be granted unless the
4 department is satisfied that termination of sentence from presumptive
5 release, parole, conditional release or post-release supervision is in
6 the best interest of society, and that the parolee or releasee, other-
7 wise financially able to comply with an order of restitution and the
8 payment of any mandatory surcharge previously imposed by a court of
9 competent jurisdiction, has made a good faith effort to comply there-
10 with.

11 3. A merit termination of sentence may be granted after two years of
12 presumptive release, parole, conditional release or release to post-re-
13 lease supervision to a person serving a sentence for a class A felony
14 offense as defined in article two hundred twenty of the penal law. A
15 merit termination of sentence may be granted to all other eligible
16 persons after one year of presumptive release, parole, conditional
17 release or release to post-release supervision.

18 4. The department must grant termination of sentence after three years
19 of unrevoked presumptive release or parole to a person serving an inde-
20 terminate sentence for a class A felony offense defined in article two
21 hundred twenty of the penal law, and must grant termination of sentence
22 after two years of unrevoked presumptive release or parole to a person
23 servng an indeterminate sentence for any other felony offense defined
24 in article two hundred twenty or two hundred twenty-one of the penal
25 law.

26 5. The commissioner, in consultation with the chairman of the board of
27 parole, shall promulgate rules and regulations governing the issuance of
28 merit terminations of sentence and discharges from presumptive release,
29 parole, conditional release or post-release supervision to assure that
30 such terminations and discharges are consistent with public safety. The
31 board of parole shall have access to merit termination application case
32 files and corresponding decisions to assess the effectiveness of the
33 rules and regulations in ensuring public safety. Such review will in no
34 manner effect the decisions made with regard to individual merit termi-
35 nation determinations.

36 § 206. Applications for presumptive release or conditional release.

37 1. All requests for presumptive release or conditional release shall be
38 made in writing on forms prescribed and furnished by the department.
39 Within one month from the date any such application is received, if it
40 appears that the applicant is eligible for presumptive release or condi-
41 tional release or will be eligible for such release during such month,
42 the conditions of release shall be fixed in accordance with rules
43 prescribed by the board of parole. Such conditions shall be substantial-
44 ly the same as conditions imposed upon parolees.

45 2. No person shall be presumptively released or conditionally
46 released, unless the applicant has agreed in writing to the conditions
47 of release. The agreement shall state in plain, easily understandable
48 language the consequences of a violation of one or more of the condi-
49 tions of release.

50 § 207. Cooperation. It shall be the duty of the commissioner of
51 corrections and community supervision to insure that all officers and
52 employees of the department shall at all times cooperate with the board
53 of parole and shall furnish to such members and employees of the board
54 of parole such information as may be appropriate to enable them to
55 perform their independent decision making functions. It is also his or
56 her duty to ensure that the functions of the board of parole are not

1 hampered in any way, including but not limited to: a restriction of
 2 resources including staff assistance; limited access to vital informa-
 3 tion; and presentation of inmate information in a manner that may inap-
 4 propriately influence the board in its decision making.

5 § 208. Deputization of out-of-state officers. The commissioner is
 6 hereby authorized and empowered to deputize any parole officer or peace
 7 officer of another state to act as an officer and agent of this state in
 8 effecting the return of any person who has violated the terms and condi-
 9 tions of parole or probation as granted by this state.

10 Any deputization pursuant to this section shall be in writing and any
 11 person authorized to act as an agent of this state pursuant hereto shall
 12 carry formal evidence of his or her deputization and shall produce the
 13 same upon demand.

14 The commissioner is hereby authorized, subject to the approval of the
 15 comptroller, to enter into contracts with similar officials of any other
 16 state or states for the purpose of sharing an equitable portion of the
 17 cost of effecting the return of any person who has violated the terms
 18 and conditions of parole or probation as granted by this state.

19 § 33. Intentionally omitted.

20 § 34. Intentionally omitted.

21 § 35. Subdivision 5 of section 400 of the correction law, as added by
 22 chapter 766 of the laws of 1976, is amended to read as follows:

23 (5) "Inmate" means a person committed to the custody of the department
 24 of [~~correctional services~~] corrections and community supervision, or a
 25 person convicted of a crime and committed to the custody of the sheriff,
 26 the county jail, or a local department of correction.

27 § 36. Subparagraph 3 of paragraph c of subdivision 7 of section 500-b
 28 of the correction law, as amended by chapter 574 of the laws of 1985, is
 29 amended to read as follows:

30 (3) records, to the extent relevant and known to the chief administra-
 31 tive officer, maintained by the department of [~~correctional services~~]
 32 corrections and community supervision and/or any local correctional
 33 facility in this state and which are accessible and available to the
 34 chief administrative officer; and

35 § 37. Section 259 of the executive law is REPEALED and a new section
 36 259 is added to read as follows:

37 § 259. Definitions. When used in this article, the following terms
 38 shall have the following meanings:

39 1. "Board" means the state board of parole.

40 2. "Commissioner" means the commissioner of the department of
 41 corrections and community supervision.

42 3. "Community supervision" means the supervision of individuals
 43 released into the community on temporary release, presumptive release,
 44 parole, conditional release, post release supervision or medical parole.

45 4. "Department" means the department of corrections and community
 46 supervision.

47 § 38. Section 259-a of the executive law is REPEALED and a new section
 48 259-a is added to read as follows:

49 § 259-a. State board of parole; funding. The annual budget submitted
 50 by the governor shall separately state the recommended appropriations
 51 for the state board of parole. Upon enactment, these separately stated
 52 appropriations for the state board of parole shall not be decreased by
 53 interchange with any other appropriation, notwithstanding section
 54 fifty-one of the state finance law.

55 § 38-a. Section 259-b of the executive law, as added by chapter 904 of
 56 the laws of 1977, subdivision 1 as amended by chapter 123 of the laws of

1 1987 and subdivision 2 as amended by chapter 111 of the laws of 1989, is
2 amended to read as follows:

3 § 259-b. State board of parole; organization. 1. There shall be in the
4 [~~state division of parole~~] department a state board of parole which
5 shall possess the powers and duties hereinafter specified. The board
6 shall function independently of the department regarding all of its
7 decision-making functions, as well as any other powers and duties speci-
8 fied in this article, provided, however, that administrative matters of
9 general applicability within the department shall be applicable to the
10 board. Such board shall consist of not more than nineteen members

11 appointed by the governor with the advice and consent of the senate. The
12 term of office of each member of such board shall be for six years;
13 provided, however, that any member chosen to fill a vacancy occurring
14 otherwise than by expiration of term shall be appointed for the remain-
15 der of the unexpired term of the member whom he is to succeed. In the
16 event of the inability to act of any member, the governor may appoint
17 some competent informed person to act in his stead during the contin-
18 uance of such disability.

19 2. Each member of the board shall have been awarded a degree from an
20 accredited four-year college or university or a graduate degree from
21 such college or university or accredited graduate school and shall have
22 had at least five years of experience in one or more of the fields of
23 criminology, administration of criminal justice, law enforcement, soci-
24 ology, law, social work, corrections, psychology, psychiatry or medi-
25 cine.

26 3. The governor shall designate one of the members of the board as
27 chairman to serve in such capacity at the pleasure of the governor or
28 until the member's term of office expires and a successor is designated
29 in accordance with law, whichever first occurs.

30 4. The members of the [~~state~~] board [~~of parole~~] shall not hold any
31 other public office; nor shall they, at any time of their appointment
32 nor during their incumbency, serve as a representative of any political
33 party on an executive committee or other governing body thereof, nor as
34 an executive officer or employee of any political committee, organiza-
35 tion or association.

36 5. Each member of the [~~state~~] board [~~of parole~~] shall receive for his
37 services an annual salary to be fixed by the governor within the amount
38 appropriated therefor. Each member of such board shall also receive his
39 necessary expenses actually incurred in the discharge of his duties.

40 6. Any member of the [~~state~~] board [~~of parole~~] may be removed by the
41 governor for cause after an opportunity to be heard.

42 7. Except as otherwise provided by law, a majority of the [~~state~~]
43 board [~~of parole~~] shall constitute a quorum for the transaction of all
44 business of the board.

45 § 38-b. Section 259-c of the executive law, as added by chapter 904
46 of the laws of 1977, subdivision 1 as amended by section 8 of part J and
47 subdivision 4 as amended by section 2 of part N of chapter 56 of the
48 laws of 2009, subdivisions 2 and 6 as amended by section 7 of part E of
49 chapter 62 of the laws of 2003, subdivision 13 as amended by chapter 1
50 of the laws of 2000, subdivision 14 as amended by chapter 320 of the
51 laws of 2006, subdivision 15 as added by chapter 67 of the laws of 2008,
52 subdivision 15-a as added by chapter 496 of the laws of 2009, subdivi-
53 sion 16 as amended by section 14 of part A1 of chapter 56 of the laws of
54 2010 and subdivision 17 as added by chapter 96 of the laws of 2006 and
55 as renumbered by chapter 67 of the laws of 2008, is amended to read as
56 follows:

1 § 259-c. State board of parole; functions, powers and duties. The
2 state board of parole shall: 1. have the power and duty of determining
3 which inmates serving an indeterminate or determinate sentence of impri-
4 sonment may be released on parole, or on medical parole pursuant to
5 section two hundred fifty-nine-r or section two hundred fifty-nine-s of
6 this article, and when and under what conditions;
7 2. have the power and duty of determining the conditions of release of
8 the person who may be presumptively released, conditionally released or
9 subject to a period of post-release supervision under an indeterminate
10 or determinate sentence of imprisonment;
11 3. determine, as each inmate is received by the department [~~of correc-~~
12 ~~tional services~~], the need for further investigation of the background
13 of such inmate [~~and~~]. Upon such determination, the department shall
14 cause such investigation as may be necessary to be made as soon as prac-
15 ticable, the results of such investigation together with all other
16 information compiled by the [~~division pursuant to subdivision one of~~
17 section two hundred fifty nine-a] department and the complete criminal
18 record and family court record of such inmate to be filed so as to be
19 readily available when the parole of such inmate is being considered;
20 4. establish written [~~guidelines~~] procedures for its use in making
21 parole decisions as required by law[~~, including the fixing of minimum~~
22 ~~periods of imprisonment or ranges thereof for different categories of~~
23 ~~offenders~~]. Such written [~~guidelines may consider the use of a]~~ proce-
24 dures shall incorporate risk and needs [~~assessment instrument~~] princi-
25 ples to measure the rehabilitation of persons appearing before the
26 board, the likelihood of success of such persons upon release, and
27 assist members of the state board of parole in determining which inmates
28 may be released to parole supervision;
29 5. through its members, officers and employees, study or cause to be
30 studied the inmates confined in institutions over which the board has
31 jurisdiction, so as to determine their ultimate fitness to be paroled;
32 6. have the power to revoke the [~~presumptive release, parole, condi-~~
33 ~~tional release or post-release~~] community supervision status of any
34 person and to authorize the issuance of a warrant for the re-taking of
35 such persons;
36 [~~7. have the power to grant and revoke certificates of relief from~~
37 ~~disabilities and certificates of good conduct as provided for by law;~~]
38 8. have the power and perform the duty, when requested by the gover-
39 nor, of reporting to the governor the facts, circumstances, criminal
40 records and social, physical, mental and psychiatric conditions and
41 histories of inmates under consideration by the governor for pardon or
42 commutation of sentence and of applicants for restoration of the rights
43 of citizenship;
44 9. for the purpose of any investigation in the performance of duties
45 made by it or any member thereof, have the power to issue subpoenas, to
46 compel the attendance of witnesses and the production of books, papers,
47 and other documents pertinent to the subject of its inquiry;
48 10. have the power to authorize any members thereof and hearing offi-
49 cers to administer oaths and take the testimony of persons under oath;
50 11. make rules for the conduct of its work, a copy of such rules and
51 of any amendments thereto to be filed by the chairman with the secretary
52 of state;
53 12. [~~in any case where a person is entitled to jail time credit under~~
54 ~~the provisions of paragraph (c) of subdivision three of section 70.40 of~~
55 ~~the penal law, to certify to the person in charge of the institution in~~
56 ~~which such person's sentence is being served the amount of such credit~~]

1 to facilitate the supervision of all inmates released on community
2 supervision the chairman of the state board of parole shall consider the
3 implementation of a program of graduated sanctions, including but not
4 limited to the utilization of a risk and needs assessment instrument
5 that would be administered to all inmates eligible for parole super-
6 vision. Such a program would include various components including the
7 use of alternatives to incarceration for technical parole violations;

8 13. transmit a report of the work of the state board of parole for the
9 preceding calendar year to the governor and the legislature annually;

10 14. notwithstanding any other provision of law to the contrary, where
11 a person serving a sentence for an offense defined in article one
12 hundred thirty, one hundred thirty-five or two hundred sixty-three of
13 the penal law or section 255.25, 255.26 or 255.27 of the penal law and
14 the victim of such offense was under the age of eighteen at the time of
15 such offense or such person has been designated a level three sex offen-
16 der pursuant to subdivision six of section one hundred sixty-eight-1 of
17 the correction law, is released on parole or conditionally released
18 pursuant to subdivision one or two of this section, the board shall
19 require, as a mandatory condition of such release, that such sentenced
20 offender shall refrain from knowingly entering into or upon any school
21 grounds, as that term is defined in subdivision fourteen of section
22 220.00 of the penal law, or any other facility or institution primarily
23 used for the care or treatment of persons under the age of eighteen
24 while one or more of such persons under the age of eighteen are present,
25 provided however, that when such sentenced offender is a registered
26 student or participant or an employee of such facility or institution or
27 entity contracting therewith or has a family member enrolled in such
28 facility or institution, such sentenced offender may, with the written
29 authorization of his or her parole officer and the superintendent or
30 chief administrator of such facility, institution or grounds, enter such
31 facility, institution or upon such grounds for the limited purposes
32 authorized by the parole officer and superintendent or chief officer.
33 Nothing in this subdivision shall be construed as restricting any lawful
34 condition of supervision that may be imposed on such sentenced offender.

35 15. Notwithstanding any other provision of law to the contrary, where
36 a person is serving a sentence for an offense for which registration as
37 a sex offender is required pursuant to subdivision two or three of
38 section one hundred sixty-eight-a of the correction law, and the victim
39 of such offense was under the age of eighteen at the time of such
40 offense or such person has been designated a level three sex offender
41 pursuant to subdivision six of section one hundred sixty-eight-1 of the
42 correction law or the internet was used to facilitate the commission of
43 the crime, is released on parole or conditionally released pursuant to
44 subdivision one or two of this section, the board shall require, as
45 mandatory conditions of such release, that such sentenced offender shall
46 be prohibited from using the internet to access pornographic material,
47 access a commercial social networking website, communicate with other
48 individuals or groups for the purpose of promoting sexual relations with
49 persons under the age of eighteen, and communicate with a person under
50 the age of eighteen when such offender is over the age of eighteen,
51 provided that the board may permit an offender to use the internet to
52 communicate with a person under the age of eighteen when such offender
53 is the parent of a minor child and is not otherwise prohibited from
54 communicating with such child. Nothing in this subdivision shall be
55 construed as restricting any other lawful condition of supervision that
56 may be imposed on such sentenced offender. As used in this subdivision,

1 a "commercial social networking website" shall mean any business, organ-
2 ization or other entity operating a website that permits persons under
3 eighteen years of age to be registered users for the purpose of estab-
4 lishing personal relationships with other users, where such persons
5 under eighteen years of age may: (i) create web pages or profiles that
6 provide information about themselves where such web pages or profiles
7 are available to the public or to other users; (ii) engage in direct or
8 real time communication with other users, such as a chat room or instant
9 messenger; and (iii) communicate with persons over eighteen years of
10 age; provided, however, that, for purposes of this subdivision, a
11 commercial social networking website shall not include a website that
12 permits users to engage in such other activities as are not enumerated
13 herein.

14 15-a. Notwithstanding any other provision of law, where a person is
15 serving a sentence for a violation of section 120.03, 120.04, 120.04-a,
16 125.12, 125.13 or 125.14 of the penal law, or a felony as defined in
17 paragraph (c) of subdivision one of section eleven hundred ninety-three
18 of the vehicle and traffic law, if such person is released on parole or
19 conditional release the board shall require as a mandatory condition of
20 such release, that such person install and maintain, in accordance with
21 the provisions of section eleven hundred ninety-eight of the vehicle and
22 traffic law, an ignition interlock device in any motor vehicle owned or
23 operated by such person during the term of such parole or conditional
24 release for such crime. Provided further, however, the board may not
25 otherwise authorize the operation of a motor vehicle by any person whose
26 license or privilege to operate a motor vehicle has been revoked pursu-
27 ant to the provisions of the vehicle and traffic law.

28 ~~16. [have the duty to provide written notice to such inmates prior to~~
29 ~~release on presumptive release, parole, parole supervision, conditional~~
30 ~~release or post release supervision or pursuant to subdivision six of~~
31 ~~section 410.91 of the criminal procedure law of any requirement to~~
32 ~~report to the office of victim services any funds of a convicted person~~
33 ~~as defined in section six hundred thirty two a of this chapter, the~~
34 ~~procedure for such reporting and any potential penalty for a failure to~~
35 ~~comply.~~

36 ~~17. have the duty, prior to the release, parole or release to post-re-~~
37 ~~lease supervision of an inmate designated a level two or three sex~~
38 ~~offender pursuant to the sex offender registration act, to provide~~
39 ~~notification to the local social services district in the county in~~
40 ~~which the inmate expects to reside, when information available to the~~
41 ~~board pursuant to section one hundred sixty eight e of the correction~~
42 ~~law or any other pre-release procedures indicates that such inmate is~~
43 ~~likely to seek to access local social services for homeless persons. The~~
44 ~~board shall provide such notice, when practicable, thirty days or more~~
45 ~~before such inmate's release, but in any event, in advance of such~~
46 ~~inmate's arrival in the jurisdiction of such local social services~~
47 ~~district] determine which inmates serving a definite sentence of impri-~~
48 ~~sonment may be conditionally released from an institution in which he or~~
49 ~~she is confined in accordance with subdivision two of section 70.40 of~~
50 ~~the penal law.~~

51 ~~17. within amounts appropriated, appoint attorneys to serve as its~~
52 ~~legal advisors. Such attorneys shall report directly to the board,~~
53 ~~provided, however, that administrative matters of general applicability~~
54 ~~within the department shall be applicable to such attorneys.~~

55 § 38-b-1. Intentionally omitted.

1 § 38-b-2. Section 259-d of the executive law, as added by chapter 904
2 of the laws of 1977, subdivision 1 as amended by chapter 166 of the laws
3 of 1991, is amended to read as follows:

4 § 259-d. Hearing officers. 1. The [~~chairman of the~~] state board of
5 parole shall appoint and shall have the power to remove, in accordance
6 with the provisions of the civil service law, hearing officers who shall
7 be authorized to conduct parole revocation proceedings. Hearing offi-
8 cers shall function independently of the department regarding all of
9 their decision-making functions, and shall report directly to the board,
10 provided, however, that administrative matters of general applicability
11 within the department shall be applicable to all hearing officers. A
12 hearing officer conducting such proceedings shall, when delegated such
13 authority by the board in rules adopted by the board, be required to
14 make a written decision in accordance with standards and rules adopted
15 by the board. Nothing in this article shall be deemed to preclude a
16 member of the state board of parole from exercising all of the func-
17 tions, powers and duties of a hearing officer upon request of the chair-
18 man.

19 2. The [~~chairman~~] board, acting in cooperation with the civil service
20 commission, shall establish standards, preliminary requisites and requi-
21 sites to govern the selection [~~and~~], appointment and removal of hearing
22 officers. Such standards and requisites shall be designed to assure that
23 persons selected as hearing officers have the ability to conduct parole
24 revocation proceedings fairly and impartially. Such standards shall not
25 require prior experience as a parole officer. The board shall have the
26 authority to establish procedures necessary to implement this section.

27 § 38-c. Section 259-e of the executive law, as amended by section 8 of
28 part E of chapter 62 of the laws of 2003, is amended to read as follows:

29 § 259-e. Institutional parole services. The [~~division~~] department
30 shall provide institutional parole services. [~~Subject to the authority~~
31 ~~of the chairman, these~~] Such services shall include preparation of
32 reports and other data required by the state board of parole in the
33 exercise of its functions with respect to release on presumptive
34 release, parole, conditional release or post-release supervision of
35 inmates. Employees of the [~~division~~] department who collect data, inter-
36 view inmates and prepare reports for the state board of parole in insti-
37 tutions under the jurisdiction of the department [~~of correctional~~
38 ~~services~~] shall [~~not~~] work under the direct [~~or indirect~~] supervision of
39 the [~~head of the institution~~] deputy commissioner of the department in
40 charge of program services. Data and reports submitted to the board
41 shall address the statutory factors to be considered by the board pursu-
42 ant to the relevant provisions of section two hundred fifty-nine-i of
43 this article.

44 § 38-d. Section 259-f of the executive law is REPEALED.

45 § 38-e. Section 259-g of the executive law is REPEALED.

46 § 38-f. Subdivision 1 of section 259-i of the executive law is
47 REPEALED.

48 § 38-f-1. Paragraphs (a), (b) and (d) and subparagraph (A) of para-
49 graph (c) of subdivision 2, subparagraphs (i) and (iii) of paragraph (a)
50 of subdivision 3, subparagraph (x) of paragraph (f) of subdivision 3,
51 and paragraph (i) of subdivision 3 of section 259-i of the executive
52 law, paragraph (a) of subdivision 2 as separately amended by section 11
53 of part E and section 9 of part F of chapter 62 of the laws of 2003,
54 paragraph (b) of subdivision 2, subparagraph (i) of paragraph (a) of
55 subdivision 3 and paragraph (i) of subdivision 3 as amended by section
56 11 of part E of chapter 62 of the laws of 2003, subparagraph (A) of

1 paragraph (c) of subdivision 2 as amended by section 12 of part AAA of
2 chapter 56 of the laws of 2009, paragraph (d) of subdivision 2 as
3 amended by chapter 239 of the laws of 2007, subparagraph (iii) of para-
4 graph (a) of subdivision 3, as amended by section 11 of part E of chap-
5 ter 62 of the laws of 2003 and as renumbered by section 1 of part M of
6 chapter 56 of the laws of 2009, subparagraph (x) of paragraph (f) of
7 subdivision 3 as amended by section 3 of part E of chapter 56 of the
8 laws of 2007, are amended to read as follows:

9 (a) (i) Except as provided in subparagraph (ii) of this paragraph, at
10 least one month prior to the date on which an inmate may be paroled
11 pursuant to subdivision one of section 70.40 of the penal law, a member
12 or members as determined by the rules of the board shall personally
13 interview such inmate and determine whether he should be paroled in
14 accordance with the guidelines adopted pursuant to subdivision four of
15 section two hundred fifty-nine-c of this article. If parole is not
16 granted upon such review, the inmate shall be informed in writing within
17 two weeks of such appearance of the factors and reasons for such denial
18 of parole. Such reasons shall be given in detail and not in conclusory
19 terms. The board shall specify a date not more than twenty-four months
20 from such determination for reconsideration, and the procedures to be
21 followed upon reconsideration shall be the same. If the inmate is
22 released, he shall be given a copy of the conditions of parole. Such
23 conditions shall where appropriate, include a requirement that the paro-
24 lee comply with any restitution order, mandatory surcharge, sex offender
25 registration fee and DNA databank fee previously imposed by a court of
26 competent jurisdiction that applies to the parolee. The ~~[board of~~
27 ~~parole]~~ conditions shall indicate which restitution collection agency
28 established under subdivision eight of section 420.10 of the criminal
29 procedure law, shall be responsible for collection of restitution,
30 mandatory surcharge, sex offender registration fees and DNA databank
31 fees as provided for in section 60.35 of the penal law and section eigh-
32 teen hundred nine of the vehicle and traffic law.

33 (ii) Any inmate who is scheduled for presumptive release pursuant to
34 section eight hundred six of the correction law shall not appear before
35 the ~~[parole]~~ board as provided in subparagraph (i) of this paragraph
36 unless such inmate's scheduled presumptive release is forfeited,
37 canceled, or rescinded subsequently as provided in such law. In such
38 event, the inmate shall appear before the ~~[parole]~~ board for release
39 consideration as provided in subparagraph (i) of this paragraph as soon
40 thereafter as is practicable.

41 (b) Persons presumptively released, paroled, conditionally released or
42 released to post-release supervision from an institution under the
43 jurisdiction of the department ~~[of correctional services or]~~, the
44 department of mental hygiene or the office of children and family
45 services shall, while on presumptive release, parole, conditional
46 release or post-release supervision, be in the legal custody of the
47 ~~[division of parole]~~ department until expiration of the maximum term or
48 period of sentence, or expiration of the period of supervision, includ-
49 ing any period of post-release supervision, or return to imprisonment in
50 the custody of the department ~~[of correctional services]~~, as the case
51 may be.

52 (A) Discretionary release on parole shall not be granted merely as a
53 reward for good conduct or efficient performance of duties while
54 confined but after considering if there is a reasonable probability
55 that, if such inmate is released, he will live and remain at liberty
56 without violating the law, and that his release is not incompatible with

1 the welfare of society and will not so deprecate the seriousness of his
2 crime as to undermine respect for law. In making the parole release
3 decision, the [~~guidelines~~] procedures adopted pursuant to subdivision
4 four of section two hundred fifty-nine-c of this article shall require
5 that the following be considered: (i) the institutional record including
6 program goals and accomplishments, academic achievements, vocational
7 education, training or work assignments, therapy and [~~interpersonal~~
8 ~~relationships~~] interactions with staff and inmates; (ii) performance, if
9 any, as a participant in a temporary release program; (iii) release
10 plans including community resources, employment, education and training
11 and support services available to the inmate; (iv) any deportation order
12 issued by the federal government against the inmate while in the custody
13 of the department [~~of correctional services~~] and any recommendation
14 regarding deportation made by the commissioner of the department [~~of~~
15 ~~correctional services~~] pursuant to section one hundred forty-seven of
16 the correction law; (v) any statement made to the board by the crime
17 victim or the victim's representative, where the crime victim is
18 deceased or is mentally or physically incapacitated; [~~and~~] (vi) the
19 length of the determinate sentence to which the inmate would be subject
20 had he or she received a sentence pursuant to section 70.70 or section
21 70.71 of the penal law for a felony defined in article two hundred twenty
22 or article two hundred twenty-one of the penal law; (vii) the seri-
23 ousness of the offense with due consideration to the type of sentence,
24 length of sentence and recommendations of the sentencing court, the
25 district attorney, the attorney for the inmate, the pre-sentence
26 probation report as well as consideration of any mitigating and aggra-
27 vating factors, and activities following arrest prior to confinement;
28 and (viii) prior criminal record, including the nature and pattern of
29 offenses, adjustment to any previous probation or parole supervision and
30 institutional confinement. The board shall provide toll free telephone
31 access for crime victims. In the case of an oral statement made in
32 accordance with subdivision one of section 440.50 of the criminal proce-
33 dure law, the parole board member shall present a written report of the
34 statement to the parole board. A crime victim's representative shall
35 mean the crime victim's closest surviving relative, the committee or
36 guardian of such person, or the legal representative of any such person.
37 Such statement submitted by the victim or victim's representative may
38 include information concerning threatening or intimidating conduct
39 toward the victim, the victim's representative, or the victim's family,
40 made by the person sentenced and occurring after the sentencing. Such
41 information may include, but need not be limited to, the threatening or
42 intimidating conduct of any other person who or which is directed by the
43 person sentenced. [~~Notwithstanding the provisions of this section, in~~
44 ~~making the parole release decision for persons whose minimum period of~~
45 ~~imprisonment was not fixed pursuant to the provisions of subdivision one~~
46 ~~of this section, in addition to the factors listed in this paragraph the~~
47 ~~board shall consider the factors listed in paragraph (a) of subdivision~~
48 ~~one of this section.]~~

49 (d) (i) Notwithstanding the provisions of paragraphs (a), (b) and (c)
50 of this subdivision, after the inmate has served his minimum period of
51 imprisonment imposed by the court, or at any time after the inmate's
52 period of imprisonment has commenced for an inmate serving a determinate
53 or indeterminate term of imprisonment, provided that the inmate has had
54 a final order of deportation issued against him and provided further
55 that the inmate is not convicted of either an A-I felony offense other
56 than an A-I felony offense as defined in article two hundred twenty of

1 the penal law or a violent felony offense as defined in section 70.02 of
2 the penal law, if the inmate is subject to deportation by the United
3 States Bureau of Immigration and [~~Naturalization Service~~] Customs
4 Enforcement, in addition to the criteria set forth in paragraph (c) of
5 this subdivision, the board may consider, as a factor warranting earlier
6 release, the fact that such inmate will be deported, and may grant
7 parole from an indeterminate sentence or release for deportation from a
8 determinate sentence to such inmate conditioned specifically on his
9 prompt deportation. The board may make such conditional grant of early
10 parole from an indeterminate sentence or release for deportation from a
11 determinate sentence only where it has received from the United States
12 Bureau of Immigration and [~~Naturalization Service~~] Customs Enforcement
13 assurance (A) that an order of deportation will be executed or that
14 proceedings will promptly be commenced for the purpose of deportation
15 upon release of the inmate from the custody of the department of correc-
16 tional services, and (B) that the inmate, if granted parole or release
17 for deportation pursuant to this paragraph, will not be released from
18 the custody of the United States Bureau of Immigration and [~~Naturaliza-~~
19 ~~tion Service~~] Customs Enforcement, unless such release be as a result of
20 deportation without providing the board a reasonable opportunity to
21 arrange for execution of its warrant for the retaking of such person.

22 (ii) An inmate who has been granted parole from an indeterminate
23 sentence or release for deportation from a determinate sentence pursuant
24 to this paragraph shall be delivered to the custody of the United States
25 Bureau of Immigration and [~~Naturalization Service~~] Customs Enforcement
26 along with the board's warrant for his retaking to be executed in the
27 event of his release from such custody other than by deportation. In the
28 event that such person is not deported, the board shall execute the
29 warrant, effect his return to imprisonment in the custody of the depart-
30 ment [~~of correctional services~~] and within sixty days after such return,
31 provided that the person is serving an indeterminate sentence and the
32 minimum period of imprisonment has been served, personally interview him
33 to determine whether he should be paroled in accordance with the
34 provisions of paragraphs (a), (b) and (c) of this subdivision. The
35 return of a person granted parole from an indeterminate sentence or
36 release for deportation from a determinate sentence pursuant to this
37 paragraph for the reason set forth herein shall not be deemed to be a
38 parole delinquency and the interruptions specified in subdivision three
39 of section 70.40 of the penal law shall not apply, but the time spent in
40 the custody of the United States Bureau of Immigration and [~~Naturaliza-~~
41 ~~tion Service~~] Customs Enforcement shall be credited against the term of
42 the sentence in accordance with the rules specified in paragraph (c) of
43 that subdivision. Notwithstanding any other provision of law, any
44 inmate granted parole from an indeterminate sentence or release for
45 deportation from a determinate sentence pursuant to this paragraph who
46 is subsequently committed to imprisonment in the custody of the depart-
47 ment [~~of correctional services~~] for a felony offense committed after
48 release pursuant to this paragraph shall have his parole eligibility
49 date on the indeterminate sentence for the new felony offense, or his
50 conditional release date on the determinate sentence for the new felony
51 offense, as the case may be, extended by the amount of time between the
52 date on which such inmate was released from imprisonment in the custody
53 of the department [~~of correctional services~~] pursuant to this paragraph
54 and the date on which such inmate would otherwise have completed service
55 of the minimum period of imprisonment on the prior felony offense.

1 (i) If the parole officer having charge of a presumptively released,
2 paroled or conditionally released person or a person released to post-
3 release supervision or a person received under the uniform act for out-
4 of-state parolee supervision shall have reasonable cause to believe that
5 such person has lapsed into criminal ways or company, or has violated
6 one or more conditions of his presumptive release, parole, conditional
7 release or post-release supervision, such parole officer shall report
8 such fact to a member of the board [~~of parole~~], or to any officer of the
9 [~~division~~] department designated by the board, and thereupon a warrant
10 may be issued for the retaking of such person and for his temporary
11 detention in accordance with the rules of the board. The retaking and
12 detention of any such person may be further regulated by rules and regu-
13 lations of the [~~division~~] department not inconsistent with this article.
14 A warrant issued pursuant to this section shall constitute sufficient
15 authority to the superintendent or other person in charge of any jail,
16 penitentiary, lockup or detention pen to whom it is delivered to hold in
17 temporary detention the person named therein; except that a warrant
18 issued with respect to a person who has been released on medical parole
19 pursuant to section two hundred fifty-nine-r of this article and whose
20 parole is being revoked pursuant to paragraph (h) of subdivision four of
21 such section shall constitute authority for the immediate placement of
22 the parolee only into imprisonment in the custody of the department [~~of~~
23 ~~correctional services~~] to hold in temporary detention. A warrant issued
24 pursuant to this section shall also constitute sufficient authority to
25 the person in charge of a drug treatment campus, as defined in subdivi-
26 sion twenty of section two of the correction law, to hold the person
27 named therein, in accordance with the procedural requirements of this
28 section, for a period of at least ninety days to complete an intensive
29 drug treatment program mandated by the board [~~of parole~~] as an alterna-
30 tive to presumptive release or parole or conditional release revocation,
31 or the revocation of post-release supervision, and shall also constitute
32 sufficient authority for return of the person named therein to local
33 custody to hold in temporary detention for further revocation
34 proceedings in the event said person does not successfully complete the
35 intensive drug treatment program. The board's rules shall provide for
36 cancellation of delinquency and restoration to supervision upon the
37 successful completion of the program.

38 (iii) Where the alleged violator is detained in another state pursuant
39 to such warrant and is not under parole supervision pursuant to the
40 uniform act for out-of-state parolee supervision or where an alleged
41 violator under parole supervision pursuant to the uniform act for out-
42 of-state parolee supervision is detained in a state other than the
43 receiving state, the warrant will not be deemed to be executed until the
44 alleged violator is detained exclusively on the basis of such warrant
45 and the [~~division of parole~~] department has received notification that
46 the alleged violator (A) has formally waived extradition to this state
47 or (B) has been ordered extradited to this state pursuant to a judicial
48 determination. The alleged violator will not be considered to be within
49 the convenience and practical control of the [~~division of parole~~]
50 department until the warrant is deemed to be executed.

51 (x) If the presiding officer is satisfied that there is a preponder-
52 ance of evidence that the alleged violator violated one or more condi-
53 tions of release in an important respect, he or she shall so find. For
54 each violation so found, the presiding officer may (A) direct that the
55 presumptive releasee, parolee, conditional releasee or person serving a
56 period of post-release supervision be restored to supervision; (B) as an

1 alternative to reincarceration, direct the presumptive releasee, paro-
2 lee, conditional releasee or person serving a period of post-release
3 supervision be placed in a parole transition facility for a period not
4 to exceed one hundred eighty days and subsequent restoration to super-
5 vision; (C) in the case of presumptive releasees, parolees or condi-
6 tional releasees, direct the violator's reincarceration and fix a date
7 for consideration by the board for re-release on presumptive release, or
8 parole or conditional release, as the case may be; or (D) in the case of
9 persons released to a period of post-release supervision, direct the
10 violator's reincarceration up to the balance of the remaining period of
11 post-release supervision, not to exceed five years; provided, however,
12 that a defendant serving a term of post-release supervision for a
13 conviction of a felony sex offense defined in section 70.80 of the penal
14 law may be subject to a further period of imprisonment up to the balance
15 of the remaining period of post-release supervision. ~~[Where a date has
16 been fixed for the violator's re-release on presumptive release, parole
17 or conditional release, as the case may be, the board or board member
18 may waive the personal interview between a member or members of the
19 board and the violator to determine the suitability for re-release,
20 provided, however, that the board shall retain the authority to suspend
21 the date fixed for re-release and to require a personal interview based
22 on the violator's institutional record or on such other basis as is
23 authorized by the rules and regulations of the board. If an interview is
24 required, the board shall notify the violator of the time of such inter-
25 view in accordance with the rules and regulations of the board. If the
26 violator is placed in a parole transition facility or restored to super-
27 vision, the presiding officer may impose such other conditions of
28 presumptive release, parole, conditional release, or post-release super-
29 vision as he or she may deem appropriate, as authorized by rules of the
30 board]~~ For the violator serving an indeterminate sentence who while
31 re-incarcerated has not been found by the department to have committed a
32 serious disciplinary infraction, such violator shall be re-released on
33 the date fixed at the revocation hearing. For the violator serving an
34 indeterminate sentence who has been found by the department to have
35 committed a serious disciplinary infraction while re-incarcerated, the
36 department shall refer the violator to the board for consideration for
37 re-release to community supervision. Upon such referral the board may
38 waive the personal interview between a member or members of the board
39 and the violator to determine the suitability for re-release when the
40 board directs that the violator be re-released upon expiration of the
41 time assessment. The board shall retain the authority to suspend the
42 date fixed for re-release based on the violator's commission of a seri-
43 ous disciplinary infraction and shall in such case require a personal
44 interview be conducted within a reasonable time between a panel of
45 members of the board and the violator to determine suitability for
46 re-release. If an interview is required, the board shall notify the
47 violator in advance of the date and time of such interview in accordance
48 with the rules and regulations of the board.

49 (i) Where there is reasonable cause to believe that a presumptive
50 releasee, parolee, conditional releasee or person under post-release
51 supervision has absconded from supervision the board may declare such
52 person to be delinquent. This paragraph shall not be construed to deny
53 such person a preliminary revocation hearing upon his retaking, nor to
54 relieve the ~~[division of parole]~~ department of any obligation it may
55 have to exercise due diligence to retake the alleged absconder, nor to

1 relieve the parolee or releasee of any obligation he may have to comply
2 with the conditions of his release.

3 § 38-f-2. Paragraph (a) of subdivision 2 of section 259-i of the execu-
4 tive law, as amended by chapter 396 of the laws of 1987, is amended to
5 read as follows:

6 (a) At least one month prior to the expiration of the minimum period
7 or periods of imprisonment fixed by the court or board, a member or
8 members as determined by the rules of the board shall personally inter-
9 view an inmate serving an indeterminate sentence and determine whether
10 he should be paroled at the expiration of the minimum period or periods
11 in accordance with the [~~guidelines~~] procedures adopted pursuant to
12 subdivision four of section two hundred fifty-nine-c. If parole is not
13 granted upon such review, the inmate shall be informed in writing within
14 two weeks of such appearance of the factors and reasons for such denial
15 of parole. Such reasons shall be given in detail and not in conclusory
16 terms. The board shall specify a date not more than twenty-four months
17 from such determination for reconsideration, and the procedures to be
18 followed upon reconsideration shall be the same. If the inmate is
19 released, he shall be given a copy of the conditions of parole. Such
20 conditions shall where appropriate, include a requirement that the paro-
21 lee comply with any restitution order and mandatory surcharge previously
22 imposed by a court of competent jurisdiction that applies to the paro-
23 lee. The [~~board of parole~~] conditions shall indicate which restitution
24 collection agency established under subdivision eight of section 420.10
25 of the criminal procedure law, shall be responsible for collection of
26 restitution and mandatory surcharge as provided for in section 60.35 of
27 the penal law and section eighteen hundred nine of the vehicle and traf-
28 fic law.

29 § 38-g. Section 259-j of the executive law, as separately amended by
30 section 10 of part F and section 1 of part N of chapter 62 of the laws
31 of 2003, the section heading, subdivisions 1, 3 and 4 as amended by
32 section 13 of part AAA of chapter 56 of the laws of 2009, subdivision
33 3-a as amended by chapter 486 of the laws of 2008 and subdivision 6 as
34 added by chapter 7 of the laws of 2007, is amended to read as follows:

35 § 259-j. [~~Merit termination of sentence and discharge from presumptive~~
36 ~~release, parole, conditional release and release to post-release super-~~
37 ~~vision. 1. The division of parole may grant to any person a merit termi-~~
38 ~~nation of sentence from presumptive release, parole, conditional release~~
39 ~~or release to post-release supervision prior to the expiration of the~~
40 ~~full term or maximum term, provided it is determined by the division of~~
41 ~~parole that such merit termination is in the best interests of society,~~
42 ~~such person is not required to register as a sex offender pursuant to~~
43 ~~article six C of the correction law, and such person is not on presump-~~
44 ~~tive release, parole, conditional release or release to post-release~~
45 ~~supervision from a term of imprisonment imposed for any of the following~~
46 ~~offenses, or for an attempt to commit any of the following offenses:~~

47 (a) ~~a violent felony offense as defined in section 70.02 of the penal~~
48 ~~law;~~

49 (b) ~~murder in the first degree or murder in the second degree;~~

50 (c) ~~an offense defined in article one hundred thirty of the penal law;~~

51 (d) ~~unlawful imprisonment in the first degree, kidnapping in the first~~
52 ~~degree, or kidnapping in the second degree, in which the victim is less~~
53 ~~than seventeen years old and the offender is not the parent of the~~
54 ~~victim;~~

55 (e) ~~an offense defined in article two hundred thirty of the penal law~~
56 ~~involving the prostitution of a person less than nineteen years old;~~

1 ~~(f) disseminating indecent material to minors in the first degree or~~
 2 ~~disseminating indecent material to minors in the second degree;~~
 3 ~~(g) incest;~~
 4 ~~(h) an offense defined in article two hundred sixty-three of the penal~~
 5 ~~law;~~
 6 ~~(i) a hate crime as defined in section 485.05 of the penal law; or~~
 7 ~~(j) an offense defined in article four hundred ninety of the penal~~
 8 ~~law.~~

9 ~~2. A merit termination granted by the division of parole under this~~
 10 ~~section shall constitute a termination of the sentence with respect to~~
 11 ~~which it was granted. No such merit termination shall be granted unless~~
 12 ~~the division of parole is satisfied that termination of sentence from~~
 13 ~~presumptive release, parole or from conditional release is in the best~~
 14 ~~interest of society, and that the parolee or releasee, otherwise finan-~~
 15 ~~cially able to comply with an order of restitution and the payment of~~
 16 ~~any mandatory surcharge previously imposed by a court of competent~~
 17 ~~jurisdiction, has made a good faith effort to comply therewith.~~

18 ~~3. A merit termination of sentence may be granted after two years of~~
 19 ~~presumptive release, parole, conditional release or release to post-re-~~
 20 ~~lease supervision to a person serving a sentence for a class A felony~~
 21 ~~offense as defined in article two hundred twenty of the penal law. A~~
 22 ~~merit termination of sentence may be granted to all other eligible~~
 23 ~~persons after one year of presumptive release, parole, conditional~~
 24 ~~release or release to post-release supervision.~~

25 ~~3-a. The division of parole must grant termination of sentence after~~
 26 ~~three years of unrevoked presumptive release or parole to a person serv-~~
 27 ~~ing an indeterminate sentence for a class A felony offense defined in~~
 28 ~~article two hundred twenty of the penal law, and must grant termination~~
 29 ~~of sentence after two years of unrevoked presumptive release or parole~~
 30 ~~to a person serving an indeterminate sentence for any other felony~~
 31 ~~offense defined in article two hundred twenty or two hundred twenty one~~
 32 ~~of the penal law.~~

33 4] Discharge of sentence. 1. Except where a determinate sentence was
 34 imposed for a felony other than a felony defined in article two hundred
 35 twenty or article two hundred twenty-one of the penal law, if the board
 36 of parole is satisfied that an absolute discharge from presumptive
 37 release, parole, conditional release or release to a period of post-re-
 38 lease supervision is in the best interests of society, the board may
 39 grant such a discharge prior to the expiration of the full term or maxi-
 40 mum term to any person who has been on unrevoked [~~presumptive release,~~
 41 ~~parole, conditional release or release to post-release~~] community super-
 42 vision for at least three consecutive years. A discharge granted under
 43 this section shall constitute a termination of the sentence with respect
 44 to which it was granted. No such discharge shall be granted unless the
 45 board [~~of parole~~] is satisfied that the parolee or releasee, otherwise
 46 financially able to comply with an order of restitution and the payment
 47 of any mandatory surcharge, sex offender registration fee or DNA data-
 48 bank fee previously imposed by a court of competent jurisdiction, has
 49 made a good faith effort to comply therewith.

50 [5] 2. The chairman of the board of parole shall promulgate rules and
 51 regulations governing the issuance of [~~merit terminations of sentence~~
 52 ~~and~~] discharges from [~~presumptive release, parole and conditional~~
 53 ~~release~~] community supervision pursuant to this section to assure that
 54 such [~~terminations and~~] discharges are consistent with public safety.

55 [~~6-~~] 3. Notwithstanding any other provision of this section to the
 56 contrary, where a term of post-release supervision in excess of five

1 years has been imposed on a person convicted of a crime defined in arti-
2 cle one hundred thirty of the penal law, including a sexually motivated
3 felony, the [~~division~~] board of parole may grant a discharge from post-
4 release supervision prior to the expiration of the maximum term of post-
5 release supervision. Such a discharge may be granted only after the
6 person has served at least five years of post-release supervision, and
7 only to a person who has been on unrevoked post-release supervision for
8 at least three consecutive years. No such discharge shall be granted
9 unless the [~~division~~] board of parole[~~-(a)~~] or the department acting
10 pursuant to its responsibility under subdivision one of section two
11 hundred one of the correction law consults with any licensed psychol-
12 ogist, qualified psychiatrist, or other mental health professional who
13 is providing care or treatment to the supervisee; [~~(b)~~] and the board:
14 (a) determines that a discharge from post-release supervision is in the
15 best interests of society; and [~~(e)~~] (b) is satisfied that the supervi-
16 see, otherwise financially able to comply with an order of restitution
17 and the payment of any mandatory surcharge, sex offender registration
18 fee, or DNA data bank fee previously imposed by a court of competent
19 jurisdiction, has made a good faith effort to comply therewith. Before
20 making a determination to discharge a person from a period of post-re-
21 lease supervision, the [~~division~~] board of parole may request that the
22 commissioner of the office of mental health arrange a psychiatric evalu-
23 ation of the supervisee. A discharge granted under this section shall
24 constitute a termination of the sentence with respect to which it was
25 granted.

26 § 38-h. Section 259-jj of the executive law is REPEALED.

27 § 38-i. Section 259-k of the executive law, as added by chapter 904 of
28 the laws of 1977, subdivision 3 as amended by chapter 230 of the laws of
29 1986, and subdivision 4 as added by chapter 707 of the laws of 1992, is
30 amended to read as follows:

31 § 259-k. Access to records and institutions. 1. All case files shall
32 be maintained by the [~~division of parole~~] department for use by the
33 [~~division~~] department and board [~~of parole~~]. The [~~division~~] department
34 and board [~~of parole~~] and authorized officers and employees thereof
35 shall have complete access to such files and the board of parole shall
36 have the right to make such entries as the [~~division or~~] board of parole
37 shall deem appropriate in accordance with law.

38 2. The board shall make rules for the purpose of maintaining the
39 confidentiality of records, information contained therein and informa-
40 tion obtained in an official capacity by officers, employees or members
41 of the [~~division or~~] board of parole.

42 3. Members of the board and officers and employees of the [~~division~~]
43 department providing community supervision services and designated by
44 the [~~chairman~~] commissioner shall have free access to all inmates
45 confined in institutions under the jurisdiction of the department [~~of~~]
46 correctional services], the office of children and family services and
47 the department of mental hygiene in order to enable them to perform
48 their functions, provided, however, that the department of mental
49 hygiene may temporarily restrict such access where it determines, for
50 significant clinical reasons, that such access would interfere with its
51 care and treatment of the mentally ill inmate. If under the provisions
52 of this subdivision an inmate is not accessible for release consider-
53 ation by the board, that inmate shall be scheduled to see the board in
54 the month immediately subsequent to the month within which he was not
55 available.

1 4. Upon a determination by the [~~division~~] department and board of
2 parole that [~~its~~] records regarding an individual presently under the
3 supervision of the [~~division and board~~] department are relevant to an
4 investigation of child abuse or maltreatment conducted by a child
5 protective service pursuant to title six of article six of the social
6 services law, the [~~division~~] department and board shall provide the
7 records determined to be relevant to the child protective service
8 conducting the investigation. The [~~division,~~] department and board shall
9 promulgate rules for the transmission of records required to be provided
10 under this section.

11 § 38-j. Section 259-1 of the executive law, as added by chapter 904 of
12 the laws of 1977, is amended to read as follows:

13 § 259-1. Cooperation. 1. It shall be the duty of the commissioner of
14 [~~correctional services~~] corrections and community supervision to insure
15 that all officers and employees of the department [~~of correctional~~
16 ~~services~~] shall at all times cooperate with the [~~division~~] board of
17 parole and shall furnish to such [~~division,~~] members of the board [~~of~~
18 ~~parole and officers~~] and employees of the [~~division~~] board such informa-
19 tion as may be [~~necessary~~] appropriate to enable them to perform their
20 independent decision making functions. It is also his or her duty to
21 ensure that the functions of the board of parole are not hampered in
22 any way, including but not limited to: a restriction of resources
23 including staff assistance; limited access to vital information; and
24 presentation of inmate information in a manner that may inappropriately
25 influence the board in its decision making.

26 2. The official in charge of each institution wherein any person is
27 confined under a definite sentence of imprisonment, all officers and
28 employees thereof and all other public officials shall at all times
29 cooperate with the board of parole, and shall furnish to such board, its
30 officers and employees such information as may be required by the board
31 to perform its functions hereunder. The members of the board, its offi-
32 cers and employees shall at all times be given free access to all
33 persons confined in any such institution under such sentence and shall
34 be furnished with appropriate working space in such institution for such
35 purpose without charge therefor.

36 3. It shall be the duty of the clerk of the court, the commissioner of
37 mental hygiene and all probation officers and other appropriate offi-
38 cials to send such information as may be in their possession or under
39 their control to the chairman of the board [~~of parole~~] upon request in
40 order to facilitate the work of the board.

41 § 38-k. Section 259-p of the executive law is REPEALED.

42 § 38-k-1. Subdivisions 1, 2, 3, paragraph (b) of subdivision 4, and
43 subdivision 6 of section 259-q of the executive law, subdivisions 1, 2
44 and 6 as added by chapter 904 of the laws of 1977, and subdivision 3 as
45 amended and paragraph (b) of subdivision 4 as added by chapter 466 of
46 the laws of 1978, are amended to read as follows:

47 1. No civil action shall be brought in any court of the state, except
48 by the attorney general on behalf of the state, against any officer or
49 employee of the [~~division~~] board of parole or former division of parole,
50 in his personal capacity, for damages arising out of any act done or the
51 failure to perform any act within the scope of the employment and in the
52 discharge of the duties by such officer or employee.

53 2. Any claim for damages arising out of any act done or the failure to
54 perform any act within the scope of the employment and in the discharge
55 of the duties of any officer or employee of the [~~division~~] board of

1 parole or former division of parole shall be brought and maintained in
2 the court of claims as a claim against the state.

3 3. The state shall save harmless and indemnify any officer or employee
4 of the [~~division~~] board of parole or former division of parole from
5 financial loss resulting from a claim filed in a court of the United
6 States for damages arising out of an act done or the failure to perform
7 any act that was (a) within the scope of the employment and in the
8 discharge of the duties of such officer or employee, and (b) not done or
9 omitted with the intent to violate any rule or regulation of the divi-
10 sion or of any statute or governing case law of the state or of the
11 United States at the time the damages were sustained; provided that the
12 officer or employee shall comply with the provisions of subdivision four
13 of section seventeen of the public officers law.

14 (b) The provisions of this section shall not be construed in any way
15 to impair, modify or abrogate any immunity available to any officer or
16 employee of the [~~division~~] board of parole or former division of parole
17 under the statutory or decisional law of the state or the United States.

18 6. The benefits of subdivision three hereof shall inure only to offi-
19 cers and employees of the [~~division~~] board of parole or former division
20 of parole and shall not enlarge or diminish the rights of any other
21 party.

22 § 38-1. Section 259-r of the executive law, as added by chapter 55 of
23 the laws of 1992, the section heading as amended by section 1, paragraph
24 (b) of subdivision 1 as amended by section 3, subdivision 2 as amended
25 by section 4, and subdivision 4 as amended by section 5 of part J of
26 chapter 56 of the laws of 2009, paragraph (a) of subdivision 1 as
27 amended by section 3 of chapter 495 of the laws of 2009, and subdivision
28 3 as amended by chapter 503 of the laws of 1994, is amended to read as
29 follows:

30 § 259-r. Release on medical parole for terminally ill inmates. 1. (a)
31 The board shall have the power to release on medical parole any inmate
32 serving an indeterminate or determinate sentence of imprisonment who,
33 pursuant to subdivision two of this section, has been certified to be
34 suffering from a terminal condition, disease or syndrome and to be so
35 debilitated or incapacitated as to create a reasonable probability that
36 he or she is physically or cognitively incapable of presenting any
37 danger to society, provided, however, that no inmate serving a sentence
38 imposed upon a conviction for murder in the first degree or an attempt
39 or conspiracy to commit murder in the first degree shall be eligible for
40 such release, and provided further that no inmate serving a sentence
41 imposed upon a conviction for any of the following offenses shall be
42 eligible for such release unless in the case of an indeterminate
43 sentence he or she has served at least one-half of the minimum period of
44 the sentence and in the case of a determinate sentence he or she has
45 served at least one-half of the term of his or her determinate sentence:
46 murder in the second degree, manslaughter in the first degree, any
47 offense defined in article one hundred thirty of the penal law or an
48 attempt to commit any of these offenses. Solely for the purpose of
49 determining medical parole eligibility pursuant to this section, such
50 one-half of the minimum period of the indeterminate sentence and one-
51 half of the term of the determinate sentence shall not be credited with
52 any time served under the jurisdiction of the [~~state~~] department [~~of~~
53 ~~correctional services~~] prior to the commencement of such sentence pursu-
54 ant to the opening paragraph of subdivision one of section 70.30 of the
55 penal law or subdivision two-a of section 70.30 of the penal law, except

1 to the extent authorized by subdivision three of section 70.30 of the
2 penal law.

3 (b) Such release shall be granted only after the board considers
4 whether, in light of the inmate's medical condition, there is a reason-
5 able probability that the inmate, if released, will live and remain at
6 liberty without violating the law, and that such release is not incom-
7 patible with the welfare of society and will not so deprecate the seri-
8 ousness of the crime as to undermine respect for the law, and shall be
9 subject to the limits and conditions specified in subdivision four of
10 this section. Except as set forth in paragraph (a) of this subdivision,
11 such release may be granted at any time during the term of an inmate's
12 sentence, notwithstanding any other provision of law.

13 (c) The board shall afford notice to the sentencing court, the
14 district attorney and the attorney for the inmate that the inmate is
15 being considered for release pursuant to this section and the parties
16 receiving notice shall have fifteen days to comment on the release of
17 the inmate. Release on medical parole shall not be granted until the
18 expiration of the comment period provided for in this paragraph.

19 2. (a) The commissioner [~~of correctional services~~], on the commission-
20 er's own initiative or at the request of an inmate, or an inmate's
21 spouse, relative or attorney, may, in the exercise of the commissioner's
22 discretion, direct that an investigation be undertaken to determine
23 whether a diagnosis should be made of an inmate who appears to be
24 suffering from a terminal condition, disease or syndrome. Any such
25 medical diagnosis shall be made by a physician licensed to practice
26 medicine in this state pursuant to section sixty-five hundred twenty-
27 four of the education law. Such physician shall either be employed by
28 the department [~~of correctional services~~], shall render professional
29 services at the request of the department [~~of correctional services~~], or
30 shall be employed by a hospital or medical facility used by the depart-
31 ment [~~of correctional services~~] for the medical treatment of inmates.
32 The diagnosis shall be reported to the commissioner [~~of correctional~~
33 ~~services~~] and shall include but shall not be limited to a description of
34 the terminal condition, disease or syndrome suffered by the inmate, a
35 prognosis concerning the likelihood that the inmate will not recover
36 from such terminal condition, disease or syndrome, a description of the
37 inmate's physical or cognitive incapacity which shall include a predic-
38 tion respecting the likely duration of the incapacity, and a statement
39 by the physician of whether the inmate is so debilitated or incapaci-
40 tated as to be severely restricted in his or her ability to self-ambu-
41 late or to perform significant normal activities of daily living. This
42 report also shall include a recommendation of the type and level of
43 services and treatment the inmate would require if granted medical
44 parole and a recommendation for the types of settings in which the
45 services and treatment should be given.

46 (b) The commissioner, or the commissioner's designee, shall review the
47 diagnosis and may certify that the inmate is suffering from such termi-
48 nal condition, disease or syndrome and that the inmate is so debilitated
49 or incapacitated as to create a reasonable probability that he or she is
50 physically or cognitively incapable of presenting any danger to society.
51 If the commissioner does not so certify then the inmate shall not be
52 referred to the board [~~of parole~~] for consideration for release on
53 medical parole. If the commissioner does so certify, then the commis-
54 sioner shall, within seven working days of receipt of such diagnosis,
55 refer the inmate to the board [~~of parole~~] for consideration for release
56 on medical parole. However, no such referral of an inmate to the board

1 [~~of parole~~] shall be made unless the inmate has been examined by a
2 physician and diagnosed as having a terminal condition, disease or
3 syndrome as previously described herein at some time subsequent to such
4 inmate's admission to a facility operated by the department of correc-
5 tional services.

6 (c) When the commissioner refers an inmate to the board, the commis-
7 sioner shall provide an appropriate medical discharge plan [~~jointly~~]
8 established by the department [~~of correctional services and the division~~
9 ~~of parole~~]. The department [~~of correctional services and the division of~~
10 ~~parole are~~] is authorized to request assistance from the department of
11 health and from the county in which the inmate resided and committed his
12 or her crime, which shall provide assistance with respect to the devel-
13 opment and implementation of a discharge plan, including potential
14 placements of a releasee. The department [~~of correctional services, the~~
15 ~~division of parole~~] and the department of health shall jointly develop
16 standards for the medical discharge plan that are appropriately adapted
17 to the criminal justice setting, based on standards established by the
18 department of health for hospital medical discharge planning. The board
19 may postpone its decision pending completion of an adequate discharge
20 plan, or may deny release based on inadequacy of the discharge plan.

21 3. Any certification by the commissioner or the commissioner's desig-
22 nee pursuant to this section shall be deemed a judicial function and
23 shall not be reviewable if done in accordance with law.

24 4. (a) Medical parole granted pursuant to this section shall be for a
25 period of six months.

26 (b) The board shall require as a condition of release on medical
27 parole that the releasee agree to remain under the care of a physician
28 while on medical parole and in a hospital established pursuant to arti-
29 cle twenty-eight of the public health law, a hospice established pursu-
30 ant to article forty of the public health law or any other placement
31 that can provide appropriate medical care as specified in the medical
32 discharge plan required by subdivision two of this section. The medical
33 discharge plan shall state that the availability of the placement has
34 been confirmed, and by whom. Notwithstanding any other provision of law,
35 when an inmate who qualifies for release under this section is cogni-
36 tively incapable of signing the requisite documentation to effectuate
37 the medical discharge plan and, after a diligent search no person has
38 been identified who could otherwise be appointed as the inmate's guardi-
39 an by a court of competent jurisdiction, then, solely for the purpose of
40 implementing the medical discharge plan, the facility health services
41 director at the facility where the inmate is currently incarcerated
42 shall be lawfully empowered to act as the inmate's guardian for the
43 purpose of effectuating the medical discharge.

44 (c) Where appropriate, the board shall require as a condition of
45 release that medical parolees be supervised on intensive caseloads at
46 reduced supervision ratios.

47 (d) The board shall require as a condition of release on medical
48 parole that the releasee undergo periodic medical examinations and a
49 medical examination at least one month prior to the expiration of the
50 period of medical parole and, for the purposes of making a decision
51 pursuant to paragraph (e) of this subdivision, that the releasee provide
52 the board with a report, prepared by the treating physician, of the
53 results of such examination. Such report shall specifically state wheth-
54 er or not the parolee continues to suffer from a terminal condition,
55 disease, or syndrome, and to be so debilitated or incapacitated as to be

1 severely restricted in his or her ability to self-ambulate or to perform
2 significant normal activities of daily living.

3 (e) Prior to the expiration of the period of medical parole the board
4 shall review the medical examination report required by paragraph (d) of
5 this subdivision and may again grant medical parole pursuant to this
6 section; provided, however, that the provisions of paragraph (c) of
7 subdivision one and subdivision two of this section shall not apply.

8 (f) If the updated medical report presented to the board states that a
9 parolee released pursuant to this section is no longer so debilitated or
10 incapacitated as to create a reasonable probability that he or she is
11 physically or cognitively incapable of presenting any danger to society
12 or if the releasee fails to submit the updated medical report then the
13 board may not make a new grant of medical parole pursuant to paragraph
14 (e) of this subdivision. Where the board has not granted medical parole
15 pursuant to such paragraph (e) the board shall promptly conduct through
16 one of its members, or cause to be conducted by a hearing officer desig-
17 nated by the board, a hearing to determine whether the releasee is
18 suffering from a terminal condition, disease or syndrome and is so
19 debilitated or incapacitated as to create a reasonable probability that
20 he or she is physically or cognitively incapable of presenting any
21 danger to society and does not present a danger to society. If the board
22 makes such a determination then it may make a new grant of medical
23 parole pursuant to the standards of paragraph (b) of subdivision one of
24 this section. At the hearing, the releasee shall have the right to
25 representation by counsel, including the right, if the releasee is
26 financially unable to retain counsel, to have the appropriate court
27 assign counsel in accordance with the county or city plan for represen-
28 tation placed in operation pursuant to article eighteen-B of the county
29 law.

30 (g) The hearing and determination provided for by paragraph (f) of
31 this subdivision shall be concluded within the six month period of
32 medical parole. If the board does not renew the grant of medical parole,
33 it shall order that the releasee be returned immediately to the custody
34 of the department [~~of correctional services~~].

35 (h) In addition to the procedures set forth in paragraph (f) of this
36 subdivision, medical parole may be revoked at any time upon any of the
37 grounds specified in paragraph (a) of subdivision three of section two
38 hundred fifty-nine-i of this article, and in accordance with the proce-
39 dures specified in subdivision three of section two hundred fifty-nine-i
40 of this article.

41 (i) A releasee who is on medical parole and who becomes eligible for
42 parole pursuant to the provisions of subdivision two of section two
43 hundred fifty-nine-i of this article shall be eligible for parole
44 consideration pursuant to such subdivision.

45 5. A denial of release on medical parole or expiration of medical
46 parole in accordance with the provisions of paragraph (f) of subdivision
47 four of this section shall not preclude the inmate from reapplying for
48 medical parole or otherwise affect an inmate's eligibility for any other
49 form of release provided for by law.

50 6. To the extent that any provision of this section requires disclo-
51 sure of medical information for the purpose of processing an application
52 or making a decision, regarding release on medical parole or renewal of
53 medical parole, or for the purpose of appropriately supervising a person
54 released on medical parole, and that such disclosure would otherwise be
55 prohibited by article twenty-seven-F of the public health law, the
56 provisions of this section shall be controlling.

1 7. The commissioner [~~of correctional services~~] and the chairman of the
2 board [~~of parole~~] shall be authorized to promulgate rules and regu-
3 lations for their respective agencies to implement the provisions of
4 this section.

5 8. Any decision made by the board pursuant to this section may be
6 appealed pursuant to subdivision four of section two hundred
7 fifty-nine-i of this article.

8 9. The chairman shall report annually to the governor, the temporary
9 president of the senate and the speaker of the assembly, the chair-
10 persons of the assembly and senate codes committees, the chairperson of
11 the senate crime and corrections committee, and the chairperson of the
12 assembly corrections committee the number of inmates who have applied
13 for medical parole; the number who have been granted medical parole; the
14 nature of the illness of the applicants, the counties to which they have
15 been released and the nature of the placement pursuant to the medical
16 discharge plan; the categories of reasons for denial for those who have
17 been denied; the number of releasees who have been granted an additional
18 period or periods of medical parole and the number of such grants; the
19 number of releasees on medical parole who have been returned to imprisonment in
20 the custody of the department [~~of correctional services~~] and
21 the reasons for return.

22 § 38-1-1. Paragraph (a) of subdivision 1 of section 259-r of the execu-
23 tive law, as amended by section 4 of chapter 495 of the laws of 2009,
24 is amended to read as follows:

25 (a) The board shall have the power to release on medical parole any
26 inmate serving an indeterminate or determinate sentence of imprisonment
27 who, pursuant to subdivision two of this section, has been certified to
28 be suffering from a terminal condition, disease or syndrome and to be so
29 debilitated or incapacitated as to create a reasonable probability that
30 he or she is physically or cognitively incapable of presenting any
31 danger to society, provided, however, that no inmate serving a sentence
32 imposed upon a conviction for murder in the first degree or an attempt
33 or conspiracy to commit murder in the first degree shall be eligible for
34 such release, and provided further that no inmate serving a sentence
35 imposed upon a conviction for any of the following offenses shall be
36 eligible for such release unless in the case of an indeterminate
37 sentence he or she has served at least one-half of the minimum period of
38 the sentence and in the case of a determinate sentence he or she has
39 served at least one-half of the term of his or her determinate sentence:
40 murder in the second degree, manslaughter in the first degree, any
41 offense defined in article one hundred thirty of the penal law or an
42 attempt to commit any of these offenses. Solely for the purpose of
43 determining medical parole eligibility pursuant to this section, such
44 one-half of the minimum period of the indeterminate sentence and one-
45 half of the term of the determinate sentence shall not be credited with
46 any time served under the jurisdiction of the [~~state~~] department [~~of~~
47 ~~correctional services~~] prior to the commencement of such sentence pursu-
48 ant to the opening paragraph of subdivision one of section 70.30 of the
49 penal law or subdivision two-a of section 70.30 of the penal law, except
50 to the extent authorized by subdivision three of section 70.30 of the
51 penal law.

52 § 38-m. Section 259-s of the executive law, as added by section 6 of
53 part J of chapter 56 of the laws of 2009, paragraph (a) of subdivision 1
54 as amended by chapter 495 of the laws of 2009, is amended to read as
55 follows:

1 § 259-s. Release on medical parole for inmates suffering significant
2 debilitating illnesses. 1. (a) The board shall have the power to release
3 on medical parole any inmate serving an indeterminate or determinate
4 sentence of imprisonment who, pursuant to subdivision two of this
5 section, has been certified to be suffering from a significant and
6 permanent non-terminal condition, disease or syndrome that has rendered
7 the inmate so physically or cognitively debilitated or incapacitated as
8 to create a reasonable probability that he or she does not present any
9 danger to society, provided, however, that no inmate serving a sentence
10 imposed upon a conviction for murder in the first degree or an attempt
11 or conspiracy to commit murder in the first degree shall be eligible for
12 such release, and provided further that no inmate serving a sentence
13 imposed upon a conviction for any of the following offenses shall be
14 eligible for such release unless in the case of an indeterminate
15 sentence he or she has served at least one-half of the minimum period of
16 the sentence and in the case of a determinate sentence he or she has
17 served at least one-half of the term of his or her determinate sentence:
18 murder in the second degree, manslaughter in the first degree, any
19 offense defined in article one hundred thirty of the penal law or an
20 attempt to commit any of these offenses. Solely for the purpose of
21 determining medical parole eligibility pursuant to this section, such
22 one-half of the minimum period of the indeterminate sentence and one-
23 half of the term of the determinate sentence shall not be credited with
24 any time served under the jurisdiction of the [state] department [~~of~~
25 ~~correctional services~~] prior to the commencement of such sentence pursu-
26 ant to the opening paragraph of subdivision one of section 70.30 of the
27 penal law or subdivision two-a of section 70.30 of the penal law, except
28 to the extent authorized by subdivision three of section 70.30 of the
29 penal law.

30 (b) Such release shall be granted only after the board considers
31 whether, in light of the inmate's medical condition, there is a reason-
32 able probability that the inmate, if released, will live and remain at
33 liberty without violating the law, and that such release is not incom-
34 patible with the welfare of society and will not so deprecate the seri-
35 ousness of the crime as to undermine respect for the law, and shall be
36 subject to the limits and conditions specified in subdivision four of
37 this section. In making this determination, the board shall consider:
38 (i) the nature and seriousness of the inmate's crime; (ii) the inmate's
39 prior criminal record; (iii) the inmate's disciplinary, behavioral and
40 rehabilitative record during the term of his or her incarceration; (iv)
41 the amount of time the inmate must serve before becoming eligible for
42 release pursuant to section two hundred fifty-nine-i of this article;
43 (v) the current age of the inmate and his or her age at the time of the
44 crime; (vi) the recommendations of the sentencing court, the district
45 attorney and the victim or the victim's representative; (vii) the nature
46 of the inmate's medical condition, disease or syndrome and the extent of
47 medical treatment or care that the inmate will require as a result of
48 that condition, disease or syndrome; and (viii) any other relevant
49 factor. Except as set forth in paragraph (a) of this subdivision, such
50 release may be granted at any time during the term of an inmate's
51 sentence, notwithstanding any other provision of law.

52 (c) The board shall afford notice to the sentencing court, the
53 district attorney, the attorney for the inmate and, where necessary
54 pursuant to subdivision two of section two hundred fifty-nine-i of this
55 article, the crime victim, that the inmate is being considered for
56 release pursuant to this section and the parties receiving notice shall

1 have thirty days to comment on the release of the inmate. Release on
2 medical parole shall not be granted until the expiration of the comment
3 period provided for in this paragraph.

4 2. (a) The commissioner [~~of correctional services~~], on the commission-
5 er's own initiative or at the request of an inmate, or an inmate's
6 spouse, relative or attorney, may, in the exercise of the commissioner's
7 discretion, direct that an investigation be undertaken to determine
8 whether a diagnosis should be made of an inmate who appears to be
9 suffering from a significant and permanent non-terminal and incapacitat-
10 ing condition, disease or syndrome. Any such medical diagnosis shall be
11 made by a physician licensed to practice medicine in this state pursuant
12 to section sixty-five hundred twenty-four of the education law. Such
13 physician shall either be employed by the department [~~of correctional~~
14 ~~services~~], shall render professional services at the request of the
15 department [~~of correctional services~~], or shall be employed by a hospi-
16 tal or medical facility used by the department [~~of correctional~~
17 ~~services~~] for the medical treatment of inmates. The diagnosis shall be
18 reported to the commissioner [~~of correctional services~~] and shall
19 include but shall not be limited to a description of the condition,
20 disease or syndrome suffered by the inmate, a prognosis concerning the
21 likelihood that the inmate will not recover from such condition, disease
22 or syndrome, a description of the inmate's physical or cognitive inca-
23 pacity which shall include a prediction respecting the likely duration
24 of the incapacity, and a statement by the physician of whether the
25 inmate is so debilitated or incapacitated as to be severely restricted
26 in his or her ability to self-ambulate or to perform significant normal
27 activities of daily living. This report also shall include a recommenda-
28 tion of the type and level of services and treatment the inmate would
29 require if granted medical parole and a recommendation for the types of
30 settings in which the services and treatment should be given.

31 (b) The commissioner, or the commissioner's designee, shall review the
32 diagnosis and may certify that the inmate is suffering from such condi-
33 tion, disease or syndrome and that the inmate is so debilitated or inca-
34 pacitated as to create a reasonable probability that he or she is phys-
35 ically or cognitively incapable of presenting any danger to society. If
36 the commissioner does not so certify then the inmate shall not be
37 referred to the board [~~of parole~~] for consideration for release on
38 medical parole. If the commissioner does so certify, then the commis-
39 sioner shall, within seven working days of receipt of such diagnosis,
40 refer the inmate to the board [~~of parole~~] for consideration for release
41 on medical parole. However, no such referral of an inmate to the board
42 of parole shall be made unless the inmate has been examined by a physi-
43 cian and diagnosed as having a condition, disease or syndrome as previ-
44 ously described herein at some time subsequent to such inmate's admis-
45 sion to a facility operated by the department [~~of correctional~~
46 ~~services~~].

47 (c) When the commissioner refers an inmate to the board, the commis-
48 sioner shall provide an appropriate medical discharge plan [~~jointly~~
49 established by the department [~~of correctional services and the division~~
50 ~~of parole~~]. The department [~~of correctional services and the division of~~
51 ~~parole are~~] is authorized to request assistance from the department of
52 health and from the county in which the inmate resided and committed his
53 or her crime, which shall provide assistance with respect to the devel-
54 opment and implementation of a discharge plan, including potential
55 placements of a releasee. The department [~~of correctional services, the~~
56 ~~division of parole~~] and the department of health shall jointly develop

1 standards for the medical discharge plan that are appropriately adapted
2 to the criminal justice setting, based on standards established by the
3 department of health for hospital medical discharge planning. The board
4 may postpone its decision pending completion of an adequate discharge
5 plan, or may deny release based on inadequacy of the discharge plan.

6 3. Any certification by the commissioner or the commissioner's desig-
7 nee pursuant to this section shall be deemed a judicial function and
8 shall not be reviewable if done in accordance with law.

9 4. (a) Medical parole granted pursuant to this section shall be for a
10 period of six months.

11 (b) The board shall require as a condition of release on medical
12 parole that the releasee agree to remain under the care of a physician
13 while on medical parole and in a hospital established pursuant to arti-
14 cle twenty-eight of the public health law, a hospice established pursu-
15 ant to article forty of the public health law or any other placement,
16 including a residence with family or others, that can provide appropri-
17 ate medical care as specified in the medical discharge plan required by
18 subdivision two of this section. The medical discharge plan shall state
19 that the availability of the placement has been confirmed, and by whom.
20 Notwithstanding any other provision of law, when an inmate who qualifies
21 for release under this section is cognitively incapable of signing the
22 requisite documentation to effectuate the medical discharge plan and,
23 after a diligent search no person has been identified who could other-
24 wise be appointed as the inmate's guardian by a court of competent
25 jurisdiction, then, solely for the purpose of implementing the medical
26 discharge plan, the facility health services director at the facility
27 where the inmate is currently incarcerated shall be lawfully empowered
28 to act as the inmate's guardian for the purpose of effectuating the
29 medical discharge.

30 (c) Where appropriate, the board shall require as a condition of
31 release that medical parolees be supervised on intensive caseloads at
32 reduced supervision ratios.

33 (d) The board shall require as a condition of release on medical
34 parole that the releasee undergo periodic medical examinations and a
35 medical examination at least one month prior to the expiration of the
36 period of medical parole and, for the purposes of making a decision
37 pursuant to paragraph (e) of this subdivision, that the releasee provide
38 the board with a report, prepared by the treating physician, of the
39 results of such examination. Such report shall specifically state wheth-
40 er or not the parolee continues to suffer from a significant and perma-
41 nent non-terminal and debilitating condition, disease, or syndrome, and
42 to be so debilitated or incapacitated as to be severely restricted in
43 his or her ability to self-ambulate or to perform significant normal
44 activities of daily living.

45 (e) Prior to the expiration of the period of medical parole the board
46 shall review the medical examination report required by paragraph (d) of
47 this subdivision and may again grant medical parole pursuant to this
48 section; provided, however, that the provisions of paragraph (c) of
49 subdivision one and subdivision two of this section shall not apply.

50 (f) If the updated medical report presented to the board states that a
51 parolee released pursuant to this section is no longer so debilitated or
52 incapacitated as to create a reasonable probability that he or she is
53 physically or cognitively incapable of presenting any danger to society
54 or if the releasee fails to submit the updated medical report then the
55 board may not make a new grant of medical parole pursuant to paragraph
56 (e) of this subdivision. Where the board has not granted medical parole

1 pursuant to such paragraph (e) the board shall promptly conduct through
2 one of its members, or cause to be conducted by a hearing officer desig-
3 nated by the board, a hearing to determine whether the releasee is
4 suffering from a significant and permanent non-terminal and incapacitat-
5 ing condition, disease or syndrome and is so debilitated or incapaci-
6 tated as to create a reasonable probability that he or she is physically
7 or cognitively incapable of presenting any danger to society and does
8 not present a danger to society. If the board makes such a determination
9 then it may make a new grant of medical parole pursuant to the standards
10 of paragraph (b) of subdivision one of this section. At the hearing, the
11 releasee shall have the right to representation by counsel, including
12 the right, if the releasee is financially unable to retain counsel, to
13 have the appropriate court assign counsel in accordance with the county
14 or city plan for representation placed in operation pursuant to article
15 eighteen-B of the county law.

16 (g) The hearing and determination provided for by paragraph (f) of
17 this subdivision shall be concluded within the six month period of
18 medical parole. If the board does not renew the grant of medical parole,
19 it shall order that the releasee be returned immediately to the custody
20 of the department of correctional services.

21 (h) In addition to the procedures set forth in paragraph (f) of this
22 subdivision, medical parole may be revoked at any time upon any of the
23 grounds specified in paragraph (a) of subdivision three of section two
24 hundred fifty-nine-i of this article, and in accordance with the proce-
25 dures specified in subdivision three of section two hundred fifty-nine-i
26 of this article.

27 (i) A releasee who is on medical parole and who becomes eligible for
28 parole pursuant to the provisions of subdivision two of section two
29 hundred fifty-nine-i of this article shall be eligible for parole
30 consideration pursuant to such subdivision.

31 5. A denial of release on medical parole or expiration of medical
32 parole in accordance with the provisions of paragraph (f) of subdivision
33 four of this section shall not preclude the inmate from reapplying for
34 medical parole or otherwise affect an inmate's eligibility for any other
35 form of release provided for by law.

36 6. To the extent that any provision of this section requires disclo-
37 sure of medical information for the purpose of processing an application
38 or making a decision, regarding release on medical parole or renewal of
39 medical parole, or for the purpose of appropriately supervising a person
40 released on medical parole, and that such disclosure would otherwise be
41 prohibited by article twenty-seven-F of the public health law, the
42 provisions of this section shall be controlling.

43 7. The commissioner [~~of correctional services~~] and the chair of the
44 board [~~of parole~~] shall be authorized to promulgate rules and regu-
45 lations for their respective agencies to implement the provisions of
46 this section.

47 8. Any decision made by the board pursuant to this section may be
48 appealed pursuant to subdivision four of section two hundred
49 fifty-nine-i of this article.

50 9. The chair of the board shall report annually to the governor, the
51 temporary president of the senate and the speaker of the assembly, the
52 chairpersons of the assembly and senate codes committees, the chair-
53 person of the senate crime and corrections committee, and the chair-
54 person of the assembly corrections committee the number of inmates who
55 have applied for medical parole under this section; the number who have
56 been granted medical parole; the nature of the illness of the appli-

1 cants, the counties to which they have been released and the nature of
2 the placement pursuant to the medical discharge plan; the categories of
3 reasons for denial for those who have been denied; the number of releas-
4 ees who have been granted an additional period or periods of medical
5 parole and the number of such grants; the number of releasees on medical
6 parole who have been returned to imprisonment in the custody of the
7 department [~~of correctional services~~] and the reasons for return.

8 § 39. Transfer of employees. Notwithstanding any other provision of
9 law, rule, or regulation to the contrary, upon the transfer of functions
10 from the department of correctional services, the division of parole and
11 the state board of parole pursuant to this act, all employees of the
12 department of correctional services, the division of parole and the
13 state board of parole shall be transferred to the department of
14 corrections and community supervision. Employees transferred pursuant to
15 this section shall be transferred without further examination or quali-
16 fication and shall retain their respective civil service classifica-
17 tions, status and collective bargaining unit designations and collective
18 bargaining agreements.

19 § 40. Transfer of records. All books, papers, and property of the
20 department of correctional services, the division of parole and the
21 state board of parole shall be deemed to be in the possession of the
22 commissioner of the department of corrections and community supervision.
23 All books, papers, and property of the department of correctional
24 services, the division of parole and the state board of parole shall
25 continue to be maintained by the department of corrections and community
26 supervision.

27 § 41. Continuity of authority. For the purpose of succession of all
28 functions, powers, duties and obligations transferred and assigned to,
29 devolved upon and assumed by it pursuant to this act, the department of
30 corrections and community supervision shall be deemed and held to
31 constitute the continuation of the department of correctional services,
32 the division of parole and the state board of parole.

33 § 42. Completion of unfinished business. Any business or other matter
34 undertaken or commenced by the department of correctional services, the
35 division of parole or the state board of parole pertaining to or
36 connected with the functions, powers, obligations and duties hereby
37 transferred and assigned to the department of corrections and community
38 supervision and pending on the effective date of this act, may be
39 conducted and completed by the department of corrections and community
40 supervision or the board of parole in the same manner and under the same
41 terms and conditions and with the same effect as if conducted and
42 completed by the department of corrections, the division of parole or
43 the state board of parole.

44 § 43. Continuation of rules and regulations. All rules, regulations,
45 acts, orders, determinations, and decisions of the department of correc-
46 tional services, the division of parole and the state board of parole
47 pertaining to the functions and powers transferred and assigned pursuant
48 to this act, in force at the time of such transfer and assumption, shall
49 continue in full force and effect as rules, regulations, acts, orders,
50 determinations and decisions of the department of corrections and commu-
51 nity supervision or the board of parole until duly modified or abrogated
52 by the commissioner of the department of corrections and community
53 supervision or the chairman of the board of parole, as appropriate.

54 § 44. Terms occurring in laws, contracts and other documents. Whenever
55 the department of correctional services, the division of parole or the
56 board of parole, or the chairman or commissioner thereof, is referred to

1 or designated in any law, contract or document pertaining to the func-
2 tions, powers, obligations and duties hereby transferred to and assigned
3 to the department of corrections and community supervision or the
4 commissioner of the department of corrections and community supervision,
5 such reference or designation shall be deemed to refer to the department
6 of corrections and community supervision or the commissioner of the
7 department of corrections and community supervision, as applicable.

8 § 45. Existing rights and remedies preserved. No existing right or
9 remedy of any character shall be lost, impaired or affected by any
10 provisions of this act.

11 § 46. Pending actions and proceedings. No action or proceeding pending
12 at the time when this act shall take effect, brought by or against the
13 department of correctional services, the division of parole or the state
14 board of parole, or the chairman or commissioner thereof, shall be
15 affected by any provision of this act, but the same may be prosecuted or
16 defended in the name of the commissioner of the department of
17 corrections and community supervision or the department of corrections
18 and community supervision. In all such actions and proceedings, the
19 commissioner of the department of corrections and community supervision,
20 upon application of the court, shall be substituted as a party.

21 § 47. Transfer of appropriations heretofore made. All appropriations
22 or reappropriations heretofore made to the department of correctional
23 services, the division of parole or the state board of parole to the
24 extent of remaining unexpended or unencumbered balance thereof, whether
25 allocated or unallocated and whether obligated or unobligated, are here-
26 by transferred to and made available for use and expenditure by the
27 department of corrections and community supervision subject to the
28 approval of the director of the budget for the same purposes for which
29 originally appropriated or reappropriated and shall be payable on vouch-
30 ers certified or approved by the commissioner of the department of
31 corrections and community supervision on audit and warrant of the comp-
32 troller.

33 § 48. Transfer of assets and liabilities. All assets and liabilities
34 of the department of correctional services, the division of parole and
35 the state board of parole are hereby transferred to and assumed by the
36 department of corrections and community supervision.

37 § 49. This act shall take effect immediately, provided, however:

38 (a) that the amendments to subdivision 18 of section 2 of the
39 correction law made by section one-a of this act shall be subject to the
40 expiration and reversion of such subdivision pursuant to chapter 55 of
41 the laws of 1992, as amended, when upon such date the provisions of
42 section two of this act shall take effect;

43 (b) that the amendments to section 8 of the correction law made by
44 section six of this act shall not affect the expiration of such section
45 and shall be deemed to expire therewith;

46 (c) that the amendments to subdivision 9 of section 201 of the
47 correction law as added by section thirty-two of this act shall remain
48 in effect until September 1, 2013, when it shall expire and be deemed
49 repealed;

50 (d) that the amendments to paragraph c of subdivision 7 of section
51 500-b of the correction law made by section thirty-six of this act shall
52 not affect the repeal of such section and shall be deemed repealed ther-
53 ewith;

54 (e) the amendments to subdivision 1 of section 259-c of the executive
55 law made by section thirty-eight-b of this act shall not affect the
56 expiration of such subdivision and shall be deemed to expire therewith;

- 1 (f) the amendments to subdivision 4 of section 259-c of the executive
2 law made by section thirty-eight-b of this act shall take effect six
3 months after it shall have become a law;
- 4 (g) the amendments to paragraph (a) of subdivision 1 of section 259-r
5 of the executive law made by section thirty-eight-1 of this act shall be
6 subject to the expiration and reversion of such paragraph pursuant to
7 section 74 of chapter 3 of the laws of 1995, as amended, when upon such
8 date the provisions of section thirty-eight-1-1 shall take effect;
- 9 (h) section sixteen-a of this act shall take effect six months after
10 it shall have become a law; and
- 11 (i) any employee covered by section two hundred fifty-nine-q of the
12 executive law prior to the effective date of section thirty-eight-k-1 of
13 this act shall be entitled to any benefits or rights provided by such
14 section of the executive law arising out of any act or failure to act
15 occurring before such effective date.

16

SUBPART B

17 Section 1. Section 15-b of the correction law, as added by chapter 670
18 of the laws of 1935, is amended to read as follows:

19 § 15-b. Education. The present director of vocational education shall
20 be the director of education with the powers and duties of the director
21 of education and hereafter shall be appointed by the commissioner. The
22 director of education, at any time appointed, shall be a person whose
23 education, training and experience shall cover fields of penology and of
24 professional education. The educational qualifications shall include the
25 satisfactory completion of three years of graduate work in education,
26 penology, and allied fields. The head of the division of education shall
27 have the direct supervision of all educational work in the department of
28 ~~[correction]~~ corrections and community supervision and shall have full
29 authority to visit and inspect all institutions of the department to
30 observe, study, organize, and develop the educational activities of such
31 institutions in harmony with the general educational program of the
32 department. He or she shall be responsible to the commissioner and deputy
33 commissioner ~~[of correction]~~ designated by the commissioner.

34 § 2. Intentionally omitted.

35 § 3. Intentionally omitted.

36 § 4. Section 20 of the correction law is amended to read as follows:

37 § 20. Library. A library shall be provided in the department ~~[of~~
38 ~~correction]~~ containing the leading books on parole, probation and other
39 correctional activities, together with reports and other documents on
40 correlated topics of criminology and social work.

41 § 5. Section 23 of the correction law, as amended by chapter 476 of
42 the laws of 1970 and as renumbered by chapter 475 of the laws of 1970,
43 is amended to read as follows:

44 § 23. Transfer of inmates from one correctional facility to another;
45 treatment in outside hospitals. 1. The commissioner ~~[of correction]~~
46 shall have the power to transfer inmates from one correctional facility
47 to another. Whenever the transfer of inmates from one correctional
48 facility to another shall be ordered by the commissioner ~~[of~~
49 ~~correction]~~, the superintendent of the facility from which the inmates
50 are transferred shall take immediate steps to make the transfer. The
51 transfer shall be in accordance with rules and regulations promulgated
52 by the department for the safe delivery of such inmates to the desig-
53 nated facility.

1 2. The commissioner [~~of correction~~], in his or her discretion, may by
2 written order permit inmates to receive medical diagnosis and treatment
3 in outside hospitals, upon the recommendation of the superintendent or
4 director that such outside treatment or diagnosis is necessary by reason
5 of inadequate facilities within the institution. Such inmates shall
6 remain under the jurisdiction and in the custody of the department while
7 in said outside hospital and said superintendent or director shall
8 enforce proper measures in each case to safely maintain such jurisdic-
9 tion and custody.

10 3. The cost of transporting inmates between facilities and to outside
11 hospitals shall be paid from funds appropriated to the department [~~of~~
12 ~~correction~~] for such purpose.

13 § 6. Paragraph (b) of subdivision 3 and subdivisions 7 and 8 of
14 section 70 of the correction law, paragraph (b) of subdivision 3 as
15 amended by chapter 261 of the laws of 1987, subdivisions 7 and 8 as
16 added by chapter 476 of the laws of 1970, are amended to read as
17 follows:

18 (b) A correctional camp or a shock incarceration correctional facility
19 may be established by the department (i) upon land controlled and desig-
20 nated by the commissioner [~~of correctional services~~], or (ii) on land
21 controlled and designated by the commissioner of parks, recreation and
22 historic preservation or, in the sixth park region, by the commissioner
23 of environmental conservation.

24 7. The commissioner [~~of correction~~] shall have the authority to enter
25 into leases within the amount appropriated therefor, for the purpose of
26 maintaining or establishing any correctional facility or any adjunct
27 thereto.

28 8. The commissioner [~~of correction~~] is authorized to enter into
29 contracts, within the amount appropriated therefor, with any university,
30 social agency or qualified person to render professional services to any
31 correctional facility.

32 § 7. Section 72-a of the correction law, as added by chapter 554 of
33 the laws of 1986, is amended to read as follows:

34 § 72-a. Community treatment facilities. 1. Transfer of eligible
35 inmate. Notwithstanding the provisions of section seventy-two of this
36 chapter, any inmate confined in a correctional facility who is an
37 "eligible inmate" as defined by subdivision two of section eight hundred
38 fifty-one of this chapter and has been certified by the division of
39 substance abuse services as being in need of substance abuse treatment
40 and rehabilitation may be transferred by the commissioner to a community
41 treatment facility.

42 2. Designation of facilities. A community treatment facility shall be
43 designated by the director of the division of substance abuse services
44 and the commissioner. Such facility shall be operated by a provider or
45 sponsoring agency that has provided approved residential substance abuse
46 treatment services for at least two years duration.

47 3. Operating standards. The commissioner, after consultation with the
48 director of the division of substance abuse services, shall promulgate
49 rules and regulations which provide for minimum standards of operation,
50 including but not limited to the following:

51 (a) provision for adequate security and protection of the surrounding
52 community;

53 (b) adequate physical plant standards;

54 (c) provisions for adequate program services, staffing, and record
55 keeping; and

56 (d) provision for the general welfare of the inmates.

1 4. [~~Parole~~] Community supervision. The department shall [~~contract~~
2 ~~with the division of parole~~] provide for the provision of [~~parole~~]
3 community supervision services. [~~Pursuant to such contract, all~~] All
4 inmates residing in a community treatment facility shall be assigned to
5 parole officers for supervision. Such parole officers shall be responsi-
6 ble [~~to the division of parole~~] for [~~the purpose of~~] providing such
7 supervision. [~~As part of its supervisory functions the division shall be~~
8 ~~required to provide reports to the department every two months on each~~
9 ~~inmate under its supervision. Such reports shall include, but not be~~
10 ~~limited to:~~

11 (a) ~~an evaluation of the inmate's participation in such program; and~~

12 (b) ~~a statement of any problems relative to an inmate's participation~~
13 ~~in such program and the manner in which such problems were resolved; and~~

14 (c) ~~a recommendation with respect to the inmate's continued partic-~~
15 ~~ipation in the program.]~~

16 5. Reports. The department and the division of substance abuse
17 services shall jointly issue quarterly reports including a description
18 of those facilities [~~which~~] that have been designated as community
19 treatment facilities, the number of inmates confined in each facility, a
20 description of the programs within each facility, and the number of
21 absconders, if any, as well as the nature and number of re-arrests, if
22 any, during the [~~individuals' parole~~] individual's period of community
23 supervision. Copies of such reports, as well as copies of any inspection
24 report issued by the department or the commission [~~on~~] of correction
25 shall be sent to the director of the budget, the chairman of the senate
26 finance [~~committee~~] committee, the chairman of the senate crime and
27 correction committee, the chairman of the assembly ways and means
28 [~~committee~~] committee and the chairman of the assembly committee on
29 codes.

30 6. Reimbursement. (a) The commissioner, in consultation with the
31 director of the division of substance abuse services, shall enter into
32 an agreement with the division of substance abuse services whereby the
33 division of substance abuse services will contract with community treat-
34 ment facilities for provision of services pursuant to this section with-
35 in amounts made available by the department. Each contract shall provide
36 for frequent visitation, inspection of the facility, and enforcement of
37 the minimum standards and shall authorize the supervision of inmates
38 residing in a community treatment facility by parole officers.

39 (b) The commissioner shall promulgate rules and regulations specifying
40 those costs related to the general operation of community treatment
41 facilities [~~which~~] that shall be eligible for reimbursement. Such eligi-
42 ble costs shall not include debt service, whether principal or interest,
43 or costs for which state or federal aid or reimbursement is otherwise
44 available. Such rules and regulations shall be subject to the approval
45 of the director of the budget.

46 (c) The [~~division~~] department shall not contract for [~~provisions~~]
47 provision of services to more than fifty inmates at any one facility.

48 (d) At least thirty days prior to final approval of any such contract,
49 a copy of the proposed contract shall be sent to the director of the
50 budget, the chairman of the senate finance committee, the chairman of
51 the senate crime and correction committee, the chairman of the assembly
52 ways and means committee, and the chairman of the assembly committee on
53 codes.

54 § 8. Section 73 of the correction law, as added by chapter 476 of the
55 laws of 1970, subdivision 6 as amended by chapter 843 of the laws of
56 1980, is amended to read as follows:

1 § 73. Residential treatment facilities. 1. The commissioner may
2 transfer any inmate of a correctional facility who is eligible for
3 [~~parole~~] community supervision or who will become eligible for [~~parole~~]
4 community supervision within six months after the date of transfer or
5 who has one year or less remaining to be served under his or her
6 sentence to a residential treatment facility and such person may be
7 allowed to go outside the facility during reasonable and necessary hours
8 to engage in any activity reasonably related to his or her rehabili-
9 tation and in accordance with the program established for him or her.
10 While outside the facility he or she shall be at all times in the custo-
11 dy of the department [~~of correction~~] and under [~~the~~] its supervision [~~of~~
12 ~~the state division of parole~~].

13 2. The [~~division of parole~~] department shall be responsible for secur-
14 ing appropriate education, on-the-job training and employment for
15 inmates transferred to residential treatment facilities. The [~~division~~]
16 department also shall supervise such inmates during their participation
17 in activities outside any such facility and at all times while they are
18 outside any such facility.

19 3. Programs directed toward the rehabilitation and total reintegration
20 into the community of persons transferred to a residential treatment
21 facility shall be established [~~jointly by the department of correction~~
22 ~~and the division of parole~~]. Each inmate shall be assigned a specific
23 program by the superintendent of the facility and a written memorandum
24 of such program shall be delivered to him or her.

25 4. If at any time the superintendent of a residential treatment facil-
26 ity is of the opinion that any aspect of the program assigned to an
27 individual is inconsistent with the welfare or safety of the community
28 or of the facility or its inmates, the superintendent may suspend such
29 program or any part thereof and restrict the inmate's activities in any
30 manner that is necessary and appropriate. Upon taking such action the
31 superintendent shall promptly notify the commissioner [~~of correction~~]
32 and pending decision by the commissioner, the superintendent may keep
33 such inmate under such security as may be necessary.

34 5. The commissioner may at any time and for any reason transfer an
35 inmate from a residential treatment facility to another correctional
36 facility. [~~The chairman of the state board of parole may request the~~
37 ~~commissioner of correction to transfer a person out of a residential~~
38 ~~treatment facility if at any time the chairman is of the opinion that~~
39 ~~such person should no longer be allowed to follow a program that permits~~
40 ~~him to engage in activities in the community. Upon receipt of any such~~
41 ~~request, the commissioner shall forthwith transfer the inmate to a~~
42 ~~correctional facility other than a residential treatment facility.]~~

43 6. Where a person who is an inmate of a residential treatment facility
44 absconds, or fails to return thereto as specified in the program
45 approved for him or her, he or she may be arrested and returned by an
46 officer or employee of the department [~~of correction or the division of~~
47 ~~parole~~] or by any peace officer, acting pursuant to his or her special
48 duties, or police officer without a warrant; or a member of the board of
49 parole or an officer [~~of the division of parole~~] designated by such
50 board may issue a warrant for the retaking of such person. A warrant
51 issued pursuant to this subdivision shall have the same force and
52 effect, and shall be executed in the same manner, as a warrant issued
53 for violation of [~~parole~~] community supervision.

54 7. The provisions of this chapter relating to good behavior allowances
55 and conditional release shall apply to behavior of inmates while
56 assigned to a residential treatment facility for behavior on the prem-

1 ises and outside the premises of such facility and good behavior allow-
 2 ances may be granted, withheld, forfeited or cancelled in whole or in
 3 part for behavior outside the premises of the facility to the same
 4 extent and in the same manner as is provided for inmates within the
 5 premises of any facility.

6 8. The state board of parole may grant parole to any inmate of a resi-
 7 dential treatment facility at any time after he or she becomes eligible
 8 therefor. Such parole shall be in accordance with provisions of law that
 9 would apply if the person were still confined in the facility from which
 10 he or she was transferred, except that any personal appearance before
 11 the board may be at any place designated by the board.

12 9. The earnings of any inmate of a residential treatment facility
 13 shall be dealt with in accordance with the procedure set forth in
 14 section eight hundred [~~fifty-seven~~] sixty of this chapter.

15 10. The commissioner [~~of correction and the chairman of the board of~~
 16 ~~parole are~~] is authorized to [~~enter into an agreement for the~~] use [~~of~~]
 17 any residential treatment facility as a residence for persons who are on
 18 [~~parole or conditional release, and persons under supervision of the~~
 19 ~~board of parole~~] community supervision. Persons who reside in such a
 20 facility shall be subject to conditions of [~~parole or release~~] community
 21 supervision imposed by the board.

22 § 9. Subdivision 3 of section 90 of the correction law, as added by
 23 chapter 478 of the laws of 1970, is amended to read as follows:

24 3. To expand the use of programs designed to bridge the gap between
 25 incarceration and activities in the community, through the use of insti-
 26 tutions operated by local government as facilities for residential
 27 treatment of persons in the custody of the state department of
 28 [~~correction~~] corrections and community supervision.

29 § 10. Section 91 of the correction law, as added by chapter 478 of the
 30 laws of 1970, is amended to read as follows:

31 § 91. Agreements for custody of definite sentence inmates. 1. The
 32 state commissioner of [~~correction~~] corrections and community supervision
 33 may enter into an agreement with any county or with the city of New York
 34 to provide for custody by the state department of [~~correction~~]
 35 corrections and community supervision of persons who receive definite
 36 sentences of imprisonment with terms in excess of ninety days who other-
 37 wise would serve such sentences in the jail, workhouse, penitentiary or
 38 other local correctional institution maintained by such locality.

39 2. Any such agreement, except one that is made with the city of New
 40 York, may be made with the sheriff, warden, superintendent, local
 41 commissioner of correction or other person in charge of such county
 42 institution and shall be subject to the approval of the chief executive
 43 officer of the county. An agreement made with the city of New York may
 44 be made with the commissioner of correction of that city and shall be
 45 subject to the approval of the mayor.

46 3. An agreement made under this section shall not require the locality
 47 to pay the cost of treatment, maintenance and custody furnished by the
 48 state department of [~~correction~~] corrections and community supervision
 49 and shall contain at least the following provisions:

50 (a) A provision specifying the minimum length of the term of imprison-
 51 ment of persons who may be received by the state department of
 52 [~~correction~~] corrections and community supervision under the agreement,
 53 which may be any term in excess of ninety days agreed to by the parties
 54 and which need not be the same in each agreement;

55 (b) A provision that no charge will be made to the state or to the
 56 state department of [~~correction~~] corrections and community supervision

1 or to any of its institutions during the pendency of such agreement for
2 delivery of inmates to the state department of [~~correction~~] corrections
3 and community supervision by officers of the locality, and that the
4 provisions of section six hundred two of this chapter or of any similar
5 law shall not apply for delivery of inmates during such time;

6 (c) A provision that no charge shall be made to or shall be payable by
7 the state during the pendency of such agreement for the expense of main-
8 taining parole violators pursuant to section two hundred sixteen of this
9 chapter, for the expense of maintaining coram nobis prisoners pursuant
10 to section six hundred one-b of this chapter, for the expense of main-
11 taining felony prisoners pursuant to section six hundred one-c of this
12 chapter, or for the expense of maintaining alternative local reformatory
13 inmates pursuant to section eight hundred thirty-five in institutions
14 maintained by the locality;

15 (d) A provision, approved by the state comptroller, for reimbursement
16 of the state department of [~~correction~~] corrections and community super-
17 vision by the locality for expenses incurred under subdivision two or
18 three of section one hundred twenty-five of this chapter relating to
19 clothing, money and transportation furnished upon release or discharge
20 of inmates delivered to the state department of [~~correction~~] corrections
21 and community supervision pursuant to the agreement;

22 (e) Designation of the correctional facility or facilities to which
23 persons under sentences covered by the agreement are to be delivered;

24 (f) Any other provision the state commissioner of [~~correction~~]
25 corrections and community supervision may deem necessary or appropriate;
26 and

27 (g) A provision giving either party the right to cancel the agreement
28 by giving the other party notice in writing, with cancellation to become
29 effective on such date as may be specified in such notice.

30 4. A copy of such agreement shall be filed with the secretary of state
31 and with the clerk of each court having jurisdiction to impose sentences
32 covered by the agreement in the county or city to which it applies.

33 § 11. Section 92 of the correction law, as added by chapter 478 of the
34 laws of 1970, is amended to read as follows:

35 § 92. Effect of agreement for custody of definite sentence inmates. 1.
36 After a copy of an agreement made under section ninety-one of this arti-
37 cle is filed with the secretary of state, all commitments under
38 sentences covered by the agreement by courts in the county or city to
39 which it applies shall be deemed to be to the custody of the state
40 department of [~~correction~~] corrections and community supervision and
41 shall be so construed and interpreted irrespective of the institution or
42 agency to which the commitments are made.

43 2. Any inmate who is serving a term of imprisonment covered by the
44 agreement imposed prior to the filing of such agreement, and any inmate
45 who is under consecutive definite sentences of imprisonment with an
46 aggregate term of the length covered by the agreement, irrespective of
47 whether one or more of such sentences was imposed prior to the filing of
48 the agreement, may be transferred to the care of the state department of
49 [~~correction~~] corrections and community supervision upon request of the
50 head of the county or city institution and approval of the state commis-
51 sioner of [~~correction~~] corrections and community supervision.

52 3. Inmates who are deemed committed to the custody of the state
53 department of [~~correction~~] corrections and community supervision under
54 subdivision one of this section, or who may be transferred to the care
55 of the state department of [~~correction~~] corrections and community super-
56 vision under subdivision two of this section, shall be dealt with in all

1 respects in the same manner as inmates committed to the custody of the
2 state department of [~~correction~~] corrections and community supervision.

3 4. In the event any such agreement is cancelled, inmates delivered to
4 the state department of [~~correction~~] corrections and community super-
5 vision prior to the date of cancellation shall continue to serve their
6 sentences in the custody of such department and the provisions of such
7 agreement shall continue to apply with respect to such inmates. A copy
8 of the notice of cancellation shall be filed with the secretary of state
9 and with the clerks of courts in the manner provided in subdivision four
10 of section ninety-one of this article, and no inmates shall be delivered
11 to the custody of the state department of [~~correction~~] corrections and
12 community supervision under such agreement after the date on which such
13 cancellation becomes effective.

14 § 12. Section 93 of the correction law, as added by chapter 478 of the
15 laws of 1970, is amended to read as follows:

16 § 93. Temporary custody of sentenced inmates in emergencies. 1. When-
17 ever a state of emergency shall be declared by the chief executive offi-
18 cer of a local government pursuant to section two hundred nine-m of the
19 general municipal law, the chief executive officer of the county in
20 which such state of emergency is declared, or where a county or counties
21 are wholly within a city the mayor of such city, may request the gover-
22 nor to remove all or any number of sentenced inmates from institutions
23 maintained by such county or city. Upon receipt of such request, if the
24 governor is satisfied that the public interest so requires, the governor
25 may, in his discretion, authorize and direct the state commissioner of
26 [~~correction~~] corrections and community supervision to remove such
27 inmates.

28 2. Upon receipt of any such direction the state commissioner of
29 [~~correction~~] corrections and community supervision shall transport such
30 inmates to any correctional facility in the department and such inmates
31 shall be retained in the custody of the department, subject to all laws
32 and rules and regulations pertaining to inmates in the custody of the
33 department, until returned to the institution from which they were
34 removed or discharged or released in accordance with the law.

35 3. In the event that the state department of [~~correction~~] corrections
36 and community supervision does not have space in its correctional facil-
37 ities to accommodate all or any number of the inmates so removed from a
38 local institution, the commissioner [~~of correction~~] shall have the power
39 to lodge any number of such inmates in any county jail, workhouse or
40 penitentiary within the state that has room to receive them and such
41 institution shall be required to receive such inmates. Inmates so lodged
42 shall be subject to all rules and regulations pertaining to inmates
43 committed to such institution until returned to the institution from
44 which they were removed, or removed to a state correctional facility, or
45 discharged or released in accordance with the law; provided, however,
46 that inmates discharged or released from any such local institution
47 shall be entitled to receive clothing, money and transportation from the
48 state department of [~~correction~~] corrections and community supervision
49 to the same extent as inmates discharged or released from a state
50 correctional facility.

51 4. When sentenced inmates have been removed from a penitentiary pursu-
52 ant to this section, such penitentiary may be used for the purpose of
53 detention of prisoners awaiting trial or for any other purpose to which
54 a county jail may be put.

55 5. The original order of commitment and any other case record pertain-
56 ing to inmates removed pursuant to this section shall be delivered to

1 the head of any institution in which he or she may be lodged and shall
2 be returned to the institution from which he or she was removed at the
3 time of his return to such institution or upon his or her release or
4 discharge in accordance with the law.

5 6. Inmates removed from a local institution pursuant to a request made
6 under subdivision one of this section may be returned to such institu-
7 tion by the state commissioner of [~~correction~~] corrections and community
8 supervision, subject to the approval of the governor, at any time such
9 commissioner is satisfied that the return of such inmates is not incon-
10 sistent with the public interest.

11 7. The county or city maintaining the institution from which inmates
12 are removed pursuant to subdivision one of this section shall be liable
13 for all damages arising out of any act performed pursuant to this
14 section and for reimbursement for the following items:

15 (a) The cost of clothing, money and transportation furnished to any
16 inmate who is released or discharged prior to the return of such inmate
17 to the institution from which he or she is removed shall be paid to the
18 state department of [~~correction~~] corrections and community supervision;
19 and

20 (b) The cost of maintaining any inmate in a county jail, workhouse or
21 penitentiary shall be paid to the local government that maintains such
22 institution. Such cost shall be the actual per capita daily cost, as
23 certified to the state commissioner of [~~correction~~] corrections and
24 community supervision.

25 § 13. Section 94 of the correction law, as added by chapter 478 of the
26 laws of 1970, is amended to read as follows:

27 § 94. Use of local government institutions for residential treatment
28 of persons under the custody of the state department of [~~correction~~]
29 corrections and community supervision. 1. The state commissioner of
30 [~~correction~~] corrections and community supervision is hereby authorized
31 to transfer any inmate under the care or custody of the department who
32 is eligible to be transferred to a residential treatment facility under
33 section seventy-three of this chapter to any county jail, workhouse or
34 penitentiary for the purpose of having such inmate engage in a residen-
35 tial treatment facility program; provided, however, that:

36 (a) Such inmate has resided or was employed or has dependents or
37 parents who reside in the county, or in a county that is contiguous to
38 the county, in which the institution to which he would be transferred is
39 located;

40 (b) Arrangements have been made for the education, on-the-job train-
41 ing, employment or for some other rehabilitative treatment of such
42 inmate in the county, or in a county that is contiguous to the county,
43 in which the institution to which he would be transferred is located;
44 and

45 (c) The sheriff, warden, superintendent, local commissioner of
46 correction or other person in charge of the institution to which the
47 inmate would be transferred consents to such transfer.

48 2. An inmate so transferred shall continue to be in the custody of the
49 state department of [~~correction~~] corrections and community supervision
50 but shall, during the period of such transfer, be in the care of the
51 head of the institution to which he or she is transferred. The
52 provisions of section seventy-three of this chapter shall apply in the
53 case of any such transfer as fully and completely as if the inmate were
54 transferred to a residential treatment facility, and the head of the
55 institution to which the inmate is transferred and the officers and
56 employees thereof shall have and may exercise all of the powers of the

1 superintendent of a residential treatment facility with respect to the
2 care or custody of such inmate.

3 In any case where an inmate is employed, however, the provisions of
4 subdivision nine of such section seventy-three shall not apply and the
5 wages or salary of such inmate shall be dealt with under the provisions
6 applicable to a work release program in the type of institution to which
7 he is transferred as provided in sections one hundred fifty-four, eight
8 hundred seventy-two or eight hundred ninety-three as the case may be;
9 and in the event such inmate is returned to a state correctional facili-
10 ty, any balance remaining in the trust fund account shall be paid over
11 to the superintendent of such facility and shall be deposited by him or
12 her as inmates' funds pursuant to section one hundred sixteen of this
13 chapter.

14 3. If at any time the head of a local institution to which an inmate
15 is transferred under this section is of the opinion that continued care
16 of such inmate in such institution is inconsistent with the welfare or
17 safety of the community or of the institution or its inmates, he or she
18 may request the state commissioner to return such inmate to a state
19 correctional facility and, upon the receipt of any such request, the
20 commissioner shall cause such inmate to be so returned promptly and at
21 the expense of the state department of [~~correction~~] corrections and
22 community supervision.

23 4. The expenses of any such transfer shall be paid by the state
24 department of [~~correction~~] corrections and community supervision and the
25 commissioner is hereby authorized to reimburse the local institution for
26 a sum determined by the head of such institution and agreed to in
27 advance by the [~~state~~] commissioner [~~of correction~~] to be the cost of
28 food, lodging and clothing within the institution, and the actual and
29 necessary food, travel and other expenses required for a program outside
30 the institution, incurred or advanced by the institution; provided,
31 however, that:

32 (a) In any case where the [~~state~~] commissioner [~~of correction~~] has a
33 pending agreement with a locality under section ninety-one of this arti-
34 cle, the [~~commissioner of correction~~] commissioner shall not reimburse
35 the local institution for any cost incurred for food, lodging and cloth-
36 ing within the institution; and

37 (b) The wages or salary, if any, of such inmate shall be used for such
38 reimbursement and shall be applied to defray any costs authorized to be
39 paid under this section before any amount shall be paid by the commis-
40 sioner [~~of correction~~] hereunder, and any such wages or salary may be so
41 applied irrespective of the provisions of paragraph (a) of this subdivi-
42 sion.

43 § 14. Section 116 of the correction law, as amended by section 42 of
44 part A-1 of chapter 56 of the laws of 2010, is amended to read as
45 follows:

46 § 116. Inmates' funds. The warden or superintendent of each of the
47 institutions within the jurisdiction of the department of [~~correction~~]
48 corrections and community supervision shall deposit at least once in
49 each week to his or her credit as such warden, or superintendent, in
50 such bank or banks as may be designated by the comptroller, all the
51 moneys received by him or her as such warden, or superintendent, as
52 inmates' funds, and send to the comptroller and also to the commissioner
53 [~~of correction~~] monthly, a statement showing the amount so received and
54 deposited. Such statement of deposits shall be certified by the proper
55 officer of the bank receiving such deposit or deposits. The warden, or
56 superintendent, shall also verify by his or her affidavit that the sum

1 so deposited is all the money received by him or her as inmates' funds
2 during the month. Any bank in which such deposits shall be made shall,
3 before receiving any such deposits, file a bond with the comptroller of
4 the state, subject to his or her approval, for such sum as he or she
5 shall deem necessary. Upon a certificate of approval issued by the
6 director of the budget, pursuant to the provisions of section fifty-
7 three of the state finance law, the amount of interest, if any, hereto-
8 fore accrued and hereafter to accrue on moneys so deposited, heretofore
9 and hereafter credited to the warden, or superintendent, by the bank
10 from time to time, shall be available for expenditure by the warden, or
11 superintendent, subject to the direction of the commissioner, for
12 welfare work among the inmates in his custody. The withdrawal of moneys
13 so deposited by such warden, or superintendent, as inmates' funds,
14 including any interest so credited, shall be subject to his or her
15 check. Each warden, or superintendent, shall each month provide the
16 comptroller and also the commissioner with a record of all withdrawals
17 from inmates' funds. As used in this section, the term "inmates' funds"
18 means the funds in the possession of the inmate at the time of his or
19 her admission into the institution, funds earned by him or her as
20 provided in section one hundred eighty-seven of this chapter and any
21 other funds received by him or her or on his or her behalf and deposited
22 with such warden or superintendent in accordance with the rules and
23 regulations of the commissioner. Whenever the total unencumbered value
24 of funds in an inmate's account exceeds ten thousand dollars, the super-
25 intendent shall give written notice to the office of victim services.

26 § 15. Subdivision 2 of section 120 of the correction law, as added by
27 chapter 202 of the laws of 2007, is amended to read as follows:

28 2. Nothing in this section shall limit in any way the authority of the
29 commissioner, or any county or the city of New York, to enter into any
30 contract authorized by subdivision eighteen of section two, section
31 seventy-two-a, section seventy-three, section ninety-five, article
32 five-A or article twenty-six of this chapter, or to limit the responsi-
33 bility of the [~~state division of parole~~] department of corrections and
34 community supervision to supervise inmates or [~~parolees~~] persons
35 released to community supervision while away from an institution pursu-
36 ant to section seventy-two-a, section seventy-three or article twenty-
37 six of this chapter or while confined at a drug treatment campus as
38 defined in subdivision twenty of section two of this chapter.

39 § 16. Section 140-a of the correction law, as added by section 2 of
40 part UU of chapter 56 of the laws of 2009, is amended to read as
41 follows:

42 § 140-a. Pilot project for filing medical assistance applications for
43 inmates prior to their release. 1. Subject to the availability of an
44 appropriation of no less than two hundred thousand dollars, the commis-
45 sioner, after consultation with the chairman of the [~~division~~] state
46 board of parole, the commissioner of the department of health, and the
47 commissioner of the office of temporary and disability assistance, shall
48 establish a pilot program at a designated correctional facility for the
49 purpose of filing applications for enrollment in the medical assistance
50 program established under title eleven of article five of the social
51 services law for eligible inmates prior to their release to the communi-
52 ty; provided, however, that the commissioner shall not establish such
53 pilot program at the Orleans correctional facility. For purposes of this
54 pilot program, eligible inmates shall not include any inmates who were
55 receiving such medical assistance immediately prior to their commitment
56 to the department and whose medical assistance was thereafter suspended

1 pursuant to the provisions of subdivision one-a of section three hundred
2 sixty-six of the social services law.

3 2. In determining the facility where the pilot program shall be estab-
4 lished, the commissioner shall give due consideration to the following
5 factors, which shall include, but not be limited to: (i) the degree to
6 which pre-release services and re-entry services are either already
7 available at such facility or can be made readily available at such
8 facility; (ii) the proximity of the facility to the communities to which
9 the eligible inmates will be released; (iii) the availability of commu-
10 nity linkages which would facilitate the preparation and submission of
11 such medical assistance applications for eligible inmates; and (iv) the
12 recommendations of the commissioner of the office of temporary and disa-
13 bility assistance, the commissioner of the department of health and the
14 chairman of the [~~division~~] state board of parole.

15 3. The commissioner may use the appropriation for this pilot program
16 to establish one or more department positions to perform any responsi-
17 bilities [~~which~~] that may arise in connection with the preparation and
18 submission of such medical assistance applications. The commissioner may
19 also use the appropriation to enter into any contract with one or more
20 outside individuals or entities to provide any services that may be
21 needed in connection with this pilot program. Further, all or a portion
22 of the funds appropriated for the pilot program may be transferred to
23 another state agency in order to establish positions to perform any
24 responsibilities which may be necessary to operate the pilot program.

25 4. Applications for medical assistance shall be submitted to the
26 statewide enrollment center established by contract with the department
27 of health pursuant to subdivision twenty-four of section two hundred six
28 of the public health law in sufficient time before the anticipated
29 release, conditional release or discharge of the eligible inmate to
30 permit the enrollment center to process the application prior to such
31 inmate's release from the custody; provided, however, that where the
32 eligible inmate will be released to the same county where the pilot
33 program is established, the application for medical assistance may be
34 filed with the local county department of social services.

35 5. Upon receipt of an application filed pursuant to this section, the
36 centralized statewide enrollment center shall determine the eligibility
37 of such inmate for enrollment in the medical assistance program estab-
38 lished under title eleven of article five of the social services law.
39 Such determination shall be based on whether the inmate, except for his
40 or her status as an inmate, would be eligible to receive medical assist-
41 ance. Notwithstanding any inconsistent provision of law, enrollment in
42 the medical assistance program shall be effective on the date an eligi-
43 ble inmate is released, conditionally released or discharged from custo-
44 dy in a department facility to the community. The commissioner, the
45 commissioner of the state department of health and the chairman of the
46 state [~~division~~] board of parole shall determine the process for issuing
47 the medical assistance identification card so that the applicant will
48 receive appropriate documentation of [~~his/her~~] his or her eligibility of
49 medical assistance either upon release or as soon thereafter as practi-
50 cable.

51 6. After the pilot program becomes operational, the commissioner shall
52 periodically monitor all indicators related to the preparation and proc-
53 essing of inmate applications which shall include, but not be limited
54 to: (i) the degree to which all of the requisite information for an
55 application can be obtained while the inmate is incarcerated by the
56 department; (ii) the average processing times to prepare and complete

1 applications; (iii) the most effective manner for the transmittal of a
2 completed application for an eligibility determination; (iv) the average
3 amount of time required before an eligibility determination can be
4 completed and the necessary medical assistance eligibility card is
5 provided to the eligible individual; and (v) the identification of
6 issues and factors which may prevent, impede, or delay the preparation
7 and submission of applications, which could be ameliorated by modifica-
8 tions to existing laws, rules and regulations, or policies and proce-
9 dures.

10 7. After the pilot program has been operational for a period of twelve
11 months, or sooner if determined to be appropriate by the commissioner, a
12 report shall be prepared by the commissioner and submitted to the gover-
13 nor, the temporary president of the senate and the speaker of the assem-
14 bly on the factors listed in subdivision six of this section. Such
15 report shall also include any recommendations for additional legislative
16 enactments that may be needed, or new appropriations that may be
17 required, to improve, enhance and subsequently expand the program to
18 other correctional facilities as determined to be appropriate by the
19 commissioner, with the ultimate goal to assist as many inmates as feasi-
20 ble to submit applications for medical assistance prior to their release
21 to the community.

22 8. The ~~[division]~~ state board of parole shall assist the department in
23 any manner necessary to assure that the purposes and objective of this
24 section are effectively accomplished.

25 9. The commissioner and the commissioner of the department of health
26 may promulgate rules and regulations necessary for the uniform and time-
27 ly preparation, submission, acceptance and processing of applications by
28 eligible inmates prior to their release from custody.

29 § 17. Section 148 of the correction law, as amended by chapter 81 of
30 the laws of 1964, is amended to read as follows:

31 § 148. Psychiatric and diagnostic clinics. The commissioner of
32 ~~[correction and the chairman of the board of parole are]~~ corrections and
33 community supervision is hereby authorized and directed to assist and
34 cooperate with the commissioner of mental ~~[hygiene]~~ health in the estab-
35 lishment and conduct of such psychiatric and diagnostic clinics in the
36 institutions and facilities under their jurisdiction as such commission-
37 ers ~~[and chairman]~~ may deem necessary within the amount appropriated
38 therefor. The persons conducting the work of such clinics shall deter-
39 mine the physical and mental condition of all inmates serving an inde-
40 terminate term, having a minimum of one day and a maximum of natural
41 life, and of such other inmates whose criminal record, behavior or other
42 factors indicate to those in charge of such clinics the need of study
43 and treatment. The work of the clinics shall include scientific study
44 and psychiatric evaluation of each such inmate, including his or her
45 career and life history, investigation of the cause of the crime and
46 recommendations for the care, training and employment of such inmates
47 with a view to their reformation and to the protection of society. Each
48 of the different phases of the work of the clinics shall be so coordi-
49 nated with all the other phases of clinic work as to be a part of a
50 unified and comprehensive scheme in the study and treatment of such
51 inmates. After classification in the clinics the inmate sentenced to
52 state prison shall be certified to the warden and recommendation made to
53 the commissioner of ~~[correction]~~ corrections and community supervision
54 as to their disposition.

55 § 18. Section 168-g of the correction law, as added by chapter 192 of
56 the laws of 1995, is amended to read as follows:

1 § 168-g. Prior convictions; duty to inform and register. 1. The
2 [~~division of parole~~] department or [~~department~~] office of probation and
3 correctional alternatives in accordance with risk factors pursuant to
4 section one hundred sixty-eight-1 of this article shall determine the
5 duration of registration and notification for every sex offender who on
6 the effective date of this article is then on [~~parole~~] community super-
7 vision or probation for an offense provided for in subdivision two or
8 three of section one hundred sixty-eight-a of this article.

9 2. Every sex offender who on the effective date of this article is
10 then on [~~parole~~] community supervision or probation for an offense
11 provided for in subdivision two or three of section one hundred sixty-
12 eight-a of this article shall within ten calendar days of such determi-
13 nation register with his parole or probation officer. On each anniver-
14 sary of the sex offender's initial registration date thereafter, the
15 provisions of section one hundred sixty-eight-f of this article shall
16 apply. Any sex offender who fails or refuses to so comply shall be
17 subject to the same penalties as otherwise provided for in this article
18 which would be imposed upon a sex offender who fails or refuses to so
19 comply with the provisions of this article on or after such effective
20 date.

21 3. It shall be the duty of the parole or probation officer to inform
22 and register such sex offender according to the requirements imposed by
23 this article. A parole or probation officer shall give one copy of the
24 form to the sex offender and shall, within three calendar days, send two
25 copies electronically or otherwise to the [~~division~~] department which
26 shall forward one copy electronically or otherwise to the law enforce-
27 ment agency having jurisdiction where the sex offender resides upon his
28 [~~parole~~] or her community supervision, probation, or [~~upon any form of~~
29 ~~state or~~] local conditional release.

30 4. A petition for relief from this section is permitted to any sex
31 offender required to register while released [~~on parole~~] to community
32 supervision or probation pursuant to section one hundred sixty-eight-o
33 of this article.

34 § 19. Subdivision 1 of section 168-1 of the correction law, as added
35 by chapter 192 of the laws of 1995, is amended to read as follows:

36 1. There shall be a board of examiners of sex offenders which shall
37 possess the powers and duties hereinafter specified. Such board shall
38 consist of five members appointed by the governor. [~~Three members who~~
39 All members shall be employees of the department and shall be experts in
40 the field of the behavior and treatment of sex offenders [~~shall be~~
41 ~~employees of the division of parole and the remaining two members shall~~
42 ~~be from the department~~]. The term of office of each member of such board
43 shall be for six years; provided, however, that any member chosen to
44 fill a vacancy occurring otherwise than by expiration of term shall be
45 appointed for the remainder of the unexpired term of the member whom he
46 or she is to succeed. In the event of the inability to act of any
47 member, the governor may appoint some competent informed person to act
48 in his or her stead during the continuance of such disability.

49 § 20. Section 168-m of the correction law, as amended by chapter 453
50 of the laws of 1999, is amended to read as follows:

51 § 168-m. Review. Notwithstanding any other provision of law to the
52 contrary, any state or local correctional facility, hospital or institu-
53 tion, district attorney, law enforcement agency, probation department,
54 [~~division~~] state board of parole, court or child protective agency shall
55 forward relevant information pertaining to a sex offender to be
56 discharged, paroled, released to post-release supervision or released to

1 the board for review no later than one hundred twenty days prior to the
2 release or discharge and the board shall make recommendations as
3 provided in subdivision six of section one hundred sixty-eight-1 of this
4 article within sixty days of receipt of the information. Information may
5 include, but may not be limited to all or a portion of the arrest file,
6 prosecutor's file, probation or parole file, child protective file,
7 court file, commitment file, medical file and treatment file pertaining
8 to such person. Such person shall be permitted to submit to the board
9 any information relevant to the review. Upon application of the sex
10 offender or the district attorney, the court shall seal any portion of
11 the board's file pertaining to the sex offender ~~[which]~~ that contains
12 material that is confidential under any state or federal law; provided,
13 however, that in any subsequent proceedings in which the sex offender
14 who is the subject of the sealed record is a party and which requires
15 the board to provide a recommendation to the court pursuant to this
16 article, such sealed record shall be available to the sex offender, the
17 district attorney, the court and the attorney general where the attorney
18 general is a party, or represents a party, in the proceeding.

19 § 21. Subdivision 1 of section 184 of the correction law, as amended
20 by chapter 166 of the laws of 1991, is amended to read as follows:

21 1. The commissioner ~~[of correctional services]~~ is authorized and
22 directed to cause to be manufactured or prepared by the inmates in the
23 state correctional facilities, such articles as are needed and used
24 therein, and also, such articles as are required by the state or poli-
25 tical subdivisions thereof, and in the buildings, offices and public
26 institutions owned or managed and controlled by the state, including
27 articles and materials to be used in the erection of the buildings, and
28 including material for the construction, improvement or repair of high-
29 ways, streets and roads.

30 § 22. Subdivisions 1 and 3 of section 186 of the correction law,
31 subdivision 1 as amended by chapter 166 of the laws of 1991 and subdivi-
32 sion 3 as amended by chapter 83 of the laws of 1995, are amended to read
33 as follows:

34 1. The commissioner ~~[of correctional services]~~ shall establish the
35 prices at which all services performed, and all articles manufactured in
36 the correctional facilities in this state, and furnished to the state,
37 or the political subdivisions thereof, or to the public institutions
38 thereof, or to public benefit corporations, authorities or commissions.
39 However, prices for goods or services furnished by the local correction-
40 al facilities to or for the county in which they are located, or the
41 political subdivisions thereof, shall be fixed by the board of supervi-
42 sors of such counties, except the counties located within New York city,
43 in which the prices shall be fixed by the commissioner ~~[of correction]~~.
44 It shall also be the duty of such boards, respectively, to classify the
45 buildings, offices and institutions owned or managed and controlled by
46 the state, and the political subdivisions thereof, and to fix and deter-
47 mine the styles, patterns, designs and qualities of the articles to be
48 manufactured for such buildings, offices and public institutions, except
49 where the same have been fixed or their specifications approved by the
50 office of general services in the executive department. So far as prac-
51 ticable, all supplies used in such buildings, offices and public insti-
52 tutions shall be uniform for each class, and of the styles, patterns,
53 designs and qualities that can be manufactured in the correctional
54 facilities in this state.

55 3. A purchaser of any such product or services may, at any time prior
56 to or within thirty days of the time of sale, appeal the purchase price

1 on the basis that it unreasonably exceeds fair market price. Such
2 appeal shall be raised in a form to be provided for by the commissioner
3 pursuant to rule and shall include a verified statement setting forth
4 the basis of an alternative fair market price determined according to
5 the standards for establishing prices set forth in subdivision two of
6 this section.

7 An appeal brought by such a purchaser as to the reasonableness of the
8 fair market price established pursuant to subdivision two of this
9 section shall be decided by majority vote of a three-member price review
10 board consisting of the director of the budget, the commissioner [~~of~~
11 ~~correctional services~~] and the commissioner of the office of general
12 services or their representatives.

13 All hearings before such price review board shall be governed by the
14 rules to be adopted and prescribed by such board. The hearings of such
15 board may, in the discretion of a majority of its members, be open to
16 the public, but shall not be bound by the technical rules of evidence.
17 The price review board shall permit the parties to such an appeal to
18 present such evidence, in person or through their attorneys, as the
19 board may deem necessary for its determination. A stenographic record
20 shall be kept of any proceeding before such board and the decision of
21 the board shall be in writing and state the reasons for such decision.

22 The decision of such board as to the reasonableness of the price
23 established by the commissioner shall be conclusive on all parties. If
24 the board finds that a price unreasonably exceeds the fair market price,
25 it may adjust the sales price with respect to such purchaser. Prices so
26 adjusted shall otherwise apply prospectively to purchases made subse-
27 quent to such adjustment until such time as new prices are established
28 pursuant to subdivision two of this section. In the event that payment
29 has been made, upon such adjustment of price, any excess paid to the
30 state shall be refunded to such purchaser on a voucher signed by the
31 commissioner within amounts available therefor or at the option of the
32 purchaser, the commissioner may credit such excess amount toward any
33 future purchase.

34 § 23. Section 190 of the correction law is amended to read as follows:

35 § 190. Monthly statement of receipts and expenditures for industries.
36 The warden of each of the state prisons shall, on the first of each
37 month, make a full detailed statement of all materials, machinery or
38 other property procured, and of the cost thereof, and of the expendi-
39 tures made during the last preceding month for manufacturing purposes,
40 together with a statement of all materials then on hand to be manufac-
41 tured, or in process of manufacture, or manufactured, and of machinery,
42 fixtures or other appurtenances for the purpose of carrying on the labor
43 of the prisoners, and the amount and kinds of work done, and the earn-
44 ings realized, and the total amount of moneys coming into his or her
45 hands as such warden during such last preceding month as the proceeds of
46 the labor of the prisoners at such prison, which statement shall be
47 verified by the oath of such warden to be just and true, and shall be by
48 him or her forwarded to the department [~~of correction~~].

49 § 24. Subdivisions 1 and 2 of section 275 of the correction law, as
50 added by section 1 of part SS of chapter 56 of the laws of 2009, are
51 amended to read as follows:

52 1. If a person who has been granted conditional release pursuant to
53 this article resides or desires to reside in a place other than the one
54 located within the jurisdiction of the commission which has legal custo-
55 dy of such person, such commission, or any member thereof, may designate
56 any other commission established pursuant to this article, or the

1 [~~parole board~~] department, to assume custody of such person and may so
2 transfer custody upon the consent of such other commission or the
3 [~~parole board~~] department.

4 2. Where custody of a person who has been granted conditional release
5 pursuant to this article is transferred pursuant to subdivision one of
6 this section, upon designation and prior to transfer, the commission
7 making the designation shall notify the commission which has been desig-
8 nated to receive custody of such transfer or the [~~parole board~~] depart-
9 ment. The commission making the designation shall immediately forward
10 its entire case record regarding such person to the receiving commission
11 or the [~~parole board~~] department. The commission to which legal custody
12 has been transferred, or the [~~parole board~~] department, shall assume the
13 same powers and duties exercised by the designating commission and shall
14 have the sole custody of such person.

15 § 25. Section 315 of the correction law is REPEALED.

16 § 26. Article 17 of the correction law is REPEALED.

17 § 27. Article 18 of the correction law is REPEALED.

18 § 28. Subdivisions 2 and 3 of section 504 of the correction law,
19 subdivision 2 as amended by section 8 of part Q of chapter 56 of the
20 laws of 2009 and subdivision 3 as amended by chapter 799 of the laws of
21 1974, are amended to read as follows:

22 2. Where the jail in a county becomes unfit or unsafe for the confine-
23 ment of some or all of the inmates due to an inmate disturbance or other
24 extraordinary circumstances, including but not limited to a natural
25 disaster, unanticipated deficiencies in the structural integrity of a
26 facility or the inability to provide one or more inmates with essential
27 services such as medical care, upon the request of the municipal offi-
28 cial as defined in subdivision four of section forty of this chapter and
29 no other suitable place within the county nor the jail of any other
30 county is immediately available to house some or all of the inmates, the
31 commissioner of [~~correctional services~~] corrections and community super-
32 vision may, in his or her sole discretion, make available, upon such
33 terms and conditions as he or she may deem appropriate, all or any part
34 of a state correctional institution for the confinement of some or all
35 of such inmates as an adjunct to the county jail for a period not to
36 exceed thirty days. However, if the county jail remains unfit or unsafe
37 for the confinement of some or all of such inmates beyond thirty days,
38 the state commission of correction, with the consent of the commissioner
39 of [~~correctional services~~] corrections and community supervision, may
40 extend the availability of a state correctional institution for one or
41 more additional thirty day periods. The state commission of correction
42 shall promulgate rules and regulations governing the temporary transfer
43 of inmates to state correctional institutions from county jails, includ-
44 ing but not limited to provisions for confinement of such inmates in the
45 nearest correctional facility, to the maximum extent practicable, taking
46 into account necessary security. The commissioner of [~~correctional~~
47 services] corrections and community supervision may, in his or her sole
48 discretion, based on standards promulgated by the department, determine
49 whether a county shall reimburse the state for any or all of the actual
50 costs of confinement as approved by the director of the division of the
51 budget. On or before the expiration of each thirty day period, the state
52 commission of correction must make an appropriate designation pursuant
53 to subdivision one if the county jail remains unfit or unsafe for the
54 confinement of some or all of the inmates and consent to the continued
55 availability of a state correctional institution as required for herein.
56 The superintendence, management and control of a state correctional

1 institution or part thereof made available pursuant hereto and the
2 inmates housed therein shall be as directed by the commissioner of
3 ~~[correctional services]~~ corrections and community supervision.

4 3. The county clerk must serve a copy of the designation, duly certi-
5 fied by him or her, under his or her official seal, on the sheriff and
6 keeper of the jail of the county designated. The sheriff of that county
7 must, upon the delivery of the sheriff of the county for which the
8 designation is made, receive into his or her jail, and there safely
9 keep, all persons who may be lawfully confined therein, pursuant to this
10 article; and he or she is responsible for their safekeeping, as if he or
11 she was sheriff of the county for which the designation is made.

12 § 29. The opening paragraph, subdivisions 2, 3, 4 and 6 of section
13 601-d of the correction law, as added by chapter 141 of the laws of
14 2008, are amended to read as follows:

15 This section shall apply only to inmates in the custody of the commis-
16 sioner, and releasees under the supervision of the ~~[division of parole]~~
17 department, upon whom a determinate sentence was imposed between Septem-
18 ber first, nineteen hundred ninety-eight, and the effective date of this
19 section, which was required by law to include a term of post-release
20 supervision:

21 2. Whenever it shall appear to the satisfaction of the department that
22 an inmate in its custody~~[,]~~ or ~~[to the satisfaction of the division of~~
23 ~~parole]~~ that a releasee under its supervision, is a designated person,
24 ~~[such agency]~~ the department shall make notification of that fact to the
25 court that sentenced such person, and to the inmate or releasee.

26 3. If a sentencing court that has received such notice, after review-
27 ing the sentencing minutes, if available, is or becomes aware that a
28 term of post-release supervision was in fact pronounced at the prior
29 sentencing of such person, it shall issue a superseding commitment order
30 reflecting that fact, accompanied by a written explanation of the basis
31 for that conclusion, and send such order and explanation to the ~~[agency~~
32 ~~that provided the notice]~~ department, to the defendant, and to the
33 attorney who appeared for the defendant in connection with the judgment
34 or sentence or, if the defendant is currently represented concerning his
35 or her conviction or sentence or with respect to an appeal from his or
36 her sentence, such present counsel.

37 4. (a) If the sentencing court shall not have issued a superseding
38 commitment order, reflecting imposition of a term of post-release super-
39 vision, within ten days after receiving notice pursuant to subdivision
40 two of this section, then the sentencing court shall appoint counsel
41 pursuant to section seven hundred twenty-two of the county law, provide
42 a copy of the notice pursuant to subdivision two of this section to such
43 counsel, and calendar such person for a court appearance which shall
44 occur no later than twenty days after receipt of said notice. At such
45 court appearance, the court shall furnish a copy of such notice and the
46 proceeding date pursuant to paragraph (c) of this subdivision to the
47 district attorney, the designated person, assigned counsel and the
48 department ~~[or the division of parole]~~.

49 (b) The court shall promptly seek to obtain sentencing minutes, plea
50 minutes and any other records and shall provide copies to the parties
51 and conduct any reconstruction proceedings that may be necessary to
52 determine whether to resentence such person.

53 (c) The court shall commence a proceeding to consider resentence no
54 later than thirty days after receiving notice pursuant to subdivision
55 two of this section.

1 (d) The court shall, no later than forty days after receipt of such
2 notice, issue and enter a written determination and order, copies of
3 which shall be immediately provided to the district attorney, the desig-
4 nated person, his or her counsel and the department [~~or the division of~~
5 ~~parole~~] along with any sentencing minutes pursuant to section 380.70 of
6 the criminal procedure law.

7 (e) The designated person may, with counsel, knowingly consent to
8 extend the time periods specified in paragraphs (c) and (d) of this
9 subdivision. The people may apply to the court for an extension of ten
10 days on the basis of extraordinary circumstances that preclude final
11 resolution within such period of the question of whether the defendant
12 will be resentenced. The department [~~or the division of parole~~] shall be
13 notified by the court of any such extension.

14 6. In any case in which the department [~~or division of parole~~] noti-
15 fies the court of a designated person, and has not been informed that
16 the court has made a determination in accordance with paragraph (d) of
17 subdivision four of this section (unless extended pursuant to paragraph
18 (e) of such subdivision), [~~then such agency~~] the department may notify
19 the court that it has not received a determination and, in any event,
20 shall adjust its records with respect to post-release supervision noting
21 that the court has not, in accordance with subdivision four of this
22 section, imposed a sentence of post-release supervision.

23 § 30. Section 605-a of the correction law, as added by chapter 476 of
24 the laws of 1970, is amended to read as follows:

25 § 605-a. Transportation of female inmates. Whenever any female inmate
26 is conveyed to an institution [~~in~~] under the jurisdiction of the state
27 department of [~~correction~~] corrections and community supervision pursu-
28 ant to sentence or commitment, such female inmate shall be accompanied
29 by at least one female officer.

30 § 31. Section 619 of the correction law, as added by chapter 911 of
31 the laws of 1983, is amended to read as follows:

32 § 619. Cooperation with authorized agencies of the department of
33 social services. It shall be the duty of an official of any institution
34 under the jurisdiction of the commissioner of [~~correctional services~~]
35 corrections and community supervision to cooperate with an authorized
36 agency of the department of social services in making suitable arrange-
37 ments for an inmate confined therein to visit with his or her child
38 pursuant to subdivision seven of section three hundred eighty-four-b of
39 the social services law.

40 § 32. Subdivisions 1, 4 and 6 of section 702 of the correction law,
41 subdivisions 1 and 4 as amended by chapter 342 of the laws of 1972 and
42 subdivision 6 as amended by chapter 720 of the laws of 2006, are amended
43 to read as follows:

44 1. Any court of this state may, in its discretion, issue a certificate
45 of relief from disabilities to an eligible offender for a conviction
46 that occurred in such court, if the court either (a) imposed a [~~revoka-~~
47 ~~ble~~] revocable sentence or (b) imposed a sentence other than one
48 executed by commitment to an institution under the jurisdiction of the
49 state department of [~~correctional services~~] corrections and community
50 supervision. Such certificate may be issued (i) at the time sentence is
51 pronounced, in which case it may grant relief from forfeitures, as well
52 as from disabilities, or (ii) at any time thereafter, in which case it
53 shall apply only to disabilities.

54 4. Where the court has imposed a [~~revokable~~] revocable sentence and
55 the certificate of relief from disabilities is issued prior to the expi-
56 ration or termination of the time which the court may revoke such

1 sentence, the certificate shall be deemed to be a temporary certificate
2 until such time as the court's authority to revoke the sentence has
3 expired or is terminated. While temporary, such certificate (a) may be
4 revoked by the court for violation of the conditions of the sentence,
5 and (b) shall be revoked by the court if it revokes the sentence and
6 commits the person to an institution under the jurisdiction of the state
7 department of [~~correctional services~~] corrections and community super-
8 vision. Any such revocation shall be upon notice and after an opportu-
9 nity to be heard. If the certificate is not so revoked, it shall become
10 a permanent certificate upon expiration or termination of the court's
11 authority to revoke the sentence.

12 6. Any written report submitted to the court pursuant to this section
13 is confidential and may not be made available to any person or public or
14 private agency except where specifically required or permitted by stat-
15 ute or upon specific authorization of the court. However, upon the
16 court's receipt of such report, the court shall provide a copy of such
17 report, or direct that such report be provided to the applicant's attor-
18 ney, or the applicant himself, if he or she has no attorney. In its
19 discretion, the court may except from disclosure a part or parts of the
20 report which are not relevant to the granting of a certificate, or
21 sources of information which have been obtained on a promise of confi-
22 dentiality, or any other portion thereof, disclosure of which would not
23 be in the interest of justice. The action of the court excepting infor-
24 mation from disclosure shall be subject to appellate review. The court,
25 in its discretion, may hold a conference in open court or in chambers to
26 afford an applicant an opportunity to controvert or to comment upon any
27 portions of the report. The court may also conduct a summary hearing at
28 the conference on any matter relevant to the granting of the application
29 and may take testimony under oath.

30 § 33. Intentionally omitted.

31 § 34. Section 703 of the correction law, as amended by chapter 342 of
32 the laws of 1972, the section heading as amended by chapter 931 of the
33 laws of 1976, subdivision 1 as amended by chapter 475 of the laws of
34 1974, subdivision 6 as added by chapter 378 of the laws of 1988 and
35 subdivision 7 as added by section 3 of part 00 of chapter 56 of the laws
36 of 2010, is amended to read as follows:

37 § 703. Certificates of relief from disabilities issued by the [~~board~~
38 ~~of parole~~] department of corrections and community supervision. 1. The
39 [~~state board of parole~~] department of corrections and community super-
40 vision shall have the power to issue a certificate of relief from disa-
41 bilities to:

42 (a) any eligible offender who has been committed to an institution
43 under the jurisdiction of the state department of [~~correctional~~
44 ~~services~~] corrections and community supervision. Such certificate may
45 be issued by the [~~board~~] department at the time the offender is released
46 from such institution under the [~~board's~~] department's supervision or
47 otherwise or at any time thereafter;

48 (b) any eligible offender who resides within this state and whose
49 judgment of conviction was rendered by a court in any other jurisdic-
50 tion.

51 2. Where the [~~board of parole~~] department has issued a certificate of
52 relief from disabilities, the [~~board~~] department may at any time issue a
53 new certificate enlarging the relief previously granted.

54 3. The [~~board of parole~~] department shall not issue any certificate of
55 relief from disabilities pursuant to subdivisions one or two, unless the
56 [~~board~~] department is satisfied that:

1 (a) The person to whom it is to be granted is an eligible offender, as
2 defined in section seven hundred;

3 (b) The relief to be granted by the certificate is consistent with the
4 rehabilitation of the eligible offender; and

5 (c) The relief to be granted by the certificate is consistent with the
6 public interest.

7 4. Any certificate of relief from disabilities issued by the [~~board of~~
8 ~~parole~~] department to an eligible offender who at time of the issuance
9 of the certificate is under the [~~board's~~] department's supervision,
10 shall be deemed to be a temporary certificate until such time as the
11 eligible offender is discharged from the [~~board's~~] department's super-
12 vision, and, while temporary, such certificate may be revoked by the
13 [~~board~~] department for violation of the conditions of [~~parole or~~
14 ~~release~~] community supervision. Revocation shall be upon notice to the
15 [~~parolee~~] releasee, who shall be accorded an opportunity to explain the
16 violation prior to decision thereon. If the certificate is not so
17 revoked, it shall become a permanent certificate upon expiration or
18 termination of the [~~board's~~] department's jurisdiction over the [~~offen-~~
19 ~~der~~] individual.

20 5. In granting or revoking a certificate of relief from disabilities
21 the action of the [~~board of parole shall be by unanimous vote of the~~
22 ~~members authorized to grant or revoke parole. Such action~~] department
23 shall be deemed a judicial function and shall not be reviewable if done
24 according to law.

25 6. For the purpose of determining whether such certificate shall be
26 issued, the [~~board~~] department may conduct an investigation of the
27 applicant.

28 7. Presumption based on federal recommendation. Where a certificate of
29 relief from disabilities is sought pursuant to paragraph (b) of subdivi-
30 sion one of this section on a judgment of conviction rendered by a
31 federal district court in this state and the [~~board of parole~~] depart-
32 ment is in receipt of a written recommendation in favor of the issuance
33 of such certificate from the chief probation officer of the district,
34 the [~~board~~] department shall issue the requested certificate, unless it
35 finds that the requirements of paragraphs (a), (b) and (c) of subdivi-
36 sion three of this section have not been satisfied; or that the inter-
37 ests of justice would not be advanced by the issuance of the certif-
38 icate.

39 § 35. Section 703-b of the correction law, as added by chapter 931 of
40 the laws of 1976, subdivisions 1 and 3 as amended by, subdivision 2 as
41 added by and subdivisions 4 and 5 as renumbered by chapter 386 of the
42 laws of 1985, is amended to read as follows:

43 § 703-b. Issuance of certificate of good conduct. 1. The [~~state board~~
44 ~~of parole, or any three members thereof by unanimous vote,~~] department
45 of corrections and community supervision shall have the power to issue a
46 certificate of good conduct to any person previously convicted of a
47 crime in this state, when the [~~board~~] department is satisfied that:

48 (a) The applicant has conducted himself or herself in a manner
49 warranting such issuance for a minimum period in accordance with the
50 provisions of subdivision three of this section;

51 (b) The relief to be granted by the certificate is consistent with the
52 rehabilitation of the applicant; and

53 (c) The relief to be granted is consistent with the public interest.

54 2. The [~~state board of parole, or any three members thereof by unani-~~
55 ~~mous vote,~~] department shall have the power to issue a certificate of

1 good conduct to any person previously convicted of a crime in any other
2 jurisdiction, when the ~~[board]~~ department is satisfied that:

3 (a) The applicant has demonstrated that there exist specific facts and
4 circumstances, and specific sections of New York state law that have an
5 adverse impact on the applicant and warrant the application for relief
6 to be made in New York; and

7 (b) The provisions of paragraphs (a), (b) and (c) of subdivision one
8 of this section have been met.

9 3. The minimum period of good conduct by the individual referred to in
10 paragraph (a) of subdivision one of this section, shall be as follows:
11 where the most serious crime of which the individual was convicted is a
12 misdemeanor, the minimum period of good conduct shall be one year; where
13 the most serious crime of which the individual was convicted is a class
14 C, D or E felony, the minimum period of good conduct shall be three
15 years; and, where the most serious crime of which the individual was
16 convicted is a class B or A felony, the minimum period of good conduct
17 shall be five years. Criminal acts committed outside the state shall be
18 classified as acts committed within the state based on the maximum
19 sentence that could have been imposed based upon such conviction pursu-
20 ant to the laws of such foreign jurisdiction. Such minimum period of
21 good conduct by the individual shall be measured either from the date of
22 the payment of any fine imposed upon him or her or the suspension of
23 sentence, or from the date of his or her unrevoked release from custody
24 by parole, commutation or termination of his or her sentence. The
25 ~~[board]~~ department shall have power and it shall be its duty to investi-
26 gate all persons when such application is made and to grant or deny the
27 same within a reasonable time after the making of the application.

28 4. Where the ~~[board of parole]~~ department has issued a certificate of
29 good conduct, the ~~[board]~~ department may at any time issue a new certifi-
30 cate enlarging the relief previously granted.

31 5. Any certificate of good conduct by the ~~[board of parole]~~ department
32 to an individual who at time of the issuance of the certificate is under
33 the ~~[board's]~~ department's supervision, shall be deemed to be a tempo-
34 rary certificate until such time as the individual is discharged from
35 the ~~[board's]~~ department's supervision, and, while temporary, such
36 certificate may be revoked by the ~~[board]~~ department for violation of
37 the conditions of ~~[parole or release]~~ community supervision. Revocation
38 shall be upon notice to the ~~[parolee]~~ releasee, who shall be accorded an
39 opportunity to explain the violation prior to decision thereon. If the
40 certificate is not so revoked, it shall become a permanent certificate
41 upon expiration or termination of the ~~[board's]~~ department's jurisdic-
42 tion over the individual.

43 § 36. Section 705 of the correction law, as added by chapter 654 of
44 the laws of 1966, subdivision 1 as amended by section 49 of part A of
45 chapter 56 of the laws of 2010, is amended to read as follows:

46 § 705. Forms and filing. 1. All applications, certificates and orders
47 of revocation necessary for the purposes of this article shall be upon
48 forms prescribed pursuant to agreement among the state commissioner of
49 ~~[correctional services]~~ corrections and community supervision, the
50 chairman of the state board of parole and the administrator of the state
51 judicial conference. Such forms relating to certificates of relief from
52 disabilities shall be distributed by the office of probation and correc-
53 tional alternatives and forms relating to certificates of good conduct
54 shall be distributed by the ~~[chairman of the board of parole]~~ commis-
55 sioner of the department of corrections and community supervision.

1 2. Any court or [~~board~~] department issuing or revoking any certificate
2 pursuant to this article shall immediately file a copy of the certifi-
3 cate, or of the order of revocation, with the New York state identifi-
4 cation and intelligence system.

5 § 37. Paragraphs (a), (b) and (c) of subdivision 1 and subdivisions 3,
6 4 and 5 of section 803 of the correction law, paragraph (a) of subdivi-
7 sion 1, subdivisions 3, 4 and 5 as amended and paragraphs (b) and (c) of
8 subdivision 1 as added by chapter 3 of the laws of 1995, are amended to
9 read as follows:

10 (a) Every person confined in an institution of the department or a
11 facility in the department of mental hygiene serving an indeterminate or
12 determinate sentence of imprisonment, except a person serving a sentence
13 with a maximum term of life imprisonment, may receive time allowance
14 against the term or maximum term of his or her sentence imposed by the
15 court. Such allowances may be granted for good behavior and efficient
16 and willing performance of duties assigned or progress and achievement
17 in an assigned treatment program, and may be withheld, forfeited or
18 canceled in whole or in part for bad behavior, violation of institu-
19 tional rules or failure to perform properly in the duties or program
20 assigned.

21 (b) A person serving an indeterminate sentence of imprisonment may
22 receive time allowance against the maximum term of his or her sentence
23 not to exceed one-third of the maximum term imposed by the court.

24 (c) A person serving a determinate sentence of imprisonment may
25 receive time allowance against the term of his or her sentence not to
26 exceed one-seventh of the term imposed by the court.

27 3. The commissioner of [~~correctional services~~] corrections and commu-
28 nity supervision shall promulgate rules and regulations for the grant-
29 ing, withholding, forfeiture, cancellation and restoration of allowances
30 authorized by this section in accordance with the criteria herein speci-
31 fied. Such rules and regulations shall include provisions designating
32 the person or committee in each correctional institution delegated to
33 make discretionary determinations with respect to the allowances, the
34 books and records to be kept, and a procedure for review of the institu-
35 tional determinations by the commissioner.

36 4. No person shall have the right to demand or require the allowances
37 authorized by this section. The decision of the commissioner of [~~correc-~~
38 ~~tional services~~] corrections and community supervision as to the grant-
39 ing, withholding, forfeiture, cancellation or restoration of such allow-
40 ances shall be final and shall not be reviewable if made in accordance
41 with law.

42 5. Time allowances granted prior to any release [~~on parole or prior to~~
43 ~~any conditional release~~] to community supervision shall be forfeited and
44 shall not be restored if the [~~paroled or conditionally~~] released person
45 is returned to an institution under the jurisdiction of the state
46 department of [~~correctional services~~] corrections and community super-
47 vision for violation of [~~parole, violation of the conditions of release~~]
48 community supervision or by reason of a conviction for a crime committed
49 while on [~~parole or conditional release~~] community supervision. A
50 person who is so returned may, however, subsequently receive time allow-
51 ances against the remaining portion of his or her term, maximum term or
52 aggregate maximum term pursuant to this section and provided such
53 remaining portion of his or her term, maximum term, or aggregate maximum
54 term is more than one year.

1 § 38. Subdivisions 3, 4 and 5 of section 803 of the correction law, as
2 amended by chapter 126 of the laws of 1987, are amended to read as
3 follows:

4 3. The commissioner of [~~correctional services~~] corrections and commu-
5 nity supervision shall promulgate rules and regulations for the grant-
6 ing, withholding, forfeiture, cancellation and restoration of allowances
7 authorized by this section in accordance with the criteria herein speci-
8 fied. Such rules and regulations shall include provisions designating
9 the person or committee in each correctional institution delegated to
10 make discretionary determinations with respect to the allowances, the
11 books and records to be kept, and a procedure for review of the institu-
12 tional determinations by the commissioner.

13 4. No person shall have the right to demand or require the allowances
14 authorized by this section. The decision of the commissioner of [~~correc-~~
15 ~~tional services~~] corrections and community supervision as to the grant-
16 ing, withholding, forfeiture, cancellation or restoration of such allow-
17 ances shall be final and shall not be reviewable if made in accordance
18 with law.

19 5. Time allowances granted prior to any release [~~on parole or prior to~~
20 ~~any conditional release~~] to community supervision shall be forfeited and
21 shall not be restored if the [~~paroled or conditionally~~] released person
22 is returned to an institution under the jurisdiction of the state
23 department of [~~correctional services~~] corrections and community super-
24 vision for violation of [~~parole, violation of the conditions of release~~]
25 community supervision or by reason of a conviction for a crime committed
26 while on [~~parole or conditional release~~] community supervision. A
27 person who is so returned may, however, subsequently receive time allow-
28 ances against the remaining portion of his maximum or aggregate maximum
29 term or period not to exceed in the aggregate one-third of such portion
30 provided such remaining portion of his or her maximum or aggregate maxi-
31 mum term or period is more than one year.

32 § 39. Subdivision 6 of section 804 of the correction law, as added by
33 chapter 680 of the laws of 1967, is amended to read as follows:

34 6. Notwithstanding anything to the contrary in this section, in any
35 case where a person is serving a definite sentence in an institution
36 under the jurisdiction of the state department of [~~correction~~]
37 corrections and community supervision, subdivisions three and four of
38 section eight hundred three of this chapter shall apply.

39 § 40. Subdivisions 3 and 6 of section 806 of the correction law, as
40 added by section 5 of part E of chapter 62 of the laws of 2003, are
41 amended to read as follows:

42 3. Any inmate eligible for presumptive release pursuant to this
43 section shall be required to apply for such release pursuant to section
44 [~~two hundred fifty nine g of the executive law. Upon release from the~~
45 ~~department of correctional services, such person shall be in the legal~~
46 ~~custody of the division of parole as provided in subdivisions two,~~
47 ~~three, four, five, six and seven of section two hundred fifty nine i of~~
48 ~~the executive law~~] two hundred six of this chapter.

49 6. Any eligible inmate who is not released pursuant to subdivision one
50 or two of this section shall be considered for discretionary release on
51 parole pursuant to the provisions of section eight hundred five of this
52 article or section two hundred [~~fifty nine i~~] fifty-nine-b of the execu-
53 tive law, whichever is applicable.

54 § 41. Subdivision 1 of section 851 of the correction law, as amended
55 by chapter 554 of the laws of 1986, is amended to read as follows:

1 1. "Institution" means any institution under the jurisdiction of the
2 state department of [~~correctional services~~] corrections and community
3 supervision or an institution designated by the commissioner pursuant to
4 section seventy-two-a of this chapter.

5 § 41-a. Subdivision 1 of section 851 of the correction law, as amended
6 by chapter 691 of the laws of 1977, is amended to read as follows:

7 1. "Institution" means any institution under the jurisdiction of the
8 state department of [~~correctional services~~] corrections and community
9 supervision.

10 § 41-b. Subdivision 1 of section 851 of the correction law, as added
11 by chapter 472 of the laws of 1969, is amended to read as follows:

12 1. "Institution" means any institution under the jurisdiction of the
13 state department of [~~correction~~] corrections and community supervision.

14 § 42. The closing paragraph of subdivision 2 of section 851 of the
15 correction law, as added by chapter 3 of the laws of 1995, is amended to
16 read as follows:

17 The governor, by executive order, may exclude or limit the partic-
18 ipation of any class of otherwise eligible inmates from participation in
19 a temporary release program. Nothing in this paragraph shall be
20 construed to affect either the validity of any executive order previous-
21 ly issued limiting the participation of otherwise eligible inmates in
22 such program or the authority of the commissioner [~~of the department of~~
23 ~~correctional services~~] to impose appropriate regulations limiting such
24 participation.

25 § 43. The closing paragraph of subdivision 2 of section 851 of the
26 correction law, as added by chapter 3 of the laws of 1995, is amended to
27 read as follows:

28 The governor, by executive order, may exclude or limit the partic-
29 ipation of any class of otherwise eligible inmates from participation in
30 a temporary release program. Nothing in this paragraph shall be
31 construed to affect either the validity of any executive order previous-
32 ly issued limiting the participation of otherwise eligible inmates in
33 such program or the authority of the commissioner [~~of the department of~~
34 ~~correctional services~~] to impose appropriate regulations limiting such
35 participation.

36 § 43-a. Subdivision 5 of section 851 of the correction law, as added
37 by chapter 472 of the laws of 1969, is amended to read as follows:

38 5. "Work release committee" means the body of persons, which may
39 include members of the public, appointed pursuant to regulations promul-
40 gated by the commissioner [~~of correction~~] for the purpose of formulat-
41 ing, modifying and revoking work release programs at an institution.

42 § 44. Subdivision 5 of section 852 of the correction law, as amended
43 by chapter 495 of the laws of 1981, is amended to read as follows:

44 5. All inmates participating in temporary release programs shall be
45 assigned to parole officers for supervision. [~~Such parole officers shall~~
46 ~~be responsible to the division of parole for the purpose of providing~~
47 ~~such supervision. The division shall provide to the department super-~~
48 ~~vision in accordance with the contract required by subdivision six of~~
49 ~~this section.~~] As part of [~~its~~] the parole officer's supervisory func-
50 tions [~~the division~~] he or she shall be required to provide reports [~~to~~
51 ~~the department~~] every two months on each inmate under [~~its~~] his or her
52 supervision. Such reports shall include but not be limited to:

53 (a) an evaluation of the individual's participation in such program;

54 (b) a statement of any problems and the manner in which such problems
55 were resolved relative to an individual's participation in such
56 programs; and

1 (c) a recommendation with respect to the individual's continued
2 participation in the program.

3 § 44-a. Subdivision 6 of section 852 of the correction law is
4 REPEALED.

5 § 45. Subdivision 2 of section 852 of the correction law, as added by
6 chapter 472 of the laws of 1969, is amended to read as follows:

7 2. The [~~division of parole~~] department shall be responsible for secur-
8 ing appropriate education, on-the-job training and employment opportu-
9 nities for [~~eligible~~] eligible inmates[~~. The division also~~] and shall
10 supervise inmates during their participation in work release programs
11 outside the premises of institutions.

12 § 46. Subdivision 2 of section 856 of the correction law, as added by
13 chapter 472 of the laws of 1969, is amended to read as follows:

14 2. If the inmate violates any provision of the program, or any rule or
15 regulation promulgated by the commissioner of [~~correction~~] corrections
16 and community supervision for conduct of inmates participating in work
17 release programs, he or she shall be subject to disciplinary measures to
18 the same extent as if he or she violated a rule or regulation of the
19 commissioner for conduct of inmates within the premises of the institu-
20 tion.

21 § 47. Subdivision 6 of section 855 of the correction law, as amended
22 by chapter 843 of the laws of 1980, is amended to read as follows:

23 6. In order for an applicant to accept a program of temporary release,
24 such inmate shall agree to be bound by all the terms and conditions
25 thereof and shall indicate such agreement by signing the memorandum of
26 the program immediately below a statement reading as follows: "I accept
27 the foregoing program and agree to be bound by the terms and conditions
28 thereof. I understand that I will be under the supervision of the state
29 department of [~~correctional services~~] corrections and community super-
30 vision while I am away from the premises of the institution and I agree
31 to comply with the instructions of any parole officer or other employee
32 of the department assigned to supervise me. I understand that my partic-
33 ipation in the program is a privilege which may be revoked at any time,
34 and that if I violate any provision of the program I may be taken into
35 custody by any peace officer or police officer and I will be subject to
36 disciplinary procedures. I further understand that if I intentionally
37 fail to return to the institution at or before the time specified in the
38 memorandum I may be found guilty of a felony." Such agreement shall be
39 placed on file at the institution from which such temporary release is
40 granted.

41 § 48. Subdivisions 2, 3 and 4 of section 855 of the correction law, as
42 added by chapter 472 of the laws of 1969, are amended to read as
43 follows:

44 2. If the work release committee determines that a work release
45 program for the applicant is consistent with the safety of the communi-
46 ty, is in the best interests of rehabilitation of the applicant, and is
47 consistent with rules and regulations of the commissioner [~~of~~
48 ~~correction~~], the committee[~~, with the assistance of the division of~~
49 ~~parole,~~] shall develop a suitable program of work release for the appli-
50 cant.

51 3. The committee shall then prepare a memorandum setting forth the
52 details of the work release program, including the extended bounds of
53 confinement and any other matter required by rules or regulations of the
54 commissioner [~~of correction~~]. Such memorandum shall be transmitted to
55 the warden who may approve or reject the program. If the warden approves
56 the program, he or she shall indicate such approval in writing by sign-

1 ing the memorandum. If the warden rejects the program, such decision
2 shall be reviewed by the commissioner [~~of correction~~].

3 4. In order for an applicant to accept a program of work release, he
4 or she shall agree to be bound by all the terms and conditions thereof
5 and shall indicate such agreement by signing the memorandum of the
6 program immediately below a statement reading as follows: "I accept the
7 foregoing program and agree to be bound by the terms and conditions
8 thereof. I understand that I will be under the supervision of the [~~State~~
9 ~~Division of Parole~~] department of corrections and community supervision
10 while I am away from the premises of the institution and I agree to
11 comply with the instructions of any parole officer assigned to supervise
12 me. I will carry a copy of this memorandum on my person at all times
13 while I am away from the premises of the institution and I will exhibit
14 it to any peace officer upon his or her request. I understand that my
15 participation in the program is a privilege which may be revoked at any
16 time, and that if I violate any provision of the program I may be taken
17 into custody by any peace officer and I will be subject to disciplinary
18 procedures. I further understand that if I intentionally fail to return
19 to the institution at or before the time specified in the memorandum I
20 may be found guilty of a felony."

21 § 49. The opening paragraph of subdivision 1 of section 1304 of the
22 abandoned property law, as amended by chapter 471 of the laws of 1980,
23 is amended to read as follows:

24 The following unclaimed property belonging or credited to a
25 discharged, deceased or escaped person in an institution under the
26 jurisdiction of the department of social services, the department of
27 health, the department of mental hygiene, the executive department, or
28 the department of [~~correctional services~~] corrections and community
29 supervision shall be deemed abandoned property:

30 § 50. Subdivisions 1, 1-a and 4 of section 126 of the alcoholic bever-
31 age control law, subdivisions 1 and 4 as amended by chapter 366 of the
32 laws of 1992 and subdivision 1-a as amended by chapter 367 of the laws
33 of 1992, are amended to read as follows:

34 1. Except as provided in subdivision one-a of this section, a person
35 who has been convicted of a felony or any of the misdemeanors mentioned
36 in section eleven hundred forty-six of the former penal law as in force
37 and effect immediately prior to September first, nineteen hundred
38 sixty-seven, or of an offense defined in section 230.20 or 230.40 of the
39 penal law, unless subsequent to such conviction such person shall have
40 received an executive pardon therefor removing this disability, a
41 certificate of good conduct granted by the [~~board of parole~~] department
42 of corrections and community supervision, or a certificate of relief
43 from disabilities granted by the [~~board of parole~~] department of
44 corrections and community supervision or a court of this state pursuant
45 to the provisions of article twenty-three of the correction law to
46 remove the disability under this section because of such conviction.

47 1-a. Notwithstanding the provision of subdivision one of this section,
48 a corporation holding a license to traffic in alcoholic beverages shall
49 not, upon conviction of a felony or any of the misdemeanors or offenses
50 described in subdivision one of this section, be automatically forbidden
51 to traffic in alcoholic beverages, but the application for a license by
52 such a corporation shall be subject to denial, and the license of such a
53 corporation shall be subject to revocation or suspension by the authori-
54 ty pursuant to section one hundred eighteen of this chapter, consistent
55 with the provisions of article twenty-three-A of the correction law. For
56 any felony conviction by a court other than a court of this state, the

1 authority may request the [~~board of parole~~] department of corrections
2 and community supervision to investigate and review the facts and
3 circumstances concerning such a conviction, and [~~the board of parole~~]
4 such department shall, if so requested, submit its findings to the
5 authority as to whether the corporation has conducted itself in a manner
6 such that discretionary review by the authority would not be inconsis-
7 tent with the public interest. The [~~division of parole~~] department of
8 corrections and community supervision may charge the licensee or appli-
9 cant a fee equivalent to the expenses of an appropriate investigation
10 under this subdivision. For any conviction rendered by a court of this
11 state, the authority may request the corporation, if the corporation is
12 eligible for a certificate of relief from disabilities, to seek such a
13 certificate from the court which rendered the conviction and to submit
14 such a certificate as part of the authority's discretionary review proc-
15 ess.

16 4. A copartnership or a corporation, unless each member of the part-
17 nership, or each of the principal officers and directors of the corpo-
18 ration, is a citizen of the United States or an alien lawfully admitted
19 for permanent residence in the United States, not less than twenty-one
20 years of age, and has not been convicted of any felony or any of the
21 misdemeanors, specified in section eleven hundred forty-six of the
22 former penal law as in force and effect immediately prior to September
23 first, nineteen hundred sixty-seven, or of an offense defined in section
24 230.20 or 230.40 of the penal law, or if so convicted has received,
25 subsequent to such conviction, an executive pardon therefor removing
26 this disability a certificate of good conduct granted by the [~~board of~~
27 ~~parole~~] department of corrections and community supervision, or a
28 certificate of relief from disabilities granted by the [~~board of parole~~]
29 department of corrections and community supervision or a court of this
30 state pursuant to the provisions of article twenty-three of the
31 correction law to remove the disability under this section because of
32 such conviction; provided however that a corporation which otherwise
33 conforms to the requirements of this section and chapter may be licensed
34 if each of its principal officers and more than one-half of its direc-
35 tors are citizens of the United States or aliens lawfully admitted for
36 permanent residence in the United States; and provided further that a
37 corporation organized under the not-for-profit corporation law or the
38 education law which otherwise conforms to the requirements of this
39 section and chapter may be licensed if each of its principal officers
40 and more than one-half of its directors are not less than twenty-one
41 years of age and none of its directors are less than eighteen years of
42 age; and provided further that a corporation organized under the not-
43 for-profit corporation law or the education law and located on the prem-
44 ises of a college as defined by section two of the education law which
45 otherwise conforms to the requirements of this section and chapter may
46 be licensed if each of its principal officers and each of its directors
47 are not less than eighteen years of age.

48 § 51. Subparagraph (i) of paragraph 1 and paragraph 3 of subdivision
49 (f) of section 1101 of the civil practice law and rules, as added by
50 section 1 of part D of chapter 412 of the laws of 1999, are amended to
51 read as follows:

52 (i) in the case of a state inmate who has been transferred from anoth-
53 er state correctional facility, the court shall obtain a trust fund
54 account statement for the six month period from the central office of
55 the department of [~~correctional services~~] corrections and community
56 supervision in Albany; or

1 3. The institution at which an inmate is confined, or the central
2 office for the department of [~~correctional services~~] corrections and
3 community supervision, whichever is applicable, shall promptly provide
4 the trust fund account statement to the inmate as required by this
5 subdivision.

6 § 52. Section 5011 of the civil practice law and rules, as amended by
7 section 50 of part A-1 of chapter 56 of the laws of 2010, is amended to
8 read as follows:

9 § 5011. Definition and content of judgment. A judgment is the determi-
10 nation of the rights of the parties in an action or special proceeding
11 and may be either interlocutory or final. A judgment shall refer to, and
12 state the result of, the verdict or decision, or recite the default upon
13 which it is based. A judgment may direct that property be paid into
14 court when the party would not have the benefit or use or control of
15 such property or where special circumstances make it desirable that
16 payment or delivery to the party entitled to it should be withheld. In
17 any case where damages are awarded to an inmate serving a sentence of
18 imprisonment with the state department of [~~correctional services~~]
19 corrections and community supervision or to a prisoner confined at a
20 local correctional facility, the court shall give prompt written notice
21 to the office of victim services, and at the same time shall direct that
22 no payment be made to such inmate or prisoner for a period of thirty
23 days following the date of entry of the order containing such direction.

24 § 53. Subdivision 1 of section 50-a of the civil rights law, as
25 amended by chapter 137 of the laws of 2002, is amended to read as
26 follows:

27 1. All personnel records[~~r~~] used to evaluate performance toward
28 continued employment or promotion, under the control of any police agen-
29 cy or department of the state or any political subdivision thereof
30 including authorities or agencies maintaining police forces of individ-
31 uals defined as police officers in section 1.20 of the criminal proced-
32 ure law and such personnel records under the control of a sheriff's
33 department or a department of correction of individuals employed as
34 correction officers and such personnel records under the control of a
35 paid fire department or force of individuals employed as firefighters or
36 firefighter/paramedics and such personnel records under the control of
37 the [~~division of parole~~] department of corrections and community super-
38 vision for individuals defined as peace officers pursuant to subdivi-
39 sions twenty-three and twenty-three-a of section 2.10 of the criminal
40 procedure law shall be considered confidential and not subject to
41 inspection or review without the express written consent of such police
42 officer, firefighter, firefighter/paramedic, correction officer or peace
43 officer within the [~~division of parole~~] department of corrections and
44 community supervision except as may be mandated by lawful court order.

45 § 54. Subdivision 2 of section 61 of the civil rights law, as amended
46 by chapter 320 of the laws of 2006, is amended to read as follows:

47 2. If the petitioner stands convicted of a violent felony offense as
48 defined in section 70.02 of the penal law or a felony defined in article
49 one hundred twenty-five of such law or any of the following provisions
50 of such law sections 130.25, 130.30, 130.40, 130.45, 255.25, 255.26,
51 255.27, article two hundred sixty-three, 135.10, 135.25, 230.05, 230.06,
52 subdivision two of section 230.30 or 230.32, and is currently confined
53 as an inmate in any correctional facility or currently under the super-
54 vision of the [~~state division of parole~~] department of corrections and
55 community supervision or a county probation department as a result of
56 such conviction, the petition shall for each such conviction specify

1 such felony conviction, the date of such conviction or convictions, and
2 the court in which such conviction or convictions were entered.

3 § 55. Subdivision 2 of section 62 of the civil rights law, as amended
4 by chapter 320 of the laws of 2006, is amended to read as follows:

5 2. If the petition be to change the name of a person currently
6 confined as an inmate in any correctional facility or currently under
7 the supervision of the [~~state division of parole~~] department of
8 corrections and community supervision or a county probation department
9 as a result of a conviction for a violent felony offense as defined in
10 section 70.02 of the penal law or a felony defined in article one
11 hundred twenty-five of such law or any of the following provisions of
12 such law sections 130.25, 130.30, 130.40, 130.45, 255.25, 255.26,
13 255.27, article two hundred sixty-three, 135.10, 135.25, 230.05, 230.06,
14 subdivision two of section 230.30 or 230.32, notice of the time and
15 place when and where the petition will be presented shall be served, in
16 like manner as a notice of a motion upon an attorney in an action, upon
17 the district attorney of every county in which such person has been
18 convicted of such felony and upon the court or courts in which the
19 sentence for such felony was entered. Unless a shorter period of time is
20 ordered by the court, said notice shall be served upon each such
21 district attorney and court or courts not less than sixty days prior to
22 the date on which such petition is noticed to be heard.

23 § 56. Subdivision 2 and paragraph (a) of subdivision 3 of section 79
24 of the civil rights law, as amended by chapter 687 of the laws of 1973,
25 are amended to read as follows:

26 2. A sentence of imprisonment in a state correctional institution for
27 any term less than for life or a sentence of imprisonment in a state
28 correctional institution for an indeterminate term, having a minimum of
29 one day and a maximum of natural life shall not be deemed to suspend the
30 right or capacity of any person so sentenced to commence and prosecute
31 an action or proceeding in any court within this state or before a body
32 or officer exercising judicial, quasi-judicial or administrative func-
33 tions within this state; provided, however, that where at the time of
34 the commencement and during the prosecution of such action or proceeding
35 such person is an inmate of a state correctional institution, he shall
36 not appear at any place other than within the institution for any
37 purpose related to such action or proceeding unless upon a subpoena
38 issued by the court before whom such action or proceeding is pending or,
39 where such action or proceeding is pending before a body or officer,
40 before a judge to whom a petition for habeas corpus could be made under
41 subdivision (b) of section seven thousand two of the civil practice law
42 and rules upon motion of any party and upon a determination that such
43 person's appearance is essential to the proper and just disposition of
44 the action or proceeding. Unless the court orders otherwise, a motion
45 for such subpoena shall be made on at least two days' notice to the
46 commissioner of [~~correctional services~~] corrections and community super-
47 vision.

48 (a) Except as provided in paragraph (b), the state shall not be liable
49 for any expense of or related to any such action or proceeding, includ-
50 ing but not limited to the expense of or related to transporting the
51 inmate to, or lodging or guarding him at any place other than in a state
52 correctional institution. The [~~Department~~] department of [~~Correctional~~
53 ~~Services~~] corrections and community supervision shall not be required to
54 perform any services related to such action or proceeding, including but
55 not limited to transporting the inmate to or lodging or guarding him at

1 any place other than a state correctional institution unless and until
2 the [~~Department~~] department has received payment for such services.

3 § 57. Subdivisions 1 and 2 and paragraph (a) of subdivision 3 of
4 section 79-a of the civil rights law, subdivision 1 as amended by chap-
5 ter 118 of the laws of 1981 and subdivision 2 and paragraph (a) of
6 subdivision 3 as added by chapter 687 of the laws of 1973, are amended
7 to read as follows:

8 1. Except as provided in subdivisions two and three, a person
9 sentenced to imprisonment for life is thereafter deemed civilly dead;
10 provided, that such a person may marry while on [~~parole~~] community
11 supervision, or after he or she has been discharged from [~~parole~~] commu-
12 nity supervision, if otherwise capable of contracting a valid marriage.
13 A marriage contracted pursuant to this section by a person while he or
14 she is on [~~parole~~] community supervision, without prior written approval
15 of the [~~board of parole~~] commissioner of corrections and community
16 supervision, shall be ground for revocation of the [~~parole~~] community
17 supervision. This section shall not be deemed to impair the validity of
18 a marriage between a person sentenced to imprisonment for life and his
19 or her spouse.

20 2. A sentence to imprisonment for life shall not be deemed to suspend
21 the right or capacity of any person so sentenced to commence, prosecute
22 or defend an action or proceeding in any court within this state or
23 before a body or officer exercising judicial, quasi-judicial or adminis-
24 trative functions within this state; provided, however, that where at
25 the time of the commencement and during the prosecution or defense of
26 such action or proceeding such person is an inmate of a state correc-
27 tional institution, he or she shall not appear at any place other than
28 within the institution for any purpose related to such action or
29 proceeding unless upon a subpoena issued by the court before whom such
30 action or proceeding is pending or, where such action or proceeding is
31 pending before a body or officer, before a judge to whom a petition for
32 habeas corpus could be made under subdivision (b) of section seven thou-
33 sand two of the civil practice law and rules upon motion of any party
34 and upon a determination that such person's appearance is essential to
35 the proper and just disposition of the action or proceeding. Unless the
36 court orders otherwise, a motion for such subpoena shall be made on at
37 least two days' notice to the commissioner of [~~correctional services~~]
38 corrections and community supervision.

39 (a) Except as provided in paragraph (b), the state shall not be liable
40 for any expense of or related to any such action or proceeding, includ-
41 ing but not limited to the expense of or related to transporting the
42 inmate to, or lodging or guarding him or her at any place other than in
43 a state correctional institution. The [~~Department~~] department of
44 [~~Correctional Services~~] corrections and community supervision shall not
45 be required to perform any services related to such action or proceed-
46 ing, including but not limited to transporting the inmate to or lodging
47 or guarding him or her at any place other than a state correctional
48 institution unless and until the [~~Department~~] department has received
49 payment for such services.

50 § 58. Subparagraphs (ii) and (iv) of paragraph (c) of subdivision 4 of
51 section 58 of the civil service law, as amended by chapter 190 of the
52 laws of 2008, are amended to read as follows:

53 (ii) Notwithstanding any other provision of law, in any jurisdiction,
54 other than a city with a population of one million or more or the state
55 department of [~~correctional services~~] corrections and community super-
56 vision, which does not administer examinations for designation to detec-

1 tive or investigator, any person who has received permanent appointment
2 to the position of police officer, correction officer of any rank or
3 deputy sheriff and is temporarily assigned to perform the duties of
4 detective or investigator shall, whenever such assignment to the duties
5 of a detective or investigator exceeds eighteen months, be permanently
6 designated as a detective or investigator and receive the compensation
7 ordinarily paid to persons in such designation.

8 (iv) Detectives and investigators designated since September twenty-
9 third, nineteen hundred ninety and prior to February twenty-fourth,
10 nineteen hundred ninety-five by any state, county, town, village or city
11 (other than a city with a population of one million or more or the state
12 department of [~~correctional services~~] corrections and community super-
13 vision) police, correction or sheriffs department, pursuant to the
14 provisions of this paragraph in effect during such period, who continue
15 to serve in such positions, shall retain their detective or investigator
16 status without any right to retroactive financial entitlement.

17 § 59. Subdivision 2 of section 59-a of the civil service law, as
18 amended by chapter 190 of the laws of 2008, is amended to read as
19 follows:

20 2. Notwithstanding the provisions of this chapter or any provisions to
21 the contrary contained in any general, special, or local laws, any
22 person holding a permanent competitive class appointment as a police
23 officer, correction officer of any rank or deputy sheriff in a police
24 force, police department or sheriffs department in a jurisdiction other
25 than a city with a population of one million or more or the state
26 department of [~~correctional services~~] corrections and community super-
27 vision, who was serving in a detective or investigator capacity, as
28 designated by such police force, police department or sheriffs depart-
29 ment, on the date such position was classified by the local civil
30 service commission having jurisdiction and for at least eighteen months
31 immediately preceding such date, shall receive a permanent appointment
32 to a detective or investigator position, in such title as may be proper-
33 ly classified by the local civil service commission having jurisdiction,
34 without further examination or qualifications and shall have all the
35 rights and privileges of the jurisdictional class to which such position
36 may be allocated.

37 § 60. Subparagraph 6 of paragraph b and the opening paragraphs of
38 paragraphs g and j of subdivision 1 of section 130 of the civil service
39 law, subparagraph 6 of paragraph b as added by chapter 4 of the laws of
40 2007, the opening paragraph of paragraph g as added by chapter 214 of
41 the laws of 2009 and the opening paragraph of paragraph j as added by
42 chapter 152 of the laws of 2010, are amended to read as follows:

43 (6) Effective on the dates indicated in paragraph i of this subdivi-
44 sion, salary grades for positions in the competitive, non-competitive
45 and labor classes of the classified service of the state of New York in
46 the collective negotiating unit designated as the security supervisors
47 unit established pursuant to article fourteen of this chapter who are
48 police officers pursuant to subdivision thirty-four of section 1.20 of
49 the criminal procedure law, except those members designated as police
50 officers pursuant to chapter six hundred ninety-three of the laws of two
51 thousand six, shall be as prescribed in paragraph i of this subdivision.
52 Effective on the dates indicated in paragraph j of this subdivision,
53 salary grades for positions in the competitive, non-competitive and
54 labor classes of the classified service of the state of New York in the
55 collective negotiating unit designated as the security supervisors unit
56 established pursuant to article fourteen of this chapter who are

1 employed by the state department of [~~correctional services~~] corrections
2 and community supervision and are designated as peace officers pursuant
3 to subdivision twenty-five of section 2.10 of the criminal procedure law
4 shall be as prescribed in paragraph j of this subdivision.

5 Pursuant to the terms of an interest arbitration award issued pursuant
6 to subdivision four of section two hundred nine of this chapter covering
7 members of the security services collective negotiating unit who are
8 employed within the state department of [~~correctional services~~]
9 corrections and community supervision and who are designated as peace
10 officers pursuant to section 2.10 of the criminal procedure law, effec-
11 tive on the dates indicated, salary grades for such unit members shall
12 be as follows:

13 Pursuant to the terms of an agreement between the state and an employ-
14 ee organization entered into pursuant to article fourteen of [~~the civil~~
15 ~~service law~~] this chapter covering members of the collective negotiating
16 unit designated as security supervisors who are employed by the state
17 department of [~~correctional services~~] corrections and community super-
18 vision and are designated as peace officers pursuant to subdivision
19 twenty-five of section 2.10 of the criminal procedure law, effective on
20 the dates indicated, salary grades for such unit members shall be as
21 follows:

22 § 61. Subdivision 2 of section 134 of the civil service law, as
23 amended by chapter 373 of the laws of 1958, is amended to read as
24 follows:

25 2. Any person employed by the state in any institution under the
26 jurisdiction of the department of mental hygiene, the department of
27 [~~correction~~] corrections and community supervision, the department of
28 health or the department of social welfare, or in the state barge canal
29 system, or in the New York state school for the blind, Batavia, or in
30 the New York state veterans' rest camp, Mt. McGregor, whose hours of
31 labor are limited to forty hours per week, or six days per week, by law
32 or administrative regulation, who is not allowed time off by the
33 appointing officer, during any fiscal year commencing on or after April
34 first, nineteen hundred forty-six, for any holiday, pass day or vacation
35 period which he was eligible to receive by law or by administrative
36 regulation, shall, upon the approval of the superintendent or other head
37 of such institution or department and the director of the budget, be
38 entitled to compensation therefor at the hourly rate of pay received by
39 such employee, or shall be allowed an equivalent amount of time off in
40 lieu of such compensation.

41 § 62. Subdivisions 1, 2 and 3 of section 136 of the civil service law,
42 subdivisions 1 and 3 as separately amended by chapters 471 and 474 of
43 the laws of 1980, and subdivision 2 as amended by chapter 74 of the laws
44 of 2000, are amended to read as follows:

45 1. The term "teacher", for purposes of this section, means any employ-
46 ee of a state facility or institution in the [~~division for youth~~] office
47 of children and family services in the executive department and in the
48 departments of [~~correctional services~~] corrections and community super-
49 vision, health, mental hygiene and social services holding a position
50 the principal duty of which is the teaching or instruction of patients
51 or inmates, or the direct supervision of such teaching or instruction,
52 including an institution education director, as determined by the
53 department of civil service subject to approval of the director of the
54 budget.

55 2. The annual salary of a teacher shall be determined in accordance
56 with the provisions of this article. Commencing July first, two thou-

1 sand, the total salary which a teacher would otherwise be entitled to
2 receive for any year beginning on July first shall be paid over either
3 (a) a period of consecutive months beginning with the first day of the
4 facility's or institution's academic year, as determined by the employ-
5 er, and ending with the last day of the facility's or institution's
6 academic year, as determined by the employer or, in the case of a teach-
7 er in the department of [~~correctional services~~] corrections and communi-
8 ty supervision, over a period of ten consecutive months designated by
9 the commissioner of [~~correctional services~~] corrections and community
10 supervision or (b) a period of twelve months from September first to
11 August thirty-first. Any such teacher who is required to work in his
12 position or in any other position allocated to a salary grade in section
13 one hundred thirty of this chapter in the period of time that is outside
14 the facility's or institution's academic year, as determined by the
15 employer or, in the case of a teacher in the department of [~~correctional~~
16 ~~services~~] corrections and community supervision in the two month period
17 outside of the ten consecutive months designated by the commissioner of
18 [~~correctional services~~] corrections and community supervision shall
19 receive additional compensation therefor. If such work is performed in
20 his regular position or title or in a position the title of which is
21 allocated to the same salary grade as his regular position, he shall
22 receive additional compensation therefor at the hourly rate of pay
23 received by him in his regular position. If such work is performed in a
24 position having a title allocated to a lower salary grade than the sala-
25 ry grade to which the title of his regular position is allocated, he
26 shall receive additional compensation therefor at the hourly rate of pay
27 of the job rate of the grade of the position in which such work is
28 performed, or at such job rate plus the additional increment or incre-
29 ments of such grade if he would be entitled to such additional increment
30 or increments were he then appointed to such position; provided, howev-
31 er, that when such hourly rate exceeds the hourly rate of pay received
32 by him in his regular position, his additional compensation shall be at
33 the hourly rate of pay of his regular position. When such work is
34 performed in a position allocated to a salary grade higher than the
35 salary grade to which his regular position is allocated, he shall
36 receive additional compensation therefor at the hourly rate of pay of
37 the rate of compensation to which he would be entitled if he were perma-
38 nently promoted to the position in which such work is performed.

39 3. Teachers shall not be subject to the rules governing sick leaves,
40 vacations, time allowances and other conditions of employment in the
41 classified service of the state established pursuant to paragraph (c) of
42 subdivision one [~~(e)~~] of section six of the civil service law. The
43 director of the [~~division for youth~~] office of children and family
44 services, the commissioner of [~~correctional services~~] corrections and
45 community supervision, the commissioner of health, the commissioner of
46 mental [~~hygiene~~] health and the commissioner of social services, respec-
47 tively, shall adopt regulations for sick leaves, vacations, time allow-
48 ances and other conditions of employment which shall be applicable to
49 teachers under its or his jurisdiction and, notwithstanding any other
50 provision of law, such rules may provide for cash payment of the mone-
51 tary value of accumulated and unused vacation and time allowances grant-
52 ed in lieu of overtime compensation standing to the credit of an employ-
53 ee at the time of his separation from service or his entrance into the
54 armed forces of the United States for active duty (other than for train-
55 ing) as defined in title ten of the United States code, whether or not
56 such entrance constitutes a separation from service, and for the payment

1 of the monetary value of his accumulated and unused time allowances
2 granted in lieu of overtime compensation standing to the credit of an
3 employee at the time of his appointment, promotion or transfer to another
4 department or agency of the state. Such rules shall be subject to
5 approval of the state civil service commission.

6 § 63. Paragraph (a) of subdivision 1 of section 178 of the civil
7 service law, as added by chapter 390 of the laws of 2005, is amended to
8 read as follows:

9 (a) "Assailant" means a person arrested and charged with a crime, as
10 defined in section 10.00 of the penal law, or a person committed to,
11 certified to, or placed in the custody of the department of
12 [~~corrections~~] corrections and community supervision or any other correc-
13 tional facility or county jail.

14 § 64. Subdivision 2, the opening paragraph and paragraph (f) of subdivi-
15 sion 4 of section 209 of the civil service law, subdivision 2 and the
16 opening paragraph of subdivision 4 as amended by chapter 234 of the laws
17 of 2008, paragraph (f) of subdivision 4 as amended by chapter 179 of the
18 laws of 2008, are amended to read as follows:

19 2. Public employers are hereby empowered to enter into written agree-
20 ments with recognized or certified employee organizations setting forth
21 procedures to be invoked in the event of disputes which reach an impasse
22 in the course of collective negotiations. Such agreements may include
23 the undertaking by each party to submit unresolved issues to impartial
24 arbitration. In the absence or upon the failure of such procedures,
25 public employers and employee organizations may request the board to
26 render assistance as provided in this section, or the board may render
27 such assistance on its own motion, as provided in subdivision three of
28 this section, or, in regard to officers or members of any organized fire
29 department, or any unit of the public employer which previously was a
30 part of an organized fire department whose primary mission includes the
31 prevention and control of aircraft fires, police force or police depart-
32 ment of any county, city, town, village or fire or police district, or
33 detective-investigators, or rackets investigators employed in the office
34 of a district attorney of a county, or in regard to any organized unit
35 of troopers, commissioned or noncommissioned officers of the division of
36 state police, or in regard to investigators, senior investigators and
37 investigator specialists of the division of state police, or in regard
38 to members of collective negotiating units designated as security
39 services and security supervisors who are police officers, who are
40 forest ranger captains or who are employed by the state department of
41 [~~correctional services~~] corrections and community supervision and are
42 designated as peace officers pursuant to subdivision twenty-five of
43 section 2.10 of the criminal procedure law, or in regard to members of
44 the collective negotiating unit designated as the agency law enforcement
45 services unit who are police officers pursuant to subdivision thirty-
46 four of section 1.20 of the criminal procedure law or who are forest
47 rangers, or in regard to organized units of deputy sheriffs who are
48 engaged directly in criminal law enforcement activities that aggregate
49 more than fifty per centum of their service as certified by the county
50 sheriff and are police officers pursuant to subdivision thirty-four of
51 section 1.20 of the criminal procedure law as certified by the municipal
52 police training council or Suffolk county correction officers or Suffolk
53 county park police, as provided in subdivision four of this section.

54 On request of either party or upon its own motion, as provided in
55 subdivision two of this section, and in the event the board determines
56 that an impasse exists in collective negotiations between such employee

1 organization and a public employer as to the conditions of employment of
2 officers or members of any organized fire department, or any other unit
3 of the public employer which previously was a part of an organized fire
4 department whose primary mission includes the prevention and control of
5 aircraft fires, police force or police department of any county, city,
6 town, village or fire or police district, and detective-investigators,
7 criminal investigators or rackets investigators employed in the office
8 of a district attorney, or as to the conditions of employment of members
9 of any organized unit of troopers, commissioned or noncommissioned offi-
10 cers of the division of state police or as to the conditions of employ-
11 ment of members of any organized unit of investigators, senior investi-
12 gators and investigator specialists of the division of state police, or
13 as to the terms and conditions of employment of members of collective
14 negotiating units designated as security services and security supervi-
15 sors, who are police officers, who are forest ranger captains or who are
16 employed by the state department of [~~correctional services~~] corrections
17 and community supervision and are designated as peace officers pursuant
18 to subdivision twenty-five of section 2.10 of the criminal procedure
19 law, or in regard to members of the collective negotiating unit desig-
20 nated as the agency law enforcement services unit who are police offi-
21 cers pursuant to subdivision thirty-four of section 1.20 of the criminal
22 procedure law or who are forest rangers, or as to the conditions of
23 employment of any organized unit of deputy sheriffs who are engaged
24 directly in criminal law enforcement activities that aggregate more than
25 fifty per centum of their service as certified by the county sheriff and
26 are police officers pursuant to subdivision thirty-four of section 1.20
27 of the criminal procedure law as certified by the municipal police
28 training council or Suffolk county correction officers or Suffolk county
29 park police, the board shall render assistance as follows:

30 (f) With regard to any members of collective negotiating units desig-
31 nated as security services or security supervisors, who are police offi-
32 cers, who are forest ranger captains or who are employed by the state
33 department of [~~correctional services~~] corrections and community super-
34 vision and are designated as peace officers pursuant to subdivision
35 twenty-five of section 2.10 of the criminal procedure law, or in regard
36 to members of the collective negotiating unit designated as the agency
37 law enforcement services unit who are police officers pursuant to subdi-
38 vision thirty-four of section 1.20 of the criminal procedure law or who
39 are forest rangers, or in regard to detective-investigators, criminal
40 investigators or rackets investigators employed in the office of a
41 district attorney of a county contained within a city with a population
42 of one million or more, the provisions of this section shall only apply
43 to the terms of collective bargaining agreements directly relating to
44 compensation, including, but not limited to, salary, stipends, location
45 pay, insurance, medical and hospitalization benefits; and shall not
46 apply to non-compensatory issues including, but not limited to, job
47 security, disciplinary procedures and actions, deployment or scheduling,
48 or issues relating to eligibility for overtime compensation which shall
49 be governed by other provisions proscribed by law.

50 § 65. Section 217-a of the county law, as added by chapter 134 of the
51 laws of 1984, is amended to read as follows:

52 § 217-a. Qualification for employment as a county correction officer.
53 A county may adopt the provisions contained in section twenty-two-a of
54 the correction law relating to qualifications of its officials who may
55 thereafter be appointed in a law enforcement capacity in any of its
56 penal correctional institutions. Any determination that would otherwise

1 be made by the commissioner or his or her designee of the department of
2 [~~correctional services~~] corrections and community supervision under the
3 provisions of section twenty-two-a of the correction law, shall, if such
4 provisions are so adopted, be made by the appointing authority for such
5 officials.

6 § 66. Subdivision 4 of section 652 of the county law is amended to
7 read as follows:

8 4. Before the appointment by a sheriff of any person as an undersher-
9 iff or a deputy, other than a person deputed to do particular acts, the
10 sheriff shall require such person to, and such person shall, submit to
11 the sheriff fingerprints of [~~the two hands of~~] such person, in the form
12 and manner prescribed by the division of criminal justice services, and
13 it shall thereupon be the duty of the sheriff to compare, or cause to be
14 compared such fingerprints with fingerprints filed with the division of
15 criminal [~~identification of the state department of correction~~] justice
16 services; provided, however, that in any case where the fingerprints of
17 any such person shall once have been submitted pursuant to this section
18 and are on file in the office of the sheriff, no new submission thereof
19 shall be required, nor shall the sheriff be required to make or cause to
20 be made such comparison if such comparison shall have been made previ-
21 ously and certification thereof by such department is on file in his
22 office.

23 § 67. Subdivision 9 of section 10 of the court of claims act, as added
24 by section 2 of part D of chapter 412 of the laws of 1999, is amended to
25 read as follows:

26 9. A claim of any inmate in the custody of the department of [~~correc-~~
27 ~~tional services~~] corrections and community supervision for recovery of
28 damages for injury to or loss of personal property may not be filed
29 unless and until the inmate has exhausted the personal property claims
30 administrative remedy, established for inmates by the department. Such
31 claim must be filed and served within one hundred twenty days after the
32 date on which the inmate has exhausted such remedy.

33 § 68. Subdivision 6-a of section 20 of the court of claims act, as
34 amended by section 46 of part A-1 of chapter 56 of the laws of 2010, is
35 amended to read as follows:

36 6-a. Notwithstanding the provisions of subdivisions five, five-a and
37 six of this section, in any case where a judgment or any part thereof is
38 to be paid to an inmate serving a sentence of imprisonment with the
39 state department of [~~correctional services~~] corrections and community
40 supervision or to a prisoner confined at a local correctional facility,
41 the comptroller shall give written notice, if required pursuant to
42 subdivision two of section six hundred thirty-two-a of the executive
43 law, to the office of victim services that such judgment shall be paid
44 thirty days after the date of such notice.

45 § 69. Section 20-a of the court of claims act, as amended by chapter
46 62 of the laws of 2001, is amended to read as follows:

47 § 20-a. Settlement of claims. Notwithstanding any inconsistent
48 provision of this act or of the state finance law, the comptroller shall
49 examine, audit, and certify for payment the settlement of any claim
50 filed in the court of claims for injuries to personal property, real
51 property, or for personal injuries caused by the tort of an officer or
52 employee of the state while acting as such officer or employee, provided
53 that a stipulation of settlement executed by the parties shall have been
54 approved by order of the court. No such stipulation shall be executed on
55 behalf of the state without, after consultation with the director of the
56 budget, the approval of the head of the department or agency having

1 supervision of the officer or employee alleged to have caused the inju-
2 ries and of the attorney general. The attorney general shall cause a
3 review to be made within the department of law of all cases filed in the
4 court of claims to determine which cases are appropriate for possible
5 settlement. Payment of any claim made pursuant to the approval of a
6 settlement by the court shall be made from the funds appropriated for
7 the purpose of payment of judgments against the state pursuant to
8 section twenty of this act. In any case where payment is to be made to
9 an inmate serving a sentence of imprisonment with the state department
10 of ~~correctional services~~ corrections and community supervision or to a
11 prisoner confined at a local correctional facility, the procedures set
12 forth in subdivision six-a of section twenty of this article shall be
13 followed. On or before January fifteenth the comptroller, in consulta-
14 tion with the department of law and other agencies as may be appropri-
15 ate, shall submit to the governor and the legislature an annual account-
16 ing of settlements paid pursuant to this section during the preceding
17 and current fiscal years. Such accounting shall include, but not be
18 limited to the number, type and amount of claims so paid, as well as an
19 estimate of claims to be paid during the remainder of the current fiscal
20 year and during the following fiscal year.

21 § 70. Subdivisions 23, 23-a and 25 of section 2.10 of the criminal
22 procedure law, subdivisions 23 and 25 as added by chapter 843 of the
23 laws of 1980, and subdivision 23-a as added by chapter 404 of the laws
24 of 2000, are amended to read as follows:

25 23. Parole officers or warrant officers in the ~~[division of parole]~~
26 department of corrections and community supervision.

27 23-a. Parole revocation specialists in the ~~[division of parole]~~
28 department of corrections and community supervision; provided, however,
29 that nothing in this subdivision shall be deemed to authorize such
30 employee to carry, possess, repair or dispose of a firearm unless the
31 appropriate license therefor has been issued pursuant to section 400.00
32 of the penal law.

33 25. Officials, as designated by the commissioner of the department of
34 ~~correctional services~~ corrections and community supervision pursuant
35 to rules of the department, and correction officers of any state correc-
36 tional facility or of any penal correctional institution.

37 § 71. Section 120.55 of the criminal procedure law, as amended by
38 chapter 456 of the laws of 1981, is amended to read as follows:

39 § 120.55 ~~Warrant~~ Warrant of arrest; ~~defendant~~ defendant
40 or probation supervision.

41 If the defendant named within a warrant of arrest issued by a local
42 criminal court pursuant to the provisions of this article, or by a supe-
43 rior court issued pursuant to subdivision three of section 210.10 of
44 ~~such~~ this chapter, is under the supervision of the state ~~[division of~~
45 ~~parole]~~ department of corrections and community supervision or a local
46 or state probation department, then a warrant for his or her arrest may
47 be executed by a parole officer or probation officer, when authorized by
48 his or her probation director, within his or her geographical area of
49 employment. The execution of the warrant by a parole officer or
50 probation officer shall be upon the same conditions and conducted in the
51 same manner as provided for execution of a warrant by a police officer.

52 § 72. Subdivisions 1, 2, 3 and 5 of section 140.10 of the criminal
53 procedure law, subdivisions 1, 2 and 3 as amended by chapter 997 of the
54 laws of 1970, paragraph (a) of subdivision 2 as amended by chapter 300
55 of the laws of 2003, and subdivision 5 as amended by chapter 476 of the
56 laws of 2009, are amended to read as follows:

1 § 140.10 Arrest without a warrant; by police officer; when and where
2 authorized.

3 1. Subject to the provisions of subdivision two, a police officer may
4 arrest a person for:

5 (a) Any offense when he or she has reasonable cause to believe that
6 such person has committed such offense in his or her presence; and

7 (b) A crime when he or she has reasonable cause to believe that such
8 person has committed such crime, whether in his or her presence or
9 otherwise.

10 2. A police officer may arrest a person for a petty offense, pursuant
11 to subdivision one, only when:

12 (a) Such offense was committed or believed by him or her to have been
13 committed within the geographical area of such police officer's employ-
14 ment or within one hundred yards of such geographical area; and

15 (b) Such arrest is made in the county in which such offense was
16 committed or believed to have been committed or in an adjoining county;
17 except that the police officer may follow such person in continuous
18 close pursuit, commencing either in the county in which the offense was
19 or is believed to have been committed or in an adjoining county, in
20 through any county of the state, and may arrest him or her in any county
21 in which he or she apprehends him or her.

22 3. A police officer may arrest a person for a crime, pursuant to
23 subdivision one, whether or not such crime was committed within the
24 geographical area of such police officer's employment, and he or she may
25 make such arrest within the state, regardless of the situs of the
26 commission of the crime. In addition, he or she may, if necessary,
27 pursue such person outside the state and may arrest him or her in any
28 state the laws of which contain provisions equivalent to those of
29 section 140.55.

30 5. Upon investigating a report of a crime or offense between members
31 of the same family or household as such terms are defined in section
32 530.11 of this chapter and section eight hundred twelve of the family
33 court act, a law enforcement officer shall prepare and file a written
34 report of the incident, on a form promulgated pursuant to section eight
35 hundred thirty-seven of the executive law, including statements made by
36 the victim and by any witnesses, and make any additional reports
37 required by local law enforcement policy or regulations. Such report
38 shall be prepared and filed, whether or not an arrest is made as a
39 result of the officers' investigation, and shall be retained by the law
40 enforcement agency for a period of not less than four years. Where the
41 reported incident involved an offense committed against a person who is
42 sixty-five years of age or older a copy of the report required by this
43 subdivision shall be sent to the New York state committee for the coor-
44 dination of police services to elderly persons established pursuant to
45 section eight hundred forty-four-b of the executive law. Where the
46 reported incident involved an offense committed by an individual known
47 by the law enforcement officer to be under probation or parole super-
48 vision, he or she shall transmit a copy of the report as soon as practi-
49 cable to the supervising probation department or the ~~[division of~~
50 ~~parole]~~ department of corrections and community supervision.

51 § 73. Paragraph (d) of subdivision 1 of section 160.50 of the criminal
52 procedure law, as amended by chapter 169 of the laws of 1994, is amended
53 to read as follows:

54 (d) such records shall be made available to the person accused or to
55 such person's designated agent, and shall be made available to (i) a
56 prosecutor in any proceeding in which the accused has moved for an order

1 pursuant to section 170.56 or 210.46 of this chapter, or (ii) a law
2 enforcement agency upon ex parte motion in any superior court, if such
3 agency demonstrates to the satisfaction of the court that justice
4 requires that such records be made available to it, or (iii) any state
5 or local officer or agency with responsibility for the issuance of
6 licenses to possess guns, when the accused has made application for such
7 a license, or (iv) the New York state [~~division of parole~~] department of
8 corrections and community supervision when the accused is on parole
9 supervision as a result of conditional release or a parole release
10 granted by the New York state board of parole, and the arrest which is
11 the subject of the inquiry is one which occurred while the accused was
12 under such supervision or (v) any prospective employer of a police offi-
13 cer or peace officer as those terms are defined in subdivisions thirty-
14 three and thirty-four of section 1.20 of this chapter, in relation to an
15 application for employment as a police officer or peace officer;
16 provided, however, that every person who is an applicant for the posi-
17 tion of police officer or peace officer shall be furnished with a copy
18 of all records obtained under this paragraph and afforded an opportunity
19 to make an explanation thereto, or (vi) the probation department respon-
20 sible for supervision of the accused when the arrest which is the
21 subject of the inquiry is one which occurred while the accused was under
22 such supervision; and

23 § 74. Paragraph (d) of subdivision 1 of section 160.55 of the criminal
24 procedure law, as amended by chapter 476 of the laws of 2009, is amended
25 to read as follows:

26 (d) the records referred to in paragraph (c) of this subdivision shall
27 be made available to the person accused or to such person's designated
28 agent, and shall be made available to (i) a prosecutor in any proceeding
29 in which the accused has moved for an order pursuant to section 170.56
30 or 210.46 of this chapter, or (ii) a law enforcement agency upon ex
31 parte motion in any superior court, if such agency demonstrates to the
32 satisfaction of the court that justice requires that such records be
33 made available to it, or (iii) any state or local officer or agency with
34 responsibility for the issuance of licenses to possess guns, when the
35 accused has made application for such a license, or (iv) the New York
36 state [~~division of parole~~] department of corrections and community
37 supervision when the accused is under parole supervision as a result of
38 conditional release or parole release granted by the New York state
39 board of parole and the arrest which is the subject of the inquiry is
40 one which occurred while the accused was under such supervision, or (v)
41 the probation department responsible for supervision of the accused when
42 the arrest which is the subject of the inquiry is one which occurred
43 while the accused was under such supervision, or (vi) a police agency,
44 probation department, sheriff's office, district attorney's office,
45 department of correction of any municipality and parole department, for
46 law enforcement purposes, upon arrest in instances in which the individ-
47 ual stands convicted of harassment in the second degree, as defined in
48 section 240.26 of the penal law, committed against a member of the same
49 family or household as the defendant, as defined in subdivision one of
50 section 530.11 of this chapter, and determined pursuant to subdivision
51 eight-a of section 170.10 of this title; and

52 § 75. Subdivisions 4 and 5 of section 380.50 of the criminal procedure
53 law, as amended by chapter 7 of the laws of 2007, are amended to read as
54 follows:

55 4. Regardless of whether the victim requests to make a statement with
56 regard to the defendant's sentence, where the defendant is committed to

1 the custody of the department of [~~correctional services~~] corrections and
2 community supervision upon a sentence of imprisonment for conviction of
3 a violent felony offense as defined in section 70.02 of the penal law or
4 a felony defined in article one hundred twenty-five of such law, or a
5 sex offense as defined in subdivision (p) of section 10.03 of the mental
6 hygiene law, within sixty days of the imposition of sentence the prose-
7 cutor shall provide the victim with a form, prepared and distributed by
8 the commissioner of the department of [~~correctional services~~]
9 corrections and community supervision, on which the victim may indicate
10 a demand to be informed of the escape, absconding, discharge, parole,
11 conditional release, release to post-release supervision, transfer to
12 the custody of the office of mental health pursuant to article ten of
13 the mental hygiene law, or release from confinement under article ten of
14 the mental hygiene law of the person so imprisoned. If the victim
15 submits a completed form to the prosecutor, it shall be the duty of the
16 prosecutor to mail promptly such form to the department of [~~correctional~~
17 ~~services~~] corrections and community supervision.

18 5. Following the receipt of such form from the prosecutor, it shall be
19 the duty of the department of [~~correctional services~~] corrections and
20 community supervision or, where the person is committed to the custody
21 of the office of mental health, at the time such person is discharged,
22 paroled, conditionally released, released to post-release supervision,
23 or released from confinement under article ten of the mental hygiene
24 law, to notify the victim of such occurrence by certified mail directed
25 to the address provided by the victim. In the event such person escapes
26 or absconds from a facility under the jurisdiction of the department of
27 [~~correctional services~~] corrections and community supervision, it shall
28 be the duty of such department to notify immediately the victim of such
29 occurrence at the most current address or telephone number provided by
30 the victim in the most reasonable and expedient possible manner. In the
31 event such escapee or absconder is subsequently taken into custody by
32 the department of [~~correctional services~~] corrections and community
33 supervision, it shall be the duty of such department to notify the
34 victim of such occurrence by certified mail directed to the address
35 provided by the victim within forty-eight hours of regaining such custo-
36 dy. In the case of a person who escapes or absconds from confinement
37 under article ten of the mental hygiene law, the office of mental health
38 shall notify the victim or victims in accordance with the procedures set
39 forth in subdivision (g) of section 10.10 of the mental hygiene law. In
40 no case shall the state be held liable for failure to provide any notice
41 required by this subdivision.

42 § 76. Subdivisions 1, 6 and 8 of section 410.91 of the criminal proce-
43 dure law, subdivision 1 as amended by chapter 121 of the laws of 2010
44 and subdivisions 6 and 8 as added by chapter 3 of the laws of 1995, are
45 amended to read as follows:

46 1. A sentence of parole supervision is an indeterminate sentence of
47 imprisonment, or a determinate sentence of imprisonment imposed pursuant
48 to paragraphs (b) and (d) of subdivision three of section 70.70 of the
49 penal law, which may be imposed upon an eligible defendant, as defined
50 in subdivision two of this section. If an indeterminate sentence, such
51 sentence shall have a minimum term and a maximum term within the ranges
52 specified by subdivisions three and four of section 70.06 of the penal
53 law. If a determinate sentence, such sentence shall have a term within
54 the ranges specified by subparagraphs (iii) and (iv) of paragraph (b) of
55 subdivision three of section 70.70 of the penal law. Provided, however,
56 if the court directs that the sentence be executed as a sentence of

1 parole supervision, it shall remand the defendant for immediate delivery
2 to a reception center operated by the state department of [~~correctional~~
3 ~~services~~] corrections and community supervision, in accordance with
4 section 430.20 of this chapter and section six hundred one of the
5 correction law, for a period not to exceed ten days. An individual who
6 receives such a sentence shall be placed under the immediate supervision
7 of the [~~state division of parole~~] department of corrections and communi-
8 ty supervision and must comply with the conditions of parole, which
9 shall include an initial placement in a drug treatment campus for a
10 period of ninety days at which time the defendant shall be released
11 therefrom.

12 6. Upon delivery of the defendant to the reception center, he or she
13 shall be given a copy of the conditions of parole by a representative of
14 the [~~division of parole~~] department of corrections and community super-
15 vision and shall acknowledge receipt of a copy of the conditions in
16 writing. The conditions shall be established in accordance with article
17 twelve-B of the executive law and the rules and regulations of the
18 [~~division~~] board of parole. Thereafter and while the parolee is partic-
19 ipating in the intensive drug treatment program provided at the drug
20 treatment campus, the [~~division of parole~~] department of corrections and
21 community supervision shall assess the parolee's special needs and shall
22 develop an intensive program of parole supervision that will address the
23 parolee's substance abuse history and which shall include periodic
24 urinalysis testing. Unless inappropriate, such program shall include the
25 provision of treatment services by a community-based substance abuse
26 service provider which has a contract with the [~~division of parole~~]
27 department of corrections and community supervision.

28 8. If the parole officer having charge of a person sentenced to parole
29 supervision pursuant to this section has reasonable cause to believe
30 that such person has violated the conditions of his or her parole, the
31 procedures of subdivision three of section two hundred fifty-nine-i of
32 the executive law shall apply to the issuance of a warrant and the
33 conduct of further proceedings; provided, however, that a parole
34 violation warrant issued for a violation committed while the parolee is
35 being supervised at a drug treatment campus shall constitute authority
36 for the immediate placement of the parolee into a correctional facility
37 operated by the department of [~~correctional services~~] corrections and
38 community supervision, which to the extent practicable shall be reason-
39 ably proximate to the place at which the violation occurred, to hold in
40 temporary detention pending completion of the procedures required by
41 subdivision three of section two hundred fifty-nine-i of the executive
42 law.

43 § 77. Subdivisions 2 and 4 of section 430.20 of the criminal procedure
44 law, as amended by chapter 3 of the laws of 1995, are amended to read as
45 follows:

46 2. Indeterminate and determinate sentences. In the case of an indeter-
47 minate or determinate sentence of imprisonment, commitment must be to
48 the custody of the state department of [~~correctional services~~]
49 corrections and community supervision as provided in subdivision one of
50 section 70.20 of the penal law. The order of commitment must direct that
51 the defendant be delivered to an institution designated by the commis-
52 sioner of [~~correctional services~~] corrections and community supervision
53 in accordance with the provisions of the correction law.

54 4. Certain resentences. When a sentence of imprisonment that has been
55 imposed on a defendant is vacated and a new sentence is imposed on such
56 defendant for the same offense, or for an offense based upon the same

1 act, if the term of the new definite or determinate sentence or the
2 maximum term of the new indeterminate sentence so imposed is less than
3 or equal to that of the vacated sentence:

4 (a) where the time served by the defendant on the vacated sentence is
5 equal to or greater than the term or maximum term of the new sentence,
6 the new sentence shall be deemed to be served in its entirety and the
7 defendant shall not be committed to a correctional facility pursuant to
8 said sentence; and

9 (b) where the defendant was under the supervision of a local condi-
10 tional release commission or the [~~division of parole~~] department of
11 corrections and community supervision at the time the sentence was
12 vacated, then the commitment shall direct that said conditional release
13 or parole be recommenced, and the defendant shall not be committed to a
14 correctional facility pursuant to said sentence, except as a result of
15 revocation of parole or of conditional release; and

16 (c) where the defendant was not under the supervision of the [~~division~~
17 ~~of parole~~] department of corrections and community supervision at the
18 time the indeterminate or determinate sentence was vacated, but would
19 immediately be eligible for conditional release from the new indetermi-
20 nate or determinate sentence, the court shall ascertain from the depart-
21 ment of [~~correctional services~~] corrections and community supervision
22 whether the defendant has earned a sufficient amount of good time under
23 the vacated sentence so as to require the conditional release of the
24 defendant under the new sentence; in the event the defendant has earned
25 a sufficient amount of good time, the court shall stay execution of
26 sentence until the defendant surrenders at a correctional facility
27 pursuant to the direction of the department of [~~correctional services~~]
28 corrections and community supervision, which shall occur no later than
29 sixty days after imposition of sentence; upon said stay of execution,
30 the court clerk shall immediately mail to the commissioner of [~~correc-~~
31 ~~tional services~~] corrections and community supervision a certified copy
32 of the commitment reflecting said stay of execution and the name, mail-
33 ing address and telephone number of the defendant's legal represen-
34 tative; in the event the defendant fails to surrender as directed by the
35 department of [~~correctional services~~] corrections and community super-
36 vision, the department shall notify the court which shall thereafter
37 remand the defendant to custody pursuant to section 430.30 of this arti-
38 cle; and

39 (d) upon the resentencing of a defendant as described in this subdivi-
40 sion, the court clerk shall immediately mail a certified copy of the
41 commitment to the commissioner of [~~correctional services~~] corrections
42 and community supervision if the vacated sentence or the new sentence is
43 an indeterminate or determinate sentence and no mailing is required by
44 paragraph (c) of this subdivision; additionally, the court clerk shall
45 immediately mail a certified copy of the new commitment to the head of
46 the appropriate local correctional facility if the vacated sentence or
47 the new sentence is a definite sentence.

48 § 78. Subdivisions 2 and 4 of section 430.20 of the criminal procedure
49 law, subdivision 2 as amended by chapter 788 of the laws of 1971 and
50 subdivision 4 as amended by chapter 370 of the laws of 1994, are amended
51 to read as follows:

52 2. Indeterminate [~~and reformatory~~] sentences. In the case of an inde-
53 terminate [~~or reformatory~~] sentence of imprisonment, commitment must be
54 to the custody of the state department of [~~correctional services~~]
55 corrections and community supervision as provided in subdivision one of
56 section 70.20 [~~and section 75.05~~] of the penal law. The order of commit-

1 ment must direct that the defendant be delivered to an institution
2 designated by the commissioner of [~~correctional services~~] corrections
3 and community supervision in accordance with the provisions of the
4 correction law.

5 4. Certain resentences. When a sentence of imprisonment that has been
6 imposed on a defendant is vacated and a new sentence is imposed on such
7 defendant for the same offense, or for an offense based upon the same
8 act, if the term of the new definite sentence or the maximum term of the
9 new indeterminate sentence so imposed is less than or equal to that of
10 the vacated sentence:

11 (a) where the time served by the defendant on the vacated sentence is
12 equal to or greater than the term or maximum term of the new sentence,
13 the new sentence shall be deemed to be served in its entirety and the
14 defendant shall not be committed to a correctional facility pursuant to
15 said sentence; and

16 (b) where the defendant was under the supervision of a local condi-
17 tional release commission or the [~~division of parole~~] department of
18 corrections and community supervision at the time the sentence was
19 vacated, then the commitment shall direct that said conditional release
20 or parole be recommenced, and the defendant shall not be committed to a
21 correctional facility pursuant to said sentence, except as a result of
22 revocation of parole or of conditional release; and

23 (c) where the defendant was not under the supervision of the [~~division~~
24 ~~of parole~~] department of corrections and community supervision at the
25 time the indeterminate sentence was vacated, but would immediately be
26 eligible for conditional release from the new indeterminate sentence,
27 the court shall ascertain from the department of [~~correctional services~~]
28 corrections and community supervision whether the defendant has earned a
29 sufficient amount of good time under the vacated sentence so as to
30 require the conditional release of the defendant under the new sentence;
31 in the event the defendant has earned a sufficient amount of good time,
32 the court shall stay execution of sentence until the defendant surren-
33 ders at a correctional facility pursuant to the direction of the depart-
34 ment of [~~correctional services~~] corrections and community supervision,
35 which shall occur no later than sixty days after imposition of sentence;
36 upon said stay of execution, the court clerk shall immediately mail to
37 the commissioner of [~~correctional services~~] corrections and community
38 supervision a certified copy of the commitment reflecting said stay of
39 execution and the name, mailing address and telephone number of the
40 defendant's legal representative; in the event the defendant fails to
41 surrender as directed by the department of [~~correctional services~~]
42 corrections and community supervision, the department shall notify the
43 court which shall thereafter remand the defendant to custody pursuant to
44 section 430.30 of this article; and

45 (d) upon the resentence of a defendant as described in this subdivi-
46 sion, the court clerk shall immediately mail a certified copy of the
47 commitment to the commissioner of [~~correctional services~~] corrections
48 and community supervision if the vacated sentence or the new sentence is
49 an indeterminate sentence and no mailing is required by paragraph (c) of
50 this subdivision; additionally, the court clerk shall immediately mail a
51 certified copy of the new commitment to the head of the appropriate
52 local correctional facility if the vacated sentence or the new sentence
53 is a definite sentence.

54 § 79. Subdivision 1 of section 440.46 of the criminal procedure law,
55 as added by section 9 of part AAA of chapter 56 of the laws of 2009, is
56 amended to read as follows:

1 1. Any person in the custody of the department of [~~correctional~~
2 ~~services~~] corrections and community supervision convicted of a class B
3 felony offense defined in article two hundred twenty of the penal law
4 which was committed prior to January thirteenth, two thousand five, who
5 is serving an indeterminate sentence with a maximum term of more than
6 three years, may, except as provided in subdivision five of this
7 section, upon notice to the appropriate district attorney, apply to be
8 resentenced to a determinate sentence in accordance with sections 60.04
9 and 70.70 of the penal law in the court which imposed the sentence.

10 § 80. Subdivision 1 of section 440.50 of the criminal procedure law,
11 as amended by chapter 186 of the laws of 2005, is amended to read as
12 follows:

13 1. Upon the request of a victim of a crime, or in any event in all
14 cases in which the final disposition includes a conviction of a violent
15 felony offense as defined in section 70.02 of the penal law or a felony
16 defined in article one hundred twenty-five of such law, the district
17 attorney shall, within sixty days of the final disposition of the case,
18 inform the victim by letter of such final disposition. If such final
19 disposition results in the commitment of the defendant to the custody of
20 the department of [~~correctional services~~] corrections and community
21 supervision for an indeterminate sentence, the notice provided to the
22 crime victim shall also inform the victim of his or her right to submit
23 a written, audiotaped, or videotaped victim impact statement to the
24 [~~state division of parole~~] department of corrections and community
25 supervision or to meet personally with a member of the state board of
26 parole at a time and place separate from the personal interview between
27 a member or members of the board and the inmate and make such a state-
28 ment, subject to procedures and limitations contained in rules of the
29 board, both pursuant to subdivision two of section two hundred fifty-
30 nine-i of the executive law. The right of the victim under this subdivi-
31 sion to submit a written victim impact statement or to meet personally
32 with a member of the state board of parole applies to each personal
33 interview between a member or members of the board and the inmate.

34 § 81. Subdivisions 8 and 9 of section 530.12 of the criminal procedure
35 law, subdivision 8 as amended by section 5 of part D of chapter 56 of
36 the laws of 2008, and subdivision 9 as amended by chapter 530 of the
37 laws of 1980, are amended to read as follows:

38 8. In any proceeding in which an order of protection or temporary
39 order of protection or a warrant has been issued under this section, the
40 clerk of the court shall issue to the complainant and defendant and
41 defense counsel and to any other person affected by the order a copy of
42 the order of protection or temporary order of protection and ensure that
43 a copy of the order of protection or temporary order of protection be
44 transmitted to the local correctional facility where the individual is
45 or will be detained, the state or local correctional facility where the
46 individual is or will be imprisoned, and the supervising probation
47 department or [~~division of parole~~] department of corrections and commu-
48 nity supervision where the individual is under probation or parole
49 supervision. The presentation of a copy of such order or a warrant to
50 any peace officer acting pursuant to his or her special duties or police
51 officer shall constitute authority for him or her to arrest a person who
52 has violated the terms of such order and bring such person before the
53 court and, otherwise, so far as lies within his or her power, to aid in
54 securing the protection such order was intended to afford.

55 9. If no warrant, order or temporary order of protection has been
56 issued by the court, and an act alleged to be a family offense as

1 defined in section 530.11 of this chapter is the basis of the arrest,
2 the magistrate shall permit the complainant to file a petition, informa-
3 tion or accusatory instrument and for reasonable cause shown, shall
4 thereupon hold such respondent or defendant, admit to, fix or accept
5 bail, or parole him or her for hearing before the family court or appro-
6 priate criminal court as the complainant shall choose in accordance with
7 the provisions of section 530.11 of this chapter.

8 § 82. Subdivision 6 of section 530.13 of the criminal procedure law,
9 as amended by section 6 of part D of chapter 56 of the laws of 2008, is
10 amended to read as follows:

11 6. In any proceeding in which an order of protection or temporary
12 order of protection or a warrant has been issued under this section, the
13 clerk of the court shall issue to the victim and the defendant and
14 defense counsel and to any other person affected by the order, a copy of
15 the order of protection or temporary order of protection and ensure that
16 a copy of the order of protection or temporary order of protection be
17 transmitted to the local correctional facility where the individual is
18 or will be detained, the state or local correctional facility where the
19 individual is or will be imprisoned, and the supervising probation
20 department or [~~division of parole~~] department of corrections and commu-
21 nity supervision where the individual is under probation or parole
22 supervision. The presentation of a copy of such order or a warrant to
23 any police officer or peace officer acting pursuant to his or her
24 special duties shall constitute authority for him or her to arrest a
25 person who has violated the terms of such order and bring such person
26 before the court and, otherwise, so far as lies within his or her power,
27 to aid in securing the protection such order was intended to afford.

28 § 83. Subdivisions 4, 5 and 6 of section 530.70 of the criminal proce-
29 dure law, subdivisions 4 and 5 as added and subdivision 6 as renumbered
30 by chapter 565 of the laws of 1988 and subdivision 6 as amended by chap-
31 ter 456 of the laws of 1981, are amended to read as follows:

32 4. The issuing court may authorize the delegation of such warrant.
33 Where the issuing court has so authorized, a police officer to whom a
34 bench warrant is addressed may delegate another police officer to whom
35 it is not addressed to execute such warrant as his or her agent when:

36 (a) He or she has reasonable cause to believe that the defendant is in
37 a particular county other than the one in which the warrant is return-
38 able; and

39 (b) The geographical area of employment of the delegated police offi-
40 cer embraces the locality where the arrest is to be made.

41 5. Under circumstances specified in subdivision four, the police offi-
42 cer to whom the bench warrant is addressed may inform the delegated
43 officer, by telecommunication, mail or any other means, of the issuance
44 of the warrant, of the offense charged in the underlying accusatory
45 instrument and of all other pertinent details, and may request him or
46 her to act as his or her agent in arresting the defendant pursuant to
47 such bench warrant. Upon such request, the delegated police officer is
48 to the same extent as the delegating officer, authorized to make such
49 arrest pursuant to the bench warrant within the geographical area of
50 such delegated officer's employment. Upon so arresting the defendant, he
51 or she must without unnecessary delay deliver the defendant or cause him
52 or her to be delivered to the custody of the police officer by whom he
53 or she was so delegated, and the latter must then without unnecessary
54 delay bring the defendant before the court in which such bench warrant
55 is returnable.

1 6. A bench warrant may be executed by an officer of the state [~~divi-~~
2 ~~sion of parole~~] department of corrections and community supervision or a
3 probation officer when the person named within the warrant is under the
4 supervision of the [~~division of parole~~] department of corrections and
5 community supervision or a department of probation and the probation
6 officer is authorized by his or her probation director, as the case may
7 be. The warrant must be executed upon the same conditions and in the
8 same manner as is otherwise provided for execution by a police officer.

9 § 84. Section 570.54 of the criminal procedure law, subdivisions 2 and
10 3 as amended by chapter 2 of the laws of 1980, is amended to read as
11 follows:

12 § 570.54 Application for issuance of requisition; by whom made;
13 contents.

14 1. When the return to this state of a person charged with crime in
15 this state is required, the district attorney of the county in which the
16 offense was committed, or, if the offense is one which is cognizable by
17 him or her, the attorney general shall present to the governor his or
18 her written application for a requisition for the return of the person
19 charged, in which application shall be stated the name of the person so
20 charged, the crime charged against him or her, the approximate time,
21 place and circumstances of its commission, the state in which he or she
22 is believed to be, including the location of the accused therein at the
23 time the application is made and certifying that, in the opinion of the
24 said district attorney or attorney general the ends of justice require
25 the arrest and return of the accused to this state for trial and that
26 the proceeding is not instituted to enforce a private claim.

27 2. When there is required the return to this state of a person who
28 has been convicted of a crime in this state and has escaped from
29 confinement or broken the terms of his or her bail, probation or parole,
30 the district attorney of the county in which the offense was committed,
31 [~~the parole board, or~~] the warden of the institution or sheriff of the
32 county, from which escape was made, or the commissioner of the state
33 department of [~~correctional services~~] corrections and community super-
34 vision or his or her designee shall present to the governor a written
35 application for a requisition for the return of such person, in which
36 application shall be stated the name of the person, the crime of which
37 he or she was convicted, the circumstances of his or her escape from
38 confinement or of the breach of the terms of his or her bail, probation
39 or parole, the state in which he or she is believed to be, including the
40 location of the person therein at the time the application is made.

41 3. The application shall be verified by affidavit, shall be executed
42 in duplicate and shall be accompanied by two certified copies of the
43 accusatory instrument stating the offense with which the accused is
44 charged, or of the judgment of conviction or of the sentence. The
45 district attorney, attorney general, [~~parole board,~~] warden, sheriff or
46 the commissioner of the state department of [~~correctional services~~]
47 corrections and community supervision or his or her designee may also
48 attach such further affidavits and other documents in duplicate as he or
49 she shall deem proper to be submitted with such application. One copy of
50 the application, with the action of the governor indicated by endorse-
51 ment thereon, and one of the certified copies of the accusatory instru-
52 ment, or of the judgment of conviction or the sentence shall be filed in
53 the office of the secretary of state to remain of record in that office.
54 The other copies of all papers shall be forwarded with the governor's
55 requisition.

1 § 85. Section 570.56 of the criminal procedure law, as amended by
2 chapter 193 of the laws of 1995, is amended to read as follows:

3 § 570.56 Expense of extradition.

4 The expenses of extradition must be borne by the county from which the
5 application for a requisition comes or, where the application is made by
6 the attorney general, by the county in which the offense was committed.
7 In the case of extradition of a person who has been convicted of a crime
8 in this state and has escaped from a state prison or reformatory, the
9 expense of extradition shall be borne by the department of [~~correctional~~
10 ~~services~~] corrections and community supervision. Where a person has
11 broken the terms of his or her parole from a state prison or reformato-
12 ry, the expense of extradition shall be borne by the state [~~division of~~
13 ~~parole~~] department of corrections and community supervision. Where a
14 person has broken the terms of his or her bail or probation, the expense
15 of extradition shall be borne by the county. Where a person has been
16 convicted but not yet confined to a prison, or has been sentenced for a
17 felony to a county jail or penitentiary and escapes, the expenses of
18 extradition shall be charged to the county from whose custody the escape
19 is effected. Nothing in this section shall preclude a county[~~r~~] or the
20 department of [~~correctional services or the state division of parole~~]
21 corrections and community supervision, as the case may be, from collect-
22 ing the expenses involved in extradition from the person who was extrad-
23 ited.

24 § 86. Section 650.10 of the criminal procedure law, as amended by
25 chapter 550 of the laws of 1978, is amended to read as follows:

26 § 650.10 Securing attendance of prisoner in this state as witness in
27 proceeding without the state.

28 If a judge of a court of record in any other state, which by its laws
29 has made provision for commanding a prisoner within that state to attend
30 and testify in this state, certifies under the seal of that court that
31 there is a criminal prosecution pending in such court or that a grand
32 jury investigation has commenced, and that a person confined in a New
33 York state correctional institution or prison within the department of
34 [~~correction~~] corrections and community supervision, other than a person
35 confined as criminally mentally ill, or as a defective delinquent, or
36 confined in the death house awaiting execution, is a material witness in
37 such prosecution or investigation and that his or her presence is
38 required for a specified number of days, upon presentment of such
39 certificate to a judge of a superior court in the county where the
40 person is confined, upon notice to the attorney general, such judge,
41 shall fix a time and place for a hearing and shall make an order
42 directed to the person having custody of the prisoner requiring that
43 such prisoner be produced at the hearing.

44 If at such hearing the judge determines that the prisoner is a materi-
45 al and necessary witness in the requesting state, the judge shall issue
46 an order directing that the prisoner attend in the court where the pros-
47 ecution or investigation is pending, upon such terms and conditions as
48 the judge prescribes, including among other things, provision for the
49 return of the prisoner at the conclusion of his or her testimony, proper
50 safeguards on his or her custody, and proper financial reimbursement or
51 other payment by the demanding jurisdiction for all expenses incurred in
52 the production and return of the prisoner.

53 The attorney general is authorized as agent for the state of New York,
54 when in his or her judgment it is necessary, to enter into such agree-
55 ments with the appropriate authorities of the demanding jurisdiction as

1 he or she determines necessary to ensure proper compliance with the
2 order of the court.

3 § 87. Subdivisions 1, 2 and 4 of section 720.35 of the criminal proce-
4 dure law, subdivision 1 as amended by chapter 452 of the laws of 1992,
5 subdivision 2 as amended by chapter 412 of the laws of 2001 and subdivi-
6 sion 4 as added by chapter 7 of the laws of 2007, are amended to read as
7 follows:

8 1. A youthful offender adjudication is not a judgment of conviction
9 for a crime or any other offense, and does not operate as a disquali-
10 fication of any person so adjudged to hold public office or public
11 employment or to receive any license granted by public authority but
12 shall be deemed a conviction only for the purposes of transfer of super-
13 vision and custody pursuant to section two hundred fifty-nine-m of the
14 executive law.

15 2. Except where specifically required or permitted by statute or upon
16 specific authorization of the court, all official records and papers,
17 whether on file with the court, a police agency or the division of crim-
18 inal justice services, relating to a case involving a youth who has been
19 adjudicated a youthful offender, are confidential and may not be made
20 available to any person or public or private agency, other than the
21 designated educational official of the public or private elementary or
22 secondary school in which the youth is enrolled as a student provided
23 that such local educational official shall only have made available a
24 notice of such adjudication and shall not have access to any other offi-
25 cial records and papers, such youth or such youth's designated agent
26 (but only where the official records and papers sought are on file with
27 a court and request therefor is made to that court or to a clerk there-
28 of), an institution to which such youth has been committed, the [~~divi-
29 sion of parole~~] department of corrections and community supervision and
30 a probation department of this state that requires such official records
31 and papers for the purpose of carrying out duties specifically author-
32 ized by law; provided, however, that information regarding an order of
33 protection or temporary order of protection issued pursuant to section
34 530.12 of this chapter or a warrant issued in connection therewith may
35 be maintained on the statewide automated order of protection and warrant
36 registry established pursuant to section two hundred twenty-one-a of the
37 executive law during the period that such order of protection or tempo-
38 rary order of protection is in full force and effect or during which
39 such warrant may be executed. Such confidential information may be made
40 available pursuant to law only for purposes of adjudicating or enforcing
41 such order of protection or temporary order of protection and, where
42 provided to a designated educational official, as defined in section
43 380.90 of this chapter, for purposes related to the execution of the
44 student's educational plan, where applicable, successful school adjust-
45 ment and reentry into the community. Such notification shall be kept
46 separate and apart from such student's school records and shall be
47 accessible only by the designated educational official. Such notifica-
48 tion shall not be part of such student's permanent school record and
49 shall not be appended to or included in any documentation regarding such
50 student and shall be destroyed at such time as such student is no longer
51 enrolled in the school district. At no time shall such notification be
52 used for any purpose other than those specified in this subdivision.

53 4. Notwithstanding subdivision two of this section, whenever a person
54 is adjudicated a youthful offender and the conviction that was vacated
55 and replaced by the youthful offender finding was for a sex offense as
56 that term is defined in article ten of the mental hygiene law, all

1 records pertaining to the youthful offender adjudication shall be
2 included in those records and reports that may be obtained by the
3 commissioner of mental health or the commissioner of [~~mental retardation~~
4 ~~and developmental disabilities~~] developmental disabilities, as appropri-
5 ate; the case review panel; and the attorney general pursuant to section
6 10.05 of the mental hygiene law.

7 § 88. Paragraph b of subdivision 1 of section 272 of the education
8 law, as amended by chapter 787 of the laws of 1978, is amended to read
9 as follows:

10 b. The "area served" by a public library system for the purposes of
11 this article shall mean the area which the public library system
12 proposes to serve in its approved plan of service. In determining the
13 population of the area served by the public library system the popu-
14 lation shall be deemed to be that shown by the latest federal census for
15 the political subdivisions in the area served. Such population shall be
16 certified in the same manner as provided by section fifty-four of the
17 state finance law except that such population shall include the reserva-
18 tion and school Indian population and inmates of state institutions
19 under the direction, supervision or control of the state department of
20 [~~correction~~] corrections and community supervision, the state department
21 of mental hygiene and the state department of social welfare. In the
22 event that any of the political subdivisions receiving library service
23 are included within a larger political subdivision which is a part of
24 the public library system the population used for the purposes of
25 computing state aid shall be the population of the larger political
26 subdivision, provided however, that where any political subdivision
27 within a larger political subdivision shall have taken an interim census
28 since the last census taken of the larger political subdivision, the
29 population of the larger political subdivision may be adjusted to
30 reflect such interim census and, as so adjusted, may be used until the
31 next census of such larger political subdivision. In the event that the
32 area served is not coterminous with a political subdivision, the popu-
33 lation of which is shown on such census, or the area in square miles of
34 which is available from official sources, such population and area shall
35 be determined, for the purpose of computation of state aid pursuant to
36 section two hundred seventy-three of this part by applying to the popu-
37 lation and area in square miles of such political subdivision, the ratio
38 which exists between the assessed valuation of the portion of such poli-
39 tical subdivision included within the area served and the total assessed
40 valuation of such political subdivision.

41 § 89. Subparagraph 3 of paragraph a of subdivision 9 of section 605 of
42 the education law, as amended by chapter 523 of the laws of 1992, is
43 amended to read as follows:

44 (3) The applicant must agree to practice medicine in an area in New
45 York state designated as having a shortage of physicians. The regents,
46 after consultation with the commissioners of health, [~~correctional~~
47 ~~services~~] corrections and community supervision, mental health and
48 [~~mental retardation and~~] developmental disabilities, shall designate
49 those regions and facilities of New York state which have a shortage of
50 physicians for the purposes of this section and establish relative rank-
51 ings thereof.

52 § 90. Subdivision 6 of section 6542 of the education law, as amended
53 by chapter 179 of the laws of 1992, is amended to read as follows:

54 6. Notwithstanding any other provision of this article, nothing shall
55 prohibit a physician employed by or rendering services to the department
56 of [~~correctional services~~] corrections and community supervision under

1 contract from supervising no more than four physician assistants or
2 specialist assistants in his practice for the department of [~~correction-~~
3 ~~al services~~] corrections and community supervision.

4 § 91. Subdivision 16-a of section 3-102 of the election law, as added
5 by section 10 of part 00 of chapter 56 of the laws of 2010, is amended
6 to read as follows:

7 16-a. provide the department of [~~correctional services and the divi-~~
8 ~~sion of parole~~] corrections and community supervision with a sufficient
9 number of voter registration forms to allow the department of [~~correc-~~
10 ~~tional services and the division of parole~~] corrections and community
11 supervision to comply with the duty to provide such voter registration
12 forms to persons upon the expiration of their maximum sentence of impri-
13 sonment. Such voter registration forms shall be addressed to the state
14 board of elections.

15 § 92. Subdivision 3 of section 11-0707 of the environmental conserva-
16 tion law, as amended by chapter 319 of the laws of 2003, is amended to
17 read as follows:

18 3. Any person who is a patient at any facility in this state main-
19 tained by the United States Veterans' Administration or at any hospital
20 or sanitorium for treatment of tuberculosis maintained by the state or
21 any municipal corporation thereof or resident patient at any institution
22 of the department of Mental Hygiene, or resident patient at the rehabil-
23 itation hospital of the department of Health, or at any rest camp main-
24 tained by the state through the Division of Veterans' Affairs in the
25 Executive Department or any inmate of a conservation work camp within
26 the youth rehabilitation facility of the department of [~~correction~~]
27 corrections and community supervision, or any inmate of a youth opportu-
28 nity or youth rehabilitation center within the Office of Children and
29 Family Services, any resident of a nursing home or residential health
30 care facility as defined in subdivisions two and three of section twen-
31 ty-eight hundred one of the public health law, or any staff member or
32 volunteer accompanying or assisting one or more residents of such nurs-
33 ing home or residential health care facility on an outing authorized by
34 the administrator of such nursing home or residential health care facil-
35 ity may take fish as if he held a fishing license, except that he may
36 not take bait fish by net or trap, if he has on his person an authori-
37 zation upon a form furnished by the department containing such identify-
38 ing information and data as may be required by it, and signed by the
39 superintendent or other head of such facility, institution, hospital,
40 sanitarium, nursing home, residential health care facility or rest camp,
41 as the case may be, or by a staff physician thereat duly authorized so
42 to do by the superintendent or other head thereof. Such authorization
43 with respect to inmates of said conservation work camps shall be limited
44 to areas under the care, custody and control of the department.

45 § 93. Subdivision 1 of section 21 of the executive law, as amended by
46 section 2 of part B of chapter 56 of the laws of 2010, is amended to
47 read as follows:

48 1. There is hereby created in the executive department a disaster
49 preparedness commission consisting of the commissioners of transporta-
50 tion, health, division of criminal justice services, education, social
51 services, economic development, agriculture and markets, housing and
52 community renewal, general services, labor, environmental conservation,
53 mental health, parks, recreation and historic preservation, [~~correction-~~
54 ~~al services~~] corrections and community supervision and children and
55 family services, the president of the New York state energy research and
56 development authority, the superintendents of state police, insurance,

1 banking, the secretary of state, the state fire administrator, the chair
2 of the public service commission, the adjutant general, the directors of
3 the offices within the division of homeland security and emergency
4 services, the office for technology, and the office of victim services,
5 the chairs of the thruway authority, the metropolitan transportation
6 authority, the port authority of New York and New Jersey, the chief
7 professional officer of the state coordinating chapter of the American
8 Red Cross and three additional members, to be appointed by the governor,
9 two of whom shall be chief executives. Each member agency may designate
10 an officer of that agency, with responsibility for disaster preparedness
11 matters, who may represent that agency on the commission. The commis-
12 sioner of the division of homeland security and emergency services shall
13 serve as chair of the commission, and the governor shall designate the
14 vice chair of the commission. The members of the commission, except
15 those who serve ex officio, shall be allowed their actual and necessary
16 expenses incurred in the performance of their duties under this article
17 but shall receive no additional compensation for services rendered
18 pursuant to this article.

19 § 94. Paragraph (a) of subdivision 1 of section 169 of the executive
20 law, as amended by section 20 of part B of chapter 56 of the laws of
21 2010, is amended to read as follows:

22 (a) commissioner of [~~correctional services~~] corrections and community
23 supervision, commissioner of education, commissioner of health, commis-
24 sioner of mental health, commissioner of [~~mental retardation and~~] devel-
25 opmental disabilities, commissioner of children and family services,
26 commissioner of temporary and disability assistance, chancellor of the
27 state university of New York, commissioner of transportation, commis-
28 sioner of environmental conservation, superintendent of state police,
29 commissioner of general services and commissioner of the division of
30 homeland security and emergency services;

31 § 95. Section 354-a of the executive law, as separately amended by
32 sections 34 and 68 of part A of chapter 56 of the laws of 2010, is
33 amended to read as follows:

34 § 354-a. Information on status of veterans receiving assistance.
35 Departments, divisions, bureaus, boards, commissions and agencies of the
36 state and political subdivisions thereof, which provide assistance,
37 treatment, counseling, care, supervision or custody in service areas
38 involving health, mental health, family services, criminal justice or
39 employment, including but not limited to the office of alcoholism and
40 substance abuse services, office of mental health, office of probation
41 and correctional alternatives, office of children and family services,
42 office of temporary and disability assistance, department of health,
43 department of labor, local workforce investment boards, office [~~of~~
44 ~~mental retardation and~~] for people with developmental disabilities, and
45 department of [~~correctional services and division of parole~~] corrections
46 and community supervision, shall request assisted persons to provide
47 information with regard to their veteran status and military experi-
48 ences. Individuals identifying themselves as veterans shall be advised
49 that the division of veterans' affairs and local veterans' service agen-
50 cies established pursuant to section three hundred fifty-seven of this
51 article provide assistance to veterans regarding benefits under federal
52 and state law. Information regarding veterans status and military
53 service provided by assisted persons solely to implement this section
54 shall be protected as personal confidential information under article
55 six-A of the public officers law against disclosure of confidential
56 material, and used only to assist in the diagnosis, treatment, assess-

1 ment and handling of the veteran's problems within the agency requesting
2 such information and in referring the veteran to the division of veter-
3 ans' affairs for information and assistance with regard to benefits and
4 entitlements under federal and state law.

5 § 96. Paragraph a of subdivision 1 of section 374 of the executive
6 law, as amended by chapter 243 of the laws of 1997, is amended to read
7 as follows:

8 a. Two members, to be appointed by the governor, from among the
9 commissioners of the departments of economic development, [~~correctional~~
10 ~~services~~] corrections and community supervision, education, health,
11 labor, mental health and social services, office of general services,
12 division of housing and community renewal, and the superintendent of
13 insurance.

14 § 97. Subdivisions 4, 5, 6 and 7 of section 508 of the executive law,
15 subdivision 4 as amended by chapter 41 of the laws of 2010, subdivisions
16 5 and 6 as added by chapter 481 of the laws of 1978, subdivision 7 as
17 separately amended by chapters 308 and 316 of the laws of 1983 and such
18 section as renumbered by chapter 465 of the laws of 1992, are amended to
19 read as follows:

20 4. The [~~division for youth~~] office of children and family services may
21 apply to the sentencing court for permission to transfer a youth not
22 less than sixteen nor more than eighteen years of age to the department
23 of [~~correctional services~~] corrections and community supervision. Such
24 application shall be made upon notice to the youth, who shall be enti-
25 tled to be heard upon the application and to be represented by counsel.
26 The court shall grant the application if it is satisfied that there is
27 no substantial likelihood that the youth will benefit from the programs
28 offered by the [~~division~~] office facilities.

29 5. The [~~division for youth~~] office of children and family services may
30 transfer an offender not less than eighteen nor more than twenty-one
31 years of age to the department of [~~correctional services~~] corrections
32 and community supervision if the [~~director~~] commissioner of the [~~divi-~~
33 ~~sion~~] office certifies to the commissioner of [~~correctional services~~]
34 corrections and community supervision that there is no substantial like-
35 lihood that the youth will benefit from the programs offered by [~~divi-~~
36 ~~sion~~] office facilities.

37 6. At age twenty-one, all juvenile offenders shall be transferred to
38 the custody of the department of [~~correctional services~~] corrections and
39 community supervision for confinement pursuant to the correction law.

40 7. While in the custody of the [~~division for youth~~] office of children
41 and family services, an offender shall be subject to the rules and regu-
42 lations of the [~~division~~] office, except that his parole, temporary
43 release and discharge shall be governed by the laws applicable to
44 inmates of state correctional facilities and his transfer to state
45 hospitals in the office of mental health shall be governed by section
46 five hundred [~~seventeen~~] nine of this chapter. The [~~director~~] commis-
47 sioner of the [~~division for youth~~] office of children and family
48 services shall, however, establish and operate temporary release
49 programs at [~~division for youth~~] office of children and family services
50 facilities for eligible juvenile offenders and contract with the [~~divi-~~
51 ~~sion of parole~~] department of corrections and community supervision for
52 the provision of parole supervision services for temporary releasees.
53 The rules and regulations for these programs shall not be inconsistent
54 with the laws for temporary release applicable to inmates of state
55 correctional facilities. For the purposes of temporary release programs
56 for juvenile offenders only, when referred to or defined in article

1 twenty-six of the correction law, "institution" shall mean any facility
2 designated by the [~~director~~] commissioner of the [~~division for youth~~]
3 office of children and family services, "department" shall mean the
4 [~~division for youth~~] office of children and family services, "inmate"
5 shall mean a juvenile offender residing in [~~a division for youth~~] an
6 office of children and family services facility, and "commissioner"
7 shall mean the director of the [~~division for youth~~] office of children
8 and family services. Time spent in [~~division for youth~~] office of chil-
9 dren and family services facilities and in juvenile detention facilities
10 shall be credited towards the sentence imposed in the same manner and to
11 the same extent applicable to inmates of state correctional facilities.

12 § 98. Subdivision 2 of section 510-c of the executive law, as amended
13 by chapter 465 of the laws of 1992, is amended to read as follows:

14 2. Except as provided in subdivision three of this section, any child
15 who has been placed with the [~~division~~] office of children and family
16 services shall be deemed to have been discharged therefrom if, during
17 the period provided in the order of placement or extension thereof, the
18 child is convicted of a crime or adjudicated a youthful offender, and is
19 committed to an institution in the department of [~~correctional services~~]
20 corrections and community supervision or department of mental hygiene,
21 or receives a one year sentence in a local correctional facility.

22 § 99. Paragraph (b) of subdivision 4 of section 575 of the executive
23 law, as separately amended by section 69 of part A and section 4 of part
24 A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

25 (b) The advisory council shall consist of nine members and [~~fourteen~~]
26 thirteen ex-officio members. Each member shall be appointed to serve for
27 a term of three years and shall continue in office until a successor
28 appointed member is made. A member appointed to fill a vacancy shall be
29 appointed for the unexpired term of the member he or she is to succeed.
30 All of the members shall be individuals with expertise in the area of
31 domestic violence. Three members shall be appointed by the governor, two
32 members shall be appointed upon the recommendation of the temporary
33 president of the senate, two members shall be appointed upon the recom-
34 mendation of the speaker of the assembly, one member shall be appointed
35 upon the recommendation of the minority leader of the senate, and one
36 member shall be appointed upon the recommendation of the minority leader
37 of the assembly. The ex-officio members of the advisory board shall
38 consist of one representative from the staff of each of the following
39 state departments and divisions: office of temporary and disability
40 services; department of health; education department; office of mental
41 health; office of alcoholism and substance abuse services; division of
42 criminal justice services; office of probation and correctional alterna-
43 tives; office of children and family services; office of victim
44 services; office of court administration; department of labor; state
45 office for the aging; and department of [~~correctional services; and the~~
46 ~~division of parole~~] corrections and community supervision.

47 § 100. Paragraph (c) of subdivision 1 of section 632-a of the execu-
48 tive law, as amended by section 24 of part A-1 of chapter 56 of the laws
49 of 2010, is amended to read as follows:

50 (c) "Funds of a convicted person" means all funds and property
51 received from any source by a person convicted of a specified crime, or
52 by the representative of such person as defined in subdivision six of
53 section six hundred twenty-one of this article excluding child support
54 and earned income, where such person:

55 (i) is an inmate serving a sentence with the department of [~~correc-~~
56 ~~tional services~~] corrections and community supervision or a prisoner

1 confined at a local correctional facility or federal correctional insti-
2 tute, and includes funds that a superintendent, sheriff or municipal
3 official receives on behalf of an inmate or prisoner and deposits in an
4 inmate account to the credit of the inmate pursuant to section one
5 hundred sixteen of the correction law or deposits in a prisoner account
6 to the credit of the prisoner pursuant to section five hundred-c of the
7 correction law; or

8 (ii) is not an inmate or prisoner but who is serving a sentence of
9 probation or conditional discharge or is presently subject to an undisc-
10 charged indeterminate, determinate or definite term of imprisonment or
11 period of post-release supervision or term of supervised release, but
12 shall include earned income earned during a period in which such person
13 was not in compliance with the conditions of his or her probation,
14 parole, conditional release, period of post-release supervision by the
15 [~~division of parole~~] department of corrections and community supervision
16 or term of supervised release with the United States probation office or
17 United States parole commission. For purposes of this subparagraph, such
18 period of non-compliance shall be measured, as applicable, from the
19 earliest date of delinquency determined by the [~~board or division of~~
20 ~~parole~~] department of corrections and community supervision, or from the
21 earliest date on which a declaration of delinquency is filed pursuant to
22 section 410.30 of the criminal procedure law and thereafter sustained,
23 or from the earliest date of delinquency determined in accordance with
24 applicable federal law, rules or regulations, and shall continue until a
25 final determination sustaining the violation has been made by the trial
26 court, [~~board or division of parole~~] the department of corrections and
27 community supervision, or appropriate federal authority; or

28 (iii) is no longer subject to a sentence of probation or conditional
29 discharge or indeterminate, determinate or definite term of imprisonment
30 or period of post-release supervision or term of supervised release, and
31 where within the previous three years: the full or maximum term or peri-
32 od terminated or expired or such person was granted a discharge by [a]
33 the state board of parole or the department of corrections and community
34 supervision pursuant to applicable law, or granted a discharge or termi-
35 nation from probation pursuant to applicable law or granted a discharge
36 or termination under applicable federal or state law, rules or regu-
37 lations prior to the expiration of such full or maximum term or period;
38 and includes only: (A) those funds paid to such person as a result of
39 any interest, right, right of action, asset, share, claim, recovery or
40 benefit of any kind that the person obtained, or that accrued in favor
41 of such person, prior to the expiration of such sentence, term or peri-
42 od; (B) any recovery or award collected in a lawsuit after expiration of
43 such sentence where the right or cause of action accrued prior to the
44 expiration or service of such sentence; and (C) earned income earned
45 during a period in which such person was not in compliance with the
46 conditions of his or her probation, parole, conditional release, period
47 of post-release supervision by the [~~division of parole~~] department of
48 corrections and community supervision or term of supervised release with
49 the United States probation office or United States parole commission.
50 For purposes of this subparagraph, such period of non-compliance shall
51 be measured, as applicable, from the earliest date of delinquency deter-
52 mined by the [~~board or division of parole~~] department of corrections and
53 community supervision, or from the earliest date on which a declaration
54 of delinquency is filed pursuant to section 410.30 of the criminal
55 procedure law and thereafter sustained, or from the earliest date of
56 delinquency determined in accordance with applicable federal law, rules

1 or regulations, and shall continue until a final determination sustain-
2 ing the violation has been made by the trial court, [~~board or division~~
3 ~~of parole~~] the department of corrections and community supervision, or
4 appropriate federal authority.

5 § 101. Paragraph (b) of subdivision 2 of section 632-a of the execu-
6 tive law, as amended by section 24 of part A-1 of chapter 56 of the laws
7 of 2010, is amended to read as follows:

8 (b) Notwithstanding subparagraph (ii) of paragraph (a) of this subdi-
9 vision, whenever the payment or obligation to pay involves funds of a
10 convicted person that a superintendent, sheriff or municipal official
11 receives or will receive on behalf of an inmate serving a sentence with
12 the department of [~~correctional services~~] corrections and community
13 supervision or prisoner confined at a local correctional facility and
14 deposits or will deposit in an inmate account to the credit of the
15 inmate or in a prisoner account to the credit of the prisoner, and the
16 value, combined value or aggregate value of such funds exceeds or will
17 exceed ten thousand dollars, the superintendent, sheriff or municipal
18 official shall also give written notice to the office.

19 § 102. Subdivision 9 of section 835 of the executive law, as amended
20 by section 39 of part A of chapter 56 of the laws of 2010, is amended to
21 read as follows:

22 9. "Qualified agencies" means courts in the unified court system, the
23 administrative board of the judicial conference, probation departments,
24 sheriffs' offices, district attorneys' offices, the state department of
25 [~~correctional services~~] corrections and community supervision, the
26 department of correction of any municipality, the insurance frauds
27 bureau of the state department of insurance, the office of professional
28 medical conduct of the state department of health for the purposes of
29 section two hundred thirty of the public health law, the child protec-
30 tive services unit of a local social services district when conducting
31 an investigation pursuant to subdivision six of section four hundred
32 twenty-four of the social services law, the office of Medicaid inspector
33 general, the temporary state commission of investigation, the criminal
34 investigations bureau of the banking department, police forces and
35 departments having responsibility for enforcement of the general crimi-
36 nal laws of the state and the Onondaga County Center for Forensic
37 Sciences Laboratory when acting within the scope of its law enforcement
38 duties.

39 § 103. Paragraph (h) of subdivision 1 of section 840 of the executive
40 law, as amended by chapter 843 of the laws of 1980, is amended to read
41 as follows:

42 (h) Exemptions from particular provisions of this article in the case
43 of any city having a population of one million or more, or in the case
44 of the state department of [~~correctional services~~] corrections and
45 community supervision if in its opinion the standards of police officer
46 or peace officer training established and maintained by such city or
47 department are higher than those established pursuant to this article;
48 or revocation in whole or in part of such exemption, if in its opinion
49 the standards of police officer or peace officer training established
50 and maintained by such city or department are lower than those estab-
51 lished pursuant to this article.

52 § 104. Subdivision 4 of section 995-c of the executive law, as amended
53 by section 65 of part A of chapter 56 of the laws of 2010, is amended to
54 read as follows:

55 4. The commissioner of the division of criminal justice services, in
56 consultation with the commission, the commissioner of health, [~~the divi-~~

1 ~~tion of parole,~~] the director of the office of probation and correction-
 2 al alternatives and the department of [~~correctional services~~]
 3 corrections and community supervision, shall promulgate rules and regu-
 4 lations governing the procedures for notifying designated offenders of
 5 the requirements of this section.

6 § 105. The article heading of article 12-B of the executive law, as
 7 added by chapter 904 of the laws of 1977, is amended to read as follows:

8 STATE [~~DIVISION~~] BOARD OF PAROLE

9 § 106. Section 31 of the executive law, as amended by section 11 of
 10 part B of chapter 56 of the laws of 2010, is amended to read as follows:

11 § 31. Divisions. There shall be in the executive department the
 12 following divisions:

- 13 1. The division of the budget.
- 14 2. The division of military and naval affairs.
- 15 3. The office of general services.
- 16 4. The division of state police.
- 17 5. [~~The division of parole.~~
- 18 ~~6.~~] The division of housing.
- 19 [~~7~~] 6. The division of alcoholic beverage control.
- 20 [~~8~~] 7. The division of human rights.
- 21 [~~9~~] 8. The division of veterans' affairs.
- 22 [~~10~~] 9. The division of homeland security and emergency services.
- 23 [~~11~~] 10. Office for technology.

24 The governor may establish, consolidate, or abolish additional divi-
 25 sions and bureaus.

26 § 107. Subdivision 1 of section 643 of the executive law, as separate-
 27 ly amended by section 38 of part A and section 1 of part A-1 of chapter
 28 56 of the laws of 2010, is amended to read as follows:

29 1. As used in this section, "crime victim-related agency" means any
 30 agency of state government which provides services to or deals directly
 31 with crime victims, including (a) the office of children and family
 32 services, the office for the aging, the division of veterans affairs,
 33 the office of probation and correctional alternatives, the [~~division of~~
 34 ~~parole~~] department of corrections and community supervision, the office
 35 of victim services, the department of motor vehicles, the office of
 36 vocational rehabilitation, the workers' compensation board, the depart-
 37 ment of health, the division of criminal justice services, the office of
 38 mental health, every transportation authority and the division of state
 39 police, and (b) any other agency so designated by the governor within
 40 ninety days of the effective date of this section.

41 § 108. Subdivision 8 of section 837-a of the executive law, as added
 42 by section 1 of part L of chapter 56 of the laws of 2006, is amended to
 43 read as follows:

44 8. Present to the governor, temporary president of the senate, minori-
 45 ty leader of the senate, speaker of the assembly and the minority leader
 46 of the assembly an annual report about the function and effectiveness of
 47 the Operation IMPACT program. Such report shall include, but not be
 48 limited to, crime data obtained, analyzed and used by each Operation
 49 IMPACT partnership in participating counties and affected municipalities
 50 including the number of arrests made by law enforcement as a direct
 51 result of the Operation IMPACT program including any available demo-
 52 graphic information about the persons arrested and prosecuted and the
 53 disposition of such matters, and any other information related to the
 54 program's effectiveness in reducing crime. Such report shall also
 55 include information about crime reduction strategies developed by Opera-
 56 tion IMPACT partnerships, the number of state police and [~~division of~~

1 ~~parole]~~ department of corrections and community supervision personnel
2 participating in Operation IMPACT activities, and a description of
3 training supplied to local Operation IMPACT participants. The initial
4 report required by this paragraph shall be presented by December thir-
5 ty-first, two thousand six. Thereafter, an annual report shall be
6 presented no later than December thirty-first of each year.

7 § 108-a. The sixth undesignated paragraph of section 2 of section 1 of
8 chapter 359 of the laws of 1968, constituting the facilities development
9 corporation act, as amended by chapter 240 of the laws of 1974, is
10 amended to read as follows:

11 It is hereby found and declared that the acquisition, construction,
12 reconstruction, rehabilitation and improvement of facilities for the
13 department of [~~correctional services~~] corrections and community super-
14 vision are public purposes which are essential to enable comprehensive
15 modernization of the state's programs of [~~correctional services~~]
16 corrections. To assure that such purposes are carried out, it is
17 further found and declared that the facilities development corporation
18 should be empowered in [~~cooperation~~] cooperation with the department of
19 [~~correctional services~~] corrections and community supervision to provide
20 for the acquisition, construction, reconstruction, rehabilitation and
21 improvement of facilities for the department of [~~correctional services~~]
22 corrections and community supervision.

23 § 109. Subdivision 3-b of section 3 of section 1 of chapter 359 of the
24 laws of 1968, constituting the facilities development corporation act,
25 as added by chapter 337 of the laws of 1972, is amended to read as
26 follows:

27 3-b. "Facility for the department of [~~correctional services~~]
28 corrections and community supervision" means real property, a building,
29 a unit within a building, or any structure on or improvement to real
30 property of any kind or description essential, necessary or useful in
31 the program of the department of [~~correctional services~~] corrections and
32 community supervision, including all usual attendant and related facili-
33 ties, fixtures, equipment, and connections for utility services or any
34 combinations thereof, designed, acquired, constructed, reconstructed,
35 rehabilitated and improved, or otherwise provided for the department of
36 [~~correctional services~~] corrections and community supervision.

37 § 110. Subdivision 10 of section 5 of section 1 of chapter 359 of the
38 laws of 1968, constituting the facilities development corporation act,
39 as amended by chapter 337 of the laws of 1972, is amended to read as
40 follows:

41 10. To design, construct, acquire, reconstruct, rehabilitate and
42 improve health facilities, facilities for the department of [~~correction-~~
43 ~~al services~~] corrections and community supervision and mental hygiene
44 facilities, or cause such facilities to be designed, constructed,
45 acquired, reconstructed, rehabilitated and improved, in accordance with
46 the provisions of this act.

47 § 111. Subdivision 7 of section 6 of section 1 of chapter 359 of the
48 laws of 1968, constituting the facilities development corporation act,
49 as added by chapter 337 of the laws of 1972, is amended to read as
50 follows:

51 7. To provide facilities for the department of [~~correctional services~~]
52 corrections and community supervision.

53 § 112. Section 7-a of section 1 of chapter 359 of the laws of 1968,
54 constituting the facilities development corporation act, as amended by
55 chapter 240 of the laws of 1974, is amended to read as follows:

1 § 7-a. Relationship with the state department of [~~correctional~~
2 ~~services~~] corrections and community supervision. The corporation, upon
3 the issuance by the director of the budget of a certificate of approval
4 segregating funds to pay for their corporate services, shall design,
5 construct, reconstruct, rehabilitate, improve, and equip facilities for
6 the department of [~~correctional services~~] corrections and community
7 supervision or cause facilities to be designed, constructed, recon-
8 structed, rehabilitated, improved, and equipped. The corporation shall
9 also assist and cooperate with and shall make its personnel and services
10 fully available to the commissioner of [~~correctional services~~]
11 corrections and community supervision and the department of [~~correction-~~
12 ~~al services~~] corrections and community supervision in matters relating
13 to their responsibilities for site selection, acquisition of and capital
14 planning relating to facilities for the department of [~~correctional~~
15 ~~services~~] corrections and community supervision. During the course of
16 construction, acquisition, reconstruction, rehabilitation and improve-
17 ment of such facilities, the corporation shall consult with the commis-
18 sioner of [~~correctional services~~] corrections and community supervision
19 and the personnel of the department of [~~correctional services~~]
20 corrections and community supervision as the work progresses in matters
21 relating to space requirements, site plans, architectural concept and
22 substantial changes in the plans and specifications therefor and in
23 matters relating to the original furnishings, equipment, machinery, and
24 apparatus needed to furnish and equip such facilities upon the
25 completion of the work. The commissioner of [~~correctional services~~]
26 corrections and community supervision and the department of [~~correction-~~
27 ~~al services~~] corrections and community supervision shall assist and
28 cooperate with the corporation in such matters.

29 § 113. Subdivision (b) of section 213 of the family court act is
30 amended to read as follows:

31 (b) Rules of court shall as soon as practicable implement this section
32 by prescribing appropriate forms for reports and may require such addi-
33 tional information as may be appropriate. The administrative board of
34 the judicial conference may request the state department of [~~correction~~]
35 corrections and community supervision and the state department of social
36 welfare to assist it in the preparation and processing of reports under
37 this section, and those departments, when so requested, shall render
38 such assistance as is possible.

39 § 114. The sixth undesignated paragraph of section 842 of the family
40 court act, as added by section 8 of part D of chapter 56 of the laws of
41 2008, is amended to read as follows:

42 In any proceeding in which an order of protection or temporary order
43 of protection or a warrant has been issued under this section, the clerk
44 of the court shall issue to the petitioner and respondent and his coun-
45 sel and to any other person affected by the order a copy of the order of
46 protection or temporary order of protection and ensure that a copy of
47 the order of protection or temporary order of protection be transmitted
48 to the local correctional facility where the individual is or will be
49 detained, the state or local correctional facility where the individual
50 is or will be imprisoned, and the supervising probation department or
51 [~~division of parole~~] the department of corrections and community super-
52 vision where the individual is under probation or parole supervision.

53 § 115. The second undesignated paragraph of section 69 of the general
54 business law, as amended by section 1 of part A of chapter 62 of the
55 laws of 2003, is amended to read as follows:

1 Nothing in this section shall be construed to forbid the sale of parts
2 and components produced by inmate labor in correctional industry
3 programs of the government of the United States or any state of the
4 United States, or any political subdivision thereof, to the department
5 of [~~correctional services~~] corrections and community supervision's
6 division of correctional industries for use in its manufacturing oper-
7 ations.

8 § 116. Section 70 of the general municipal law, as amended by section
9 40 of part A-1 of chapter 56 of the laws of 2010, is amended to read as
10 follows:

11 § 70. Payment of judgments against municipal corporation. When a final
12 judgment for a sum of money shall be recovered against a municipal
13 corporation, and the execution thereof shall not be stayed pursuant to
14 law, or the time for such stay shall have expired, the treasurer or
15 other financial officer of such corporation having sufficient moneys in
16 his hands belonging to the corporation not otherwise specifically appro-
17 priated, shall pay such judgment upon the production of a certified copy
18 of the docket thereof. Notwithstanding the provisions of any other law
19 to the contrary, in any case where payment for any reason is to be made
20 to an inmate serving a sentence of imprisonment with the state depart-
21 ment of [~~correctional services~~] corrections and community supervision or
22 to a prisoner confined at a local correctional facility, the treasurer
23 or other financial officer shall give written notice, if required pursu-
24 ant to subdivision two of section six hundred thirty-two-a of the execu-
25 tive law, to the office of victim services that such payment shall be
26 made thirty days after the date of such notice.

27 § 117. Subdivision 1 of section 168 of the labor law, as amended by
28 chapter 90 of the laws of 1947, is amended to read as follows:

29 1. This section shall apply to all persons employed by the state in
30 the ward, cottage, colony, kitchen and dining room, and guard service
31 personnel in any hospital, school, prison, reformatory or other institu-
32 tion within or subject to the jurisdiction, supervision, control or
33 visitation of the department of [~~correction~~] corrections and community
34 supervision, the department of health, the department of mental hygiene,
35 the department of social welfare or the division of veterans' affairs in
36 the executive department, and engaged in the performance of such duties
37 as nursing, guarding or attending the inmates, patients, wards or other
38 persons kept or housed in such institutions, or in protecting and guard-
39 ing the buildings and/or grounds thereof, or in preparing or serving
40 food therein.

41 § 118. Subdivision 13 of section 83-m of the legislative law, as added
42 by section 2 of part XX of chapter 57 of the laws of 2010, is amended to
43 read as follows:

44 13. (a) The task force shall specify the form in which the department
45 of [~~correctional services~~] corrections and community supervision shall
46 provide such information required to be reported to the task force
47 pursuant to subdivision eight of section seventy-one of the correction
48 law.

49 (b) Upon receipt of such information for each incarcerated person
50 subject to the jurisdiction of the department of [~~correctional services~~]
51 corrections and community supervision, the task force shall determine
52 the census block corresponding to the street address of each such
53 person's residential address prior to incarceration (if any), and the
54 census block corresponding to the street address of the correctional
55 facility in which such person was held subject to the jurisdiction of
56 such department. Until such time as the United States bureau of the

1 census shall implement a policy of reporting each such incarcerated
2 person at such person's residential address prior to incarceration, the
3 task force shall use such data to develop a database in which all incar-
4 cerated persons shall be, where possible, allocated for redistricting
5 purposes, such that each geographic unit reflects incarcerated popu-
6 lations at their respective residential addresses prior to incarceration
7 rather than at the addresses of such correctional facilities. For all
8 incarcerated persons whose residential address prior to incarceration
9 was outside of the state, or for whom the task force cannot identify
10 their prior residential address, and for all persons confined in a
11 federal correctional facility on census day, the task force shall
12 consider those persons to have been counted at an address unknown and
13 persons at such unknown address shall not be included in such data set
14 created pursuant to this paragraph. The task force shall develop and
15 maintain such amended population data set and shall make such amended
16 data set available to local governments, as defined in subdivision eight
17 of section two of the municipal home rule law, and for the drawing of
18 assembly and senate districts. The assembly and senate districts shall
19 be drawn using such amended population data set.

20 (c) Notwithstanding any other provision of law, the information
21 required to be provided pursuant to subdivision eight of section seven-
22 ty-one of the correction law shall be treated as confidential and shall
23 not be disclosed by the task force except as aggregated by census block
24 for purpose specified in this subdivision.

25 § 118-a. Subdivisions (a) and (m) of section 10.03 of the mental
26 hygiene law, subdivision (a) as amended by chapter 168 of the laws of
27 2010 and subdivision (m) as added by chapter 7 of the laws of 2007, are
28 amended to read as follows:

29 (a) "Agency with jurisdiction" as to a person means that agency which,
30 during the period in question, would be the agency responsible for
31 supervising or releasing such person, and can include the department of
32 [~~correctional services~~] corrections and community supervision, the
33 office of mental health, and the office for people with developmental
34 disabilities[~~, and the division of parole~~].

35 (m) "Release" and "released" means release, conditional release or
36 discharge from confinement, from community supervision by the [~~division~~
37 ~~of parole~~] department of corrections and community supervision, or from
38 an order of observation, commitment, recommitment or retention.

39 § 118-b. Subdivisions (a) and (b) of section 10.05 of the mental
40 hygiene law, subdivision (a) as amended by chapter 168 of the laws of
41 2010 and subdivision (b) as added by chapter 7 of the laws of 2007, are
42 amended to read as follows:

43 (a) The commissioner of mental health, in consultation with the
44 commissioner of the department of [~~correctional services~~] corrections
45 and community supervision and the commissioner of developmental disabil-
46 ities, shall establish a case review panel consisting of at least
47 fifteen members, any three of whom may sit as a team to review a partic-
48 ular case. At least two members of each team shall be professionals in
49 the field of mental health or the field of developmental disabilities,
50 as appropriate, with experience in the treatment, diagnosis, risk
51 assessment or management of sex offenders. To the extent practicable,
52 the workload of the case review panel should be evenly distributed among
53 its members. Members of the case review panel and psychiatric examiners
54 should be free to exercise independent professional judgment without
55 pressure or retaliation for the exercise of that judgment from any
56 source.

1 (b) When it appears to an agency with jurisdiction[~~, other than the~~
2 ~~division of parole,~~] that a person who may be a detained sex offender is
3 nearing an anticipated release from confinement, the agency shall give
4 notice of that fact to the attorney general and to the commissioner of
5 mental health. [~~When the division of parole is the agency with juris-~~
6 ~~isdiction, it may give such notice.~~] When it appears to the department of
7 corrections and community supervision that a person who may be a
8 detained sex offender is nearing an anticipated release from community
9 supervision, the agency may give such notice. The agency with jurisdic-
10 tion shall seek to give such notice at least one hundred twenty days
11 prior to the person's anticipated release, but failure to give notice
12 within such time period shall not affect the validity of such notice or
13 any subsequent action, including the filing of a sex offender civil
14 management petition.

15 § 118-c. Subdivision (k) of section 10.06 of the mental hygiene law,
16 as amended by section 1 of part H of chapter 58 of the laws of 2009, is
17 amended to read as follows:

18 (k) At the conclusion of the hearing, the court shall determine wheth-
19 er there is probable cause to believe that the respondent is a sex
20 offender requiring civil management. If the court determines that proba-
21 ble cause has not been established, the court shall issue an order
22 dismissing the petition, and the respondent's release shall be in
23 accordance with other applicable provisions of law. If the court deter-
24 mines that probable cause has been established: (i) the court shall
25 order that the respondent be committed to a secure treatment facility
26 designated by the commissioner for care, treatment and control upon his
27 or her release, provided, however, that a respondent who otherwise would
28 be required to be transferred to a secure treatment facility may, upon a
29 written consent signed by the respondent and his or her counsel, consent
30 to remain in the custody of the department of [~~correctional services~~]
31 corrections and community supervision pending the outcome of the
32 proceedings under this article, and that such consent may be revoked in
33 writing at any time; (ii) the court shall set a date for trial in
34 accordance with subdivision (a) of section 10.07 of this article; and
35 (iii) the respondent shall not be released pending the completion of
36 such trial.

37 § 118-d. Subdivisions (c) and (d) of section 10.10 of the mental
38 hygiene law, as added by chapter 7 of the laws of 2007, are amended to
39 read as follows:

40 (c) The commissioner, or the commissioner of the department of
41 [~~correctional services~~] corrections and community supervision, or other
42 government entity responsible for the care and custody of respondents,
43 shall be authorized to employ appropriate safety and security measures,
44 as he or she deems necessary to ensure the safety of the public, during
45 court proceedings and in the transport of persons committed or undergo-
46 ing any proceedings under this article. Such commissioner shall provide
47 training in the use of safe and appropriate security interventions to
48 employees responsible for transporting persons under this article.

49 (d) The commissioner shall have the discretion to enter into agree-
50 ments with the department of [~~correctional services~~] corrections and
51 community supervision for the provision of security services relating to
52 this article.

53 § 118-e. Paragraphs 1 and 2 of subdivision (a), paragraph 1 of subdivi-
54 sion (b), subdivision (c), paragraph 1 of subdivision (d) and subdivi-
55 sion (f) of section 10.11 of the mental hygiene law, as added by chapter
56 7 of the laws of 2007, are amended to read as follows:

1 (1) Before ordering the release of a person to a regimen of strict and
2 intensive supervision and treatment pursuant to this article, the court
3 shall order that the [~~division of parole~~] department of corrections and
4 community supervision recommend supervision requirements to the court.
5 These supervision requirements, which shall be developed in consultation
6 with the commissioner, may include but need not be limited to, electron-
7 ic monitoring or global positioning satellite tracking for an appropri-
8 ate period of time, polygraph monitoring, specification of residence or
9 type or residence, prohibition of contact with identified past or poten-
10 tial victims, strict and intensive supervision by a parole officer, and
11 any other lawful and necessary conditions that may be imposed by a
12 court. In addition, after consultation with the psychiatrist, psychol-
13 ogist or other professional primarily treating the respondent, the
14 commissioner shall recommend a specific course of treatment. A copy of
15 the recommended requirements for supervision and treatment shall be
16 given to the attorney general and the respondent and his or her counsel
17 a reasonable time before the court issues its written order pursuant to
18 this section.

19 (2) Before issuing its written order, the court shall afford the
20 parties an opportunity to be heard, and shall consider any additional
21 submissions by the respondent and the attorney general concerning the
22 proposed conditions of the regimen of strict and intensive supervision
23 and treatment. The court shall issue an order specifying the conditions
24 of the regimen of strict and intensive supervision and treatment, which
25 shall include specified supervision requirements and compliance with a
26 specified course of treatment. A written statement of the conditions of
27 the regimen of strict and intensive supervision and treatment shall be
28 given to the respondent and to his or her counsel, any designated
29 service providers or treating professionals, the commissioner, the
30 attorney general and the supervising parole officer. The court shall
31 require the [~~division of parole~~] department of corrections and community
32 supervision to take appropriate actions to implement the supervision
33 plan and assure compliance with the conditions of the regimen of strict
34 and intensive supervision and treatment. A regimen of strict and inten-
35 sive supervision does not toll the running of any form of supervision in
36 criminal cases, including but not limited to post-release supervision
37 and parole.

38 (1) Persons ordered into a regimen of strict and intensive supervision
39 and treatment pursuant to this article shall be subject to a minimum of
40 six face-to-face supervision contacts and six collateral contacts per
41 month. Such minimum contact requirements shall continue unless subse-
42 quently modified by the court or the [~~division of parole~~] department of
43 corrections and community supervision.

44 (c) An order for a regimen of strict and intensive supervision and
45 treatment places the person in the custody and control of the [~~state~~
46 ~~division of parole~~] department of corrections and community supervision.
47 A person ordered to undergo a regimen of strict and intensive super-
48 vision and treatment pursuant to this article is subject to lawful
49 conditions set by the court and the [~~division of parole~~] department of
50 corrections and community supervision.

51 (1) A person's regimen of strict and intensive supervision and treat-
52 ment may be revoked if such a person violates a condition of strict and
53 intensive supervision. If a parole officer has reasonable cause to
54 believe that the person has violated a condition of the regimen of
55 strict and intensive supervision and treatment or, if there is an oral
56 or written evaluation or report by a treating professional indicating

1 that the person may be a dangerous sex offender requiring confinement, a
2 parole officer authorized in the same manner as provided in subparagraph
3 (i) of paragraph (a) of subdivision three of section two hundred fifty-
4 nine-i of the executive law may take the person into custody and trans-
5 port the person for lodging in a secure treatment facility or a local
6 correctional facility for an evaluation by a psychiatric examiner, which
7 evaluation shall be conducted within five days. A parole officer may
8 take the person, under custody, to a psychiatric center for prompt eval-
9 uation, and at the end of the examination, return the person to the
10 place of lodging. A parole officer, as authorized by this paragraph, may
11 direct a peace officer, acting pursuant to his or her special duties, or
12 a police officer who is a member of an authorized police department or
13 force or of a sheriff's department, to take the person into custody and
14 transport the person as provided in this paragraph. It shall be the duty
15 of such peace officer or police officer to take into custody and trans-
16 port any such person upon receiving such direction. The [~~division of~~
17 ~~parole~~] department of corrections and community supervision shall
18 promptly notify the attorney general and the mental hygiene legal
19 service, when a person is taken into custody pursuant to this paragraph.
20 No provision of this section shall preclude the [~~division~~] board of
21 parole from proceeding with a revocation hearing as authorized by subdi-
22 vision three of section two hundred fifty-nine-i of the executive law.

23 (f) The court may modify or terminate the conditions of the regimen of
24 strict and intensive supervision and treatment on the petition of the
25 supervising parole officer, the commissioner or the attorney general.
26 Such petition shall be served on the respondent and the respondent's
27 counsel. A person subject to a regimen of strict and intensive super-
28 vision and treatment pursuant to this article may petition every two
29 years after the regimen of strict and intensive supervision and treat-
30 ment commenced, with service of such petition on the attorney general,
31 the [~~division of parole~~] department of corrections and community super-
32 vision, and the commissioner. Upon receipt of a petition for modifica-
33 tion or termination pursuant to this section, the court may require the
34 [~~division of parole~~] department of corrections and community supervision
35 and the commissioner to provide a report concerning the person's conduct
36 while subject to a regimen of strict and intensive supervision and
37 treatment. If more than one petition is filed, the petitions may be
38 considered in a single hearing.

40 § 118-f. Subdivision (h) of section 19.07 of the mental hygiene law,
41 as added by section 16 of part AAA of chapter 56 of the laws of 2009, is
42 amended to read as follows:

43 (h) The office of alcoholism and substance abuse services shall moni-
44 tor programs providing care and treatment to inmates in correctional
45 facilities operated by the department of [~~correctional services~~]
46 corrections and community supervision who have a history of alcohol or
47 substance abuse or dependence. The office shall also develop guidelines
48 for the operation of alcohol and substance abuse treatment programs in
49 such correctional facilities in order to ensure that such programs
50 sufficiently meet the needs of inmates with a history of alcohol or
51 substance abuse or dependence and promote the successful transition to
52 treatment in the community upon release. No later than the first day of
53 December of each year, the office shall submit a report regarding the
54 adequacy and effectiveness of alcohol and substance abuse treatment
55 programs operated by the department of [~~correctional services~~]
56 corrections and community supervision to the governor, the temporary

1 president of the senate, the speaker of the assembly, the chairman of
2 the senate committee on crime victims, crime and correction, and the
3 chairman of the assembly committee on correction.

4 § 118-g. Paragraphs 2 and 3 of subdivision (a) of section 19.09 of the
5 mental hygiene law, paragraph 2 as amended by section 45 of part A of
6 chapter 56 of the laws of 2010 and paragraph 3 as amended by chapter 601
7 of the laws of 2007, are amended to read as follows:

8 (2) Upon the request of a state agency, including but not limited to
9 the department of [~~correctional services~~] corrections and community
10 supervision, the office of probation and correctional alternatives, and
11 the office of children and family services, [~~and the board of parole,~~]
12 the commissioner shall have the power to provide alcoholism, substance
13 abuse, and chemical dependence services either directly or through
14 agreements with local certified or approved providers to persons in the
15 custody or under the jurisdiction of the requesting agency within
16 amounts available and within priorities established through the planning
17 process.

18 (3) The commissioner may coordinate alcoholism, alcohol abuse,
19 substance abuse, substance dependence and chemical dependence related
20 activities in all departments of the state by convening at regular
21 intervals a coordinating committee of representatives of the departments
22 of health, [~~correctional services~~] corrections and community
23 supervision, labor, economic development, education, and motor vehicles,
24 and the office of temporary and disability assistance and any other
25 department or agency having an interest therein.

26 § 118-h. Subdivisions (e), (f), (g), (i) and (j) of section 29.27 of
27 the mental hygiene law, as added by chapter 766 of the laws of 1976, are
28 amended to read as follows:

29 (e) When the director of the facility in which the inmate-patient is
30 in custody finds that the inmate-patient is no longer mentally ill or no
31 longer requires hospitalization for care and treatment, he shall so
32 notify the inmate-patient and commissioner of [~~correctional services~~]
33 corrections and community supervision or, in the case of an inmate-pa-
34 tient coming from a jail or correctional institution operated by local
35 government, the officer in charge of the jail or correctional institu-
36 tion from which the inmate-patient was committed. The commissioner of
37 [~~correctional services~~] corrections and community supervision or such
38 officer, as the case may be, shall immediately arrange to take such
39 inmate-patient into custody and return him to a correctional facility or
40 to the jail or correctional institution operated by local government.

41 (f) Upon delivery of the inmate-patient to the representative of the
42 commissioner of [~~correctional services~~] corrections and community super-
43 vision or of an officer in charge of a jail or correctional institution
44 operated by local government, the responsibility of the department and
45 its facilities for the custody of the inmate-patient shall terminate.
46 Where the inmate is returned to a state correctional facility, the
47 department shall continue to be responsible for the inmate-patient's
48 psychiatric care if the inmate-patient upon his return is in a program
49 established pursuant to section four hundred one of the correction law.

50 (g) If an inmate-patient in the custody of the department escapes from
51 custody, immediate notice shall be given to the commissioner of [~~correc-~~
52 ~~tional services~~] corrections and community supervision or, in the case
53 of an inmate-patient coming from a jail or correctional institution
54 operated by local government, to the officer in charge of such jail or
55 correctional institution. Notice shall also be given to appropriate law
56 enforcement authorities.

1 (i) Upon release of an inmate-patient from a facility, the director
2 shall forward a copy of all health and psychiatric records to the
3 commissioner of [~~correctional services~~] corrections and community super-
4 vision or to the officer in charge of a jail or correctional institution
5 operated by local government, as the case may be.

6 (j) If the sentence for which an inmate-patient is confined expires or
7 is vacated or modified by court order, the director shall so notify the
8 commissioner of [~~correctional services~~] corrections and community super-
9 vision or such officer in charge of a jail or correctional institution
10 operated by local government, as appropriate.

11 § 118-i. Paragraph 10 of subdivision (c) of section 33.13 of the
12 mental hygiene law, as amended by chapter 168 of the laws of 2010, is
13 amended to read as follows:

14 10. to a correctional facility, when the chief administrative officer
15 has requested such information with respect to a named inmate of such
16 correctional facility as defined by subdivision three of section forty
17 of the correction law or to the [~~division of parole~~] department of
18 corrections and community supervision, when the [~~division~~] department
19 has requested such information with respect to a person under its juris-
20 diction or an inmate of a state correctional facility, when such inmate
21 is within four weeks of release from such institution to [~~the jurisdic-~~
22 ~~tion of the division of parole~~] community supervision. Information
23 released pursuant to this paragraph may be limited to a summary of the
24 record, including but not limited to: the basis for referral to the
25 facility; the diagnosis upon admission and discharge; a diagnosis and
26 description of the patient's or client's current mental condition; the
27 current course of treatment, medication and therapies; and the facili-
28 ty's recommendation for future mental hygiene services, if any. Such
29 information may be forwarded to the department of [~~correctional~~
30 ~~services~~] corrections and community supervision staff in need of such
31 information for the purpose of making a determination regarding an
32 inmate's health care, security, safety or ability to participate in
33 programs. In the event an inmate is transferred, the sending correction-
34 al facility shall forward, upon request, such summaries to the chief
35 administrative officer of any correctional facility to which the inmate
36 is subsequently incarcerated. The office of mental health and the office
37 for people with developmental disabilities, in consultation with the
38 commission of correction and the [~~division of parole~~] department of
39 corrections and community supervision, shall promulgate rules and regu-
40 lations to implement the provisions of this paragraph.

41 § 118-j. Subdivision (z) of section 45.07 of the mental hygiene law,
42 as added by chapter 1 of the laws of 2008, is amended to read as
43 follows:

44 (z) Monitor and make recommendations regarding the quality of care
45 provided to inmates with serious mental illness, including those who are
46 in a residential mental health treatment unit or segregated confinement
47 in facilities operated by the department of [~~correctional services~~]
48 corrections and community supervision, and oversee compliance with para-
49 graphs (d) and (e) of subdivision six of section one hundred thirty-sev-
50 en, and section four hundred one, of the correction law. Such responsi-
51 bilities shall be carried out in accordance with section four hundred
52 one-a of the correction law.

53 § 119. Clause (c.) of subparagraph 13 of paragraph (a) of subdivision
54 1 of section 10 of the municipal home rule law, as amended by section 3
55 of part XX of chapter 57 of the laws of 2010, is amended to read as
56 follows:

1 (c.) As used in this subparagraph the term "population" shall mean
2 residents, citizens, or registered voters. For such purposes, no person
3 shall be deemed to have gained or lost a residence, or to have become a
4 resident of a local government, as defined in subdivision eight of
5 section two of this chapter, by reason of being subject to the jurisdic-
6 tion of the department of [~~correctional services~~] corrections and commu-
7 nity supervision and present in a state correctional facility pursuant
8 to such jurisdiction. A population base for such a plan of apportionment
9 shall utilize the latest statistical information obtainable from an
10 official enumeration done at the same time for all the residents, citi-
11 zens, or registered voters of the local government. Such a plan may
12 allocate, by extrapolation or any other rational method, such latest
13 statistical information to representation areas or units of local
14 government, provided that any plan containing such an allocation shall
15 have annexed thereto as an appendix, a detailed explanation of the allo-
16 cation.

17 § 120. Subdivisions 6 and 7 of section 60.04 of the penal law, subdi-
18 vision 6 as added by chapter 738 of the laws of 2004 and subdivision 7
19 as added by section 18 of part AAA of chapter 56 of the laws of 2009,
20 are amended to read as follows:

21 6. Substance abuse treatment. When the court imposes a sentence of
22 imprisonment which requires a commitment to the state department of
23 [~~correctional services~~] corrections and community supervision upon a
24 person who stands convicted of a controlled substance or marihuana
25 offense, the court may, upon motion of the defendant in its discretion,
26 issue an order directing that the department of [~~correctional services~~]
27 corrections and community supervision enroll the defendant in the
28 comprehensive alcohol and substance abuse treatment program in an alco-
29 hol and substance abuse correctional annex as defined in subdivision
30 eighteen of section two of the correction law, provided that the defend-
31 ant will satisfy the statutory eligibility criteria for participation in
32 such program. Notwithstanding the foregoing provisions of this subdivi-
33 sion, any defendant to be enrolled in such program pursuant to this
34 subdivision shall be governed by the same rules and regulations promul-
35 gated by the department of [~~correctional services~~] corrections and
36 community supervision, including without limitation those rules and
37 regulations establishing requirements for completion and those rules and
38 regulations governing discipline and removal from the program. No such
39 period of court ordered corrections based drug abuse treatment pursuant
40 to this subdivision shall be required to extend beyond the defendant's
41 conditional release date.

42 7. a. Shock incarceration participation. When the court imposes a
43 sentence of imprisonment which requires a commitment to the department
44 of [~~correctional services~~] corrections and community supervision upon a
45 person who stands convicted of a controlled substance or marihuana
46 offense, upon motion of the defendant, the court may issue an order
47 directing that the department of [~~correctional services~~] corrections and
48 community supervision enroll the defendant in the shock incarceration
49 program as defined in article twenty-six-A of the correction law,
50 provided that the defendant is an eligible inmate, as described in
51 subdivision one of section eight hundred sixty-five of the correction
52 law. Notwithstanding the foregoing provisions of this subdivision, any
53 defendant to be enrolled in such program pursuant to this subdivision
54 shall be governed by the same rules and regulations promulgated by the
55 department of [~~correctional services~~] corrections and community super-
56 vision, including without limitation those rules and regulations estab-

1 lishing requirements for completion and such rules and regulations
2 governing discipline and removal from the program.

3 b. (i) In the event that an inmate designated by court order for
4 enrollment in the shock incarceration program requires a degree of
5 medical care or mental health care that cannot be provided at a shock
6 incarceration facility, the department, in writing, shall notify the
7 inmate, provide a proposal describing a proposed alternative-to-shock-
8 incarceration program, and notify him or her that he or she may object
9 in writing to placement in such alternative-to-shock-incarceration
10 program. If the inmate objects in writing to placement in such alterna-
11 tive-to-shock-incarceration program, the department of [~~correctional~~
12 ~~services~~] corrections and community supervision shall notify the
13 sentencing court, provide such proposal to the court, and arrange for
14 the inmate's prompt appearance before the court. The court shall provide
15 the proposal and notice of a court appearance to the people, the inmate
16 and the appropriate defense attorney. After considering the proposal and
17 any submissions by the parties, and after a reasonable opportunity for
18 the people, the inmate and counsel to be heard, the court may modify its
19 sentencing order accordingly, notwithstanding the provisions of section
20 430.10 of the criminal procedure law.

21 (ii) An inmate who successfully completes an alternative-to-shock-
22 incarceration program within the department of [~~correctional services~~]
23 corrections and community supervision shall be treated in the same
24 manner as a person who has successfully completed the shock incarcera-
25 tion program, as set forth in subdivision four of section eight hundred
26 sixty-seven of the correction law.

27 § 121. Subdivision 8 of section 60.35 of the penal law, as amended by
28 section 1 of part E of chapter 56 of the laws of 2004, is amended to
29 read as follows:

30 8. Subdivision one of section 130.10 of the criminal procedure law
31 notwithstanding, at the time that the mandatory surcharge, sex offender
32 registration fee or DNA databank fee, crime victim assistance fee or
33 supplemental sex offender victim fee is imposed a town or village court
34 may, and all other courts shall, issue and cause to be served upon the
35 person required to pay the mandatory surcharge, sex offender registra-
36 tion fee or DNA databank fee, crime victim assistance fee or supple-
37 mental sex offender victim fee, a summons directing that such person
38 appear before the court regarding the payment of the mandatory
39 surcharge, sex offender registration fee or DNA databank fee, crime
40 victim assistance fee or supplemental sex offender victim fee, if after
41 sixty days from the date it was imposed it remains unpaid. The desig-
42 nated date of appearance on the summons shall be set for the first day
43 court is in session falling after the sixtieth day from the imposition
44 of the mandatory surcharge, sex offender registration fee or DNA data-
45 bank fee, crime victim assistance fee or supplemental sex offender
46 victim fee. The summons shall contain the information required by subdivi-
47 sion two of section 130.10 of the criminal procedure law except that
48 in substitution for the requirement of paragraph (c) of such subdivision
49 the summons shall state that the person served must appear at a date,
50 time and specific location specified in the summons if after sixty days
51 from the date of issuance the mandatory surcharge, sex offender regis-
52 tration fee or DNA databank fee, crime victim assistance fee or supple-
53 mental sex offender victim fee remains unpaid. The court shall not issue
54 a summons under this subdivision to a person who is being sentenced to a
55 term of confinement in excess of sixty days in jail or in the department
56 of [~~correctional services~~] corrections and community supervision. The

1 mandatory surcharges, sex offender registration fee and DNA databank
2 fees, crime victim assistance fees and supplemental sex offender victim
3 fees for those persons shall be governed by the provisions of section
4 60.30 of this article.

5 § 122. Paragraph (b) of subdivision 2 of section 70.02 of the penal
6 law, as separately amended by chapters 764 and 765 of the laws of 2005,
7 is amended to read as follows:

8 (b) Except as provided in paragraph (b-1) of this subdivision, subdi-
9 vision six of section 60.05 and subdivision four of this section, the
10 sentence imposed upon a person who stands convicted of a class D violent
11 felony offense, other than the offense of criminal possession of a weap-
12 on in the third degree as defined in subdivision [~~four,~~] five, seven or
13 eight of section 265.02 or criminal sale of a firearm in the third
14 degree as defined in section 265.11, must be in accordance with the
15 applicable provisions of this chapter relating to sentencing for class D
16 felonies provided, however, that where a sentence of imprisonment is
17 imposed which requires a commitment to the state department of [~~correc-~~
18 ~~tional services~~] corrections and community supervision, such sentence
19 shall be a determinate sentence in accordance with paragraph (c) of
20 subdivision three of this section.

21 § 123. Subdivision 7 of section 70.06 of the penal law, as amended by
22 chapter 738 of the laws of 2004, is amended to read as follows:

23 7. Notwithstanding any other provision of law, in the case of a person
24 sentenced for a specified offense or offenses as defined in subdivision
25 five of section 410.91 of the criminal procedure law, who stands
26 convicted of no other felony offense, who has not previously been
27 convicted of either a violent felony offense as defined in section 70.02
28 of this article, a class A felony offense or a class B felony offense,
29 and is not under the jurisdiction of or awaiting delivery to the depart-
30 ment of [~~correctional services~~] corrections and community supervision,
31 the court may direct that such sentence be executed as a parole super-
32 vision sentence as defined in and pursuant to the procedures prescribed
33 in section 410.91 of the criminal procedure law.

34 § 124. Section 70.20 of the penal law, as amended by chapter 303 of
35 the laws of 1981, subdivision 1 as separately amended by chapters 3 and
36 516 of the laws of 1995, paragraphs (b), (c), (d) and (e) of subdivision
37 1 as added by chapter 516 of the laws of 1995, subdivision 2-a as added
38 by chapter 1 of the laws of 1995, subdivision 3 as amended by chapter 3
39 of the laws of 1995, subdivision 4 as amended by chapter 479 of the laws
40 of 1992, paragraph (a) of subdivision 4 as separately amended by chapter
41 465 of the laws of 1992 and paragraphs (d) and (e) of subdivision 4 as
42 relettered and subdivision 5 as designated by chapter 516 of the laws of
43 1995, is amended to read as follows:

44 § 70.20 Place of imprisonment.

45 1. (a) Indeterminate or determinate sentence. Except as provided in
46 subdivision four of this section, when an indeterminate or determinate
47 sentence of imprisonment is imposed, the court shall commit the defend-
48 ant to the custody of the state department of [~~correctional services~~]
49 corrections and community supervision for the term of his or her
50 sentence and until released in accordance with the law; provided, howev-
51 er, that a defendant sentenced pursuant to subdivision seven of section
52 70.06 shall be committed to the custody of the state department of
53 [~~correctional services~~] corrections and community supervision for imme-
54 diate delivery to a reception center operated by the department.

55 (b) The court in committing a defendant who is not yet eighteen years
56 of age to the department of [~~correctional services~~] corrections and

1 community supervision shall inquire as to whether the parents or legal
2 guardian of the defendant, if present, will grant to the minor the
3 capacity to consent to routine medical, dental and mental health
4 services and treatment.

5 (c) Notwithstanding paragraph (b) of this subdivision, where the court
6 commits a defendant who is not yet eighteen years of age to the custody
7 of the department of [~~correctional services~~] corrections and community
8 supervision in accordance with this section and no medical consent has
9 been obtained prior to said commitment, the commitment order shall be
10 deemed to grant the capacity to consent to routine medical, dental and
11 mental health services and treatment to the person so committed.

12 (d) Nothing in this subdivision shall preclude a parent or legal guar-
13 dian of an inmate who is not yet eighteen years of age from making a
14 motion on notice to the department of [~~correctional services~~]
15 corrections and community supervision pursuant to article twenty-two of
16 the civil practice law and rules and section one hundred forty of the
17 correction law, objecting to routine medical, dental or mental health
18 services and treatment being provided to such inmate under the
19 provisions of paragraph (b) of this subdivision.

20 (e) Nothing in this section shall require that consent be obtained
21 from the parent or legal guardian, where no consent is necessary or
22 where the defendant is authorized by law to consent on his or her own
23 behalf to any medical, dental, and mental health service or treatment.

24 2. Definite sentence. Except as provided in subdivision four of this
25 section, when a definite sentence of imprisonment is imposed, the court
26 shall commit the defendant to the county or regional correctional insti-
27 tution for the term of his sentence and until released in accordance
28 with the law.

29 2-a. Sentence of life imprisonment without parole. When a sentence of
30 life imprisonment without parole is imposed, the court shall commit the
31 defendant to the custody of the state department of [~~correctional~~
32 ~~services~~] corrections and community supervision for the remainder of the
33 life of the defendant.

34 3. Undischarged imprisonment in other jurisdiction. When a defendant
35 who is subject to an undischarged term of imprisonment, imposed at a
36 previous time by a court of another jurisdiction, is sentenced to an
37 additional term or terms of imprisonment by a court of this state to run
38 concurrently with such undischarged term, as provided in subdivision
39 four of section 70.25, the return of the defendant to the custody of the
40 appropriate official of the other jurisdiction shall be deemed a commit-
41 ment for such portion of the term or terms of the sentence imposed by
42 the court of this state as shall not exceed the said undischarged term.
43 The defendant shall be committed to the custody of the state department
44 of [~~correctional services~~] corrections and community supervision if the
45 additional term or terms are indeterminate or determinate or to the
46 appropriate county or regional correctional institution if the said term
47 or terms are definite for such portion of the term or terms of the
48 sentence imposed as shall exceed such undischarged term or until
49 released in accordance with law. If such additional term or terms
50 imposed shall run consecutively to the said undischarged term, the
51 defendant shall be committed as provided in subdivisions one and two of
52 this section.

53 4. (a) Notwithstanding any other provision of law to the contrary, a
54 juvenile offender, or a juvenile offender who is adjudicated a youthful
55 offender and given an indeterminate or a definite sentence, shall be
56 committed to the custody of the [~~director of the division for~~

1 ~~youth~~commissioner of the office of children and family services who
2 shall arrange for the confinement of such offender in secure facilities
3 of the [~~division~~] office. The release or transfer of such offenders
4 from the [~~division for youth~~] office of children and family services
5 shall be governed by section five hundred eight of the executive law.

6 (b) The court in committing a juvenile offender and youthful offender
7 to the custody of the [~~division for youth~~] office of children and family
8 services shall inquire as to whether the parents or legal guardian of
9 the youth, if present, will consent for the [~~division~~] office of chil-
10 dren and family services to provide routine medical, dental and mental
11 health services and treatment.

12 (c) Notwithstanding paragraph (b) of this subdivision, where the court
13 commits an offender to the custody of the [~~division for youth~~] office of
14 children and family services in accordance with this section and no
15 medical consent has been obtained prior to said commitment, the commit-
16 ment order shall be deemed to grant consent for the [~~division for youth~~]
17 office of children and family services to provide for routine medical,
18 dental and mental health services and treatment to the offender so
19 committed.

20 (d) Nothing in this subdivision shall preclude a parent or legal guar-
21 dian of an offender who is not yet eighteen years of age from making a
22 motion on notice to the [~~division for youth~~] office of children and
23 family services pursuant to article twenty-two of the civil practice law
24 and rules objecting to routine medical, dental or mental health services
25 and treatment being provided to such offender under the provisions of
26 paragraph (b) of this subdivision.

27 (e) Nothing in this section shall require that consent be obtained
28 from the parent or legal guardian, where no consent is necessary or
29 where the offender is authorized by law to consent on his or her own
30 behalf to any medical, dental and mental health service or treatment.

31 5. Subject to regulations of the department of health, routine
32 medical, dental and mental health services and treatment is defined for
33 the purposes of this section to mean any routine diagnosis or treatment,
34 including without limitation the administration of medications or nutri-
35 tion, the extraction of bodily fluids for analysis, and dental care
36 performed with a local anesthetic. Routine mental health treatment shall
37 not include psychiatric administration of medication unless it is part
38 of an ongoing mental health plan or unless it is otherwise authorized by
39 law.

40 § 125. Subdivisions 1 and 3 of section 70.20 of the penal law, subdi-
41 vision 1 as amended by chapter 516 of the laws of 1995 and subdivision 3
42 as amended by chapter 303 of the laws of 1981, are amended to read as
43 follows:

44 1. (a) Indeterminate sentence. Except as provided in subdivision four
45 of this section, when an indeterminate sentence of imprisonment is
46 imposed, the court shall commit the defendant to the custody of the
47 state department of [~~correctional services~~] corrections and community
48 supervision for the term of his or her sentence and until released in
49 accordance with the law.

50 (b) The court in committing a defendant who is not yet eighteen years
51 of age to the department of [~~correctional services~~] corrections and
52 community supervision shall inquire as to whether the parents or legal
53 guardian of the defendant, if present, will grant to the minor the
54 capacity to consent to routine medical, dental and mental health
55 services and treatment.

1 (c) Notwithstanding paragraph (b) of this subdivision, where the court
2 commits a defendant who is not yet eighteen years of age to the custody
3 of the department of [~~correctional services~~] corrections and community
4 supervision in accordance with this section and no medical consent has
5 been obtained prior to said commitment, the commitment order shall be
6 deemed to grant the capacity to consent to routine medical, dental and
7 mental health services and treatment to the person so committed.

8 (d) Nothing in this subdivision shall preclude a parent or legal guar-
9 dian of an inmate who is not yet eighteen years of age from making a
10 motion on notice to the department of [~~correctional services~~]
11 corrections and community supervision pursuant to article twenty-two of
12 the civil practice law and rules and section one hundred forty of the
13 correction law, objecting to routine medical, dental or mental health
14 services and treatment being provided to such inmate under the
15 provisions of paragraph (b) of this subdivision.

16 (e) Nothing in this section shall require that consent be obtained
17 from the parent or legal guardian, where no consent is necessary or
18 where the defendant is authorized by law to consent on his or her own
19 behalf to any medical, dental, and mental health service or treatment.

20 3. Undischarged imprisonment in other jurisdiction. When a defendant
21 who is subject to an undischarged term of imprisonment, imposed at a
22 previous time by a court of another jurisdiction, is sentenced to an
23 additional term or terms of imprisonment by a court of this state to run
24 concurrently with such undischarged term, as provided in subdivision
25 four of section 70.25, the return of the defendant to the custody of the
26 appropriate official of the other jurisdiction shall be deemed a commit-
27 ment for such portion of the term or terms of the sentence imposed by
28 the court of this state as shall not exceed the said undischarged term.
29 The defendant shall be committed to the custody of the state department
30 of [~~correctional services~~] corrections and community supervision if the
31 additional term or terms are indeterminate or to the appropriate county
32 or regional correctional institution if the said term or terms are defi-
33 nite for such portion of the term or terms of the sentence imposed as
34 shall exceed such undischarged term or until released in accordance with
35 law. If such additional term or terms imposed shall run consecutively to
36 the said undischarged term, the defendant shall be committed as provided
37 in subdivisions one and two of this section.

38 § 126. The opening paragraph of subdivision 1 and subdivisions 6 and 7
39 of section 70.30 of the penal law, the opening paragraph of subdivision
40 1 as amended by chapter 3 of the laws of 1995, subdivision 6 as amended
41 by chapter 465 of the laws of 1974 and subdivision 7 as amended by chap-
42 ter 392 of the laws of 1988, are amended to read as follows:

43 An indeterminate or determinate sentence of imprisonment commences
44 when the prisoner is received in an institution under the jurisdiction
45 of the state department of [~~correctional services~~] corrections and
46 community supervision. Where a person is under more than one indetermi-
47 nate or determinate sentence, the sentences shall be calculated as
48 follows:

49 6. Escape. When a person who is serving a sentence of imprisonment
50 escapes from custody, the escape shall interrupt the sentence and such
51 interruption shall continue until the return of the person to the insti-
52 tution in which the sentence was being served or, if the sentence was
53 being served in an institution under the jurisdiction of the state
54 department of [~~correctional services~~] corrections and community super-
55 vision, to an institution under the jurisdiction of that department. Any
56 time spent by such person in custody from the date of escape to the date

1 the sentence resumes shall be credited against the term or maximum term
2 of the interrupted sentence, provided:

3 (a) That such custody was due to an arrest or surrender based upon the
4 escape; or

5 (b) That such custody arose from an arrest on another charge which
6 culminated in a dismissal or an acquittal; or

7 (c) That such custody arose from an arrest on another charge which
8 culminated in a conviction, but in such case, if a sentence of imprison-
9 ment was imposed, the credit allowed shall be limited to the portion of
10 the time spent in custody that exceeds the period, term or maximum term
11 of imprisonment imposed for such conviction.

12 7. Absconding from temporary release or furlough program. When a
13 person who is serving a sentence of imprisonment is permitted to leave
14 an institution to participate in a program of work release or furlough
15 program as such term is defined in section six hundred thirty-one of the
16 correction law, or in the case of an institution under the jurisdiction
17 of the state department of [~~correctional services~~] corrections and
18 community supervision or a facility under the jurisdiction of the state
19 [~~division for youth~~] office of children and family services to partic-
20 ipate in a program of temporary release, fails to return to the institu-
21 tion or facility at or before the time prescribed for his or her return,
22 such failure shall interrupt the sentence and such interruption shall
23 continue until the return of the person to the institution in which the
24 sentence was being served or, if the sentence was being served in an
25 institution under the jurisdiction of the state department of [~~correc-~~
26 ~~tional services~~] corrections and community supervision or a facility
27 under the jurisdiction of the state [~~division for youth~~] office of chil-
28 dren and family services to an institution under the jurisdiction of
29 that department or a facility under the jurisdiction of that [~~division~~]
30 office. Any time spent by such person in an institution from the date
31 of his or her failure to return to the date his or her sentence resumes
32 shall be credited against the term or maximum term of the interrupted
33 sentence, provided:

34 (a) That such incarceration was due to an arrest or surrender based
35 upon the failure to return; or

36 (b) That such incarceration arose from an arrest on another charge
37 which culminated in a dismissal or an acquittal; or

38 (c) That such custody arose from an arrest on another charge which
39 culminated in a conviction, but in such case, if a sentence of imprison-
40 ment was imposed, the credit allowed shall be limited to the portion of
41 the time spent in custody that exceeds the period, term or maximum term
42 of imprisonment imposed for such conviction.

43 § 127. The opening paragraph of subdivision 1 of section 70.30 of the
44 penal law, as amended by chapter 481 of the laws of 1978, is amended to
45 read as follows:

46 An indeterminate sentence of imprisonment commences when the prisoner
47 is received in an institution under the jurisdiction of the state
48 department of [~~correctional services~~] corrections and community super-
49 vision. Where a person is under more than one indeterminate sentence,
50 the sentences shall be calculated as follows:

51 § 127-a. Section 70.35 of the penal law, as amended by chapter 3 of
52 the laws of 1995, is amended to read as follows:

53 § 70.35 Merger of certain definite and indeterminate or determinate
54 sentences.

55 The service of an indeterminate or determinate sentence of imprison-
56 ment shall satisfy any definite sentence of imprisonment imposed on a

1 person for an offense committed prior to the time the indeterminate or
2 determinate sentence was imposed, except as provided in paragraph (b) of
3 subdivision five of section 70.25 of this article. A person who is serv-
4 ing a definite sentence at the time an indeterminate or determinate
5 sentence is imposed shall be delivered to the custody of the state
6 department of [~~correctional services~~] corrections and community super-
7 vision to commence service of the indeterminate or determinate sentence
8 immediately unless the person is serving a definite sentence pursuant to
9 paragraph (b) of subdivision five of section 70.25 of this article. In
10 any case where the indeterminate or determinate sentence is revoked or
11 vacated, the person shall receive credit against the definite sentence
12 for each day spent in the custody of the state department of [~~correc-~~
13 ~~tional services~~] corrections and community supervision.

14 § 127-b. Section 70.35 of the penal law, as amended by chapter 527 of
15 the laws of 1989, is amended to read as follows:

16 § 70.35 Merger of certain definite and indeterminate sentences.

17 The service of an indeterminate sentence of imprisonment shall satisfy
18 any definite sentence of imprisonment imposed on a person for an offense
19 committed prior to the time the indeterminate sentence was imposed,
20 except as provided in paragraph (b) of subdivision five of section 70.25
21 of this article. A person who is serving a definite sentence at the time
22 an indeterminate sentence is imposed shall be delivered to the custody
23 of the state department of [~~correctional services~~] corrections and
24 community supervision to commence service of the indeterminate sentence
25 immediately unless the person is serving a definite sentence pursuant to
26 paragraph (b) of subdivision five of section 70.25 of this article. In
27 any case where the indeterminate sentence is revoked or vacated, the
28 person shall receive credit against the definite sentence for each day
29 spent in the custody of the state department of [~~correctional services~~]
30 corrections and community supervision.

31 § 127-c. Paragraph (a) of subdivision 1 of section 70.40 of the penal
32 law, as amended by chapter 3 of the laws of 1995, subparagraph (i) as
33 amended by chapter 435 of the laws of 1997, subparagraph (v) as amended
34 by section 7 of part J of chapter 56 of the laws of 2009, is amended to
35 read as follows:

36 (a) Release on parole shall be in the discretion of the state board of
37 parole, and such person shall continue service of his or her sentence or
38 sentences while on parole, in accordance with and subject to the
39 provisions of the executive law and the correction law.

40 (i) A person who is serving one or more than one indeterminate
41 sentence of imprisonment may be paroled from the institution in which he
42 or she is confined at any time after the expiration of the minimum or
43 the aggregate minimum period of the sentence or sentences or, where
44 applicable, the minimum or aggregate minimum period reduced by the merit
45 time allowance granted pursuant to paragraph (d) of subdivision one of
46 section eight hundred three of the correction law.

47 (ii) A person who is serving one or more than one determinate sentence
48 of imprisonment shall be ineligible for discretionary release on parole.

49 (iii) A person who is serving one or more than one indeterminate
50 sentence of imprisonment and one or more than one determinate sentence
51 of imprisonment, which run concurrently may be paroled at any time after
52 the expiration of the minimum period of imprisonment of the indetermi-
53 nate sentence or sentences, or upon the expiration of six-sevenths of
54 the term of imprisonment of the determinate sentence or sentences,
55 whichever is later.

1 (iv) A person who is serving one or more than one indeterminate
2 sentence of imprisonment and one or more than one determinate sentence
3 of imprisonment which run consecutively may be paroled at any time after
4 the expiration of the sum of the minimum or aggregate minimum period of
5 the indeterminate sentence or sentences and six-sevenths of the term or
6 aggregate term of imprisonment of the determinate sentence or sentences.

7 (v) Notwithstanding any other subparagraph of this paragraph, a person
8 may be paroled from the institution in which he or she is confined at
9 any time on medical parole pursuant to section two hundred fifty-nine-r
10 or section two hundred fifty-nine-s of the executive law or for deporta-
11 tion pursuant to paragraph (d) of subdivision two of section two hundred
12 fifty-nine-i of the executive law or after the successful completion of
13 a shock incarceration program pursuant to article twenty-six-A of the
14 correction law.

15 § 127-d. Paragraph (a) of subdivision 1 of section 70.40 of the penal
16 law, as separately amended by chapter 261 of the laws of 1987 and chap-
17 ter 55 of the laws of 1992, subparagraph (i) as added by chapter 3 of
18 the laws of 1995, is amended to read as follows:

19 (a) (i) A person who is serving one or more than one indeterminate
20 sentence of imprisonment may be paroled from the institution in which he
21 or she is confined at any time after the expiration of the minimum or
22 the aggregate minimum period of imprisonment of the sentence or
23 sentences or after the successful completion of a shock incarceration
24 program, as defined in article twenty-six-A of the correction law,
25 whichever is sooner. Release on parole shall be in the discretion of the
26 state board of parole, and such person shall continue service of his or
27 her sentence or sentences while on parole, in accordance with and
28 subject to the provisions of the executive law and the correction law.

29 [~~(i)~~] (ii) A person who is serving one or more than one indeterminate
30 sentence of imprisonment may be paroled from the institution in which he
31 or she is confined at any time after the expiration of the minimum or
32 the aggregate minimum period of the sentence or sentences.

33 § 127-d-1. Paragraph (b) of subdivision 1 of section 70.40 of the
34 penal law, as amended by chapter 1 of the laws of 1998, is amended to
35 read as follows:

36 (b) A person who is serving one or more than one indeterminate or
37 determinate sentence of imprisonment shall, if he or she so requests, be
38 conditionally released from the institution in which he or she is
39 confined when the total good behavior time allowed to him or her, pursu-
40 ant to the provisions of the correction law, is equal to the unserved
41 portion of his or her term, maximum term or aggregate maximum term;
42 provided, however, that (i) in no event shall a person serving one or
43 more indeterminate sentence of imprisonment and one or more determinate
44 sentence of imprisonment which run concurrently be conditionally
45 released until serving at least six-sevenths of the determinate term of
46 imprisonment which has the longest unexpired time to run and (ii) in no
47 event shall a person be conditionally released prior to the date on
48 which such person is first eligible for discretionary parole release.
49 The conditions of release, including those governing post-release super-
50 vision, shall be such as may be imposed by the state board of parole in
51 accordance with the provisions of the executive law.

52 Every person so released shall be under the supervision of the state
53 [~~board of parole~~] department of corrections and community supervision
54 for a period equal to the unserved portion of the term, maximum term,
55 aggregate maximum term, or period of post-release supervision.

1 § 127-e. Paragraph (b) of subdivision 1 of section 70.40 of the penal
2 law, as separately amended by chapter 467 of the laws of 1979 and chap-
3 ter 1 of the laws of 1998, the closing paragraph as separately amended
4 by chapter 148 of the laws of 1975 and chapter 1 of the laws of 1998, is
5 amended to read as follows:

6 (b) A person who is serving one or more than one indeterminate
7 sentence of imprisonment shall, if he or she so requests, be condi-
8 tionally released from the institution in which he or she is confined
9 when the total good behavior time allowed to him or her, pursuant to the
10 provisions of the correction law, is equal to the unserved portion of
11 his or her maximum or aggregate maximum term. The conditions of release,
12 including those governing post-release supervision, shall be such as may
13 be imposed by the state board of parole in accordance with the
14 provisions of the executive law.

15 Every person so released shall be under the supervision of the [~~state~~
16 ~~board of parole~~] department of corrections and community supervision for
17 a period equal to the unserved portion of the maximum, aggregate maximum
18 term, or period of post-release supervision.

19 § 127-f. Paragraph (c) of subdivision 1 of section 70.40 of the penal
20 law, as added by section 13 of part E of chapter 62 of the laws of 2003,
21 is amended to read as follows:

22 (c) A person who is serving one or more than one indeterminate
23 sentence of imprisonment shall, if he or she so requests, be released
24 from the institution in which he or she is confined if granted presump-
25 tive release pursuant to section eight hundred six of the correction
26 law. The conditions of release shall be such as may be imposed by the
27 state board of parole in accordance with the provisions of the executive
28 law. Every person so released shall be under the supervision of the
29 [~~state board of parole~~] department of corrections and community super-
30 vision for a period equal to the unserved portion of his or her maximum
31 or aggregate maximum term unless discharged in accordance with law.

32 § 127-g. Subdivision 2 of section 70.40 of the penal law, as amended
33 by section 4 of part SS of chapter 56 of the laws of 2009, is amended to
34 read as follows:

35 2. Definite sentence. A person who is serving one or more than one
36 definite sentence of imprisonment with a term or aggregate term in
37 excess of ninety days, and is eligible for release according to the
38 criteria set forth in paragraphs (a), (b) and (c) of subdivision one of
39 section two hundred seventy-three of the correction law, may, if he or
40 she so requests, be conditionally released from the institution in which
41 he or she is confined at any time after service of sixty days of that
42 term, exclusive of credits allowed under subdivisions four and six of
43 section 70.30. In computing service of sixty days, the credit allowed
44 for jail time under subdivision three of section 70.30 shall be calcu-
45 lated as time served. Conditional release from such institution shall be
46 in the discretion of the parole board, or a local conditional release
47 commission established pursuant to article twelve of the correction law,
48 provided, however that where such release is by a local conditional
49 release commission, the person must be serving a definite sentence with
50 a term in excess of one hundred twenty days and may only be released
51 after service of ninety days of such term. In computing service of nine-
52 ty days, the credit allowed for jail time under subdivision three of
53 section 70.30 of this article shall be calculated as time served. A
54 conditional release granted under this subdivision shall be upon such
55 conditions as may be imposed by the parole board, in accordance with the

1 provisions of the executive law, or a local conditional release commis-
2 sion in accordance with the provisions of the correction law.

3 Conditional release shall interrupt service of the sentence or
4 sentences and the remaining portion of the term or aggregate term shall
5 be held in abeyance. Every person so released shall be under the super-
6 vision of the [~~parole board~~] department of corrections and community
7 supervision or a local probation department and in the custody of the
8 local conditional release commission in accordance with article twelve
9 of the correction law, for a period of one year. The local probation
10 department shall cause complete records to be kept of every person
11 released to its supervision pursuant to this subdivision. The [~~division~~
12 ~~of parole~~] department of corrections and community supervision may
13 supply to a local probation department and the local conditional release
14 commission custody information and records maintained on persons under
15 the supervision of such local probation department to aid in the
16 performance of its supervision responsibilities. Compliance with the
17 conditions of release during the period of supervision shall satisfy the
18 portion of the term or aggregate term that has been held in abeyance.

19 § 127-h. Paragraphs (a) and (b) of subdivision 3 of section 70.40 of
20 the penal law, paragraph (a) as amended by section 14 of part E of chap-
21 ter 62 of the laws of 2003, paragraph (b) as amended by section 5 of
22 part SS of chapter 56 of the laws of 2009, are amended to read as
23 follows:

24 (a) When a person is alleged to have violated the terms of presumptive
25 release or parole and the state board of parole has declared such person
26 to be delinquent, the declaration of delinquency shall interrupt the
27 person's sentence as of the date of the delinquency and such inter-
28 ruption shall continue until the return of the person to an institution
29 under the jurisdiction of the state department of [~~correctional~~
30 ~~services~~] corrections and community supervision.

31 (b) When a person is alleged to have violated the terms of his or her
32 conditional release or post-release supervision and has been declared
33 delinquent by the parole board or the local conditional release commis-
34 sion having supervision over such person, the declaration of delinquency
35 shall interrupt the period of supervision or post-release supervision as
36 of the date of the delinquency. For a conditional release, such inter-
37 ruption shall continue until the return of the person to the institution
38 from which he or she was released or, if he or she was released from an
39 institution under the jurisdiction of the state department of [~~correc-~~
40 ~~tional services~~] corrections and community supervision, to an institu-
41 tion under the jurisdiction of that department. Upon such return, the
42 person shall resume service of his or her sentence. For a person
43 released to post-release supervision, the provisions of section 70.45
44 shall apply.

45 § 127-i. Intentionally omitted.

46 § 127-j. Subdivision 5 of section 70.45 of the penal law, as added by
47 chapter 1 of the laws of 1998, paragraph (d) as amended by section 5 of
48 part E of chapter 56 of the laws of 2007, is amended to read as follows:

49 5. Calculation of service of period of post-release supervision. A
50 period or periods of post-release supervision shall be calculated and
51 served as follows:

52 (a) A period of post-release supervision shall commence upon the
53 person's release from imprisonment to supervision by the [~~division of~~
54 ~~parole~~] department of corrections and community supervision and shall
55 interrupt the running of the determinate sentence or sentences of impri-
56 sonment and the indeterminate sentence or sentences of imprisonment, if

1 any. The remaining portion of any maximum or aggregate maximum term
2 shall then be held in abeyance until the successful completion of the
3 period of post-release supervision or the person's return to the custody
4 of the [~~department of correctional services~~] department of corrections
5 and community supervision, whichever occurs first.

6 (b) Upon the completion of the period of post-release supervision, the
7 running of such sentence or sentences of imprisonment shall resume and
8 only then shall the remaining portion of any maximum or aggregate maxi-
9 mum term previously held in abeyance be credited with and diminished by
10 such period of post-release supervision. The person shall then be under
11 the jurisdiction of the [~~division of parole~~] department of corrections
12 and community supervision for the remaining portion of such maximum or
13 aggregate maximum term.

14 (c) When a person is subject to two or more periods of post-release
15 supervision, such periods shall merge with and be satisfied by discharge
16 of the period of post-release supervision having the longest unexpired
17 time to run; provided, however, any time served upon one period of post-
18 release supervision shall not be credited to any other period of post-
19 release supervision except as provided in subdivision five of section
20 70.30 of this article.

21 (d) When a person is alleged to have violated a condition of post-re-
22 lease supervision and the [~~division of parole~~] department of corrections
23 and community supervision has declared such person to be delinquent: (i)
24 the declaration of delinquency shall interrupt the period of post-re-
25 lease supervision; (ii) such interruption shall continue until the
26 person is restored to post-release supervision; (iii) if the person is
27 restored to post-release supervision without being returned to the
28 department of [~~correctional services~~] corrections and community super-
29 vision, any time spent in custody from the date of delinquency until
30 restoration to post-release supervision shall first be credited to the
31 maximum or aggregate maximum term of the sentence or sentences of impri-
32 sonment, but only to the extent authorized by subdivision three of
33 section 70.40 of this article. Any time spent in custody solely pursuant
34 to such delinquency after completion of the maximum or aggregate maximum
35 term of the sentence or sentences of imprisonment shall be credited to
36 the period of post-release supervision, if any; and (iv) if the person
37 is ordered returned to the department of [~~correctional services~~]
38 corrections and community supervision, the person shall be required to
39 serve the time assessment before being re-released to post-release
40 supervision. In the event the balance of the remaining period of post-
41 release supervision is six months or less, such time assessment may be
42 up to six months unless a longer period is authorized pursuant to subdi-
43 vision one of this section. The time assessment shall commence upon the
44 issuance of a determination after a final hearing that the person has
45 violated one or more conditions of supervision. While serving such
46 assessment, the person shall not receive any good behavior allowance
47 pursuant to section eight hundred three of the correction law. Any time
48 spent in custody from the date of delinquency until return to the
49 department of [~~correctional services~~] corrections and community super-
50 vision shall first be credited to the maximum or aggregate maximum term
51 of the sentence or sentences of imprisonment, but only to the extent
52 authorized by subdivision three of section 70.40 of this article. The
53 maximum or aggregate maximum term of the sentence or sentences of impri-
54 sonment shall run while the person is serving such time assessment in
55 the custody of the department of [~~correctional services~~] corrections and
56 community supervision. Any time spent in custody solely pursuant to

1 such delinquency after completion of the maximum or aggregate maximum
2 term of the sentence or sentences of imprisonment shall be credited to
3 the period of post-release supervision, if any.

4 (e) Notwithstanding paragraph (d) of this subdivision, in the event a
5 person is sentenced to one or more additional indeterminate or determi-
6 nate term or terms of imprisonment prior to the completion of the period
7 of post-release supervision, such period of post-release supervision
8 shall be held in abeyance and the person shall be committed to the
9 custody of the department of [~~correctional services~~] corrections and
10 community supervision in accordance with the requirements of the prior
11 and additional terms of imprisonment.

12 (f) When a person serving a period of post-release supervision is
13 returned to the department of [~~correctional services~~] corrections and
14 community supervision pursuant to an additional consecutive sentence of
15 imprisonment and without a declaration of delinquency, such period of
16 post-release supervision shall be held in abeyance while the person is
17 in the custody of the department of [~~correctional services~~] corrections
18 and community supervision. Such period of post-release supervision
19 shall resume running upon the person's re-release.

20 § 127-k. Paragraph (d) of subdivision 3 of section 70.70 of the penal
21 law, as added by chapter 738 of the laws of 2004, is amended to read as
22 follows:

23 (d) Sentence of parole supervision. In the case of a person sentenced
24 for a specified offense or offenses as defined in subdivision five of
25 section 410.91 of the criminal procedure law, who stands convicted of no
26 other felony offense, who has not previously been convicted of either a
27 violent felony offense as defined in section 70.02 of this article, a
28 class A felony offense or a class B felony offense, and is not under the
29 jurisdiction of or awaiting delivery to the department of [~~correctional~~
30 ~~services~~] corrections and community supervision, the court may direct
31 that a determinate sentence imposed pursuant to this subdivision shall
32 be executed as a parole supervision sentence as defined in and pursuant
33 to the procedures prescribed in section 410.91 of the criminal procedure
34 law.

35 § 127-l. Subdivision 1 of section 85.15 of the penal law, as amended
36 by chapter 3 of the laws of 1995, is amended to read as follows:

37 1. Indeterminate and determinate sentences. The service of an indeter-
38 minate or a determinate sentence of imprisonment shall satisfy any
39 sentence of intermittent imprisonment imposed on a person for an offense
40 committed prior to the time the indeterminate or determinate sentence
41 was imposed. A person who is serving a sentence of intermittent impri-
42 sonment at the time an indeterminate or a determinate sentence of impri-
43 sonment is imposed shall be delivered to the custody of the state
44 department of [~~correctional services~~] corrections and community super-
45 vision to commence service of the indeterminate or determinate sentence
46 immediately.

47 § 127-m. Subdivision 1 of section 85.15 of the penal law, as added by
48 chapter 477 of the laws of 1970, is amended to read as follows:

49 1. Indeterminate and reformatory sentences. The service of an indeter-
50 minate or a reformatory sentence of imprisonment shall satisfy any
51 sentence of intermittent imprisonment imposed on a person for an offense
52 committed prior to the time the indeterminate or reformatory sentence
53 was imposed. A person who is serving a sentence of intermittent impri-
54 sonment at the time an indeterminate or a reformatory sentence of impri-
55 sonment is imposed shall be delivered to the custody of the state
56 department of [~~correction~~] corrections and community supervision to

1 commence service of the indeterminate or reformatory sentence immediate-
2 ly.

3 § 127-n. Section 205.17 of the penal law, as amended by chapter 460 of
4 the laws of 1983, is amended to read as follows:

5 § 205.17 Absconding from temporary release in the first degree.

6 A person is guilty of absconding from temporary release in the first
7 degree when having been released from confinement in a correctional
8 institution under the jurisdiction of the state department of [~~correc-~~
9 ~~tional services~~] corrections and community supervision or a facility
10 under the jurisdiction of the state [~~division for youth~~] office of chil-
11 dren and family services to participate in a program of temporary
12 release, he or she intentionally fails to return to the institution or
13 facility of his or her confinement at or before the time prescribed for
14 his or her return.

15 Absconding from temporary release in the first degree is a class E
16 felony.

17 § 127-o. Section 205.19 of the penal law, as added by chapter 554 of
18 the laws of 1986, is amended to read as follows:

19 § 205.19 Absconding from a community treatment facility.

20 A person is guilty of absconding from a community treatment facility
21 when having been released from confinement from a correctional institu-
22 tion under the jurisdiction of the state department of [~~correctional~~
23 ~~services~~] corrections and community supervision by transfer to a commu-
24 nity treatment facility, he or she leaves such facility without authori-
25 zation or he or she intentionally fails to return to the community
26 treatment facility at or before the time prescribed for his or her
27 return.

28 Absconding from a community treatment facility is a class E felony.

29 § 127-p. Section 240.32 of the penal law, as separately amended by
30 chapters 422 and 441 of the laws of 2000, is amended to read as follows:

31 § 240.32 Aggravated harassment of an employee by an inmate.

32 An inmate or respondent is guilty of aggravated harassment of an
33 employee by an inmate when, with intent to harass, annoy, threaten or
34 alarm a person in a facility whom he or she knows or reasonably should
35 know to be an employee of such facility or the [~~division of~~] board of
36 parole or the office of mental health, or a probation department, bureau
37 or unit or a police officer, he or she causes or attempts to cause such
38 employee to come into contact with blood, seminal fluid, urine or feces,
39 by throwing, tossing or expelling such fluid or material.

40 For purposes of this section, "inmate" means an inmate or detainee in
41 a correctional facility, local correctional facility or a hospital, as
42 such term is defined in subdivision two of section four hundred of the
43 correction law. For purposes of this section, "respondent" means a juve-
44 nile in a secure facility operated and maintained by the office of chil-
45 dren and family services who is placed with or committed to the office
46 of children and family services. For purposes of this section, "facili-
47 ty" means a correctional facility or local correctional facility, hospi-
48 tal, as such term is defined in subdivision two of section four hundred
49 of the correction law, or a secure facility operated and maintained by
50 the office of children and family services.

51 Aggravated harassment of an employee by an inmate is a class E felony.

52 § 127-q. Paragraphs (e) and (f) of subdivision 3 of section 130.05 of
53 the penal law, paragraph (e) as amended by chapter 1 of the laws of
54 2000, subparagraph (iv) of paragraph (e) as added and paragraph (f) as
55 amended by chapter 335 of the laws of 2007, are amended to read as
56 follows:

1 (e) committed to the care and custody of the state department of
2 [~~correctional services~~] corrections and community supervision or a
3 hospital, as such term is defined in subdivision two of section four
4 hundred of the correction law, and the actor is an employee, not married
5 to such person, who knows or reasonably should know that such person is
6 committed to the care and custody of such department or hospital. For
7 purposes of this paragraph, "employee" means (i) an employee of the
8 state department of [~~correctional services~~] corrections and community
9 supervision who performs professional duties: (A) in a state correctional
10 facility consisting of providing custody, medical or mental health
11 services, counseling services, educational programs, or vocational
12 training for inmates; or

13 [~~(ii) an employee of the division of parole who performs professional~~
14 ~~duties~~] (B) in a state correctional facility and who provides institu-
15 tional parole services [~~pursuant to section two hundred fifty-nine e of~~
16 ~~the executive law~~]; or

17 [~~(iii)~~] (ii) an employee of the office of mental health who performs
18 professional duties in a state correctional facility or hospital, as
19 such term is defined in subdivision two of section four hundred of the
20 correction law, consisting of providing custody, or medical or mental
21 health services for such inmates; or

22 [~~(iv)~~] (iii) a person, including a volunteer, providing direct
23 services to inmates in the state correctional facility in which the
24 victim is confined at the time of the offense pursuant to a contractual
25 arrangement with the state department of correctional services or, in
26 the case of a volunteer, a written agreement with such department,
27 provided that the person received written notice concerning the
28 provisions of this paragraph; or

29 (f) committed to the care and custody of a local correctional facili-
30 ty, as such term is defined in subdivision two of section forty of the
31 correction law, and the actor is an employee, not married to such
32 person, who knows or reasonably should know that such person is commit-
33 ted to the care and custody of such facility. For purposes of this para-
34 graph, "employee" means an employee of the local correctional facility
35 where the person is committed who performs professional duties consist-
36 ing of providing custody, medical or mental health services, counseling
37 services, educational services, or vocational training for inmates. For
38 purposes of this paragraph, "employee" shall also mean a person, includ-
39 ing a volunteer or a government employee of the state [~~division of~~
40 ~~parole~~] department of corrections and community supervision or a local
41 health, education or probation agency, providing direct services to
42 inmates in the local correctional facility in which the victim is
43 confined at the time of the offense pursuant to a contractual arrange-
44 ment with the local correctional department or, in the case of such a
45 volunteer or government employee, a written agreement with such depart-
46 ment, provided that such person received written notice concerning the
47 provisions of this paragraph; or

48 § 127-r. Subdivision 1 of section 10 of the public buildings law, as
49 added by chapter 83 of the laws of 1995, is amended to read as follows:

50 1. Except as provided in subdivision two of this section, whenever the
51 head of any agency, board, division or commission, with the approval of
52 the director of the budget, (a) shall certify to the commissioner of
53 general services that any property on state land or on land under lease
54 to the state and consisting of buildings with or without fixtures
55 attached thereto, and any other improvements upon such lands, are unfit,
56 not adapted or not needed for use by such agency, board, division or

1 commission and (b) shall recommend for reasons to be stated, that the
2 said property should be disposed of, the commissioner of general
3 services shall, after causing an investigation to be made, dispose of
4 said property by sale or demolition as will best promote the public
5 interest. Public notice of a proposed sale where the value of the prop-
6 erty to be sold exceeds five thousand dollars shall be given by adver-
7 tising at least once in a newspaper published and having a general
8 circulation in the county in which such lands are located and in such
9 other newspaper or newspapers as the commissioner of general services
10 may deem to be necessary. Such advertisement shall give a general
11 description and location of the property and the terms of the sale and
12 the date on which proposals for the same will be received by the commis-
13 sioner of general services. Should any or all of the offers so received
14 be deemed by the commissioner of general services to be too low, he or
15 she may dispose of such property so advertised at private sale within
16 ninety days of the opening of the bids, provided that no such private
17 sale shall be consummated at a price lower than that submitted as a
18 result of public advertising. The commissioner of general services shall
19 also have the power to demolish such property either by contract or, if
20 such property is located on lands which are under the jurisdiction of
21 the department of [~~correctional services~~] corrections and community
22 supervision, the work of such demolition may be done by the inmates of
23 the institution where such property is located, provided however that
24 the commissioner of [~~correctional services~~] corrections and community
25 supervision shall consent to the employment of the inmates for the work
26 of demolition. The provisions of this subdivision shall be effective
27 notwithstanding the provisions of any other general or special law
28 relating to the disposal of buildings with the fixtures attached thereto
29 or of any improvements upon lands belonging to or under lease to the
30 state, and any such statute or parts thereof relating to such disposal
31 of buildings, fixtures and improvements insofar as they are inconsistent
32 with the provisions of this section are hereby superseded. A record of
33 any such sale shall be filed with the state agency head above referred
34 to and the proceeds of such sale or disposal shall be paid into the
35 treasury of the state to the credit of the capital projects fund.

36 § 127-s. Subdivision 26 of section 206 of the public health law, as
37 added by section 1 of chapter 419 of the laws of 2009, is amended to
38 read as follows:

39 26. The commissioner is hereby authorized and directed to review any
40 policy or practice instituted in facilities operated by the department
41 of [~~correctional services~~] corrections and community supervision regard-
42 ing human immunodeficiency virus (HIV), acquired immunodeficiency
43 syndrome (AIDS), and hepatitis C (HCV) including the prevention of the
44 transmission of HIV and HCV and the treatment of AIDS, HIV and HCV among
45 inmates. Such review shall be performed annually and shall focus on
46 whether such HIV, AIDS or HCV policy or practice is consistent with
47 current, generally accepted medical standards and procedures used to
48 prevent the transmission of HIV and HCV and to treat AIDS, HIV and HCV
49 among the general public. In performing such reviews, in order to deter-
50 mine the quality and adequacy of care and treatment provided, department
51 personnel are authorized to enter correctional facilities and inspect
52 policy and procedure manuals and medical protocols, interview health
53 services providers and inmate-patients, review medical grievances, and
54 inspect a representative sample of medical records of inmates known to
55 be infected with HIV or HCV or have AIDS. Prior to initiating a review
56 of a correctional system, the commissioner shall inform the public,

1 including patients, their families and patient advocates, of the sched-
2 uled review and invite them to provide the commissioner with relevant
3 information. Upon the completion of such review, the department shall,
4 in writing, approve such policy or practice as instituted in facilities
5 operated by the department of [~~correctional services~~] corrections and
6 community supervision or, based on specific, written recommendations,
7 direct the department of [~~correctional services~~] corrections and commu-
8 nity supervision to prepare and implement a corrective plan to address
9 deficiencies in areas where such policy or practice fails to conform to
10 current, generally accepted medical standards and procedures. The
11 commissioner shall monitor the implementation of such corrective plans
12 and shall conduct such further reviews as the commissioner deems neces-
13 sary to ensure that identified deficiencies in HIV, AIDS and HCV poli-
14 cies and practices are corrected. All written reports pertaining to
15 reviews provided for in this subdivision shall be maintained, under such
16 conditions as the commissioner shall prescribe, as public information
17 available for public inspection.

18 § 127-t. Subdivision 26 of section 206 of the public health law, as
19 amended by section 2 of chapter 419 of the laws of 2009, is amended to
20 read as follows:

21 26. The commissioner is hereby authorized and directed to review any
22 policy or practice instituted in facilities operated by the department
23 of [~~correctional services~~] corrections and community supervision, and in
24 all local correctional facilities, as defined in subdivision sixteen of
25 section two of the correction law, regarding human immunodeficiency
26 virus (HIV), acquired immunodeficiency syndrome (AIDS), and hepatitis C
27 (HCV) including the prevention of the transmission of HIV and HCV and
28 the treatment of AIDS, HIV and HCV among inmates. Such review shall be
29 performed annually and shall focus on whether such HIV, AIDS or HCV
30 policy or practice is consistent with current, generally accepted
31 medical standards and procedures used to prevent the transmission of HIV
32 and HCV and to treat AIDS, HIV and HCV among the general public. In
33 performing such reviews, in order to determine the quality and adequacy
34 of care and treatment provided, department personnel are authorized to
35 enter correctional facilities and inspect policy and procedure manuals
36 and medical protocols, interview health services providers and inmate-
37 patients, review medical grievances, and inspect a representative sample
38 of medical records of inmates known to be infected with HIV or HCV or
39 have AIDS. Prior to initiating a review of a correctional system, the
40 commissioner shall inform the public, including patients, their families
41 and patient advocates, of the scheduled review and invite them to
42 provide the commissioner with relevant information. Upon the completion
43 of such review, the department shall, in writing, approve such policy or
44 practice as instituted in facilities operated by the department of
45 [~~correctional services~~] corrections and community supervision, and in
46 any local correctional facility, or, based on specific, written recom-
47 mendations, direct the department of [~~correctional services~~] corrections
48 and community supervision, or the authority responsible for the
49 provision of medical care to inmates in local correctional facilities to
50 prepare and implement a corrective plan to address deficiencies in areas
51 where such policy or practice fails to conform to current, generally
52 accepted medical standards and procedures. The commissioner shall moni-
53 tor the implementation of such corrective plans and shall conduct such
54 further reviews as the commissioner deems necessary to ensure that iden-
55 tified deficiencies in HIV, AIDS and HCV policies and practices are
56 corrected. All written reports pertaining to reviews provided for in

1 this subdivision shall be maintained, under such conditions as the
2 commissioner shall prescribe, as public information available for public
3 inspection.

4 § 128. Subdivision 2 of section 579 of the public health law, as added
5 by chapter 436 of the laws of 1993, is amended to read as follows:

6 2. This title shall not be applicable to and the department shall not
7 have the power to regulate pursuant to this title: (a) any examination
8 performed by a state or local government of materials derived from the
9 human body for use in criminal identification or as evidence in a crimi-
10 nal proceeding or for investigative purposes; (b) any test conducted
11 pursuant to paragraph (c) of subdivision four of section eleven hundred
12 ninety-four of the vehicle and traffic law and paragraph ~~[(b)]~~ (c) of
13 subdivision ~~[four]~~ eight of section 25.24 of the parks, recreation and
14 historic preservation law; (c) any examination performed by a state or
15 local agency of materials derived from the body of an inmate, pretrial
16 releasee, parolee, conditional releasee or probationer to (i) determine,
17 measure or otherwise describe the presence or absence of any substance
18 whose possession, ingestion or use is prohibited by law, the rules of
19 the department of ~~[correctional services]~~ corrections and community
20 supervision, the conditions of release established by the board of
21 parole, the conditions of release established by a court or a local
22 conditional release commission or the conditions of any program to which
23 such individuals are referred and (ii) to determine whether there has
24 been a violation thereof; or (d) any examination performed by a coroner
25 or medical examiner for the medical-legal investigation of a death.
26 Nothing herein shall prevent the department from consulting with the
27 division of criminal justice services, the department of ~~[correctional~~
28 ~~services]~~ corrections and community supervision, the state police, or
29 any other state agency or commission, at the request of the division of
30 criminal justice services, the department of ~~[correctional services]~~
31 corrections and community supervision, the state police, or such other
32 agency or commission, concerning examination of materials for purposes
33 other than public health.

34 § 129. Subdivision 8 of section 2780 of the public health law, as
35 amended by chapter 786 of the laws of 1992, is amended to read as
36 follows:

37 8. "Health or social service" means any public or private care, treat-
38 ment, clinical laboratory test, counseling or educational service for
39 adults or children, and acute, chronic, custodial, residential, outpa-
40 tient, home or other health care provided pursuant to this chapter or
41 the social services law; public assistance or care as defined in article
42 one of the social services law; employment-related services, housing
43 services, foster care, shelter, protective services, day care, or
44 preventive services provided pursuant to the social services law;
45 services for the mentally disabled as defined in article one of the
46 mental hygiene law; probation services, provided pursuant to articles
47 twelve and twelve-A of the executive law; parole services, provided
48 pursuant to article ~~[twelve-B of the executive law]~~ eight of the
49 correction law; ~~[correctional services]~~ corrections and community super-
50 vision, provided pursuant to the correction law; detention and rehabili-
51 tative services provided pursuant to article nineteen-G of the executive
52 law; and the activities of the health care worker HIV/HBV advisory panel
53 pursuant to article twenty-seven-DD of this chapter.

54 § 130. Subdivision 2 of section 2785-a of the public health law, as
55 added by chapter 76 of the laws of 1995, is amended to read as follows:

1 2. At the time of communicating the test results to the subject or the
2 victim, such public health officer shall directly provide the victim and
3 person tested with (a) counseling or referrals for counseling for the
4 purposes specified in subdivision five of section two thousand seven
5 hundred eighty-one of this article; (b) counseling with regard to HIV
6 disease and HIV testing in accordance with law and consistent with
7 subdivision five of section two thousand seven hundred eighty-one of
8 this article; and (c) appropriate health care and support services, or
9 referrals to such available services. If at the time of communicating
10 the test results, the person tested is in the custody of the department
11 of [~~correctional services~~] corrections and community supervision, [~~divi-~~
12 ~~sion for youth~~] office of children and family services, office of mental
13 health or a local correctional institution, the counseling and services
14 required by this subdivision may be provided by a public health officer
15 associated with the county or facility within which the person tested is
16 confined.

17 § 131. Subdivision 4 of section 2994-cc of the public health law, as
18 added by chapter 8 of the laws of 2010, is amended to read as follows:

19 4. (a) When the concurrence of a second physician is sought to fulfill
20 the requirements for the issuance of a nonhospital order not to resusci-
21 tate for patients in a correctional facility, such second physician
22 shall be selected by the chief medical officer of the department of
23 [~~correctional services~~] corrections and community supervision or his or
24 her designee.

25 (b) When the concurrence of a second physician is sought to fulfill
26 the requirements for the issuance of a nonhospital order not to resusci-
27 tate for hospice and home care patients, such second physician shall be
28 selected by the hospice medical director or hospice nurse coordinator
29 designated by the medical director or by the home care services agency
30 director of patient care services, as appropriate to the patient.

31 § 132. Subdivision 4 of section 4174 of the public health law, as
32 amended by section 6 of part 00 of chapter 56 of the laws of 2010, is
33 amended to read as follows:

34 4. No fee shall be charged for a search, certification, certificate,
35 certified copy or certified transcript of a record to be used for school
36 entrance, employment certificate or for purposes of public relief or
37 when required by the veterans administration to be used in determining
38 the eligibility of any person to participate in the benefits made avail-
39 able by the veterans administration or when required by a board of
40 elections for the purposes of determining voter eligibility or when
41 requested by the department of [~~correctional services~~] corrections and
42 community supervision or a local correctional facility as defined in
43 subdivision sixteen of section two of the correction law for the purpose
44 of providing a certified copy or certified transcript of birth to an
45 inmate in anticipation of such inmate's release from custody or when
46 requested by the office of children and family services or an authorized
47 agency for the purpose of providing a certified copy or certified tran-
48 scription of birth to a youth placed in the custody of the local commis-
49 sioner of social services or the custody of the office of children and
50 family services pursuant to article three of the family court act in
51 anticipation of such youth's discharge from placement.

52 § 133. Section 4179 of the public health law, as amended by section 7
53 part 00 of chapter 56 of the laws of 2010, is amended to read as
54 follows:

55 § 4179. Vital records; fees; city of New York. Notwithstanding the
56 provisions of paragraph one of subdivision a of section 207.13 of the

1 health code of the city of New York, the department of health shall
2 charge, and the applicant shall pay, for a search of two consecutive
3 calendar years under one name and the issuance of a certificate of
4 birth, death or termination of pregnancy, or a certification of birth or
5 death, or a certification that the record cannot be found, a fee of
6 fifteen dollars for each copy. Provided, however, that no such fee shall
7 be charged when the department of [~~correctional services~~] corrections
8 and community supervision or a local correctional facility as defined in
9 subdivision sixteen of section two of the correction law requests a
10 certificate of birth or certification of birth for the purpose of
11 providing such certificate of birth or certification of birth to an
12 inmate in anticipation of such inmate's release from custody or when the
13 office of children and family services or an authorized agency requests
14 a certified copy or certified transcript of birth for a youth placed in
15 the custody of the local commissioner of social services or the custody
16 of the office of children and family services pursuant to article three
17 of the family court act for the purpose of providing such certified copy
18 or certified transcript of birth to such youth in anticipation of
19 discharge from placement.

20 § 134. Paragraph (1) of subdivision 1 of section 2782 of the public
21 health law, as added by chapter 584 of the laws of 1988, is amended to
22 read as follows:

23 (1) an employee or agent of the [~~division of parole~~] department of
24 corrections and community supervision, in accordance with paragraph (a)
25 of subdivision two of section twenty-seven hundred eighty-six of this
26 article, to the extent the employee or agent is authorized to access
27 records containing such information in order to carry out the [~~divi-~~
28 ~~sion's~~] department's functions, powers and duties with respect to the
29 protected individual, pursuant to section two hundred fifty-nine-a of
30 the executive law;

31 § 135. Subdivision 8 of section 92 of the public officers law, as
32 separately amended by section 40 of part A and section 2 of part A1 of
33 chapter 56 and by chapter 491 of the laws of 2010, is amended to read as
34 follows:

35 (8) Public safety agency record. The term "public safety agency
36 record" means a record of the state commission of correction, the tempo-
37 rary state commission of investigation, the department of [~~correctional~~
38 ~~services~~] corrections and community supervision, the office of children
39 and family services, [~~the division of parole,~~] the office of victim
40 services, the office of probation and correctional alternatives or the
41 division of state police or of any agency or component thereof whose
42 primary function is the enforcement of civil or criminal statutes if
43 such record pertains to investigation, law enforcement, confinement of
44 persons in correctional facilities or supervision of persons pursuant to
45 criminal conviction or court order, and any records maintained by the
46 division of criminal justice services pursuant to sections eight hundred
47 thirty-seven, eight hundred thirty-seven-a, eight hundred thirty-sev-
48 en-b, eight hundred thirty-seven-c, eight hundred thirty-eight, eight
49 hundred thirty-nine, and eight hundred forty-five of the executive law
50 and by the department of state pursuant to section ninety-nine of the
51 executive law.

52 § 136. Section 18 of the railroad law, as amended by chapter 840 of
53 the laws of 1984, is amended to read as follows:

54 § 18. Railroads through public lands. The commissioner of general
55 services may grant to any domestic or foreign railroad corporation land
56 belonging to the people of the state, except the reservation at Niagara

1 and the Concourse lands on Coney Island, which may be required for the
2 purposes of its road on such terms as may be agreed upon by them; or a
3 domestic railroad corporation may acquire title thereto by condemnation;
4 and the county or town officers having charge of any land belonging to
5 any county or town, required for a domestic railroad corporation for the
6 purposes of its road, may grant such land to the corporation for such
7 compensation as may be agreed upon. In case the land or any right,
8 interest or easement therein, required by a domestic or foreign railroad
9 corporation is used for prison purposes the commissioner of general
10 services may grant such land, or any right, interest or easement there-
11 in, provided the plans of such railroad corporation for the use of such
12 prison lands, or such right, interest or easement therein, have the
13 approval of the commissioner of [~~correctional services~~] corrections and
14 community supervision.

15 § 137. Subdivision 3 and 4 of section 88 of the railroad law, as
16 amended by chapter 247 of the laws of 1964, are amended to read as
17 follows:

18 3. The corporation, express company or steamboat company making any
19 such application shall cause the fingerprints of each proposed appointee
20 to be taken [~~by a police agency~~] in the form and manner prescribed by
21 the division of criminal justice services and [~~shall cause~~] one set of
22 such fingerprints [~~to~~] shall be forwarded to the division of [~~identi-~~
23 ~~fication, New York state department of correction, at Albany, New York~~]
24 criminal justice services, and one set [~~of such fingerprints to be~~
25 ~~forwarded to the identification division,~~] to the federal bureau of
26 investigation[, ~~United States department of justice, at Washington,~~
27 ~~D. C., with the request that such~~]. Such fingerprints shall be searched
28 by each agency against the fingerprint records in its files and be
29 retained in the files of such agencies [~~and the further request that~~
30 ~~reports of the results of such searches shall be transmitted to the~~
31 ~~superintendent of state police~~].

32 4. Reports of the results of such searches [~~of the fingerprint records~~
33 ~~of the department of correction and of the department of justice~~] shall
34 be reviewed by the superintendent of state police prior to granting an
35 appointment[~~r~~] to determine whether a proposed appointee is thereby
36 shown to have been convicted of a crime in the state of New York or of
37 any offense in any other place which if committed in the state of New
38 York would have been a crime and no person who is determined by such
39 review to have been so convicted shall receive an appointment under this
40 section.

41 § 138. Subdivision a of section 63-a of the retirement and social
42 security law, as added by chapter 722 of the laws of 1996, is amended to
43 read as follows:

44 a. Any member in the uniformed personnel in institutions under the
45 jurisdiction of the department of [~~correctional services~~] corrections
46 and community supervision or a security hospital treatment assistant, as
47 those terms are defined in subdivision i of section eighty-nine of this
48 article, who becomes physically or mentally incapacitated for the
49 performance of duties as the natural and proximate result of an injury,
50 sustained in the performance or discharge of his or her duties by, or as
51 the natural and proximate result of an act of any inmate or any person
52 confined in an institution under the jurisdiction of the department of
53 [~~correctional services~~] corrections and community supervision or office
54 of mental health, or by any person who has been committed to such insti-
55 tution by any court shall be paid a performance of duty disability
56 retirement allowance equal to that which is provided in section sixty-

1 three of this title, subject to the provisions of section sixty-four of
2 this title.

3 § 139. Section 89 of the retirement and social security law, as
4 amended by chapter 578 of the laws of 1989, subdivision i as amended by
5 chapter 499 of the laws of 2006, is amended to read as follows:

6 § 89. Retirement of members in the uniformed personnel in institutions
7 under the jurisdiction of the department of [~~correctional services~~]
8 corrections and community supervision or who are security hospital
9 treatment assistants; new plan. a. Any member in the uniformed personnel
10 in institutions under the jurisdiction of the department of [~~correctional~~
11 ~~services~~] corrections and community supervision, as hereinafter
12 defined, who enters or re-enters service on or after the effective date
13 of this section, or who is a security hospital treatment assistant who
14 enters or reenters service on or after the effective date of the amend-
15 ment permitting security hospital treatment assistants to be covered by
16 this section, shall contribute on the basis provided for by this
17 section.

18 b. Any member in the uniformed personnel in institutions under the
19 jurisdiction of the department of [~~correctional services~~] corrections
20 and community supervision, as hereinafter defined, who entered such
21 service prior to the effective date of this section may, on or before
22 September first, nineteen hundred sixty-six, elect to come under the
23 provisions of this section. Such election shall be in writing and shall
24 be duly executed and filed with the comptroller.

25 c. Any member in the uniformed personnel in institutions under the
26 jurisdiction of the department of [~~correctional services~~] corrections
27 and community supervision, as hereinafter defined, who entered such
28 service prior to the effective date of this section, may, on or before
29 December thirty-first, nineteen hundred sixty-six, elect to come under
30 the provisions of this section. Such election shall be in writing and
31 shall be duly executed and filed with the comptroller. Any such member
32 who has made an election as set forth herein on or before December thir-
33 ty-first, nineteen hundred sixty-five, shall be permitted to withdraw
34 the same and in like manner make a new election on or before December
35 thirty-first, nineteen hundred sixty-six.

36 d. A member who elects or is required to contribute in accordance with
37 this section shall contribute, in lieu of the proportion of compensation
38 as provided in section twenty-one of this article, a proportion of his
39 or her compensation similarly determined. Such latter proportion shall
40 be computed to provide at the time when he or she shall first become
41 eligible for retirement under this section, an annuity equal to one-one
42 hundredth of his or her final average salary for each year of service as
43 a member rendered after May first, nineteen hundred sixty-five, and
44 prior to the attainment of the age when he or she shall first become
45 eligible for retirement. Such member's rate of contribution pursuant to
46 this section shall be appropriately reduced pursuant to section seven-
47 ty-a of this article for such period of time as his or her employer
48 contributes pursuant to such section toward pensions-providing-for-in-
49 creased-take-home pay. No such member shall be required to continue
50 contributions after completing twenty-five years of such service.

51 e. A member contributing on the basis of this section at the time of
52 retirement, shall be entitled to retire after the completion of twenty-
53 five years of total creditable service as defined in subdivision i of
54 this section, or upon the attainment of age sixty, by filing an applica-
55 tion therefor in a manner similar to that provided in section seventy of

1 this article. He or she thereupon shall receive, on retirement a retire-
2 ment allowance consisting of:

3 1. An annuity, which shall be the actuarial equivalent of his or her
4 accumulated contributions at the time of his or her retirement, plus,

5 2. A pension which, together with such annuity and a pension which is
6 the actuarial equivalent of the reserves for-increased-take-home pay to
7 which he or she may then be entitled, if any, shall equal one-fiftieth
8 of his or her final average salary for each year of creditable service
9 in the uniformed personnel in institutions under the jurisdiction of the
10 department of [~~correctional services~~] corrections and community super-
11 vision or for each year of creditable service as a security hospital
12 treatment assistant under the jurisdiction of the office of mental
13 health, as hereinafter defined. This pension shall not exceed the
14 amount needed to make the total amount of the benefits provided under
15 paragraphs one and two of this subdivision e equal to one-half of his or
16 her final average salary.

17 3. An additional pension equal to the pension for any creditable
18 service rendered while not in the uniformed personnel in institutions
19 under the jurisdiction of the department of [~~correctional services~~]
20 corrections and community supervision and rendered while not serving as
21 a security hospital treatment assistant under the jurisdiction of the
22 office of mental health, as hereinafter defined, as provided under para-
23 graphs two and three of subdivision a of section seventy-five of this
24 article. This pension shall:

25 (a) Be payable only if such member has attained age sixty at the time
26 of retirement and has not completed twenty-five years of service for
27 which he receives credits under this article, and

28 (b) Not increase the total allowance to more than one-half of his or
29 her final average salary.

30 For the purpose only of determining the amount of the pension provided
31 herein, the annuity shall be computed as it would be:

32 (aa) if not reduced by the actuarial equivalent of any outstanding
33 loan, and

34 (bb) if not increased by the actuarial equivalent of any additional
35 contributions, and

36 (cc) if not reduced by reason of the member's election to decrease his
37 or her annuity contributions to the retirement system in order to apply
38 the amount of such reduction in payment of his contributions for old-age
39 and survivors insurance coverage.

40 f. The increased pensions to members of the uniformed personnel in
41 institutions under the jurisdiction of the department of [~~correctional~~
42 ~~services~~] corrections and community supervision or to members who are
43 security hospital treatment assistants under the jurisdiction of the
44 office of mental health, as provided by this section, shall be paid from
45 additional contributions made by the state on account of such member.
46 The actuary of the retirement system shall compute the additional
47 contribution of each member who elects to receive the special benefits
48 provided under this section. Such additional contributions shall be
49 computed on the basis of contributions during the prospective service of
50 such member which will cover the liability of the retirement system for
51 such extra pensions.

52 g. In computing the twenty-five years of completed service of a member
53 in the uniformed personnel in institutions under the jurisdiction of the
54 department of [~~correctional services~~] corrections and community super-
55 vision or of a member who is a security hospital treatment assistant
56 under the jurisdiction of the office of mental health, as hereinafter

1 defined, full credit shall be given and full allowance shall be made for
2 service of such member in war after world war 1 as defined in section
3 two of this chapter, provided such member at the time of his or her
4 entrance into the armed forces was in state service.

5 h. The provisions of this section shall be controlling notwithstanding
6 any provision in this article to the contrary.

7 i. As used in this section, "uniformed persons" or "uniformed person-
8 nel" in institutions under the jurisdiction of the department of
9 [~~correctional services~~] corrections and community supervision or "secu-
10 rity hospital treatment assistants" under the jurisdiction of the office
11 of mental health mean officers or employees holding the titles herein-
12 after set forth in institutions under the jurisdiction of the department
13 of [~~correctional services~~] corrections and community supervision or
14 under the jurisdiction of the office of mental health, namely:
15 correction officers, prison guards, correction sergeants, correction
16 lieutenants, correction captains, deputy assistant superintendent or
17 warden, deputy warden or deputy superintendent, superintendents and
18 wardens, assistant director and director of correction reception center,
19 director of correctional program, assistant director of correctional
20 program, director of community correctional center, community correc-
21 tional center assistant, correction hospital officers, male or female,
22 correction hospital senior officers, correction hospital charge officer,
23 correction hospital supervising officer, correction hospital security
24 supervisor, correction hospital chief officer, correction youth camp
25 officer, correction youth camp supervisor, assistant supervisor, correc-
26 tional camp superintendent, assistant correctional camp superintendent,
27 director of crisis intervention unit, assistant director of crisis
28 intervention unit, security hospital treatment assistants, security
29 hospital treatment assistants (Spanish speaking), security hospital
30 senior treatment assistants, security hospital supervising treatment
31 assistants and security hospital treatment chiefs. Previous service
32 rendered under the titles by which such positions were formerly desig-
33 nated and previous service rendered as a narcotic addiction control
34 commission officer shall constitute creditable service. Notwithstanding
35 any provision of law to the contrary, any employee of the department of
36 [~~correctional services~~] corrections and community supervision who became
37 enrolled under this section by reason of employment as a uniformed
38 person in an institution under the jurisdiction of the department of
39 [~~correctional services~~] corrections and community supervision shall be
40 entitled to full retirement credit for, and full allowance shall be made
41 under this section for the service of such employee, not to exceed
42 twelve years, while assigned to the training academy or central office,
43 in the following titles, namely: correction officer, correction
44 sergeant, correction lieutenant, correction captain, correctional
45 services investigator, senior correctional services employee investi-
46 gator, correctional services fire and safety coordinator, director of
47 special housing and inmate disciplinary program, assistant director of
48 investigations, director of CERT operations, correctional facility oper-
49 ations specialist, director of security staffing project, correctional
50 security technical services specialist, assistant commissioner and depu-
51 ty commissioner.

53 j. Notwithstanding any provisions of subdivision a, b or i of this
54 section to the contrary, a member who is in the collective negotiating
55 unit designated as the security services unit and established pursuant
56 to article fourteen of the civil service law and who has elected or is

1 required to contribute in accordance with this section may, on or before
2 March thirty-first, nineteen hundred seventy-three, elect to come under
3 the provisions of section seventy-five-h of this article. Such election
4 shall be duly executed and filed with the comptroller.

5 k. Any member who, on or before the effective date of this provision,
6 is a security hospital treatment assistant under the jurisdiction of the
7 office of mental health may, by filing an election within one year after
8 the effective date of this provision, elect to be subject to the
9 provisions of this section. Such election shall be in writing, shall be
10 duly executed and filed with the comptroller and shall be irrevocable.

11 § 140. Section 89-n of the retirement and social security law, as
12 added by chapter 573 of the laws of 1991, is amended to read as follows:

13 § 89-n. Computation of twenty-five years of service; correction offi-
14 cers. a. Notwithstanding any inconsistent provision of law, in computing
15 twenty-five years of completed service by correction officers in all
16 counties, full credit shall be given and full allowance shall be made
17 for service of such member as a correction officer employed by the city
18 of New York, as a uniformed employee in an institution under the juris-
19 diction of the department of [~~correctional services~~] corrections and
20 community supervision, as a security hospital assistant under the juris-
21 diction of the office of mental health, or as a correction officer in
22 any county in which he or she was eligible to retire after twenty-five
23 years of total creditable service.

24 b. Notwithstanding any inconsistent provision of law, in computing
25 twenty-five years of completed service by state correction officers,
26 full credit shall be given and full allowance shall be made for service
27 of such members as a correction officer employed by the city of New York
28 as a uniformed employee in an institution under the jurisdiction of the
29 department of [~~correctional services~~] corrections and community super-
30 vision, as a security hospital assistant under the jurisdiction of the
31 office of mental health, or as a correction officer in any county in
32 which he or she was eligible to retire after twenty-five years of total
33 creditable service.

34 § 141. Subdivision a of section 444 of the retirement and social secu-
35 rity law, as amended by chapter 625 of the laws of 2007, is amended to
36 read as follows:

37 a. Except as provided in subdivision c of section four hundred forty-
38 five-a of this article, subdivision c of section four hundred forty-
39 five-b of this article, subdivision c of section four hundred forty-
40 five-c of this article, subdivision c of section four hundred
41 forty-five-d of this article as added by chapter four hundred seventy-
42 two of the laws of nineteen hundred ninety-five, subdivision c of
43 section four hundred forty-five-e of this article, subdivision c of
44 section four hundred forty-five-f of this article and subdivision c of
45 section four hundred forty-five-h of this article, the maximum retire-
46 ment benefit computed without optional modification provided to a member
47 of a retirement system who is subject to the provisions of this article,
48 other than a police officer, a firefighter, an investigator member of
49 the New York city employees' retirement system, a member of the
50 uniformed personnel in institutions under the jurisdiction of the New
51 York city department of correction who receives a performance of duty
52 disability retirement allowance, a member of the uniformed personnel in
53 institutions under the jurisdiction of the department of [~~correctional~~
54 services] corrections and community supervision or a security hospital
55 treatment assistant, as those terms are defined in subdivision i of
56 section eighty-nine of this chapter, who receives a performance of duty

1 disability retirement allowance, a member of a teachers' retirement
2 system, New York city employees' retirement system, New York city board
3 of education retirement system or a member of the New York state and
4 local employees' retirement system or a member of the New York city
5 employees' retirement system or New York city board of education retire-
6 ment system employed as a special officer, parking control specialist,
7 school safety agent, campus peace officer, taxi and limousine inspector
8 or a police communications member and who receives a performance of duty
9 disability pension, from funds other than those based on a member's own
10 or increased-take-home-pay contributions, shall, before any reduction
11 for early retirement, be sixty per centum of the first fifteen thousand
12 three hundred dollars of final average salary, and fifty per centum of
13 final average salary in excess of fifteen thousand three hundred
14 dollars, and forty per centum of final average salary in excess of twen-
15 ty-seven thousand three hundred dollars, provided, however, that the
16 benefits provided by subdivision c of section four hundred forty-five-d
17 of this article as added by chapter four hundred seventy-two of the laws
18 of nineteen hundred ninety-five based upon the additional member
19 contributions required by subdivision d of such section four hundred
20 forty-five-d shall be subject to the maximum retirement benefit computa-
21 tions set forth in this section. The maximum retirement benefit computed
22 without optional modification payable to a police officer, an investi-
23 gator member of the New York city employees' retirement system or a
24 firefighter shall equal that payable upon completion of thirty years of
25 service, except that the maximum service retirement benefit computed
26 without optional modification shall equal that payable upon completion
27 of thirty-two years of service.

28 § 142. Section 450 of the retirement and social security law, as
29 amended by chapter 489 of the laws of 1998, is amended to read as
30 follows:

31 § 450. Definitions. For the purposes of this article: (1) the term
32 "correction officer" shall mean members of the New York state and local
33 employees' retirement system who are in a plan limited to uniformed
34 personnel in institutions under the jurisdiction of the department of
35 [~~correctional services~~] **corrections and community supervision** or members
36 of such system who are also in titles defined in subdivision i of
37 section eighty-nine of this chapter and correction members of the New
38 York city employees' retirement system; (2) the term "police officer or
39 firefighter" shall mean members of the New York state and local police
40 and fire retirement system, the New York city police pension fund, New
41 York city fire department pension fund, and housing police members and
42 transit police members of the New York city employees' retirement
43 system; (3) the term "sanitation man" shall mean sanitation members of
44 the New York city employees' retirement system; and (4) the term "inves-
45 tigator member" shall mean members who are police officers as defined in
46 paragraph (g) of subdivision thirty-four of section 1.20 of the criminal
47 procedure law.

48 § 143. Subdivision c of section 503 of the retirement and social secu-
49 rity law, as amended by chapter 622 of the laws of 2004, is amended to
50 read as follows:

51 c. A general member shall be eligible for early service retirement at
52 age fifty-five with five years of credited service. A general member in
53 the uniformed correction force of the New York city department of
54 correction, who is not eligible for early service retirement pursuant to
55 subdivision c of section five hundred four-a of this article or subdivi-
56 sion c of section five hundred four-b of this article or subdivision c

1 of section five hundred four-d of this article, or a general member in
2 the uniformed personnel in institutions under the jurisdiction of the
3 department of [~~correctional services~~] corrections and community super-
4 vision, as defined in subdivision i of section eighty-nine of this chap-
5 ter or serving in institutions who is also in a title defined in such
6 subdivision and who has made an election pursuant to the provisions of
7 article seventeen of this chapter, shall also be eligible for early
8 service retirement after twenty-five years of credited service.

9 § 144. Subdivisions d and e of section 504 of the retirement and
10 social security law, subdivision d as amended by chapter 622 of the laws
11 of 2004, and subdivision e as amended by chapter 578 of the laws of
12 1989, is amended to read as follows:

13 d. The early service retirement benefit for general members in the
14 uniformed correction force of the New York city department of
15 correction, who are not entitled to an early service retirement benefit
16 pursuant to subdivision c of section five hundred four-a of this article
17 or subdivision c of section five hundred four-b of this article or
18 subdivision c of section five hundred four-d of this article, or for
19 general members in the uniformed personnel in institutions under the
20 jurisdiction of the department of [~~correctional services~~] corrections
21 and community supervision, as defined in subdivision i of section eight-
22 y-nine of this chapter, shall be a pension equal to one-fiftieth of
23 final average salary times years of credited service at the completion
24 of twenty-five years of service, but not in excess of fifty percent of
25 final average salary.

26 e. The early service retirement benefit for uniformed personnel in
27 institutions under the jurisdiction of the department of [~~correctional~~
28 ~~services~~] corrections and community supervision, as defined in subdivi-
29 sion i of section eighty-nine of this chapter, or who are in titles
30 defined in subdivision i of section eighty-nine of this chapter and who
31 have made an election pursuant to the provisions of article seventeen of
32 this chapter, shall be a pension equal to one-fiftieth of final average
33 salary times years of credited service at the completion of twenty-five
34 years of service, but not in excess of fifty percent of final average
35 salary.

36 § 145. The opening paragraph of subdivision a of section 507-a of the
37 retirement and social security law, as amended by chapter 578 of the
38 laws of 1989, is amended to read as follows:

39 Application for a disability retirement allowance for a member in the
40 uniformed personnel in institutions under the jurisdiction of the
41 department of [~~correctional services~~] corrections and community super-
42 vision of New York state as defined in subdivision i of section eighty-
43 nine of this chapter or for a member serving in institutions who is also
44 in a title defined in such subdivision and who has made an election
45 pursuant to the provisions of article seventeen of this chapter or the
46 New York city department of correction may be made by:

47 § 146. Subdivision a of section 507-b of the retirement and social
48 security law, as added by chapter 722 of the laws of 1996, is amended to
49 read as follows:

50 a. Any member in the uniformed personnel in institutions under the
51 jurisdiction of the department of [~~correctional services~~] corrections
52 and community supervision or a security hospital treatment assistant, as
53 those terms are defined in subdivision i of section eighty-nine of this
54 chapter, who becomes physically or mentally incapacitated for the
55 performance of duties as the natural and proximate result of an injury,
56 sustained in the performance or discharge of his or her duties by, or as

1 a natural and proximate result of, an act of any inmate or any person
2 confined in an institution under the jurisdiction of the department of
3 [~~correctional services~~] corrections and community supervision or office
4 of mental health, or by any person who has been committed to such insti-
5 tution by any court shall be paid a performance of duty disability
6 retirement allowance equal to that which is provided in section sixty-
7 three of this chapter, subject to the provisions of section sixty-four
8 of this chapter.

9 § 147. Subdivision f of section 511 of the retirement and social secu-
10 rity law, as amended by chapter 667 of the laws of 1996, is amended to
11 read as follows:

12 f. This section shall not apply to general members in the uniformed
13 correction force of the New York city department of correction or to
14 uniformed personnel in institutions under the jurisdiction of the
15 department of [~~correctional services~~] corrections and community super-
16 vision and security hospital treatment assistants, as those terms are
17 defined in subdivision i of section eighty-nine of this chapter.

18 § 148. Subdivisions b and d of section 516 of the retirement and
19 social security law, subdivision b as amended by chapter 174 of the laws
20 of 1989 and subdivision d as amended by chapter 622 of the laws of 2004,
21 is amended to read as follows:

22 b. The deferred vested benefit of general members, except for general
23 members in the uniformed correction force of the New York city depart-
24 ment of correction or uniformed personnel in institutions under the
25 jurisdiction of the department of [~~correctional services~~] corrections
26 and community supervision as defined in subdivision i of section eight-
27 y-nine of this chapter, with twenty or more years of credited service
28 shall be a pension commencing at normal retirement age equal to one-fif-
29 tieth of final average salary times years of credited service, not in
30 excess of thirty years, less fifty percent of the primary social securi-
31 ty retirement benefit, as provided in section five hundred eleven of
32 this article. The deferred vested benefit of general members, except for
33 general members in the uniformed correction force of the New York city
34 department of correction or uniformed personnel in institutions under
35 the jurisdiction of the department of [~~correctional services~~]
36 corrections and community supervision as defined in subdivision i of
37 section eighty-nine of this chapter, with less than twenty years of
38 credited service shall be a pension commencing at normal retirement age
39 equal to one-sixtieth of final average salary times years of credited
40 service, less fifty percent of the primary social security retirement
41 benefit, as provided in section five hundred eleven of this article.
42 Such deferred vested benefit may be paid in the form of an early service
43 retirement benefit, or may be postponed until after normal retirement
44 age, in which event the benefit will be subject to reduction or esca-
45 lation as provided in subdivision c of section five hundred four of this
46 article.

47 d. The deferred vested benefit of general members in the uniformed
48 correction force of the New York city department of correction, who are
49 not entitled to a deferred vested benefit under subdivision d of section
50 five hundred four-a of this article or under subdivision d of section
51 five hundred four-b of this article or under subdivision d of section
52 five hundred four-d of this article, or of general members in the
53 uniformed personnel in institutions under the jurisdiction of the
54 department of [~~correctional services~~] corrections and community super-
55 vision, as defined in subdivision i of section eighty-nine of this chap-
56 ter, with twenty or more years of credited service shall be a pension

1 commencing at normal retirement age equal to one-fiftieth of final aver-
2 age salary times years of credited service, not in excess of thirty
3 years. The deferred vested benefit of general members in the uniformed
4 correction force of the New York city department of correction, who are
5 not entitled to a deferred vested benefit under subdivision d of section
6 five hundred four-a of this article or under subdivision d of section
7 five hundred four-b of this article or under subdivision d of section
8 five hundred four-d of this article, or of general members in the
9 uniformed personnel in institutions under jurisdiction of the department
10 of [~~correctional services~~] corrections and community supervision, as
11 defined in subdivision i of section eighty-nine of this chapter, with
12 less than twenty years of credited service shall be a pension commencing
13 at normal retirement age equal to one-sixtieth of final average salary
14 times years of credited service. Such deferred vested benefit may be
15 paid in the form of an early service retirement benefit, or may be post-
16 poned until after normal retirement age, in which event the benefit will
17 be subject to reduction or escalation as provided in subdivision c of
18 section five hundred four of this article.

19 § 149. Paragraph 2 of subdivision a of section 600 of the retirement
20 and social security law, as amended by chapter 421 of the laws of 2006,
21 is amended to read as follows:

22 2. (a) Members in the uniformed personnel in institutions under the
23 jurisdiction of the department of [~~correctional services~~] corrections
24 and community supervision of New York state, other than certain persons
25 as defined in this section or the New York city department of
26 correction.

27 (b) For purposes of this paragraph, certain persons means either:

28 (i) a person who is appointed to the title of superintendent, who has
29 had at least seven years of service credited toward the retirement plan
30 established pursuant to this article while employed by the department of
31 [~~correctional services~~] corrections and community supervision and who
32 elects the retirement plan established pursuant to this article within
33 ninety days of his or her appointment. Such election shall be in writ-
34 ing, shall be duly executed and filed with the comptroller and shall be
35 irrevocable as long as such person is in the title of superintendent; or

36 (ii) a person who serves in the title of superintendent as of April
37 first, two thousand six, who has had at least seven years of service
38 credited toward the retirement plan established pursuant to this article
39 while employed by the department of [~~correctional services~~] corrections
40 and community supervision and who elects the retirement plan established
41 pursuant to this article on or before September thirtieth, two thousand
42 six. Such election shall be in writing, shall be duly executed and filed
43 with the comptroller and shall be irrevocable as long as such person is
44 in the title of superintendent.

45 (c) Any person in the title of superintendent who is eligible to make
46 an election as described in this section but who does not make such
47 election, shall remain a member of the retirement plan that persons
48 appointed to the title of superintendent join who do not meet the above
49 criteria.

50 § 150. Subdivision 8 of section 20 of the social services law, as
51 added by chapter 568 of the laws of 2008, is amended to read as follows:

52 8. (a) The office of temporary and disability assistance shall promul-
53 gate rules and regulations for the administration of this subdivision.
54 The rules and regulations shall provide for the conditions under which
55 local social services officials determine the placement of applicants
56 for and recipients of public assistance for whom a notice pursuant to

1 [~~subdivision sixteen of~~] section two hundred [~~fifty-nine-c~~] three of the
2 [~~executive~~] correction law, has been received and who are:

3 (i) determined to be in immediate need of shelter; and
4 (ii) designated a level two or level three sex offender pursuant to
5 article six-C of the correction law.

6 (b) When making determinations in regard to the placement of such
7 individuals in shelter, local social services officials shall consider
8 the following factors:

9 (i) the location of other sex offenders required to register pursuant
10 to the sex offender registration act, specifically whether there is a
11 concentration of registered sex offenders in a certain residential area
12 or municipality;

13 (ii) the number of registered sex offenders residing at a particular
14 property;

15 (iii) proximity of the entities with vulnerable populations;

16 (iv) accessibility to family members, friends or other supportive
17 services, including but not limited to locally available sex offender
18 treatment programs with preference for placement of such individuals
19 into programs that have demonstrated effectiveness in reducing sex
20 offender recidivism and increasing public safety; and

21 (v) investigation and approval of such placement by the [~~state divi-~~
22 ~~sion of parole~~] department of corrections and community supervision.

23 § 151. Paragraph (g) of subdivision 5 of section 62 of the social
24 services law, as added by chapter 55 of the laws of 1992, is amended to
25 read as follows:

26 (g) (1) When a person applies for medical parole, and is in need of
27 public assistance, including medical assistance, the department of
28 [~~correctional services~~] corrections and community supervision shall
29 cause an application for such assistance to be forwarded to the depart-
30 ment of social services.

31 (2) Upon receipt of an application for public assistance, including
32 medical assistance, forwarded by the [~~state~~] department of [~~correctional~~
33 ~~services~~] corrections and community supervision for persons meeting the
34 conditions of medical parole, financial eligibility for such assistance
35 and care shall be determined by the New York state department of social
36 services prior to the person's parole.

37 (3) Determination of continuing eligibility for public assistance,
38 including medical assistance, and care will be the responsibility of the
39 social services district into which such person is released.

40 (4) Any inconsistent provision of this chapter or other law notwith-
41 standing, when a person is released on medical parole pursuant to
42 section two hundred fifty-nine-r or two hundred fifty-nine-s of the
43 executive law and is in need of public assistance, including medical
44 assistance, the social services district in which such person was
45 convicted and from which he or she was committed to the custody of the
46 [~~state~~] department of [~~correctional services~~] corrections and community
47 supervision shall be responsible for the administrative costs of the
48 initial and any subsequent eligibility determination and the costs of
49 any public assistance, including medical assistance, following such
50 persons release on medical parole for so long as such person is eligible
51 therefor.

52 § 152. Subdivision 14 of section 131 of the social services law, as
53 added by section 11 of part B of chapter 436 of the laws of 1997, is
54 amended to read as follows:

55 14. (a) Notwithstanding any provision of this chapter or other law to
56 the contrary, no public assistance shall be given to any individual who

1 is (i) fleeing to avoid prosecution or custody or conviction under the
2 laws of the place from which the individual flees for a crime, or an
3 attempt to commit a crime, which is a felony under the laws of the place
4 from which the individual flees or which, in the case of the state of
5 New Jersey, is a high misdemeanor under the laws of such state or (ii)
6 violating a condition of probation or parole imposed under federal or
7 state law.

8 (b) For purposes of this section, if and to the extent permitted by
9 federal law, a person shall be considered to be violating a condition of
10 probation or parole only if:

11 (i) he or she is currently an absconder from probation or parole
12 supervision and a warrant alleging such a violation is outstanding; or

13 (ii) he or she has been found by judicial determination to have
14 violated probation or by administrative adjudication by the [~~division of~~
15 ~~parole~~] department of corrections and community supervision to have
16 violated parole.

17 Such person shall be considered to be violating a condition of
18 probation or parole only until he or she is restored to probation or
19 parole supervision or released from custody, or until the expiration of
20 the person's maximum period of imprisonment or supervision, whichever
21 occurs first.

22 (c) A person considered to be violating a condition of probation or
23 parole under this section shall include a person who is violating a
24 condition of probation or parole imposed under federal law.

25 (d) For purposes of this section, probation or parole shall include
26 conditional release, wherever applicable.

27 § 153. Subparagraph (k) of paragraph (A) of subdivision 4 of section
28 422 of the social services law, as amended by chapter 12 of the laws of
29 1996, is amended to read as follows:

30 (k) a probation service conducting an investigation pursuant to arti-
31 cle three or seven or section six hundred fifty-three of the family
32 court act where there is reason to suspect the child or the child's
33 sibling may have been abused or maltreated and such child or sibling,
34 parent, guardian or other person legally responsible for the child is a
35 person named in an indicated report of child abuse or maltreatment and
36 that such information is necessary for the making of a determination or
37 recommendation to the court; or a probation service regarding a person
38 about whom it is conducting an investigation pursuant to article three
39 hundred ninety of the criminal procedure law, or a probation service or
40 the [~~state division of parole~~] department of corrections and community
41 supervision regarding a person to whom the service or [~~division~~] depart-
42 ment is providing supervision pursuant to article sixty of the penal law
43 or [~~section two hundred fifty-nine-a of the executive law~~] article eight
44 of the correction law, where the subject of investigation or supervision
45 has been convicted of a felony under article one hundred twenty, one
46 hundred twenty-five or one hundred thirty-five of the penal law or any
47 felony or misdemeanor under article one hundred thirty, two hundred
48 thirty-five, two hundred forty-five, two hundred sixty or two hundred
49 sixty-three of the penal law, or has been indicted for any such felony
50 and, as a result, has been convicted of a crime under the penal law,
51 where the service or [~~division~~] department requests the information upon
52 a certification that such information is necessary to conduct its inves-
53 tigation, that there is reasonable cause to believe that the subject of
54 an investigation is the subject of an indicated report and that there is
55 reasonable cause to believe that such records are necessary to the
56 investigation by the probation service or the [~~state division of parole~~]

1 department, provided, however, that only indicated reports shall be
2 furnished pursuant to this subdivision;

3 § 154. Subdivision 11 of section 460-d of the social services law, as
4 amended by section 42 of part B of chapter 58 of the laws of 2004, is
5 amended to read as follows:

6 11. On or before issuance by the department to an adult care facility
7 operator of official written notice of: the proposed revocation, suspen-
8 sion or denial of the operator's operating certificate; the limitation
9 of the operating certificate with respect to new admissions; the issu-
10 ance of a department order or commissioner's order; the seeking of equi-
11 table relief pursuant to this section; the proposed assessment of civil
12 penalties for violations of the provisions of subparagraph two of para-
13 graph (b) of subdivision seven of this section or placement on the "do
14 not refer list" pursuant to subdivision fifteen of this section, written
15 notice also shall be given to the appropriate office of the department
16 of mental hygiene, department of [~~correctional services, state division~~
17 ~~of parole~~] corrections and community supervision and local social
18 services districts, and provided further that the department of health
19 shall notify hospitals in the locality in which such facility is located
20 that such notice has been issued. Upon resolution of such enforcement
21 action the department shall notify the appropriate office of the depart-
22 ment of mental hygiene, department of [~~correctional services, state~~
23 ~~division of parole~~] corrections and community supervision, local social
24 services districts and hospitals.

25 § 155. Subdivision 1 of section 102 of the state administrative proce-
26 dure act, as amended by chapter 635 of the laws of 1995, is amended to
27 read as follows:

28 1. "Agency" means any department, board, bureau, commission, division,
29 office, council, committee or officer of the state, or a public benefit
30 corporation or public authority at least one of whose members is
31 appointed by the governor, authorized by law to make rules or to make
32 final decisions in adjudicatory proceedings but shall not include the
33 governor, agencies in the legislative and judicial branches, agencies
34 created by interstate compact or international agreement, the division
35 of military and naval affairs to the extent it exercises its responsi-
36 bility for military and naval affairs, the division of state police, the
37 identification and intelligence unit of the division of criminal justice
38 services, the state insurance fund, the unemployment insurance appeal
39 board, and except for purposes of subdivision one of section two hundred
40 two-d of this chapter, the workers' compensation board and except for
41 purposes of article two of this chapter, the [~~state division of parole~~
42 ~~and the~~] department of [~~correctional services~~] corrections and community
43 supervision.

44 § 156. Subdivision 12 of section 8 of the state finance law, as sepa-
45 rately amended by chapters 305 and 477 of the laws of 1985, is amended
46 to read as follows:

47 12. Notwithstanding any inconsistent provision of the court of claims
48 act, examine, audit and certify for payment any claim submitted and
49 approved by the head of any institution in the department of mental
50 hygiene, the department of [~~correctional services~~] corrections and
51 community supervision, the department of health or the [~~division for~~
52 ~~youth~~] office of children and family services for personal property
53 damaged or destroyed by any inmate thereof, or for personal property of
54 an employee damaged or destroyed without fault on his part, by a fire in
55 said institution; or any claim submitted and approved by the head of any
56 institution in the department of mental hygiene or the [~~division for~~

1 ~~youth~~ office of children and family services for real or personal prop-
2 erty damaged or destroyed or for personal injuries caused by any patient
3 during thirty days from the date of his escape from such institution; or
4 any claim submitted and approved by the [~~chairman of the board of~~
5 ~~parole~~] commissioner of the department of corrections and community
6 supervision for personal property of an employee damaged or destroyed
7 without fault on his part as a result of actions unique to the perform-
8 ance of his official duties in accordance with rules and regulations
9 promulgated by the [~~chairman~~] commissioner of the department of
10 corrections and community supervision with the approval of the comp-
11 troller; or any claim submitted and approved by the chief administrator
12 of the courts for personal property of any judge or justice of the
13 unified court system or of any nonjudicial officer or employee thereof
14 damaged or destroyed, without fault on his part, by any party, witness,
15 juror or bystander to court proceedings, provided no such claim may be
16 certified for payment to a nonjudicial officer or employee who is in a
17 collective negotiating unit until the chief administrator shall deliver
18 to the comptroller a certificate that there is in effect with respect to
19 such negotiating unit a written collective bargaining agreement with the
20 state pursuant to article fourteen of the civil service law which
21 provides therefor; or any claim submitted and approved by the super-
22 intendent of state police for personal property of a member of the state
23 police damaged or destroyed without fault on his part as a result of
24 actions unique to the performance of police duties in accordance with
25 rules and regulations promulgated by the superintendent with the
26 approval of the comptroller; or any claim submitted and approved by the
27 head of a state department or agency having employees in the security
28 services unit or the security supervisors unit for personal property of
29 a member of such units damaged or destroyed without fault on his part as
30 a result of actions unique to the performance of law enforcement duties
31 in accordance with rules and regulations promulgated by the department
32 or agency head, after consultation with the employee organization
33 representing such units and with the approval of the comptroller and
34 payment of any such claim shall not exceed the sum of three hundred
35 fifty dollars. Where an agreement between the state and an employee
36 organization reached pursuant to the provisions of article fourteen of
37 the civil service law provides for payments to be made to employees by
38 an institution, such payments for claims not in excess of seventy-five
39 dollars, or one hundred fifty dollars if otherwise provided in accord-
40 ance with the terms of such agreement, may be made from a petty cash
41 account established pursuant to section one hundred fifteen of this
42 chapter, and in the manner prescribed therein.

43 § 157. Subdivision 12-g of section 8 of the state finance law, as
44 amended by section 37 of part A-1 of chapter 56 of the laws of 2010, is
45 amended to read as follows:

46 12-g. Notwithstanding any other provision of the court of claims act
47 or any other law to the contrary, thirty days before the comptroller
48 issues a check for payment to an inmate serving a sentence of imprison-
49 ment with the [~~state~~] department of [~~correctional services~~] corrections
50 and community supervision or to a prisoner confined at a local correc-
51 tional facility for any reason, including a payment made in satisfaction
52 of any damage award in connection with any lawsuit brought by or on
53 behalf of such inmate or prisoner against the state or any of its
54 employees in federal court or any other court, the comptroller shall
55 give written notice, if required pursuant to subdivision two of section
56 six hundred thirty-two-a of the executive law, to the office of victim

1 services that such payment shall be made thirty days after the date of
2 such notice.

3 § 158. Subparagraph 4 of paragraph a of subdivision 1 of section 54 of
4 the state finance law, as added by chapter 430 of the laws of 1997, is
5 amended to read as follows:

6 (4) Population excludes the reservation and school Indian population
7 and inmates of [~~state~~] institutions under the direction, supervision or
8 control of the state department of [~~correctional services~~] corrections
9 and community supervision and the state department of mental hygiene and
10 the inmates of state institutions operated and maintained by the [~~state~~
11 ~~division for youth~~] office of children and family services.

12 § 159. Subdivisions 3 and 4 of section 97-cc of the state finance law,
13 as added by chapter 338 of the laws of 1989, are amended to read as
14 follows:

15 3. Moneys within the rehabilitative alcohol and substance abuse treat-
16 ment fund, upon appropriation by the legislature, shall be available [~~to~~
17 ~~the division of parole and~~] to the department of [~~correctional services~~]
18 corrections and community supervision for the operation of alcohol and
19 substance abuse treatment facilities, alcohol and substance abuse
20 correctional annexes and residential treatment facilities, including,
21 but not limited to, the payment of private sector treatment providers
22 and for providing alcohol and substance abuse treatment services to
23 persons under the supervision of the [~~division~~] department of
24 corrections and community supervision.

25 4. Moneys, shall be payable from the fund on the audit and warrant of
26 the comptroller on vouchers approved and certified by the commissioner
27 of [~~correctional services~~] corrections and community supervision.

28 § 160. Section 97-000 of the state finance law, as added by section 10
29 of part B of chapter 57 of the laws of 1998, is amended to read as
30 follows:

31 § 97-000. [~~Division of parole~~] Department of corrections and communi-
32 ty supervision asset forfeiture account. 1. There is hereby established
33 in the joint custody of the state comptroller and the [~~division of~~
34 ~~parole~~] department of corrections and community supervision a special
35 account within the miscellaneous special revenue fund to be known as the
36 [~~division of parole~~] department of corrections and community supervision
37 asset forfeiture account. Such account shall consist, subject to neces-
38 sary federal approval, of moneys received by the [~~division of parole~~]
39 department of corrections and community supervision through the equita-
40 ble sharing that is authorized in federal forfeiture actions.

41 2. The moneys of the account shall be available for purposes of devel-
42 oping additional resources such as, but not limited to, obtaining equip-
43 ment, establishing training programs, or accessing existing technology
44 or databases.

45 3. The [~~chairman of the board~~] commissioner of [~~parole~~] the department
46 of corrections and community supervision shall report to the commission-
47 er of the division of criminal justice services, the director of the
48 budget, the chairman of the senate finance committee and the chairman of
49 the assembly ways and means committee by October first, nineteen hundred
50 ninety-eight and every six months thereafter, on the source and amounts
51 of moneys in the account. Such report shall describe the amount of
52 moneys received by the federal government and the [~~division of parole~~]
53 department of corrections and community supervision from the joint
54 activities of the [~~division~~] department and federal law enforcement
55 agencies, the law enforcement activities which led to such forfeiture
56 and the value of the assets so seized.

1 4. The moneys of such account shall be made available on the audit and
2 warrant of the comptroller on vouchers certified or approved by the
3 [~~chairman~~] commissioner of the [~~board of parole~~] department of
4 corrections and community supervision.

5 § 161. Paragraphs (a) and (b) of subdivision 3 of section 99-m of the
6 state finance law, as added by section 2 of part E of chapter 56 of the
7 laws of 2005, are amended to read as follows:

8 (a) An individual or entity ("administrator"), appointed by the gover-
9 nor in consultation with the temporary president of the senate, the
10 speaker of the assembly, and representatives of eligible claimants,
11 shall develop the compensation payment plan. Such administrator shall
12 not be entitled to salary or remuneration for his/her services; however,
13 reasonable expenses directly connected to the conduct of the administra-
14 tor's duties shall be paid through the department of [~~correctional~~
15 ~~services~~] corrections and community supervision.

16 (b) The administrator shall receive from each claimant an accounting
17 of the injuries suffered by the state employee victim during the course
18 of the Attica riots. The administrator shall determine and promulgate to
19 potential claimants through the department of [~~correctional services~~]
20 corrections and community supervision the means and dates by which said
21 accountings of injuries shall be submitted and determined. To the extent
22 any inconsistency or discrepancy in accounts of injuries suffered is
23 identified, the administrator may rely upon the assistance of the
24 report, research, and documentation regarding the Attica riots compiled
25 by the Attica task force created in March of two thousand one.

26 § 162. Section 125 of the state finance law, as amended by chapter 37
27 of the laws of 1962, is amended to read as follows:

28 § 125. Fiscal supervision of certain institutions. Notwithstanding
29 any other provision of law relative to the supervision and control by
30 departments of any of the institutions under the jurisdiction and
31 control of the [~~department of social welfare~~] office of temporary and
32 disability assistance, the department of health, the department of
33 mental hygiene and the department of [~~correction~~] corrections and commu-
34 nity supervision on the first day of January, nineteen hundred thirty-
35 nine and of any institution which shall hereafter be under the jurisdic-
36 tion of such departments, such department shall have the powers and
37 duties prescribed by this article with respect to such institution. This
38 section shall not impair or affect the powers of the commissioner of
39 general services under the provisions of article eleven of this chapter
40 with respect to estimates made pursuant to this section so far as they
41 constitute a requisition for material, equipment or supplies.

42 § 163. Subdivision 1 of section 128 of the state finance law, as
43 amended by chapter 471 of the laws of 1980, is amended to read as
44 follows:

45 1. Any personal property, and any interest or increments accruing
46 thereon, belonging or credited to a person in any institution under the
47 jurisdiction of the [~~department of social services~~] office of children
48 and family services, the department of health, the department of mental
49 hygiene, the executive department, or the department of [~~correctional~~
50 ~~services~~] corrections and community supervision who shall have been
51 discharged from such institution or who shall have died or escaped
52 before discharge or before termination of sentence, which is in the
53 custody of the proper officer of such institution, shall, if unclaimed
54 by such discharged or escaped person or by the legal representative of
55 such deceased person for a period of six months after the discharge,
56 decease or escape of such person, be fully inventoried and a copy of

1 such inventory shall be filed with the commissioner of such department
2 having jurisdiction over such institution and with the state comp-
3 troller.

4 § 164. Paragraph a of subdivision 2, paragraphs a and b of subdivision
5 3, subparagraph (i) of paragraph a of subdivision 4, subdivision 5 and
6 paragraphs a and d of subdivision 6 of section 162 of the state finance
7 law, as added by chapter 83 of the laws of 1995 and paragraph a of
8 subdivision 2 as amended by chapter 501 of the laws of 2002, are amended
9 to read as follows:

10 a. Commodities produced by the [~~department of correctional services~~]
11 correctional industries program of the department of corrections and
12 community supervision and provided to the state pursuant to subdivision
13 two of section one hundred eighty-four of the correction law;

14 [~~fa~~] a. By December thirty-first, nineteen hundred ninety-five, the
15 commissioner, in consultation with the commissioners of [~~correctional~~
16 ~~services~~] corrections and community supervision, [~~social services~~] the
17 office of children and family services, the office of temporary and
18 disability assistance, mental health and education, shall prepare a list
19 of all commodities and services that are available and are being
20 provided as of said date, for purchase by state agencies, public benefit
21 corporations or political subdivisions from those entities accorded
22 preference or priority status under this section. Such list may include
23 references to catalogs and other descriptive literature which are avail-
24 able directly from any provider accorded preferred status under this
25 section. The commissioner shall make this list available to prospective
26 vendors, state agencies, public benefit corporations, political subdivi-
27 sions and other interested parties. Thereafter, new or substantially
28 different commodities or services may only be made available by
29 preferred sources for purchase by more than one state agency, public
30 benefit corporation or political subdivision after addition to said
31 list.

32 b. After January first, nineteen hundred ninety-six, upon the applica-
33 tion of the commissioner of [~~correctional services~~] corrections and
34 community supervision, the commissioner of [~~social services~~] the office
35 of children and family services, the office of temporary and disability
36 assistance, the commissioner of mental health or the commissioner of
37 education, or a non-profit-making facilitating agency designated by one
38 of the said commissioners pursuant to paragraph e of subdivision six of
39 this section, the state procurement council may recommend that the
40 commissioner: (i) add commodities or services to, or (ii) in order to
41 insure that such list reflects current production and/or availability of
42 commodities and services, delete at the request of a preferred source,
43 commodities or services from, the list established by paragraph a of
44 this subdivision. The council may make a non-binding recommendation to
45 the relevant preferred source to delete a commodity or service from such
46 list. Additions may be made only for new services or commodities, or for
47 services or commodities that are substantially different from those
48 reflected on said list for that provider. The decision to recommend the
49 addition of services or commodities shall be based upon a review of
50 relevant factors as determined by the council including costs and bene-
51 fits to be derived from such addition and shall include an analysis by
52 the office of general services conducted pursuant to subdivision six of
53 this section. Unless the state procurement council shall make a recom-
54 mendation to the commissioner on any such application within one hundred
55 twenty days of receipt thereof, such application shall be deemed recom-
56 mended. In the event that the state procurement council shall deny any

1 such application, the commissioner or non-profit-making agency which
2 submitted such application may, within thirty days of such denial,
3 appeal such denial to the commissioner of general services who shall
4 review all materials submitted to the state procurement council with
5 respect to such application and who may request such further information
6 or material as is deemed necessary. Within sixty days of receipt of all
7 information or materials deemed necessary, the commissioner shall render
8 a written final decision on the application which shall be binding upon
9 the applicant and upon the state procurement council.

10 (i) When commodities are available, in the form, function and utility
11 required by a state agency, public authority, commission, public benefit
12 corporation or political subdivision, said commodities must be purchased
13 first from the [~~department of correctional services~~] correctional
14 industries program of the department of corrections and community super-
15 vision;

16 5. Prices charged by the department of [~~correctional services~~]
17 corrections and community supervision. The prices to be charged for
18 commodities produced by the [~~department of correctional services~~]
19 correctional industries program of the department of corrections and
20 community supervision shall be established by the commissioner of
21 [~~correctional services~~] corrections and community supervision in accord-
22 ance with section one hundred eighty-six of the correction law.

23 a. The prices established by the commissioner of [~~correctional~~
24 services] corrections and community supervision shall be based upon
25 costs as determined pursuant to this subdivision, but shall not exceed a
26 reasonable fair market price determined at or within ninety days before
27 the time of sale. Fair market price as used herein means the price at
28 which a vendor of the same or similar product or service who is regular-
29 ly engaged in the business of selling such product or service offers to
30 sell such product or service under similar terms in the same market.
31 Costs shall be determined in accordance with an agreement between the
32 commissioner of [~~correctional services~~] corrections and community super-
33 vision and the director of the budget.

34 b. A purchaser of any such product or service may, at any time prior
35 to or within thirty days of the time of sale, appeal the purchase price
36 in accordance with section one hundred eighty-six of the correction law,
37 on the basis that it unreasonably exceeds fair market price. Such an
38 appeal shall be decided by a majority vote of a three-member price
39 review board consisting of the director of the budget, the commissioner
40 of [~~correctional services~~] corrections and community supervision and the
41 commissioner or their representatives. The decision of the review board
42 shall be final.

43 a. Except with respect to the [~~department of correctional services~~]
44 correctional industries program of the department of corrections and
45 community supervision, it shall be the duty of the commissioner to
46 determine, and from time to time review, the prices of all commodities
47 and to approve the price of all services provided by preferred sources
48 as specified in this section offered to state agencies, political subdivi-
49 sions or public benefit corporations having their own purchasing
50 office.

51 d. Such qualified charitable non-profit-making agencies for the blind
52 and other severely disabled may make purchases of materials, equipment
53 and supplies [~~from the department of correctional services' correctional~~
54 industries program,] directly from the correctional industries program
55 administered by the commissioner of [~~correctional services~~] corrections
56 and community supervision, subject to such rules as may be established

1 from time to time pursuant to the correction law; provided that the
2 qualified charitable non-profit-making agency for the blind or other
3 severely disabled shall accept sole responsibility for any payment due
4 the department of [~~correctional services~~] corrections and community
5 supervision.

6 § 165. Subparagraph (viii) of paragraph a of subdivision 3 of section
7 163 of the state finance law, as added by chapter 83 of the laws of
8 1995, is amended to read as follows:

9 (viii) The commissioner may permit and prescribe the conditions for,

10 (A) any association, consortium or group of privately owned or municipi-
11 pal, federal or state owned or operated hospitals, medical schools,
12 other health related facilities or voluntary ambulance services, which
13 have entered into a contract and made mutual arrangements for the joint
14 purchase of commodities pursuant to section twenty-eight hundred three-a
15 of the public health law; (B) any institution for the instruction of the
16 deaf or of the blind listed in section forty-two hundred one of the
17 education law; (C) any qualified non-profit-making agency for the blind
18 approved by the commissioner of [~~social services~~] the office of children
19 and family services or the office of temporary and disability
20 assistance; (D) any qualified charitable non-profit-making agency for
21 the severely disabled approved by the commissioner of education; (E) any
22 hospital or residential health care facility as defined in section twen-
23 ty-eight hundred one of the public health law; (F) any private not-for-
24 profit mental hygiene facility as defined in section 1.03 of the mental
25 hygiene law; and (G) any public authority or public benefit corporation
26 of the state, including the port authority of New York and New Jersey
27 and the interstate environmental commission, to make purchases using
28 centralized contracts for commodities. Such qualified non-profit-making
29 agencies for the blind and severely disabled may make purchases from the
30 [~~department of correctional services~~] correctional industries program
31 of the department of corrections and community supervision subject to
32 rules pursuant to the correction law.

33 § 166. Section 401 of the state technology law, as added by section 1
34 of part E of chapter 1 of the laws of 2004, and as renumbered by chapter
35 741 of the laws of 2005, is amended to read as follows:

36 § 401. Statewide wireless network advisory council. There is hereby
37 established within the office for technology a statewide wireless
38 network advisory council. The advisory council shall consist of twenty-
39 seven members. The governor shall appoint two members and the temporary
40 president of the senate and the speaker of the assembly shall each
41 appoint four members. One of the governor's appointments and three of
42 the appointments of the temporary president of the senate and of the
43 speaker of the assembly shall be a member, officer, or employee of a
44 first responder organization that serves a municipal corporation. One
45 each of the appointments of the temporary president of the senate and of
46 the speaker of the assembly shall possess expertise in the field of
47 communications technology but no appointee shall be the owner, princi-
48 pal, or employee of an entity that has a contract with the state of New
49 York or that vends communications products to any state or local govern-
50 ment. An organization shall be considered a first responder organization
51 if it provides policing, firefighting, or emergency medical services, as
52 defined in subdivision eleven of section three hundred two of the
53 retirement and social security law, subdivision two of section one
54 hundred of the general municipal law, subdivisions one, two, three,
55 four, five, six, and seven of section three thousand one of the public
56 health law, and section six hundred fifty of the county law. In addi-

1 tion, the temporary president of the senate and the speaker of the
2 assembly shall each designate one member of their respective houses to
3 serve on the advisory council. Ex officio members of the council shall
4 be the director of the office of homeland security, the superintendent
5 of the state police, the director of the office for technology, the
6 commissioner of the department of health, the commissioner of the
7 department of [~~correctional services~~] corrections and community super-
8 vision, the commissioner of the department of transportation, the
9 commissioner of the department of environmental conservation, the chair-
10 person of the thruway authority, the state fire administrator of the
11 office of fire prevention and control, the chief judge of the state, the
12 commissioner of the division of criminal justice services, the chair-
13 person of the metropolitan transportation authority, a designee of the
14 law enforcement council and the designee of the mayor of the city of New
15 York, or their designees. The chief information officer of New York
16 state shall be the chair of the advisory council.

17 § 167. Section 2222-a of the surrogate's court procedure act, as
18 amended by section 45 of part A-1 of chapter 56 of the laws of 2010, is
19 amended to read as follows:

20 § 2222-a. Notice of legacy or distributive share payable to inmate or
21 prisoner

22 Where the legatee, distributee or beneficiary is an inmate serving a
23 sentence of imprisonment with the state department of [~~correctional~~
24 ~~services~~] corrections and community supervision or a prisoner confined
25 at a local correctional facility, the court shall give prompt written
26 notice to the office of victim services, and at the same time direct
27 that no payment be made to such inmate or prisoner for a period of thir-
28 ty days following the date of entry of the order containing such direc-
29 tion.

30 § 168. Subdivision (d) of section 484 of the tax law, as added by
31 chapter 860 of the laws of 1987, is amended to read as follows:

32 (d) The provisions of this article shall not be applicable to any sale
33 as to which the tax imposed by section four hundred seventy-one of this
34 chapter is not applicable or to a sale to the department of [~~correction-~~
35 ~~al services~~] corrections and community supervision of this state for
36 sale to or use by inmates in institutions under the jurisdiction of such
37 department.

38 § 169. Subdivision (c) of section 1846 of the tax law, as added by
39 chapter 65 of the laws of 1985, is amended to read as follows:

40 (c) In the alternative, if the tax commission concludes that any ciga-
41 rettes seized pursuant to this section, when offered at public sale,
42 will bring a price less than the reasonably estimated price which the
43 department of [~~correctional services~~] corrections and community super-
44 vision would have to pay for the purchase of such cigarettes for sale to
45 or use by inmates in institutions under the jurisdiction of such depart-
46 ment, the tax commission may dispose of such cigarettes by transferring
47 them to the department of [~~correctional services~~] corrections and commu-
48 nity supervision for sale to or use by inmates in such institutions.

49 § 170. Subdivision (c) of section 1846-a of the tax law, as added by
50 chapter 61 of the laws of 1989, is amended to read as follows:

51 (c) In the alternative, if the commissioner concludes that any tobacco
52 products seized pursuant to this section, when offered at public sale,
53 will bring a price less than the reasonably estimated price which the
54 department of [~~correctional services~~] corrections and community super-
55 vision would have to pay for the purchase of such tobacco products for
56 sale to or use by inmates in institutions under the jurisdiction of such

1 department, the commissioner may dispose of such tobacco products by
2 transferring them to the department of [~~correctional services~~]
3 corrections and community supervision for sale to or use by inmates in
4 such institutions.

5 § 171. Section 25-a of the town law, as added by chapter 295 of the
6 laws of 1949, is amended to read as follows:

7 § 25-a. Fingerprints of persons before appointment as town policemen,
8 or as constables possessing powers in criminal matters. No person shall
9 be appointed or reappointed a member of the police department, or a
10 special policeman, or a constable not limited to powers and duties in
11 civil actions and proceedings only, in any town, who shall not previous-
12 ly, for the purposes of this section, have submitted fingerprints [~~of~~
13 ~~his two hands~~] in the form and manner prescribed by the division of
14 criminal justice services to the town board or other board or officer of
15 the town empowered by law to make such appointment or reappointment, and
16 it shall be the duty of such board or officer, before making such
17 appointment or reappointment, to compare or cause to be compared such
18 fingerprints with fingerprints filed with the division of criminal
19 [~~identification of the state department of correction~~] justice services;
20 provided, however, that in any case where the fingerprints of any such
21 person shall once have been submitted pursuant to this section and are
22 on file with the board empowered to make the appointment or reappoint-
23 ment, no new submission thereof shall be required, nor shall such board
24 be required to make or cause to be made such comparison if such compar-
25 ison shall have been made previously pursuant to this section and
26 certification thereof by such department is on file with such board.

27 § 172. Section 109-a of the vehicle and traffic law, as amended by
28 chapter 370 of the laws of 2000, is amended to read as follows:

29 § 109-a. Correction vehicle. Every vehicle operated in the city of New
30 York by the New York city department of correction or the New York state
31 department of [~~correctional services~~] corrections and community super-
32 vision while engaged in an emergency operation.

33 § 173. Subdivision 3 of section 10 of the workers' compensation law,
34 as amended by chapter 244 of the laws of 2002, is amended to read as
35 follows:

36 3. Notwithstanding any other provisions of this chapter, where a
37 public safety worker, including but not limited to a firefighter, emer-
38 gency medical technician, police officer, correction officer, civilian
39 employee of the department of corrections and community supervision or
40 other person employed by the state to work within a correctional facili-
41 ty maintained by the department of [~~correctional services~~] corrections
42 and community supervision, driver and medical observer, in the course of
43 performing his or her duties, is exposed to the blood or other bodily
44 fluids of another individual or individuals, the executive officer of
45 the appropriate ambulance, fire or police district may authorize such
46 public safety worker to obtain the care and treatment, including diagno-
47 sis, recommended medicine and other medical care needed to ascertain
48 whether such individual was exposed to or contracted any communicable
49 disease and such care and treatment shall be the responsibility of the
50 insurance carrier of the appropriate ambulance, fire or police district
51 or, if a public safety worker was not so exposed in the course of
52 performing his or her duties for such a district, then such person shall
53 be covered for the treatment provided for in this subdivision by the
54 carrier of his or her employer when such person is acting in the scope
55 of his or her employment. For the purpose of this subdivision, the term
56 "public safety worker" shall include persons who act for payment or who

1 act as volunteers in an organized group such as a rescue squad, police
2 department, correctional facility, ambulance corps, fire department, or
3 fire company.

4 § 174. This act shall take effect immediately, provided that:

5 1. the amendments to section 72-a of the correction law made by
6 section seven of this act shall not affect the expiration of such
7 section and shall expire and be deemed repealed therewith;

8 2. the amendments to section 91 of the correction law made by section
9 ten of this act shall take effect on the same date as the reversion of
10 such section as provided in section 8 of part H of chapter 56 of the
11 laws of 2009, as amended;

12 3. the amendments to section 92 of the correction law made by section
13 eleven of this act shall take effect on the same date as the reversion
14 of such section as provided in section 8 of part H of chapter 56 of the
15 laws of 2009, as amended;

16 4. the amendments to section 140-a of the correction law made by
17 section sixteen of this act shall not affect the repeal of such section
18 and shall be deemed repealed therewith;

19 5. the amendments to section 803 of the correction law made by section
20 thirty-seven of this act shall be subject to the expiration of such
21 section and shall expire and be deemed repealed therewith;

22 6. the amendments to section 803 of the correction law made by section
23 thirty-eight of this act shall take effect on the same date as the
24 reversion of such section as provided in section 74 of chapter 3 of the
25 laws of 1995, as amended;

26 7. the amendments to section 806 of the correction law made by section
27 forty of this act shall not affect the repeal of such section and shall
28 expire and be deemed repealed therewith;

29 8. the amendments to subdivision 1 of section 851 of the correction
30 law made by section forty-one of this act shall be subject to the expi-
31 ration and reversion of such subdivision pursuant to section 5 of chap-
32 ter 554 of the laws of 1986, as amended, when upon such date the
33 provisions of section forty-one-a of this act shall take effect;

34 9. the amendments to subdivision 1 of section 851 of the correction
35 law made by section forty-one-a of this act shall be subject to the
36 expiration and reversion of such subdivision pursuant to section 10 of
37 chapter 339 of the laws of 1972, as amended, when upon such date the
38 provisions of section forty-one-b of this act shall take effect;

39 10. the amendments to the closing paragraph of subdivision 2 of
40 section 851 of the correction law made by section forty-two of this act
41 shall be subject to the expiration and reversion of such subdivision
42 pursuant to section 46 of chapter 60 of the laws of 1994, as amended,
43 when upon such date the provisions of section forty-three of this act
44 shall take effect;

45 10-a. the amendments to subdivision 5 of section 851 of the correction
46 law made by section forty-three-a of this act shall take effect upon the
47 expirations of section 42 of chapter 60 of the laws of 1994, section 10
48 of chapter 339 of the laws of 1972 and section 3 of chapter 554 of laws
49 of 1986;

50 11. the amendments to subdivision 5 of section 852 of the correction
51 law made by section forty-four of this act shall not affect the expira-
52 tion and reversion of such section and shall expire and be deemed
53 repealed therewith;

54 12. the amendments to subdivision 2 of section 852 of the correction
55 law made by section forty-five of this act shall take effect on the same

1 date as the reversion of such section as provided in section 10 of chap-
2 ter 339 of the laws of 1972, as amended;

3 13. the amendments to subdivision 2 of section 856 of the correction
4 law made by section forty-six of this act shall take effect on the same
5 date as the reversion of section 856 as provided in section 10 of chap-
6 ter 339 of the laws of 1972, as amended;

7 14. the amendments to subdivision 6 of section 855 of the correction
8 law made by section forty-seven of this act shall be subject to the
9 expiration and reversion of such section pursuant to section 10 of chap-
10 ter 339 of the laws of 1972, as amended, when upon such date the
11 provisions of section forty-eight of this act shall take effect;

12 15. the amendments to subdivision (f) of section 1101 of the civil
13 practice law and rules made by section fifty-one of this act shall not
14 affect the expiration and reversion of such subdivision and shall expire
15 and be deemed repealed therewith;

16 16. the amendments to subdivisions 2 and 4 of section 209 of the civil
17 service law made by section sixty-four of this act shall not affect the
18 expiration of such subdivisions and shall expire and be deemed repealed
19 therewith;

20 17. the amendments to subdivision 9 of section 10 of the court of
21 claims act made by section sixty-seven of this act shall not affect the
22 expiration of such subdivision and shall expire and be deemed repealed
23 therewith;

24 18. the amendments to section 410.91 of the criminal procedure law
25 made by section seventy-six of this act shall not affect the repeal of
26 such section and shall expire and be deemed repealed therewith;

27 19. the amendments to subdivisions 2 and 4 of section 430.20 of the
28 criminal procedure law made by section seventy-seven of this act shall
29 be subject to the expiration and reversion of such subdivisions pursuant
30 to section 74 of chapter 3 of the laws of 1995, as amended, when upon
31 such date the provisions of section seventy-eight of this act shall take
32 effect;

33 20. the amendments to section 83-m of the legislative law made by
34 section one hundred eighteen of this act shall not affect the repeal of
35 such section and shall expire and be deemed repealed therewith;

36 21. the amendments to subdivision 7 of section 70.06 of the penal law
37 made by section one hundred twenty-three of this act shall not affect
38 the repeal of such subdivision and shall expire and be deemed repealed
39 therewith;

40 22. the amendments to subdivisions 1 and 3 of section 70.20 of the
41 penal law made by section one hundred twenty-four of this act shall be
42 subject to the expiration and reversion of such subdivisions pursuant to
43 section 74 of chapter 3 of the laws of 1995, as amended, when upon such
44 date the provisions of section one hundred twenty-five of this act shall
45 take effect;

46 23. the amendments to the opening paragraph of subdivision 1 of
47 section 70.30 of the penal law made by section one hundred twenty-six of
48 this act shall be subject to the expiration and reversion of such para-
49 graph pursuant to section 74 of chapter 3 of the laws of 1995, as
50 amended, when upon such date the provisions of section one hundred twen-
51 ty-seven of this act shall take effect;

52 24. the amendments to subdivision 7 of section 70.30 of the penal law
53 made by section one hundred twenty-six of this act shall not affect the
54 expiration of such subdivision and shall expire and be deemed repealed
55 therewith;

1 25. the amendments to section 70.35 of the penal law made by section
2 one hundred twenty-seven-a of this act shall be subject to the expira-
3 tion and reversion of such section pursuant to section 74 of chapter 3
4 of the laws of 1995, as amended, when upon such date the provisions of
5 section one hundred twenty-seven-b of this act shall take effect;

6 26. the amendments to paragraph (a) of subdivision 1 of section 70.40
7 of the penal law made by section one hundred twenty-seven-c of this act
8 shall be subject to the expiration and reversion of such paragraph, when
9 upon such date the provisions of section one hundred twenty-seven-d of
10 this act shall take effect;

11 27. the amendments to paragraph (b) of subdivision 1 of section 70.40
12 of the penal law made by section one hundred twenty-seven-d-1 of this
13 act shall be subject to the expiration and reversion of such paragraph
14 pursuant to section 74 of chapter 3 of the laws of 1995, as amended,
15 when upon such date the provisions of section one hundred twenty-seven-e
16 of this act shall take effect;

17 28. the amendments to paragraph (c) of subdivision 1 of section 70.40
18 of the penal law made by section one hundred twenty-seven-f of this act
19 shall not affect the repeal of such paragraph and shall expire and be
20 deemed repealed therewith;

21 29. the amendments to subdivision 1 of section 85.15 of the penal law
22 made by section one hundred twenty-seven-1 of this act shall be subject
23 to the expiration and reversion of such subdivision pursuant to section
24 74 of chapter 3 of the laws of 1995, as amended, when upon such date the
25 provisions of section one hundred twenty-seven-m of this act shall take
26 effect;

27 30. the amendments to section 205.17 of the penal law made by section
28 one hundred twenty-seven-n of this act shall not affect the expiration
29 of such section and shall expire therewith;

30 31. the amendments to section 205.19 of the penal law made by section
31 one hundred twenty-seven-o of this act shall not affect the expiration
32 of such section and shall expire therewith;

33 32. the amendments to subdivision 26 of section 206 of the public
34 health law made by section one hundred twenty-seven-t of this act shall
35 take effect on the same date and in the same manner as section 2 of
36 chapter 419 of the laws of 2009 takes effect;

37 33. the amendments to section 99-m of the state finance law made by
38 section one hundred sixty-one of this act shall not affect the repeal of
39 such section and shall expire and be deemed repealed therewith; and

40 34. the amendments to section 163 of the state finance law made by
41 section one hundred sixty-five of this act shall not affect the repeal
42 of such section and shall expire and be deemed repealed therewith.

43 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
44 sion, section or part of this act shall be adjudged by any court of
45 competent jurisdiction to be invalid, such judgment shall not affect,
46 impair, or invalidate the remainder thereof, but shall be confined in
47 its operation to the clause, sentence, paragraph, subdivision, section
48 or part thereof directly involved in the controversy in which such judg-
49 ment shall have been rendered. It is hereby declared to be the intent of
50 the legislature that this act would have been enacted even if such
51 invalid provisions had not been included herein.

52 § 3. This act shall take effect immediately provided, however, that
53 the applicable effective date of Subparts A and B of this act shall be
54 as specifically set forth in the last section of such Subparts.

1 Section 1. The economic development law is amended by adding a new
2 article 18 to read as follows:

3 ARTICLE 18

4 DIVISION OF SCIENCE, TECHNOLOGY AND INNOVATION

5 Section 360. Division of science, technology and innovation.

6 § 360. Division of science, technology and innovation. 1. Economic
7 development efficiency. In order to promote economic development effi-
8 ciency in the state of New York, the transfer of powers, functions and
9 affairs of the New York state foundation for science, technology and
10 innovation is hereby authorized and there is hereby created within the
11 department the division of science, technology and innovation. Notwith-
12 standing the foregoing, the small business technology investment fund
13 and cash assets of the New York state foundation for science, technology
14 and innovation shall be transferred to the urban development corporation
15 pursuant to subdivision twelve of this section.

16 2. Transfer of powers of the New York state foundation for science,
17 technology and innovation. The functions and powers possessed by and all
18 of the obligations and duties of the New York state foundation for
19 science, technology and innovation, as established pursuant to article
20 ten-A of the public authorities law and article ten-B of the executive
21 law, with the exception of the small business technology investment fund
22 and cash assets of the New York state foundation for science, technology
23 and innovation shall be transferred and assigned to, and assumed by and
24 devolved upon, the department. Notwithstanding the foregoing, any
25 programs specified in law to be administered by the New York state foun-
26 dition for science, technology and innovation shall be administered by
27 the department only to the extent of available appropriations.

28 3. Abolition of the New York state foundation for science, technology
29 and innovation. Upon the transfer pursuant to subdivisions two and
30 twelve of this section of the functions and powers possessed by and all
31 of the obligations and duties of the New York state foundation for
32 science, technology and innovation, as established pursuant to article
33 ten-A of the public authorities law and article ten-B of the executive
34 law, the New York state foundation for science, technology and inno-
35 vation shall be abolished.

36 3-a. Notwithstanding any other provision of law, rule, or regulation
37 to the contrary, upon the transfer of functions from the New York state
38 foundation for science, technology and innovation pursuant to this
39 section, employees of the New York state foundation for science, tech-
40 nology and innovation, as determined by the commissioner in his or her
41 discretion, who are necessary to the continuation of the transferred
42 functions and substantially engaged in the performance of the trans-
43 ferred functions shall be transferred to the department. Employees
44 transferred pursuant to this section shall be transferred without
45 further examination or qualification and shall retain their respective
46 civil service classifications or the equivalent thereof.

47 4. Continuity of authority of the New York state foundation for
48 science, technology and innovation. Except as herein otherwise provided,
49 upon the transfer pursuant to subdivisions two and twelve of this
50 section of the functions and powers possessed by and all of the obli-
51 gations and duties of the New York state foundation for science, tech-
52 nology and innovation as established pursuant to such provisions of the
53 executive law and the public authorities law to the department as
54 prescribed by subdivision two of this section and to the urban develop-
55 ment corporation pursuant to subdivision twelve of this section for the
56 purpose of succession of all functions, powers, duties and obligations

1 of the New York state foundation for science, technology and innovation,
2 the department and the urban development corporation, as appropriate
3 shall be deemed to and be held to constitute the continuation of such
4 functions, powers, duties and obligations and not a different agency or
5 authority.

6 5. Transfer of records of the New York state foundation for science,
7 technology and innovation. Upon the transfer pursuant to subdivisions
8 two and twelve of this section of the functions and powers possessed by
9 and all of the obligations and duties of the New York state foundation
10 for science, technology and innovation as established pursuant to such
11 provisions of the executive law and the public authorities law to the
12 department as prescribed by subdivision two of this section and to the
13 urban development corporation pursuant to subdivision twelve of this
14 section, all books, papers, records and property pertaining to the New
15 York state foundation for science, technology and innovation shall be
16 transferred to and maintained by the department and the urban develop-
17 ment corporation, as appropriate.

18 6. Completion of unfinished business of the New York state foundation
19 for science, technology and innovation. Upon the transfer pursuant to
20 subdivisions two and twelve of this section of the functions and powers
21 possessed by and all of the obligations and duties of the New York state
22 foundation for science, technology and innovation as established pursu-
23 ant to such provisions of the executive law and the public authorities
24 law to the department as prescribed by subdivision two of this section
25 and to the urban development corporation pursuant to subdivision twelve
26 of this section, any business or other matter undertaken or commenced by
27 the New York state foundation for science, technology and innovation
28 pertaining to or connected with the functions, powers, obligations and
29 duties so transferred and assigned to the department may be conducted or
30 completed by the department and the urban development corporation, as
31 appropriate.

32 7. Terms occurring in laws, contracts or other documents of or
33 pertaining to the New York state foundation for science, technology and
34 innovation. Upon the transfer pursuant to subdivisions two and twelve of
35 this section of the functions and powers possessed by and all of the
36 obligations and duties of the New York state foundation for science,
37 technology and innovation as established pursuant to such provisions of
38 the executive law and the public authorities law, whenever the New York
39 state foundation for science, technology and innovation and the execu-
40 tive director thereof, the functions, powers, obligations and duties of
41 which are transferred to the department and the urban development corpo-
42 ration are referred to or designated in any law, contract or document
43 pertaining to the functions, powers, obligations and duties transferred
44 and assigned pursuant to this section, such reference or designation
45 shall be deemed to refer to the department and its commissioner or the
46 urban development corporation and its president and chief executive
47 officer, as appropriate, or his or her designee.

48 8. Existing rights and remedies of or pertaining to the New York state
49 foundation for science, technology and innovation preserved. Upon the
50 transfer pursuant to subdivisions two and twelve of this section of the
51 functions and powers possessed by and all of the obligations and duties
52 of the New York state foundation for science, technology and innovation
53 as established pursuant to the executive law and the public authorities
54 law to the department as prescribed by subdivision two of this section
55 and to the urban development corporation pursuant to subdivision twelve
56 of this section, no existing right or remedy of the state, including the

1 New York state foundation for science, technology and innovation, shall
2 be lost, impaired or affected by reason of this section.

3 9. Pending actions and proceedings of or pertaining to the New York
4 state foundation for science, technology and innovation. Upon the trans-
5 fer pursuant to subdivisions two and twelve of this section of the func-
6 tions and powers possessed by and all of the obligations and duties of
7 the New York state foundation for science, technology and innovation as
8 established pursuant to such provisions of the executive law and the
9 public authorities law transfer to the department as prescribed by
10 subdivision two of this section and to the urban development corporation
11 pursuant to subdivision twelve of this section, no action or proceeding
12 pending on the effective date of this section, brought by or against the
13 New York state foundation for science, technology and innovation or
14 executive director thereof shall be affected by any provision of this
15 section, but the same may be prosecuted or defended in the name of the
16 department or the urban development corporation, as appropriate. In all
17 such actions and proceedings, the department and the urban development
18 corporation, as appropriate, upon application to the court, shall be
19 substituted as a party.

20 10. Continuation of rules and regulations of or pertaining to the New
21 York state foundation for science, technology and innovation. Upon the
22 transfer pursuant to subdivisions two and twelve of this section of the
23 functions and powers possessed by and all the obligations and duties of
24 the New York state foundation for science, technology and innovation as
25 established pursuant to such provisions of the executive law and the
26 public authorities law transfer to the department as prescribed by
27 subdivision two of this section and to the urban development corporation
28 pursuant to subdivision twelve of this section, all rules, regulations,
29 acts, determinations and decisions of the New York state foundation for
30 science, technology and innovation, pertaining to the functions trans-
31 ferred and assigned by this section to the department and the urban
32 development corporation, as appropriate, in force at the time of such
33 transfer, assignment, assumption and devolution shall continue in force
34 and effect as rules, regulations, acts, determinations and decisions of
35 the department and the urban development corporation, as appropriate,
36 until duly modified or repealed.

37 11. Transfer of appropriations heretofore made to the New York state
38 foundation for science, technology and innovation. Upon the transfer
39 pursuant to subdivisions two and twelve of this section of the functions
40 and powers possessed by and all of the obligations and duties of the New
41 York state foundation for science, technology and innovation as estab-
42 lished pursuant to such provisions of the executive law and the public
43 authorities law to the department as prescribed by subdivision two of
44 this section and to the urban development corporation pursuant to subdi-
45 vision twelve of this section, all appropriations and reappropriations
46 which shall have been made available as of the date of such transfer to
47 the New York state foundation for science, technology and innovation or
48 segregated pursuant to law, to the extent of remaining unexpended or
49 unencumbered balances thereof, whether allocated or unallocated and
50 whether obligated or unobligated, shall be transferred to and made
51 available for use and expenditure by the department or the urban devel-
52 opment corporation as deemed appropriate by the commissioner and shall
53 be payable on vouchers certified or approved by the commissioner of
54 taxation and finance, on audit and warrant of the comptroller. Payments
55 of liabilities for expenses of personal services, maintenance and opera-
56 tion which shall have been incurred as of the date of such transfer by

1 the New York state foundation for science, technology and innovation,
 2 and for liabilities incurred and to be incurred in completing its
 3 affairs shall also be made on vouchers certified or approved by the
 4 commissioner, on audit and warrant of the comptroller.

5 12. Transfer of certain assets and liabilities. Upon the transfer
 6 pursuant to subdivision two of this section of the functions and powers
 7 possessed by and all the obligations and duties of the New York state
 8 foundation for science, technology and innovation, as established pursu-
 9 ant to article ten-A of the public authorities law and article ten-B of
 10 the executive law as prescribed by subdivision two of this section, all
 11 cash assets of the New York state foundation for science, technology and
 12 innovation, and all assets, records, and liabilities of the small busi-
 13 ness technology investment fund (SBTIF) established pursuant to appro-
 14 priations made by various chapters of the law including, but not limited
 15 to chapter fifty-three of the laws of nineteen hundred eighty-one, chap-
 16 ter fifty-three of the laws of nineteen hundred eighty-five, chapter
 17 fifty-three of the laws of nineteen hundred eighty-six, chapter fifty-
 18 three of the laws of nineteen hundred eighty-seven, chapter fifty-three
 19 of the laws of nineteen hundred eighty-eight, chapter fifty-three of the
 20 laws of nineteen hundred eighty-nine, chapter fifty-three of the laws of
 21 nineteen hundred ninety, chapter fifty-three of the laws of nineteen
 22 hundred ninety-one, chapter fifty-three of the laws of nineteen hundred
 23 ninety-two, chapter fifty-three of the laws of nineteen hundred ninety-
 24 three, chapter fifty-three of the laws of nineteen hundred ninety-four,
 25 and chapter fifty-three of the laws of nineteen hundred ninety-five
 26 shall be transferred to the urban development corporation.

27 13. Severability. If any clause, sentence, paragraph or part of this
 28 section shall be adjudged by any court of competent jurisdiction to be
 29 invalid, such judgment shall not affect, impair or invalidate the
 30 remainder thereof, but shall be confined in its operation to the clause,
 31 sentence, paragraph or part thereof directly involved in the controversy
 32 in which such judgment shall have been rendered.

33 § 2. Sections 3151 and 3152 of the public authorities law are
 34 REPEALED.

35 § 3. This act shall take effect May 1, 2011.

36 PART E

37 Section 1. The executive law is amended by adding a new article 3-A
 38 to read as follows:

39 ARTICLE 3-A

40 EXECUTIVE REORGANIZATION ACT OF 2011

41 Section 33. Short title.

42 34. Duty of governor to examine agencies; legislative purpose.

43 35. Definitions.

44 36. Findings by governor; issuance of reorganization plan.

45 37. Contents of reorganization plan.

46 38. Provisions not to be included in a reorganization plan.

47 39. Effective date of reorganization plan.

48 39-a. Effect on actions or proceedings.

49 39-b. Severability.

50 § 33. Short title. This article shall be known and may be cited as
 51 the "executive reorganization act of 2011".

52 § 34. Duty of governor to examine agencies; legislative purpose. 1.
 53 The governor, from time to time, shall examine the organization of all

1 agencies and shall determine what changes therein are necessary to
2 accomplish one or more of the following purposes:

3 (a) to promote the better execution of the laws, the more effective
4 management of the government and of its agencies and functions, and the
5 expeditious administration of public business;

6 (b) to reduce expenditures and promote economy to the fullest extent
7 consistent with the efficient operation of the government;

8 (c) to increase the efficiency of the operations of the government to
9 the fullest extent practicable;

10 (d) to group, consolidate, coordinate and merge agencies and functions
11 of the government;

12 (e) to reduce the number of agencies by consolidating those having
13 similar functions, and to abolish such agencies or functions thereof as
14 may not be necessary for the efficient conduct of the government; and

15 (f) to eliminate overlap and duplication of effort.

16 2. The legislature declares that the public interest is best served by
17 fulfilling the purposes set forth in this section and that such purposes
18 may be accomplished more speedily and effectively under this article.

19 § 35. Definitions. As used in this article, the following terms shall
20 have the following meanings:

21 1. "Agency" means:

22 (a) Any administrative unit of state government, including, but not
23 limited to, any agency, board, bureau, commission, department, division,
24 institution, office, state public authority, state task force, or other
25 body, or parts thereof, however designated, whether or not it receives
26 legislative appropriations, but does not include any entity whose prima-
27 ry function is service to the legislative or judicial branches of state
28 government, the department of law, the department of audit and control
29 or the board of regents;

30 (b) Any office or officer in any agency, except the department of law
31 and department of audit and control; and

32 (c) Any state public authority or public benefit corporation created
33 by or existing under any state law, or parts thereof, however desig-
34 nated, with one or more of its members appointed by the governor or who
35 serve as members by virtue of holding a civil office of the state, other
36 than an interstate or international authority or public benefit corpo-
37 ration, including any subsidiaries of such public authority or public
38 benefit corporation.

39 Provided that "agency" shall not include any department, board,
40 bureau, commission, division, office, council, committee or officer of a
41 municipality or a local industrial development agency or local public
42 authority or local public benefit corporation as that term is defined in
43 section sixty-six of the general construction law.

44 2. "Assembly" means the New York state assembly.

45 3. "Function" means any activity, assignment, duty, power, responsi-
46 bility, right, set of operations or other activity.

47 4. "Governor" means the governor of the state of New York.

48 5. "Legislature" means the legislature of the state of New York.

49 6. "Officer" means every officer appointed by one or more state offi-
50 cers, or by the legislature, and authorized to exercise their official
51 functions throughout the entire state, or without limitation to any
52 political subdivision of the state, and is not limited to persons
53 receiving compensation for their services.

54 7. "Regulation or other action" means any regulation, rule, order,
55 policy, determination, directive, authorization, permit, privilege,
56 requirement, designation, or other action.

1 8. "Reorganization" or "reorganize" means:

2 (a) The transfer of the whole or any part of any agency, or of the
3 whole or any part of the functions thereof, to the jurisdiction and
4 control of any other agency;

5 (b) The abolition of all or any part of the functions of any agency;

6 (c) The consolidation, coordination or merger of the whole or any
7 part of any agency, or of the whole or any part of the functions there-
8 of, with the whole or any part of any other agency or the functions
9 thereof;

10 (d) The consolidation, coordination or merger, of any part of any
11 agency or the functions thereof with any other part of the same agency
12 or the functions thereof;

13 (e) The authorization of any non-elective officer to delegate any of
14 their functions;

15 (f) The abolition of the whole or any part of any agency which does
16 not have, or upon the taking effect of reorganization will not have, any
17 functions; or

18 (g) The establishment of a new agency to perform the whole or any part
19 of the functions of any existing agency or agencies.

20 9. "Reorganization plan" or "plan" shall mean the bill prepared by the
21 governor, and submitted to the legislature as a program bill, that
22 contains terms and information regarding the reorganization of one or
23 more agencies pursuant to this article which, when enacted, shall accom-
24 plish such reorganization.

25 10. "Senate" means the New York state senate.

26 § 36. Findings by governor; issuance of reorganization plan. 1. When-
27 ever the governor finds it in the public interest, he or she may reor-
28 ganize one or more agencies.

29 2. Nothing in this article shall prohibit or limit the authority of
30 the governor or legislature to implement or enact a reorganization plan
31 pursuant to any other lawful process.

32 § 37. Contents of reorganization plan. 1. A reorganization plan
33 shall:

34 (a) set forth as findings in such plan, a description of the nature
35 and purposes of the reorganization, together with an explanation of the
36 advantages that will result from its implementation, including:

37 (i) anticipated savings and costs associated with each significant
38 modification of any agency functions or operations;

39 (ii) the productivity gains measured in numbers of full-time employees
40 and the types of positions, if any, that may be created or eliminated as
41 a result of the reorganization plan;

42 (iii) estimated improvements and other impacts, including fiscal and
43 service impacts, on programs or services recipients, if the reorganiza-
44 tion plan is adopted; and

45 (iv) estimated long-term projected fiscal impact of the reorganization
46 plan;

47 (b) specify with respect to each function that is either abolished or
48 merged with another function included in the plan the statutory authori-
49 ty for the exercise of the function;

50 (c) provide for the uninterrupted conduct of the governmental services
51 and functions affected by but not absorbed by the plan;

52 (d) provide for the transfer, assumption or other disposition of the
53 records, property, and personnel affected by a reorganization, further
54 provided, should any employees be transferred from one agency to another,
55 that such transfer will be without further examination or qualifica-
56 tion and such employees shall retain their respective civil service

1 classifications, status and collective bargaining unit designations and
2 be governed by applicable collective bargaining agreements;

3 (e) provide for terminating the affairs of an agency abolished;

4 (f) set forth every law and chapter that will be directly impacted
5 pursuant to the reorganization plan;

6 (g) provide for the transfer of such unexpended balances of appropri-
7 ations and reappropriation of remaining expended or unexpended funds
8 whether allocated or unallocated and whether obligated or unobligated,
9 available for use in connection with a function or agency affected by a
10 reorganization, as necessary by reason of the reorganization for use in
11 connection with the functions affected by the reorganization, or for the
12 use of the agency which shall have the functions after the reorganiza-
13 tion plan is effective. However, the unexpended balances so transferred
14 may be used only for the purposes for which the appropriation was
15 originally made. Such reorganization plan may not contain appropri-
16 ations for a reorganized agency. Any such appropriation as may be needed
17 may only be considered pursuant to a single appropriation in legislation
18 outside of the reorganization plan or in the executive budget submitted
19 in the fiscal year following the enactment of the reorganization plan;

20 (h) provide that no existing right or remedy shall be lost, impaired
21 or affected by any reorganization plan;

22 (i) provide that no action or proceeding pending at any time when such
23 reorganization plan takes effect, brought by or against any agency which
24 is subject to such plan, shall be affected by any provision of the plan,
25 but the same may be prosecuted or defended in the name of such agency.
26 In all such actions and proceedings, if an agency is eliminated and its
27 functions and responsibilities are transferred, then the head of the
28 surviving agency, upon application of the court, shall be substituted as
29 a party;

30 (j) describe in detail:

31 (i) other actions, if any, necessary to plan to complete the reorgan-
32 ization;

33 (ii) the anticipated nature and substance of any orders, directives,
34 and other administrative and operational actions which are expected to
35 be required for completing or implementing the reorganization; and

36 (iii) any preliminary actions which have been taken in the implementa-
37 tion process;

38 (k) provide a projected timetable for completion of the implementation
39 process; and

40 (l) include provisions for the appointment and compensation of the
41 head and one or more officers of an agency (including an agency result-
42 ing from a consolidation or other type of reorganization) if the gover-
43 nor finds and declares that by reason of a reorganization made by the
44 plan the provisions are in the public interest. The agency head may be
45 an individual or may be a commission or board with more than one member.
46 In any case, the term of office may not be fixed for a period in excess
47 of the term remaining to be served by the then governor, the pay may not
48 be at a rate in excess of that found by the governor to be applicable to
49 comparable officers in the state government, and, if the appointment is
50 not to a position in the competitive service, it shall be made by the
51 commissioner or other chief executive officer, board or commission of
52 the agency affected. If the reorganization plan creates a new agency
53 that includes the function of an agency whose head was confirmed with
54 the advice and consent of the senate, or substantially modifies the
55 functions of an existing agency whose head was confirmed with the advice
56 and consent of the senate, then the head or heads of such new or modi-

1 fied agency shall be appointed with the advice and consent of the
2 senate.

3 2. A reorganization plan may change the name of an agency affected by
4 a reorganization and the title of its head, and shall designate the name
5 of an agency resulting from a reorganization and the title of its head.

6 § 38. Provisions not to be included in a reorganization plan. 1. No
7 reorganization plan shall provide for, and no reorganization under this
8 article shall have the effect of:

9 (a) abolishing or modifying any agency or entity created or estab-
10 lished by the New York state constitution, including without limitation,
11 the board of regents, legislature, judiciary, comptroller and attorney
12 general, or abolishing or modifying any agency or entity administered by
13 such constitutionally established agency or entity that is not subject
14 to direct gubernatorial control, or abolishing or transferring to or
15 from the jurisdiction and control of any such agency any function
16 conferred by the New York state constitution on an agency authorized by
17 such constitution, or affecting or changing any implementing statutes
18 related to such agencies or entities;

19 (b) abolishing any function required by federal law or interstate
20 compacts;

21 (c) violating any covenant with bondholders; or

22 (d) abolishing statutorily prescribed functions, provided that such
23 functions may be assigned to a different agency than the one to which
24 they were originally assigned by the statute.

25 2. No reorganization plan shall have the effect of limiting in any way
26 the validity of any statute enacted, or any regulation or other action
27 made, prescribed, issued, granted or performed in respect to or by any
28 agency before the effective date of the plan except to the extent that
29 the plan specifically so provides nor shall such plan have the effect of
30 limiting or altering the advice and consent powers of the senate.

31 § 39. Effective date of reorganization plan. 1. A reorganization plan
32 shall be voted on by each house of the legislature, without amendment as
33 submitted by the governor, within thirty days after such submission.
34 The governor may submit only one such plan annually and may amend that
35 plan one time within such thirty day period. Both houses of the legisla-
36 ture shall then have thirty days from the submission of such amendment
37 to vote on the amended reorganization plan. Without the consent of both
38 houses of the legislature, neither a plan nor an amendment may be
39 submitted by the governor after the thirtieth day of May in any year.

40 2. Under provisions contained in a reorganization plan, a provision of
41 the plan may be effective at a time later than the date on which the
42 plan otherwise is effective.

43 § 39-a. Effect on actions or proceedings. This article shall not
44 affect actions or proceedings, civil or criminal, brought by or against
45 any agency or officer, the functions, powers and duties of which have
46 been transferred or abolished pursuant to this article; nor shall any
47 reorganization affect any order or recommendation made by, or other
48 matters or proceedings before, any agency or officer, the functions,
49 powers and duties of which have been transferred or abolished pursuant
50 to a reorganization plan under this article.

51 § 39-b. Severability. If any clause, sentence, paragraph, subdivi-
52 sion, section or part of this article shall be adjudged by any court of
53 competent jurisdiction to be invalid, such judgment shall not affect,
54 impair, or invalidate the remainder thereof, but shall be confined in
55 its operation to the clause, sentence, paragraph, subdivision, section
56 or part thereof directly involved in the controversy in which such judg-

1 ment shall have been rendered. It is hereby declared to be the intent of
2 the legislature that this article would have been enacted even if such
3 invalid provisions had not been included in this section.

4 § 2. The legislative law is amended by adding a new section 54-b to
5 read as follows:

6 § 54-b. Reorganization plan. The legislature may by concurrent resolu-
7 tion prescribe rules for the consideration and disposition of a reor-
8 ganization plan, as defined in article three-A of the executive law.

9 § 3. This act shall take effect immediately and shall be deemed
10 repealed May 31, 2014.

11 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
12 sion, section or part of this act shall be adjudged by any court of
13 competent jurisdiction to be invalid, such judgment shall not affect,
14 impair, or invalidate the remainder thereof, but shall be confined in
15 its operation to the clause, sentence, paragraph, subdivision, section
16 or part thereof directly involved in the controversy in which such judg-
17 ment shall have been rendered. It is hereby declared to be the intent of
18 the legislature that this act would have been enacted even if such
19 invalid provisions had not been included herein.

20 § 3. This act shall take effect immediately provided, however, that
21 the applicable effective date of Parts A through E of this act shall be
22 as specifically set forth in the last section of such Parts.

STATE OF NEW YORK

8354

2011-2012 Regular Sessions

IN ASSEMBLY

June 14, 2011

Introduced by M. of A. O'DONNELL, GOTTFRIED, GLICK, TITONE, KELLNER, BRONSON, J. RIVERA, SILVER, FARRELL, SAYWARD, LENTOL, NOLAN, WEISENBERG, ARROYO, BRENNAN, DINOWITZ, HOYT, LIFTON, MILLMAN, CAHILL, PAULIN, REILLY, BING, JEFFRIES, JAFFEE, ROSENTHAL, KAVANAGH, DenDEKKER, SCHIMEL, HEVESI, BENEDETTO, SCHROEDER, J. MILLER, LAVINE, LANCMAN, LINARES, MOYA, ROBERTS, SIMOTAS, ABINANTI, BRAUNSTEIN -- Multi-Sponsored by -- M. of A. AUBRY, BOYLAND, BROOK-KRASNY, CANESTRARI, COOK, DUPREY, ENGLEBRIGHT, LATIMER, V. LOPEZ, LUPARDO, MAGNARELLI, McENENY, MORELLE, ORTIZ, PRETLOW, RAMOS, N. RIVERA, P. RIVERA, RODRIGUEZ, RUSSELL, SWEENEY, THIELE, TITUS, WEPRIN, WRIGHT, ZEBROWSKI -- (at request of the Governor) -- read once and referred to the Committee on Judiciary

AN ACT to amend the domestic relations law, in relation to the ability to marry

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

- 1 Section 1. This act shall be known and may be cited as the "Marriage
2 Equality Act".
3 § 2. Legislative intent. Marriage is a fundamental human right. Same-
4 sex couples should have the same access as others to the protections,
5 responsibilities, rights, obligations, and benefits of civil marriage.
6 Stable family relationships help build a stronger society. For the
7 welfare of the community and in fairness to all New Yorkers, this act
8 formally recognizes otherwise-valid marriages without regard to whether
9 the parties are of the same or different sex.
10 It is the intent of the legislature that the marriages of same-sex and
11 different-sex couples be treated equally in all respects under the law.
12 The omission from this act of changes to other provisions of law shall
13 not be construed as a legislative intent to preserve any legal
14 distinction between same-sex couples and different-sex couples with
15 respect to marriage. The legislature intends that all provisions of law

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD12066-04-1

1 which utilize gender-specific terms in reference to the parties to a
2 marriage, or which in any other way may be inconsistent with this act,
3 be construed in a gender-neutral manner or in any way necessary to
4 effectuate the intent of this act.

5 § 3. The domestic relations law is amended by adding two new sections
6 10-a and 10-b to read as follows:

7 § 10-a. Parties to a marriage. 1. A marriage that is otherwise valid
8 shall be valid regardless of whether the parties to the marriage are of
9 the same or different sex.

10 2. No government treatment or legal status, effect, right, benefit,
11 privilege, protection or responsibility relating to marriage, whether
12 deriving from statute, administrative or court rule, public policy,
13 common law or any other source of law, shall differ based on the parties
14 to the marriage being or having been of the same sex rather than a
15 different sex. When necessary to implement the rights and responsibil-
16 ities of spouses under the law, all gender-specific language or terms
17 shall be construed in a gender-neutral manner in all such sources of
18 law.

19 § 10-b. Application. 1. Notwithstanding any other provision of law,
20 pursuant to subdivision nine of section two hundred ninety-two of the
21 executive law, a corporation incorporated under the benevolent orders
22 law or described in the benevolent orders law but formed under any other
23 law of this state or a religious corporation incorporated under the
24 education law or the religious corporations laws shall be deemed to be
25 in its nature distinctly private and therefore, shall not be required to
26 provide accommodations, advantages, facilities or privileges related to
27 the solemnization or celebration of a marriage.

28 2. A refusal by a benevolent organization or a religious corporation,
29 incorporated under the education law or the religious corporations law,
30 to provide accommodations, advantages, facilities or privileges in
31 connection with section ten-a of this article shall not create a civil
32 claim or cause of action.

33 3. Pursuant to subdivision eleven of section two hundred ninety-six of
34 the executive law, nothing in this article shall be deemed or construed
35 to prohibit any religious or denominational institution or organization,
36 or any organization operated for charitable or educational purposes,
37 which is operated, supervised or controlled by or in connection with a
38 religious organization from limiting employment or sales or rental of
39 housing accommodations or admission to or giving preference to persons
40 of the same religion or denomination or from taking such action as is
41 calculated by such organization to promote the religious principles for
42 which it is established or maintained.

43 § 4. Section 13 of the domestic relations law, as amended by chapter
44 720 of the laws of 1957, is amended to read as follows:

45 § 13. Marriage licenses. It shall be necessary for all persons
46 intended to be married in New York state to obtain a marriage license
47 from a town or city clerk in New York state and to deliver said license,
48 within sixty days, to the clergyman or magistrate who is to officiate
49 before the marriage ceremony may be performed. In case of a marriage
50 contracted pursuant to subdivision four of section eleven of this chap-
51 ter, such license shall be delivered to the judge of the court of record
52 before whom the acknowledgment is to be taken. If either party to the
53 marriage resides upon an island located not less than twenty-five miles
54 from the office or residence of the town clerk of the town of which such
55 island is a part, and if such office or residence is not on such island
56 such license may be obtained from any justice of the peace residing on

1 such island, and such justice, in respect to powers and duties relating
2 to marriage licenses, shall be subject to the provisions of this article
3 governing town clerks and shall file all statements or affidavits
4 received by him while acting under the provisions of this section with
5 the town clerk of such town. **No application for a marriage license shall**
6 **be denied on the ground that the parties are of the same, or a differ-**
7 **ent, sex.**

8 § 5. Subdivision 1 of section 11 of the domestic relations law, as
9 amended by chapter 319 of the laws of 1959, is amended and a new subdivi-
10 sion 1-a is added to read as follows:

11 1. A clergyman or minister of any religion, or by the senior leader,
12 or any of the other leaders, of The Society for Ethical Culture in the
13 city of New York, having its principal office in the borough of Manhat-
14 tan, or by the leader of The Brooklyn Society for Ethical Culture,
15 having its principal office in the borough of Brooklyn of the city of
16 New York, or of the Westchester Ethical Society, having its principal
17 office in Westchester county, or of the Ethical Culture Society of Long
18 Island, having its principal office in Nassau county, or of the River-
19 dale-Yonkers Ethical Society having its principal office in Bronx coun-
20 ty, or by the leader of any other Ethical Culture Society affiliated
21 with the American Ethical Union; **provided that no clergyman or minister**
22 **as defined in section two of the religious corporations law, or Society**
23 **for Ethical Culture leader shall be required to solemnize any marriage**
24 **when acting in his or her capacity under this subdivision.**

25 **1-a. A refusal by a clergyman or minister as defined in section two of**
26 **the religious corporations law, or Society for Ethical Culture leader to**
27 **solemnize any marriage under this subdivision shall not create a civil**
28 **claim or cause of action.**

29 § 6. This act shall take effect on the thirtieth day after it shall
30 have become a law.

STATE OF NEW YORK

5857

2011-2012 Regular Sessions

IN SENATE

June 24, 2011

Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the domestic relations law, in relation to the ability to marry; and to amend a chapter of the laws of 2011, amending the domestic relations law relating to the ability to marry, as proposed in legislative bill number A. 8354, in relation to the statutory construction of such chapter; and repealing certain provisions of the domestic relations law relating to parties to a marriage

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

1 Section 1. Section 10-b of the domestic relations law, as added by a
2 chapter of the laws of 2011, amending the domestic relations law relat-
3 ing to the ability to marry, as proposed in legislative bill number A.
4 8354, is REPEALED and a new section 10-b is added to read as follows:
5 § 10-b. Religious exception. 1. Notwithstanding any state, local or
6 municipal law, rule, regulation, ordinance, or other provision of law to
7 the contrary, a religious entity as defined under the education law or
8 section two of the religious corporations law, or a corporation incorpo-
9 rated under the benevolent orders law or described in the benevolent
10 orders law but formed under any other law of this state, or a not-for-
11 profit corporation operated, supervised, or controlled by a religious
12 corporation, or any employee thereof, being managed, directed, or super-
13 vised by or in conjunction with a religious corporation, benevolent
14 order, or a not-for-profit corporation as described in this subdivision,
15 shall not be required to provide services, accommodations, advantages,
16 facilities, goods, or privileges for the solemnization or celebration of
17 a marriage. Any such refusal to provide services, accommodations, advan-
18 tages, facilities, goods, or privileges shall not create any civil claim
19 or cause of action or result in any state or local government action to
20 penalize, withhold benefits, or discriminate against such religious

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD12066-08-1

1 corporation, benevolent order, a not-for-profit corporation operated,
2 supervised, or controlled by a religious corporation, or any employee
3 thereof being managed, directed, or supervised by or in conjunction with
4 a religious corporation, benevolent order, or a not-for-profit corpo-
5 ration.

6 2. Notwithstanding any state, local or municipal law or rule, regu-
7 lation, ordinance, or other provision of law to the contrary, nothing in
8 this article shall limit or diminish the right, pursuant to subdivision
9 eleven of section two hundred ninety-six of the executive law, of any
10 religious or denominational institution or organization, or any organ-
11 ization operated for charitable or educational purposes, which is oper-
12 ated, supervised or controlled by or in connection with a religious
13 organization, to limit employment or sales or rental of housing accommo-
14 dations or admission to or give preference to persons of the same reli-
15 gion or denomination or from taking such action as is calculated by such
16 organization to promote the religious principles for which it is estab-
17 lished or maintained.

18 3. Nothing in this section shall be deemed or construed to limit the
19 protections and exemptions otherwise provided to religious organizations
20 under section three of article one of the constitution of the state of
21 New York.

22 § 2. Subdivision 1-a of section 11 of the domestic relations law, as
23 added by a chapter of the laws of 2011, amending the domestic relations
24 law relating to the ability to marry, as proposed in legislative bill
25 number A.8354, is amended to read as follows:

26 1-a. A refusal by a clergyman or minister as defined in section two of
27 the religious corporations law, or Society for Ethical Culture leader to
28 solemnize any marriage under this subdivision shall not create a civil
29 claim or cause of action or result in any state or local government
30 action to penalize, withhold benefits or discriminate against such cler-
31 gyman or minister.

32 § 3. A chapter of the laws of 2011, amending the domestic relations
33 law relating to the ability to marry, as proposed in legislative bill
34 number A. 8354, is amended by adding a new section 5-a to read as
35 follows:

36 § 5-a. This act is to be construed as a whole, and all parts of it are
37 to be read and construed together. If any part of this act shall be
38 adjudged by any court of competent jurisdiction to be invalid, the
39 remainder of this act shall be invalidated. Nothing herein shall be
40 construed to affect the parties' right to appeal the matter.

41 § 4. This act shall take effect on the same date as such chapter of
42 the laws of 2011, takes effect.

STATE OF NEW YORK

S. 5856

A. 8518

2011-2012 Regular Sessions

SENATE - ASSEMBLY

June 24, 2011

IN SENATE -- Introduced by Sens. SKELOS, ALESI, BALL, DeFRANCISCO, FARLEY, FLANAGAN, FUSCHILLO, GALLIVAN, GOLDEN, GRIFFO, GRISANTI, HANNON, JOHNSON, LANZA, LARKIN, LAVALLE, LIBOUS, LITTLE, MARCELLINO, MARTINS, MAZIARZ, McDONALD, NOZZOLIO, RANZENHOFER, RITCHIE, ROBACH, SEWARD, YOUNG, ZELDIN -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by M. of A. V. LOPEZ, SILVER, FARRELL -- (at request of the Governor) -- read once and referred to the Committee on Ways and Means

AN ACT to amend the general municipal law and the education law, in relation to establishing limits upon school district and local government tax levies; and providing for the repeal of such provisions upon expiration thereof (Part A); to amend chapter 576 of the laws of 1974 amending the emergency housing rent control law relating to the control of and stabilization of rent in certain cases, the emergency housing rent control law, chapter 329 of the laws of 1963 amending the emergency housing rent control law relating to recontrol of rents in Albany, chapter 555 of the laws of 1982 amending the general business law and the administrative code of the city of New York relating to conversion of residential property to cooperative or condominium ownership in the city of New York, chapter 402 of the laws of 1983 amending the general business law relating to conversion of rental residential property to cooperative or condominium ownership in certain municipalities in the counties of Nassau, Westchester and Rockland and the rent regulation reform act of 1997, in relation to extending the effectiveness thereof; to amend the administrative code of the city of New York, the emergency tenant protection act of nineteen seventy-four and the emergency housing rent control law, in relation to limiting rent increases after vacancy of a housing accommodation and the adjustment of maximum allowable rent based on apartment improvements; to amend the emergency tenant protection act of nineteen seventy-four, the emergency housing rent control law, the

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administrative code of the city of New York and the tax law, in relation to deregulation thresholds; to amend the real property tax law, in relation to tax exemption for new multiple dwellings and exemption of certain new or substantially rehabilitated multiple dwellings from local taxation and to amend the tax law, in relation to verification of income (Part B); to amend the state finance law, in relation to providing certain centralized services to political subdivisions and extending the authority of the commissioner of general services to aggregate purchases of energy for state agencies and political subdivisions; to amend the general municipal law, in relation to purchasing information technology and telecommunications; to amend the county law, in relation to contracts for services; to amend the general municipal law, in relation to certain federal contracts; to amend the municipal home rule law, in relation to filing and publication of local laws; and providing for the repeal of certain provisions upon the expiration thereof (Subpart A); to amend the general municipal law and the highway law, in relation to mutual aid (Subpart B); to amend the general municipal law, in relation to apportioning the expenses of police department members in attending police training schools; to amend the criminal procedure law, in relation to the prosecution of the offense of identity theft; to amend the family court act, in relation to inter-county probation; to amend the mental hygiene law, in relation to payment of costs for prosecution of inmate-patients; and to repeal section 207-m of the general municipal law relating to salary increases for heads of police departments of municipalities, districts or authorities (Subpart C); to amend the general municipal law, in relation to filing requirements for municipalities regarding urban renewal plans and creation of urban renewal agencies and authorities (Subpart D); to amend the social services law, in relation to the use of debit or credit cards for child care assistance payments; and to amend the social services law, in relation to the length of licenses to board children, training of child protective service caseworkers, services plans, funding for children and family services, district-wide child welfare services plans, and non-residential services for victims of domestic violence (Subpart E); to amend the education law, in relation to census reporting; to amend the education law, in relation to transportation of children receiving special education services; to amend the education law, in relation to funding of certain capital projects and auditing of claims; to amend the education law, in relation to establishing a shared superintendent program; and to amend the education law, in relation to cost-sharing between districts; and to amend the general municipal law, in relation to accounts of officers to be examined; and providing for the repeal of certain provisions upon expiration thereof (Subpart F); to amend the mental hygiene law and the social services law, in relation to the implementation of medical support provisions (Subpart G); and to amend the state administrative procedure act, in relation to alternate methods for implementing regulatory mandates; and to amend the executive law, in relation to creation of the mandate relief council and providing for the expiration of such provisions (Subpart H) (Part C)

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

1 Section 1. This act enacts into law major components of legislation
2 relating to real property tax levies, rent regulation, exemption from
3 local taxation and mandate relief. Each component is wholly contained
4 within a Part identified as Parts A through C. The effective date for
5 each particular provision contained within such Part is set forth in the
6 last section of such Part. Any provision in any section contained within
7 a Part, including the effective date of the Part, which makes a refer-
8 ence to a section "of this act", when used in connection with that
9 particular component, shall be deemed to mean and refer to the corre-
10 sponding section of the Part in which it is found. Section three of this
11 act sets forth the general effective date of this act.

12 PART A

13 Section 1. The general municipal law is amended by adding a new
14 section 3-c to read as follows:

15 § 3-c. Limit upon real property tax levies by local governments. 1.
16 Unless otherwise provided by law, the amount of real property taxes that
17 may be levied by or on behalf of any local government, other than the
18 city of New York and the counties contained therein, shall not exceed
19 the tax levy limit established pursuant to this section.

20 2. When used in this section:

21 (a) "Allowable levy growth factor" shall be the lesser of: (i) one and
22 two one-hundredths; or (ii) the sum of one plus the inflation factor;
23 provided, however, that in no case shall the levy growth factor be less
24 than one.

25 (b) "Available carryover" means the amount by which the tax levy for
26 the prior fiscal year was below the tax levy limit for such fiscal year,
27 if any, but no more than an amount that equals one and one-half percent
28 of the tax levy limit for such fiscal year.

29 (c) "Coming fiscal year" means the fiscal year of the local government
30 for which a tax levy limit shall be determined pursuant to this section.

31 (d) "Inflation factor" means the quotient of: (i) the average of the
32 national consumer price indexes determined by the United States depart-
33 ment of labor for the twelve-month period ending six months prior to the
34 start of the coming fiscal year minus the average of the national
35 consumer price indexes determined by the United States department of
36 labor for the twelve-month period ending six months prior to the start
37 of the prior fiscal year, divided by: (ii) the average of the national
38 consumer price indexes determined by the United States department of
39 labor for the twelve-month period ending six months prior to the start
40 of the prior fiscal year, with the result expressed as a decimal to four
41 places.

42 (e) "Local government" means a county, city, town, village, fire
43 district, or special district including but not limited to a district
44 created pursuant to article twelve or twelve-A, or governed by article
45 thirteen of the town law, or created pursuant to article five-A, five-B
46 or five-D of the county law, chapter five hundred sixteen of the laws of
47 nineteen hundred twenty-eight, or chapter two hundred seventy-three of
48 the laws of nineteen hundred thirty-nine, and shall include town
49 improvements provided pursuant to articles three-A and twelve-C of the
50 town law but shall not include the city of New York or the counties
51 contained therein.

52 (f) "Prior fiscal year" means the fiscal year of the local government
53 immediately preceding the coming fiscal year.

1 (g) "Tax levy limit" means the amount of taxes authorized to be levied
2 by or on behalf of a local government pursuant to this section,
3 provided, however, that the tax levy limit shall not include the follow-
4 ing:

5 (i) a tax levy necessary for expenditures resulting from court orders
6 or judgments against the local government arising out of tort actions
7 for any amount that exceeds five percent of the total tax levied in the
8 prior fiscal year;

9 (ii) in years in which the system average actuarial contribution rate
10 of the New York state and local employees' retirement system, as defined
11 by paragraph ten of subdivision a of section nineteen-a of the retire-
12 ment and social security law, increases by more than two percentage
13 points from the previous year, a tax levy necessary for expenditures for
14 the coming fiscal year for local government employer contributions to
15 the New York state and local employees' retirement system caused by
16 growth in the system average actuarial contribution rate minus two
17 percentage points;

18 (iii) in years in which the system average actuarial contribution rate
19 of the New York state and local police and fire retirement system, as
20 defined by paragraph eleven of subdivision a of section three hundred
21 nineteen-a of the retirement and social security law, increases by more
22 than two percentage points from the previous year, a tax levy necessary
23 for expenditures for the coming fiscal year for local government employ-
24 er contributions to the New York state and local police and fire retire-
25 ment system caused by growth in the system average actuarial contrib-
26 ution rate minus two percentage points;

27 (iv) in years in which the normal contribution rate of the New York
28 state teachers' retirement system, as defined by paragraph a of subdivi-
29 sion two of section five hundred seventeen of the education law,
30 increases by more than two percentage points from the previous year, a
31 tax levy necessary for expenditures for the coming fiscal year for local
32 government employer contributions to the New York state teachers'
33 retirement system caused by growth in the normal contribution rate minus
34 two percentage points.

35 (h) "Tax" or "taxes" shall include (i) a charge imposed upon real
36 property by or on behalf of a county, city, town, village or school
37 district for municipal or school district purposes, and (ii) special ad
38 valorem levies and special assessments as defined in subdivisions four-
39 teen and fifteen of section one hundred two of the real property tax
40 law.

41 3. (a) Subject to the provisions of subdivision five of this section,
42 beginning with the fiscal year that begins in two thousand twelve, no
43 local government shall adopt a budget that requires a tax levy that is
44 greater than the tax levy limit for the coming fiscal year. Provided
45 however the tax levy limit shall not prohibit a levy necessary to
46 support the expenditures pursuant to subparagraphs (i) through (iv) of
47 paragraph (g) of subdivision two of this section.

48 (b)(i) The commissioner of taxation and finance shall calculate a
49 quantity change factor for each local government for the coming fiscal
50 year based upon the physical or quantity change, as defined by section
51 twelve hundred twenty of the real property tax law, reported to the
52 commissioner of taxation and finance by the assessor or assessors pursu-
53 ant to section five hundred seventy-five of the real property tax law.
54 The quantity change factor shall show the percentage by which the full
55 value of the taxable real property in the local government has changed
56 due to physical or quantity change between the second final assessment

1 roll or rolls preceding the final assessment roll or rolls upon which
2 taxes are to be levied, and the final assessment roll or rolls imme-
3 diately preceding the final assessment roll or rolls upon which taxes
4 are to be levied.

5 (ii) After determining the quantity change factor for the local
6 government, the commissioner of taxation and finance shall proceed as
7 follows:

8 (A) If the quantity change factor is negative, the commissioner of
9 taxation and finance shall not determine a tax base growth factor for
10 the local government.

11 (B) If the quantity change factor is positive, the commissioner of
12 taxation and finance shall determine a tax base growth factor for the
13 local government which is equal to one plus the quantity change factor.

14 (iii) The commissioner of taxation and finance shall notify the state
15 comptroller and each local government of the applicable tax base growth
16 factors, if any, as soon thereafter as such factors are determined.

17 (c) Each local government shall calculate the tax levy limit applica-
18 ble to the coming fiscal year which shall be determined as follows:

19 (i) Ascertain the total amount of taxes levied for the prior fiscal
20 year.

21 (ii) Multiply the result by the tax base growth factor, calculated
22 pursuant to paragraph (b) of this subdivision, if any.

23 (iii) Add any payments in lieu of taxes that were receivable in the
24 prior fiscal year.

25 (iv) Subtract the tax levy necessary to support expenditures pursuant
26 to subparagraph (i) of paragraph (g) of subdivision two of this section
27 for the prior fiscal year, if any.

28 (v) Multiply the result by the allowable levy growth factor.

29 (vi) Subtract any payments in lieu of taxes receivable in the coming
30 fiscal year.

31 (vii) Add the available carryover, if any.

32 (d) Whenever the responsibility and associated cost of a local govern-
33 ment function is transferred to another local government, the state
34 comptroller shall determine the costs and savings on the affected local
35 governments attributable to such transfer for the first fiscal year
36 following the transfer, and notify such local governments of such deter-
37 mination and that they shall adjust their tax levy limits accordingly.

38 4. (a) When two or more local governments consolidate, the state comp-
39 troller shall determine the tax levy limit for the consolidated local
40 government for the first fiscal year following the consolidation based
41 on the respective tax levy limits of the component local governments
42 that formed such consolidated local government from the last fiscal year
43 prior to the consolidation.

44 (b) When a local government dissolves, the state comptroller shall
45 determine the tax levy limit for the local government that assumes the
46 debts, liabilities, and obligations of such dissolved local government
47 for the first fiscal year following the dissolution based on the respec-
48 tive tax levy limits of such dissolved local government and such local
49 government that assumes the debts, liabilities, and obligations of such
50 dissolved local government from the last fiscal year prior to the
51 dissolution.

52 (c) The tax levy limit established by this section shall not apply to
53 the first fiscal year after a local government is newly established or
54 constituted through a process other than consolidation or dissolution.

55 5. A local government may adopt a budget that requires a tax levy that
56 is greater than the tax levy limit for the coming fiscal year, not

1 including any levy necessary to support the expenditures pursuant to
2 subparagraphs (i) through (iv) of paragraph g of subdivision two of this
3 section, only if the governing body of such local government first
4 enacts, by a vote of sixty percent of the total voting power of such
5 body, a local law to override such limit for such coming fiscal year
6 only, or in the case of a district or fire district, a resolution,
7 approved by a vote of sixty percent of the total voting power of such
8 body, to override such limit for such coming fiscal year only.

9 6. In the event a local government's actual tax levy for a given
10 fiscal year exceeds the tax levy limit as established pursuant to this
11 section due to clerical or technical errors, the local government shall
12 place the excess amount of the levy in reserve in accordance with such
13 requirements as the state comptroller may prescribe, and shall use such
14 funds and any interest earned thereon to offset the tax levy for the
15 ensuing fiscal year. If, upon examination pursuant to sections thirty-
16 three and thirty-four of this chapter, the state comptroller finds that
17 a local government levied taxes in excess of the applicable tax levy
18 limit, the local government, as soon as practicable, shall place an
19 amount equal to the excess amount of the levy in such reserve in accord-
20 ance with this subdivision.

21 7. All local governments subject to the provisions of this section
22 shall, prior to adopting a budget for the coming fiscal year, submit to
23 the state comptroller, in a form and manner as he or she may prescribe,
24 any information necessary for calculating the tax levy limit for the
25 coming fiscal year.

26 § 2. The education law is amended by adding a new section 2023-a to
27 read as follows:

28 § 2023-a. Limitations upon school district tax levies. 1. Generally.
29 Unless otherwise provided by law, the amount of taxes that may be levied
30 by or on behalf of any school district, other than a city school
31 district of a city with one hundred twenty-five thousand inhabitants or
32 more, shall not exceed the tax levy limit established pursuant to this
33 section, not including any tax levy necessary to support the expendi-
34 tures pursuant to subparagraphs (i) through (iv) of paragraph i of
35 subdivision two of this section.

36 2. Definitions. As used in this section:

37 a. "Allowable levy growth factor" shall be the lesser of: (i) one and
38 two one-hundredths; or (ii) the sum of one plus the inflation factor;
39 provided, however, that in no case shall the levy growth factor be less
40 than one.

41 b. "Available carryover" means the amount by which the tax levy for
42 the prior school year was below the applicable tax levy limit for such
43 school year, if any, but no more than an amount that equals one and
44 one-half percent of the tax levy limit for such school year.

45 c. "Capital local expenditures" means the taxes associated with budg-
46 eted expenditures resulting from the financing, refinancing, acquisi-
47 tion, design, construction, reconstruction, rehabilitation, improvement,
48 furnishing and equipping of, or otherwise providing for school district
49 capital facilities or school district capital equipment, including debt
50 service and lease expenditures, and transportation capital debt service,
51 subject to the approval of the qualified voters where required by law.

52 d. "Capital tax levy" means the tax levy necessary to support capital
53 local expenditures, if any.

54 e. "Coming school year" means the school year for which tax levy
55 limits are being determined pursuant to this section.

1 f. "Inflation factor" means the quotient of: (i) the average of the
2 national consumer price indexes determined by the United States depart-
3 ment of labor for the twelve-month period preceding January first of the
4 current year minus the average of the national consumer price indexes
5 determined by the United States department of labor for the twelve-month
6 period preceding January first of the prior year, divided by: (ii) the
7 average of the national consumer price indexes determined by the United
8 States department of labor for the twelve-month period preceding January
9 first of the prior year, with the result expressed as a decimal to four
10 places.

11 g. "Prior school year" means the school year immediately preceding the
12 coming school year.

13 h. "School district" means a common school district, union free school
14 district, central school district, central high school district or a
15 city school district in a city with less than one hundred twenty-five
16 thousand inhabitants.

17 i. "Tax levy limit" means the amount of taxes a school district is
18 authorized to levy pursuant to this section, provided, however, that the
19 tax levy limit shall not include the following:

20 (i) a tax levy necessary for expenditures resulting from court orders
21 or judgments against the school district arising out of tort actions for
22 any amount that exceeds five percent of the total tax levied in the
23 prior school year;

24 (ii) in years in which the system average actuarial contribution rate
25 of the New York state and local employees' retirement system, as defined
26 by paragraph ten of subdivision a of section nineteen-a of the retire-
27 ment and social security law, increases by more than two percentage
28 points from the previous year, a tax levy necessary for expenditures for
29 the coming fiscal year for school district employer contributions to the
30 New York state and local employees' retirement system caused by growth
31 in the system average actuarial contribution rate minus two percentage
32 points;

33 (iii) in years in which the normal contribution rate of the New York
34 state teachers' retirement system, as defined by paragraph a of subdivi-
35 sion two of section five hundred seventeen of this chapter, increases by
36 more than two percentage points from the previous year, a tax levy
37 necessary for expenditures for the coming fiscal year for school
38 district employer contributions to the New York state teachers' retire-
39 ment system caused by growth in the normal contribution rate minus two
40 percentage points; and

41 (iv) a capital tax levy.

42 2-a. Tax base growth factor. a. No later than February fifteenth of
43 each year, the commissioner of taxation and finance shall identify those
44 school districts for which tax base growth factors must be determined
45 for the coming school year, and shall notify the commissioner of the tax
46 base growth factors so determined, if any.

47 b. The commissioner of taxation and finance shall calculate a quantity
48 change factor for the coming school year for each school district based
49 upon the physical or quantity change, as defined by section twelve
50 hundred twenty of the real property tax law, reported to the commission-
51 er of taxation and finance by the assessor or assessors pursuant to
52 section five hundred seventy-five of the real property tax law. The
53 quantity change factor shall show the percentage by which the full value
54 of the taxable real property in the school district has changed due to
55 physical or quantity change between the second final assessment roll or
56 rolls preceding the final assessment roll or rolls upon which taxes are

1 to be levied, and the final assessment roll or rolls immediately preced-
2 ing the final assessment roll or rolls upon which taxes are to be
3 levied.

4 c. After determining the quantity change factor for a school district,
5 the commissioner of taxation and finance shall proceed as follows:

6 (i) If the quantity change factor is negative, the commissioner of
7 taxation and finance shall not determine a tax base growth factor for
8 the school district.

9 (ii) If the quantity change factor is positive, the commissioner of
10 taxation and finance shall determine a tax base growth factor for the
11 school district which is equal to one plus the quantity change factor.

12 3. Computation of tax levy limits. a. Each school district shall
13 calculate the tax levy limit for each school year which shall be deter-
14 mined as follows:

15 (1) Ascertain the total amount of taxes levied for the prior school
16 year.

17 (2) Multiply the result by the tax base growth factor, if any.

18 (3) Add any payments in lieu of taxes that were receivable in the
19 prior school year.

20 (4) Subtract the tax levy necessary to support the expenditures pursu-
21 ant to subparagraphs (i) and (iv) of paragraph i of subdivision two of
22 this section for the prior school year, if any.

23 (5) Multiply the result by the allowable levy growth factor.

24 (6) Subtract any payments in lieu of taxes receivable in the coming
25 fiscal year.

26 (7) Add the available carryover, if any.

27 b. On or before March first of each year, any school district subject
28 to the provisions of this section shall submit to the state comptroller,
29 the commissioner, and the commissioner of taxation and finance, in a
30 form and manner prescribed by the state comptroller, any information
31 necessary for the calculation of the tax levy limit; and the school
32 district's determination of the tax levy limit pursuant to this section
33 shall be subject to review by the commissioner and the commissioner of
34 taxation and finance.

35 4. Reorganized school districts. When two or more school districts
36 reorganize, the commissioner shall determine the tax levy limit for the
37 reorganized school district for the first school year following the
38 reorganization based on the respective tax levy limits of the school
39 districts that formed the reorganized district from the last school year
40 in which they were separate districts, provided that in the event of
41 formation of a new central high school district, the tax levy limits for
42 the new central high school district and its component school districts
43 shall be determined in accordance with a methodology prescribed by the
44 commissioner.

45 5. Erroneous levies. In the event a school district's actual tax levy
46 for a given school year exceeds the maximum allowable levy as estab-
47 lished pursuant to this section due to clerical or technical errors, the
48 school district shall place the excess amount of the levy in reserve in
49 accordance with such requirements as the state comptroller may
50 prescribe, and shall use such funds and any interest earned thereon to
51 offset the tax levy for the ensuing school year.

52 6. (a) Notwithstanding any other provision of law to the contrary, in
53 the event the trustee, trustees or board of education of a school
54 district that is subject to the provisions of this section proposes a
55 budget that will require a tax levy that exceeds the tax levy limit for
56 the corresponding school year, not including any levy necessary to

1 support the expenditures pursuant to subparagraphs (i) through (iv) of
2 paragraph i of subdivision two of this section, then such budget shall
3 be approved if sixty percent of the votes cast thereon are in the affir-
4 mative.

5 (b) Where the trustee, trustees or board of education proposes a budg-
6 et subject to the requirements of paragraph (a) of this subdivision, the
7 ballot for such budget shall include the following statement in substan-
8 tially the same form: "Adoption of this budget requires a tax levy
9 increase of which exceeds the statutory tax levy increase limit
10 of for this school fiscal year and therefore exceeds the state tax
11 cap and must be approved by sixty percent of the qualified voters pres-
12 ent and voting."

13 7. In the event that the original proposed budget is not approved by
14 the voters, the sole trustee, trustees or board of education may adopt a
15 final budget pursuant to subdivision eight of this section or resubmit
16 to the voters the original or a revised budget at a special district
17 meeting in accordance with subdivision three of section two thousand
18 seven of this part. Upon one defeat of such resubmitted budget, the
19 sole trustee, trustees or board of education shall adopt a final budget
20 pursuant to subdivision eight of this section.

21 8. Notwithstanding any other provision of law to the contrary, if the
22 qualified voters fail to approve the proposed school district budget
23 upon resubmission or upon a determination not to resubmit for a second
24 vote pursuant to subdivision seven of this section, the sole trustee,
25 trustees or board of education shall levy a tax no greater than the tax
26 that was levied for the prior school year.

27 9. Nothing in this section shall preclude the trustee, trustees, or
28 board of education of a school district, in their discretion, from
29 submitting additional items of expenditures to the voters for approval
30 as separate propositions or the voters from submitting propositions
31 pursuant to sections two thousand eight and two thousand thirty-five of
32 this part; provided however, except in the case of a proposition submit-
33 ted for any expenditure contained within subparagraphs (i) through (iv)
34 of paragraph i of subdivision two of this section, if any proposition,
35 or propositions collectively that are subject to a vote on the same
36 date, would require an expenditure of money that would require a tax
37 levy and would result in the tax levy limit being exceeded for the
38 corresponding school year then such proposition shall be approved if
39 sixty percent of the votes cast thereon are in the affirmative.

40 § 3. Section 2023 of the education law, as amended by section 24 of
41 part A of chapter 436 of the laws of 1997, subdivision 1 as amended by
42 chapter 682 of the laws of 2002, subparagraphs (v) and (vi) of paragraph
43 b of subdivision 4 as separately amended by section 1 of part D-2 of
44 chapter 57 of the laws of 2007 and chapter 422 of the laws of 2007,
45 subparagraph (vii) of paragraph b of subdivision 4 as added by section 1
46 of part D-2 of chapter 57 of the laws of 2007, subparagraph (vii) of
47 paragraph b of subdivision 4 as added by chapter 422 of the laws of 2007
48 and paragraph b-1 of subdivision 4 as amended by section 5 of part B of
49 chapter 57 of the laws of 2008, is amended to read as follows:

50 § 2023. Levy of tax for certain purposes without vote; contingency
51 budget. 1. If the qualified voters shall neglect or refuse to vote the
52 sum estimated necessary for teachers' salaries, after applying thereto
53 the public school moneys, and other moneys received or to be received
54 for that purpose, or if they shall neglect or refuse to vote the sum
55 estimated necessary for ordinary contingent expenses, including the
56 purchase of library books and other instructional materials associated

1 with a library and expenses incurred for interschool athletics, field
2 trips and other extracurricular activities and the expenses for cafete-
3 ria or restaurant services, the sole trustee, board of trustees, or
4 board of education shall adopt a contingency budget including such
5 expenses and shall levy a tax, subject to the restrictions as set forth
6 in subdivision four of this section and subdivision eight of section two
7 thousand twenty-three-a of this part, for the same, in like manner as if
8 the same had been voted by the qualified voters, subject to the limita-
9 tions contained in subdivisions three and four of this section.

10 2. Notwithstanding the defeat of a school budget, school districts
11 shall continue to transport students to and from the regular school
12 program in accordance with the mileage limitations previously adopted by
13 the qualified voters of the school district. Such mileage limits shall
14 change only when amended by a special proposition passed by a majority
15 of the qualified voters of the school district. In cases where the
16 school budget is defeated by such qualified voters of the school
17 district, appropriations for transportation costs for purposes other
18 than for transportation to and from the regular school program, and
19 transportation that would constitute an ordinary contingent expense
20 pursuant to subdivision one of this section, shall be authorized in the
21 budget only after approval by the qualified voters of the district.

22 3. The administrative component of a contingency budget shall not
23 comprise a greater percentage of the contingency budget exclusive of the
24 capital component than the lesser of (1) the percentage the administra-
25 tive component had comprised in the prior year budget exclusive of the
26 capital component; or (2) the percentage the administrative component
27 had comprised in the last proposed defeated budget exclusive of the
28 capital component.

29 4. a. The contingency budget shall not result in a [percentage
30 ~~increase in total spending over the district's total spending under the~~
31 ~~school district budget for the prior school year that exceeds the lesser~~
32 ~~of: (i) the result obtained when one hundred twenty percent is multi-~~
33 ~~plied by the percentage increase in the consumer price index, with the~~
34 ~~result rounded to two decimal places; or (ii) four percent.~~

35 b. ~~The following types of expenditures shall be disregarded in deter-~~
36 ~~mining total spending:~~

37 ~~(i) expenditures resulting from a tax certiorari proceeding;~~
38 ~~(ii) expenditures resulting from a court order or judgment against the~~
39 ~~school district;~~

40 ~~(iii) emergency expenditures that are certified by the commissioner as~~
41 ~~necessary as a result of damage to, or destruction of, a school building~~
42 ~~or school equipment;~~

43 ~~(iv) capital expenditures resulting from the construction, acquisi-~~
44 ~~tion, reconstruction, rehabilitation or improvement of school facili-~~
45 ~~ties, including debt service and lease expenditures, subject to the~~
46 ~~approval of the qualified voters where required by law;~~

47 ~~(v) expenditures in the contingency budget attributable to projected~~
48 ~~increases in public school enrollment, which, for the purpose of this~~
49 ~~subdivision, may include increases attributable to the enrollment of~~
50 ~~students attending a pre-kindergarten program established in accordance~~
51 ~~with section thirty six hundred two-e of this chapter, to be computed~~
52 ~~based upon an increase in enrollment from the year prior to the base~~
53 ~~year for which the budget is being adopted to the base year for which~~
54 ~~the budget is being adopted, provided that where the trustees or board~~
55 ~~of education have documented evidence that a further increase in enroll-~~
56 ~~ment will occur during the school year for which the contingency budget~~

1 ~~is prepared because of new construction, inception of a pre-kindergarten~~
 2 ~~program, growth or similar factors, the expenditures attributable to~~
 3 ~~such additional enrollment may also be disregarded;~~

4 ~~(vi) non-recurring expenditures in the prior year's school district~~
 5 ~~budget; and~~

6 ~~(vii) expenditures for payments to charter schools pursuant to section~~
 7 ~~twenty-eight hundred fifty-six of this chapter.~~

8 ~~(vii) expenditures for self-supporting programs. For purposes of this~~
 9 ~~subparagraph, "self-supporting programs" shall mean any programs that~~
 10 ~~are entirely funded by private funds that cover all the costs of the~~
 11 ~~program.~~

12 ~~b-1. Notwithstanding any other provision of this subdivision to the~~
 13 ~~contrary, in the event a state grant in aid provided to the district in~~
 14 ~~the prior year is eliminated and incorporated into a non-categorical~~
 15 ~~general state aid in the current school year, the amount of such grant~~
 16 ~~may be included in the computation of total spending for the prior~~
 17 ~~school year, provided that the commissioner has verified that the grant~~
 18 ~~in aid has been incorporated into such non-categorical general state~~
 19 ~~aid] tax levy greater than the tax levied for the prior school year.~~

20 ~~[e.] b.~~ The resolution of the trustee, board of trustees, or board of
 21 education adopting a contingency budget shall incorporate by reference a
 22 statement specifying the projected percentage increase or decrease in
 23 total spending for the school year, and explaining the reasons for
 24 disregarding any portion of an increase in spending in formulating the
 25 contingency budget.

26 ~~[d.] c.~~ Notwithstanding any other provision of law to the contrary,
 27 the trustees or board of education shall not be authorized to amend or
 28 revise a final contingency budget where such amendment or revision would
 29 result in total spending in excess of the spending limitation in para-
 30 graph (a) of this subdivision; provided that the trustees or board of
 31 education shall be authorized to add appropriations for[+:

32 ~~(i) the categories of expenditures excluded from the spending limita-~~
 33 ~~tions set forth in paragraph (b) of this subdivision, subject to~~
 34 ~~approval of the qualified voters where required by law;~~

35 ~~(ii) expenditures resulting from an actual increase in enrollment over~~
 36 ~~the projected enrollment used to develop the contingency budget,~~
 37 ~~provided that where such actual enrollment is less than such projected~~
 38 ~~enrollment, it shall be the duty of the trustees or board of education~~
 39 ~~to use such excess funds to reduce taxes; and~~

40 ~~(iii)] the expenditure of gifts, grants in aid for specific purposes~~
 41 ~~or for general use or insurance proceeds authorized pursuant to subdivi-~~
 42 ~~sion two of [subdivision] section seventeen hundred eighteen of this~~
 43 ~~chapter in addition to that which has been previously budgeted.~~

44 ~~[e. For the purposes of this subdivision:~~

45 ~~(i) "Base school year" shall mean the school year immediately preced-~~
 46 ~~ing the school year for which the contingency budget is prepared.~~

47 ~~(ii) "Consumer price index" shall mean the percentage that represents~~
 48 ~~the average of the national consumer price indexes determined by the~~
 49 ~~United States department of labor, for the twelve month period preceding~~
 50 ~~January first of the current year.~~

51 ~~(iii) "Current year" shall mean the calendar year in which the school~~
 52 ~~district budget is submitted for a vote of the qualified voters.~~

53 ~~(iv) "Resident public school district enrollment shall mean the resi-~~
 54 ~~dent public school enrollment of the school district as defined in para-~~
 55 ~~graph n of subdivision one of section thirty-six hundred two of this~~
 56 ~~chapter.~~

1 ~~(v) "Total spending" shall mean the total amount appropriated under~~
 2 ~~the school district budget for the school year.]~~

3 § 4. Paragraph a of subdivision 7 of section 1608 of the education
 4 law, as amended by chapter 238 of the laws of 2007, is amended to read
 5 as follows:

6 a. Each year, commencing with the proposed budget for the two thou-
 7 sand--two thousand one school year, the trustee or board of trustees
 8 shall prepare a property tax report card, pursuant to regulations of the
 9 commissioner, and shall make it publicly available by transmitting it to
 10 local newspapers of general circulation, appending it to copies of the
 11 proposed budget made publicly available as required by law, making it
 12 available for distribution at the annual meeting, and otherwise dissem-
 13 inating it as required by the commissioner. Such report card shall
 14 include: (i) the amount of total spending and total estimated school tax
 15 levy that would result from adoption of the proposed budget and the
 16 percentage increase or decrease in total spending and total school tax
 17 levy from the school district budget for the preceding school year; and
 18 (ii) the district's tax levy limit determined pursuant to section two
 19 thousand twenty-three-a of this title, and the estimated school tax
 20 levy, excluding any levy necessary to support the expenditures pursuant
 21 to subparagraphs (i) through (iv) of paragraph i of subdivision two of
 22 section two thousand twenty-three-a of this title, that would result
 23 from adoption of the proposed budget; and (iii) the projected enrollment
 24 growth for the school year for which the budget is prepared, and the
 25 percentage change in enrollment from the previous year; and [(iii)] (iv)
 26 the percentage increase in the consumer price index, as defined in para-
 27 graph c of this subdivision; and [(iv)] (v) the projected amount of the
 28 unappropriated unreserved fund balance that will be retained if the
 29 proposed budget is adopted, the projected amount of the reserved fund
 30 balance, the projected amount of the appropriated fund balance, the
 31 percentage of the proposed budget that the unappropriated unreserved
 32 fund balance represents, the actual unappropriated unreserved fund
 33 balance retained in the school district budget for the preceding school
 34 year, and the percentage of the school district budget for the preceding
 35 school year that the actual unappropriated unreserved fund balance
 36 represents.

37 § 5. Paragraph a of subdivision 7 of section 1716 of the education
 38 law, as amended by chapter 238 of the laws of 2007, is amended to read
 39 as follows:

40 a. Each year, commencing with the proposed budget for the two thou-
 41 sand--two thousand one school year, the board of education shall prepare
 42 a property tax report card, pursuant to regulations of the commissioner,
 43 and shall make it publicly available by transmitting it to local newspa-
 44 pers of general circulation, appending it to copies of the proposed
 45 budget made publicly available as required by law, making it available
 46 for distribution at the annual meeting, and otherwise disseminating it
 47 as required by the commissioner. Such report card shall include: (i) the
 48 amount of total spending and total estimated school tax levy that would
 49 result from adoption of the proposed budget and the percentage increase
 50 or decrease in total spending and total school tax levy from the school
 51 district budget for the preceding school year; and (ii) the district's
 52 tax levy limit determined pursuant to section two thousand
 53 twenty-three-a of this title, and the estimated school tax levy, exclud-
 54 ing any levy necessary to support the expenditures pursuant to subpara-
 55 graphs (i) through (iv) of paragraph i of subdivision two of section two
 56 thousand twenty-three-a of this title, that would result from adoption

1 of the proposed budget; and (iii) the projected enrollment growth for
 2 the school year for which the budget is prepared, and the percentage
 3 change in enrollment from the previous year; and [~~(iii)~~] (iv) the
 4 percentage increase in the consumer price index, as defined in paragraph
 5 c of this subdivision; and [~~(iv)~~] (v) the projected amount of the unap-
 6 propriated unreserved fund balance that will be retained if the proposed
 7 budget is adopted, the projected amount of the reserved fund balance,
 8 the projected amount of the appropriated fund balance, the percentage of
 9 the proposed budget that the unappropriated unreserved fund balance
 10 represents, the actual unappropriated unreserved fund balance retained
 11 in the school district budget for the preceding school year, and the
 12 percentage of the school district budget for the preceding school year
 13 that the actual unappropriated unreserved fund balance represents.

14 § 6. Section 2008 of the education law is amended by adding a new
 15 subdivision 3 to read as follows:

16 **3. Notwithstanding any other provision of law to the contrary, any**
 17 **proposition submitted by the voters that requires the expenditure of**
 18 **money shall be subject to the requirements set forth in subdivision nine**
 19 **of section two thousand twenty-three-a of this part.**

20 § 7. Section 2022 of the education law, as amended by section 23 of
 21 part A of chapter 436 of the laws of 1997, subdivisions 1 and 3 as
 22 amended by section 8 of part C of chapter 58 of the laws of 1998, subdi-
 23 vision 2-a as amended by section 3 of part A of chapter 60 of the laws
 24 of 2000, paragraph b of subdivision 2-a as amended by section 5 of part
 25 W of chapter 57 of the laws of 2008, subdivision 4 as amended by section
 26 7 of part M of chapter 57 of the laws of 2005 and subdivision 6 as added
 27 by chapter 61 of the laws of 2003, is amended to read as follows:

28 § 2022. Vote on school district budgets and on the election of school
 29 district trustees and board of education members. 1. Notwithstanding any
 30 law, rule or regulation to the contrary, the election of trustees or
 31 members of the board of education, and the vote upon the appropriation
 32 of the necessary funds to meet the estimated expenditures, in any common
 33 school district, union free school district, central school district or
 34 central high school district shall be held at the annual meeting and
 35 election on the third Tuesday in May, provided, however, that such
 36 election shall be held on the second Tuesday in May if the commissioner
 37 at the request of a local school board certifies no later than March
 38 first that such election would conflict with religious observances.

39 ~~[When such election or vote is taken by recording the ayes and noes of~~
 40 ~~the qualified voters attending, a majority of the qualified voters pres-~~
 41 ~~ent and voting, by a hand or voice vote, may determine to take up the~~
 42 ~~question of voting the necessary funds to meet the estimated expendi-~~
 43 ~~tures for a specific item separately, and the qualified voters present~~
 44 ~~and voting may increase the amount of any estimated expenditures or~~
 45 ~~reduce the same, except for teachers' salaries, and the ordinary contin-~~
 46 ~~gent expenses of the schools.]~~ The sole trustee, board of trustees or

47 board of education of every common, union free, central or central high
 48 school district and every city school district to which this article
 49 applies shall hold a budget hearing not less than seven nor more than
 50 fourteen days prior to the annual meeting and election or special
 51 district meeting at which a school budget vote will occur, and shall
 52 prepare and present to the voters at such budget hearing a proposed
 53 school district budget for the ensuing school year.

54 2. Except as provided in subdivision four of this section, nothing in
 55 this section shall preclude the trustees or board of education, in their
 56 discretion, from submitting additional items of expenditure to the

1 voters for approval as separate propositions or the voters from submit-
2 ting propositions pursuant to [~~section~~] sections two thousand eight and
3 two thousand thirty-five of this [~~article~~] part; provided however that
4 such propositions shall be subject to the requirements set forth in
5 subdivision nine of section two thousand twenty-three-a of this part.

6 2-a. Every common, union free, central, central high school district
7 and city school district to which this article applies shall mail a
8 school budget notice to all qualified voters of the school district
9 after the date of the budget hearing, but no later than six days prior
10 to the annual meeting and election or special district meeting at which
11 a school budget vote will occur. The school budget notice shall compare
12 the percentage increase or decrease in total spending under the proposed
13 budget over total spending under the school district budget adopted for
14 the current school year, with the percentage increase or decrease in the
15 consumer price index, from January first of the prior school year to
16 January first of the current school year, and shall also include the
17 information required by paragraphs a and b of this subdivision. The
18 notice shall also set forth the date, time and place of the school bud-
19 get vote, in the same manner as in the notice of annual meeting, and
20 shall also include the district's tax levy limit pursuant to section two
21 thousand twenty-three-a of this part, and the estimated school tax levy,
22 excluding any levy necessary to support the expenditures pursuant to
23 subparagraphs (i) through (iv) of paragraph i of subdivision two of
24 section two thousand twenty-three-a of this part, that would result from
25 adoption of the proposed budget. Such notice shall be in a form
26 prescribed by the commissioner.

27 a. Commencing with the proposed budget for the two thousand one--two
28 thousand two school year, such notice shall also include a description
29 of how total spending and the tax levy resulting from the proposed bud-
30 get would compare with a projected contingency budget adopted pursuant to
31 section two thousand twenty-three of this article, assuming that such
32 contingency budget is adopted on the same day as the vote on the
33 proposed budget. Such comparison shall be in total and by component
34 (program, capital and administrative), and shall include a statement of
35 the assumptions made in estimating the projected contingency budget.

36 b. Commencing with the proposed budget for the two thousand eight--two
37 thousand nine school year, such notice shall also include, in a format
38 prescribed by the commissioner, an estimate of the tax savings that
39 would be available to an eligible homeowner under the basic school tax
40 relief (STAR) exemption authorized by section four hundred twenty-five
41 of the real property tax law if the proposed budget were adopted. Such
42 estimate shall be made in the manner prescribed by the commissioner, in
43 consultation with the office of real property services.

44 3. In all elections for trustees or members of boards of education or
45 votes involving the expenditure of money, or authorizing the levy of
46 taxes, the vote thereon shall be by ballot, or, in school districts that
47 prior to nineteen hundred ninety-eight conducted their vote at the annu-
48 al meeting, may be ascertained by taking and recording the ayes and noes
49 of such qualified voters attending and voting at such district meetings.

50 4. The budget adoption process shall conform to the requirements set
51 forth in section two thousand twenty-three-a of this part. In the event
52 that the original proposed budget is not approved by the voters, the
53 sole trustee, trustees or board of education may adopt a final budget
54 pursuant to subdivision five of this section or resubmit to the voters
55 the original or a revised budget pursuant to subdivision three of
56 section two thousand seven of this part. Upon one defeat of such resub-

1 mitted budget, the sole trustee, trustees or board of education shall
2 adopt a final budget pursuant to subdivision five of this section.
3 Notwithstanding any other provision of law to the contrary, the school
4 district budget for any school year, or any part of such budget or any
5 propositions involving the expenditure of money for such school year
6 shall not be submitted for a vote of the qualified voters more than
7 twice.

8 5. If the qualified voters fail to approve the proposed school
9 district budget upon resubmission or upon a determination not to resub-
10 mit for a second vote pursuant to subdivision four of this section, the
11 sole trustee, trustees or board of education, after applying thereto the
12 public school moneys and other moneys received or to be received for
13 that purpose, shall levy a tax for the sum necessary for teachers' sala-
14 ries and other ordinary contingent expenses in accordance with the
15 provisions of this subdivision and ~~[section]~~ **sections** two thousand twen-
16 ty-three **and two thousand twenty-three-a** of this article.

17 6. Notwithstanding the provisions of subdivision four of section eigh-
18 teen hundred four and subdivision five of section nineteen hundred six
19 of this title, subdivision one of section two thousand two of this arti-
20 cle, subdivision one of this section, subdivision two of section twen-
21 ty-six hundred one-a of this title and any other provision of law to the
22 contrary, the annual district meeting and election of every common,
23 union free, central and central high school district and the annual
24 meeting of every city school district in a city having a population of
25 less than one hundred twenty-five thousand inhabitants that is scheduled
26 to be held on the third Tuesday of May, two thousand three is hereby
27 adjourned until the first Tuesday in June, two thousand three. The trus-
28 tees or board of education of each such school district shall provide
29 notice of such adjourned meeting to the qualified voters in the manner
30 prescribed for notice of the annual meeting, and such notice shall
31 provide for an adjourned budget hearing. The adjourned district meeting
32 or district meeting and election shall be deemed the annual meeting or
33 annual meeting and election of the district for all purposes under this
34 title and the date of the adjourned meeting shall be deemed the state-
35 wide uniform voting day for all purposes under this title. Notwith-
36 standing the provisions of subdivision seven of section sixteen hundred
37 eight or subdivision seven of section seventeen hundred sixteen of this
38 title or any other provision of law, rule or regulation to the contrary,
39 in two thousand three the property tax report card shall be submitted to
40 the department no later than twenty days prior to the date of the
41 adjourned meeting and the department shall make its compilation avail-
42 able electronically at least seven days prior to such date.

43 § 8. Section 2035 of the education law is amended by adding a new
44 subdivision 3 to read as follows:

45 **3. Any proposition submitted pursuant to this section shall be subject**
46 **to the requirements set forth in subdivision nine of section two thou-**
47 **sand twenty-three-a of this part.**

48 § 9. Section 2601-a of the education law, as added by chapter 171 of
49 the laws of 1996, subdivision 2 as amended by section 6 and subdivision
50 4 as amended by section 8 of part M of chapter 57 of the laws of 2005,
51 subdivision 3 as amended by chapter 640 of the laws of 2008, subdivision
52 5 as amended by section 29 of part A of chapter 436 of the laws of 1997,
53 subdivision 6 as amended and subdivision 7 as added by chapter 474 of
54 the laws of 1996, is amended to read as follows:

55 § 2601-a. Procedures for adoption of school budgets in small city
56 school districts. 1. The board of education of each city school district

1 subject to this article shall provide for the submission of a budget for
2 approval of the voters pursuant to the provisions of this section and in
3 accordance with the requirements set forth in section two thousand twen-
4 ty-three-a of this title.

5 2. The board of education shall conduct all annual and special school
6 district meetings for the purpose of adopting a school district budget
7 in the same manner as a union free school district in accordance with
8 the provisions of article forty-one of this title, except as otherwise
9 provided by this section. The annual meeting and election of each such
10 city school district shall be held on the third Tuesday of May in each
11 year, provided, however that such annual meeting and election shall be
12 held on the second Tuesday in May if the commissioner at the request of
13 a local school board certifies no later than March first that such
14 election would conflict with religious observances, and any school budg-
15 et revote shall be held on the date and in the same manner specified in
16 subdivision three of section two thousand seven of this title. The
17 provisions of this article, and where applicable subdivisions nine and
18 nine-a of section twenty-five hundred two of this title, governing the
19 qualification and registration of voters, and procedures for the nomi-
20 nation and election of members of the board of education shall continue
21 to apply, and shall govern the qualification and registration of voters
22 and voting procedures with respect to the adoption of a school district
23 budget.

24 3. The board of education shall prepare a proposed school district
25 budget for the ensuing year in accordance with the provisions of section
26 seventeen hundred sixteen of this chapter, including all provisions
27 relating to required notices and appendices to the statement of expendi-
28 tures. No board of education shall incur a school district liability
29 except as authorized by the provisions of section seventeen hundred
30 eighteen of this chapter. Such proposed budget shall be presented in
31 three components: a program component, a capital component and an admin-
32 istrative component which shall be separately delineated in accordance
33 with regulations of the commissioner after consultation with local
34 school district officials. The administrative component shall include,
35 but need not be limited to, office and central administrative expenses,
36 traveling expenses and all compensation, salaries and benefits of all
37 school administrators and supervisors, including business administra-
38 tors, superintendents of schools and deputy, assistant, associate or
39 other superintendents under all existing employment contracts or collec-
40 tive bargaining agreements, any and all expenditures associated with the
41 operation of the board of education, the office of the superintendent of
42 schools, general administration, the school business office, consulting
43 costs not directly related to direct student services and programs,
44 planning and all other administrative activities. The program component
45 shall include, but need not be limited to, all program expenditures of
46 the school district, including the salaries and benefits of teachers and
47 any school administrators or supervisors who spend a majority of their
48 time performing teaching duties, and all transportation operating
49 expenses. The capital component shall include, but need not be limited
50 to, all transportation capital, debt service, and lease expenditures;
51 costs resulting from judgments in tax certiorari proceedings or the
52 payment of awards from court judgments, administrative orders or settled
53 or compromised claims; and all facilities costs of the school district,
54 including facilities lease expenditures, the annual debt service and
55 total debt for all facilities financed by bonds and notes of the school
56 district, and the costs of construction, acquisition, reconstruction,

1 rehabilitation or improvement of school buildings, provided that such
2 budget shall include a rental, operations and maintenance section that
3 includes base rent costs, total rent costs, operation and maintenance
4 charges, cost per square foot for each facility leased by the school
5 district, and any and all expenditures associated with custodial sala-
6 ries and benefits, service contracts, supplies, utilities, and mainte-
7 nance and repairs of school facilities. For the purposes of the develop-
8 ment of a budget for the nineteen hundred ninety-seven--ninety-eight
9 school year, the board of education shall separate its program, capital
10 and administrative costs for the nineteen hundred ninety-six--ninety-
11 seven school year in the manner as if the budget for such year had been
12 presented in three components. Except as provided in subdivision four of
13 this section, nothing in this section shall preclude the board, in its
14 discretion, from submitting additional items of expenditure to the
15 voters for approval as separate propositions or the voters from submit-
16 ting propositions pursuant to sections two thousand eight and two thou-
17 sand thirty-five of this chapter **subject to the requirements set forth**
18 **in subdivision nine of section two thousand twenty-three-a of this part.**

19 4. **The budget adoption process shall conform to the requirements set**
20 **forth in section two thousand twenty-three-a of this title.** In the event
21 the qualified voters of the district reject the budget proposed pursuant
22 to subdivision three of this section, the board may propose to the
23 voters a revised budget pursuant to subdivision three of section two
24 thousand seven of this title or may adopt a contingency budget pursuant
25 to subdivision five of this section and subdivision five of section two
26 thousand twenty-two of this title. The school district budget for any
27 school year, or any part of such budget or any propositions involving
28 the expenditure of money for such school year shall not be submitted for
29 a vote of the qualified voters more than twice. In the event the quali-
30 fied voters reject the resubmitted budget, the board shall adopt a
31 contingency budget in accordance with subdivision five of this section
32 and subdivision five of such section two thousand twenty-two of this
33 title.

34 5. If the qualified voters fail or refuse to vote the sum estimated to
35 be necessary for teachers' salaries and other ordinary contingent
36 expenses, the board shall adopt a contingency budget in accordance with
37 this subdivision and shall levy a tax for that portion of such sum
38 remaining after applying thereto the moneys received or to be received
39 from state, federal or other sources, in the same manner as if the budg-
40 et had been approved by the qualified voters; subject to the limitations
41 imposed in subdivision four of section two thousand twenty-three of this
42 chapter, **subdivision eight of section two thousand twenty-three-a of**
43 **this title** and this subdivision. The administrative component shall not
44 comprise a greater percentage of the contingency budget exclusive of the
45 capital component than the lesser of (1) the percentage the administra-
46 tive component had comprised in the prior year budget exclusive of the
47 capital component; or (2) the percentage the administrative component
48 had comprised in the last proposed defeated budget exclusive of the
49 capital component. Such contingency budget shall include the sum deter-
50 mined by the board to be necessary for:

51 (a) teachers' salaries, including the salaries of all members of the
52 teaching and supervising staff;

53 (b) items of expense specifically authorized by statute to be incurred
54 by the board of education, including, but not limited to, expenditures
55 for transportation to and from regular school programs included as ordi-
56 nary contingent expenses in subdivision twelve of section twenty-five

1 hundred three of this chapter, expenditures for textbooks, required
2 services for non-public school students, school health services, special
3 education services, kindergarten and nursery school programs, and the
4 district's share of the administrative costs and costs of services
5 provided by a board of cooperative educational services;

6 (c) items of expense for legal obligations of the district, including,
7 but not limited to, contractual obligations, debt service, court orders
8 or judgments, orders of administrative bodies or officers, and standards
9 and requirements of the board of regents and the commissioner that have
10 the force and effect of law;

11 (d) the purchase of library books and other instructional materials
12 associated with a library;

13 (e) items of expense necessary to maintain the educational programs of
14 the district, preserve the property of the district or protect the
15 health and safety of students and staff, including, but not limited to,
16 support services, pupil personnel services, the necessary salaries for
17 the necessary number of non-teaching employees, necessary legal
18 expenses, water and utility charges, instructional supplies for teach-
19 ers' use, emergency repairs, temporary rental of essential classroom
20 facilities, and expenditures necessary to advise school district voters
21 concerning school matters; and

22 (f) expenses incurred for interschool athletics, field trips and other
23 extracurricular activities; and

24 (g) any other item of expense determined by the commissioner to be an
25 ordinary contingent expense in any school district.

26 6. The commissioner shall determine appeals raising questions as to
27 what items of expenditure are ordinary contingent expenses pursuant to
28 subdivision five of this section in accordance with section two thousand
29 twenty-four and three hundred ten of this chapter.

30 7. Each year, the board of education shall prepare a school district
31 report card, pursuant to regulations of the commissioner, and shall make
32 it publicly available by transmitting it to local newspapers of general
33 circulation, appending it to copies of the proposed budget made publicly
34 available as required by law, making it available for distribution at
35 the annual meeting, and otherwise disseminating it as required by the
36 commissioner. Such report card shall include measures of the academic
37 performance of the school district, on a school by school basis, and
38 measures of the fiscal performance of the district, as prescribed by the
39 commissioner. Pursuant to regulations of the commissioner, the report
40 card shall also compare these measures to statewide averages for all
41 public schools, and statewide averages for public schools of comparable
42 wealth and need, developed by the commissioner. Such report card shall
43 include, at a minimum, any information on the school district regarding
44 pupil performance and expenditure per pupil required to be included in
45 the annual report by the regents to the governor and the legislature
46 pursuant to section two hundred fifteen-a of this chapter; and any other
47 information required by the commissioner. School districts (i) identi-
48 fied as having fifteen percent or more of their students in special
49 education, or (ii) which have fifty percent or more of their students
50 with disabilities in special education programs or services sixty
51 percent or more of the school day in a general education building, or
52 (iii) which have eight percent or more of their students with disabili-
53 ties in special education programs in public or private separate educa-
54 tional settings shall indicate on their school district report card
55 their respective percentages as defined in this paragraph and paragraphs
56 (i) and (ii) of this subdivision as compared to the statewide average.

1 § 10. Paragraph b-1 of subdivision 4 of section 3602 of the education
2 law, as amended by section 26 of part A of chapter 58 of the laws of
3 2011, is amended to read as follows:

4 b-1. Notwithstanding any other provision of law to the contrary, for
5 the two thousand seven--two thousand eight [~~through~~] school year and
6 thereafter, the additional amount payable to each school district pursu-
7 ant to this subdivision in the current year as total foundation aid,
8 after deducting the total foundation aid base, shall be deemed a state
9 grant in aid identified by the commissioner for general use for purposes
10 of [~~sections~~] section seventeen hundred eighteen [~~and two thousand twen-~~
11 ~~ty-three~~] of this chapter.

12 § 11. Paragraph a of subdivision 1 of section 3635 of the education
13 law, as amended by chapter 69 of the laws of 1992, is amended to read as
14 follows:

15 a. Sufficient transportation facilities (including the operation and
16 maintenance of motor vehicles) shall be provided by the school district
17 for all the children residing within the school district to and from the
18 school they legally attend, who are in need of such transportation
19 because of the remoteness of the school to the child or for the
20 promotion of the best interest of such children. Such transportation
21 shall be provided for all children attending grades kindergarten through
22 eight who live more than two miles from the school which they legally
23 attend and for all children attending grades nine through twelve who
24 live more than three miles from the school which they legally attend and
25 shall be provided for each such child up to a distance of fifteen miles,
26 the distances in each case being measured by the nearest available route
27 from home to school. The cost of providing such transportation between
28 two or three miles, as the case may be, and fifteen miles shall be
29 considered for the purposes of this chapter to be a charge upon the
30 district and an ordinary contingent expense of the district. Transporta-
31 tion for a lesser distance than two miles in the case of children
32 attending grades kindergarten through eight or three miles in the case
33 of children attending grades nine through twelve and for a greater
34 distance than fifteen miles may be provided by the district with the
35 approval of the qualified voters, and, if provided, shall be offered
36 equally to all children in like circumstances residing in the district;
37 provided, however, that this requirement shall not apply to transporta-
38 tion offered pursuant to section thirty-six hundred thirty-five-b of
39 this article.

40 § 12. Nothing contained in this act shall impair or invalidate the
41 powers or duties, as authorized by law, of a control board, interim
42 finance authority or fiscal stability authority including such powers or
43 duties that may require the tax levy limit, as that term is defined in
44 section one or section two of this act, to be exceeded.

45 § 13. This act shall take effect immediately; provided, however, that
46 sections two through eleven of this act shall take effect July 1, 2011
47 and shall first apply to school district budgets and the budget adoption
48 process for the 2012-13 school year; and shall continue to apply to
49 school district budgets and the budget adoption process for any school
50 year beginning in any calendar year during which this act is in effect;
51 provided further, that if section 26 of part A of chapter 58 of the laws
52 of 2011 shall not have taken effect on or before such date then section
53 ten of this act shall take effect on the same date and in the same
54 manner as such chapter of the laws of 2011, takes effect; provided
55 further, that section one of this act shall first apply to the levy of
56 taxes by local governments for the fiscal year that begins in 2012 and

1 shall continue to apply to the levy of taxes by local governments for
2 any fiscal year beginning in any calendar year during which this act is
3 in effect; provided, further, that this act shall remain in full force
4 and effect at a minimum until and including June 15, 2016 and shall
5 remain in effect thereafter only so long as the public emergency requir-
6 ing the regulation and control of residential rents and evictions and
7 all such laws providing for such regulation and control continue as
8 provided in subdivision 3 of section 1 of the local emergency rent
9 control act, sections 26-501, 26-502 and 26-520 of the administrative
10 code of the city of New York, section 17 of chapter 576 of the laws of
11 1974 and subdivision 2 of section 1 of chapter 274 of the laws of 1946
12 constituting the emergency housing rent control law, and section 10 of
13 chapter 555 of the laws of 1982, amending the general business law and
14 the administrative code of the city of New York relating to conversions
15 of residential property to cooperative or condominium ownership in the
16 city of New York as such laws are continued by chapter 93 of the laws of
17 2011 and as such sections are amended from time to time.

18

PART B

19 Section 1. Short title. This act shall be known and may be cited as
20 the "rent act of 2011."

21 § 1-a. Section 17 of chapter 576 of the laws of 1974 amending the
22 emergency housing rent control law relating to the control of and
23 stabilization of rent in certain cases, as amended by chapter 93 of the
24 laws of 2011, is amended to read as follows:

25 § 17. Effective date. This act shall take effect immediately and
26 shall remain in full force and effect until and including the [~~twenty-~~
27 ~~third~~] fifteenth day of June [~~2011~~] 2015; except that sections two and
28 three shall take effect with respect to any city having a population of
29 one million or more and section one shall take effect with respect to
30 any other city, or any town or village whenever the local legislative
31 body of a city, town or village determines the existence of a public
32 emergency pursuant to section three of the emergency tenant protection
33 act of nineteen seventy-four, as enacted by section four of this act,
34 and provided that the housing accommodations subject on the effective
35 date of this act to stabilization pursuant to the New York city rent
36 stabilization law of nineteen hundred sixty-nine shall remain subject to
37 such law upon the expiration of this act.

38 § 2. Subdivision 2 of section 1 of chapter 274 of the laws of 1946
39 constituting the emergency housing rent control law, as amended by chap-
40 ter 93 of the laws of 2011, is amended to read as follows:

41 2. The provisions of this act, and all regulations, orders and
42 requirements thereunder shall remain in full force and effect until and
43 including June [~~23, 2011~~] 15, 2015.

44 § 3. Section 2 of chapter 329 of the laws of 1963 amending the emer-
45 gency housing rent control law relating to recontrol of rents in Albany,
46 as amended by chapter 93 of the laws of 2011, is amended to read as
47 follows:

48 § 2. This act shall take effect immediately and the provisions of
49 subdivision 6 of section 12 of the emergency housing rent control law,
50 as added by this act, shall remain in full force and effect until and
51 including June [~~23, 2011~~] 15, 2015.

52 § 4. Section 10 of chapter 555 of the laws of 1982 amending the gener-
53 al business law and the administrative code of the city of New York
54 relating to conversion of residential property to cooperative or condo-

1 minium ownership in the city of New York, as amended by chapter 93 of
2 the laws of 2011, is amended to read as follows:

3 § 10. This act shall take effect immediately; provided, that the
4 provisions of sections one, two and nine of this act shall remain in
5 full force and effect only until and including June [~~23, 2011~~] 15, 2015;
6 provided further that the provisions of section three of this act shall
7 remain in full force and effect only so long as the public emergency
8 requiring the regulation and control of residential rents and evictions
9 continues as provided in subdivision 3 of section 1 of the local emer-
10 gency housing rent control act; provided further that the provisions of
11 sections four, five, six and seven of this act shall expire in accord-
12 ance with the provisions of section 26-520 of the administrative code of
13 the city of New York as such section of the administrative code is, from
14 time to time, amended; provided further that the provisions of section
15 26-511 of the administrative code of the city of New York, as amended by
16 this act, which the New York City Department of Housing Preservation and
17 Development must find are contained in the code of the real estate
18 industry stabilization association of such city in order to approve it,
19 shall be deemed contained therein as of the effective date of this act;
20 and provided further that any plan accepted for filing by the department
21 of law on or before the effective date of this act shall continue to be
22 governed by the provisions of section 352-eeee of the general business
23 law as they had existed immediately prior to the effective date of this
24 act.

25 § 5. Section 4 of chapter 402 of the laws of 1983 amending the general
26 business law relating to conversion of rental residential property to
27 cooperative or condominium ownership in certain municipalities in the
28 counties of Nassau, Westchester and Rockland, as amended by chapter 93
29 of the laws of 2011, is amended to read as follows:

30 § 4. This act shall take effect immediately; provided, that the
31 provisions of sections one and three of this act shall remain in full
32 force and effect only until and including June [~~23, 2011~~] 15, 2015; and
33 provided further that any plan accepted for filing by the department of
34 law on or before the effective date of this act shall continue to be
35 governed by the provisions of section 352-eee of the general business
36 law as they had existed immediately prior to the effective date of this
37 act.

38 § 6. Subdivision 6 of section 46 of chapter 116 of the laws of 1997
39 constituting the rent regulation reform act of 1997, as amended by chap-
40 ter 93 of the laws of 2011, is amended to read as follows:

41 6. sections twenty-eight, twenty-eight-a, twenty-eight-b and twenty-
42 eight-c of this act shall expire and be deemed repealed after June [~~23,~~
43 ~~2011~~] 15, 2015;

44 § 7. Paragraph 5-a of subdivision c of section 26-511 of the adminis-
45 trative code of the city of New York, as added by chapter 116 of the
46 laws of 1997, is amended to read as follows:

47 (5-a) provides that, notwithstanding any provision of this chapter,
48 the legal regulated rent for any vacancy lease entered into after the
49 effective date of this paragraph shall be as hereinafter provided in
50 this paragraph. The previous legal regulated rent for such housing
51 accommodation shall be increased by the following: (i) if the vacancy
52 lease is for a term of two years, twenty percent of the previous legal
53 regulated rent; or (ii) if the vacancy lease is for a term of one year
54 the increase shall be twenty percent of the previous legal regulated
55 rent less an amount equal to the difference between (a) the two year
56 renewal lease guideline promulgated by the guidelines board of the city

1 of New York applied to the previous legal regulated rent and (b) the one
2 year renewal lease guideline promulgated by the guidelines board of the
3 city of New York applied to the previous legal regulated rent. In addi-
4 tion, if the legal regulated rent was not increased with respect to such
5 housing accommodation by a permanent vacancy allowance within eight
6 years prior to a vacancy lease executed on or after the effective date
7 of this paragraph, the legal regulated rent may be further increased by
8 an amount equal to the product resulting from multiplying such previous
9 legal regulated rent by six-tenths of one percent and further multiply-
10 ing the amount of rent increase resulting therefrom by the greater of
11 (A) the number of years since the imposition of the last permanent
12 vacancy allowance, or (B) if the rent was not increased by a permanent
13 vacancy allowance since the housing accommodation became subject to this
14 chapter, the number of years that such housing accommodation has been
15 subject to this chapter. Provided that if the previous legal regulated
16 rent was less than three hundred dollars the total increase shall be as
17 calculated above plus one hundred dollars per month. Provided, further,
18 that if the previous legal regulated rent was at least three hundred
19 dollars and no more than five hundred dollars in no event shall the
20 total increase pursuant to this paragraph be less than one hundred
21 dollars per month. Such increase shall be in lieu of any allowance
22 authorized for the one or two year renewal component thereof, but shall
23 be in addition to any other increases authorized pursuant to this chap-
24 ter including an adjustment based upon a major capital improvement, or a
25 substantial modification or increase of dwelling space or services, or
26 installation of new equipment or improvements or new furniture or
27 furnishings provided in or to the housing accommodation pursuant to this
28 section. **The increase authorized in this paragraph may not be imple-**
29 **mented more than one time in any calendar year, notwithstanding the**
30 **number of vacancy leases entered into in such year.**

31 § 8. Subdivision (a-1) of section 10 of section 4 of chapter 576 of
32 the laws of 1974, constituting the emergency tenant protection act of
33 nineteen seventy-four, as added by chapter 116 of the laws of 1997, is
34 amended to read as follows:

35 (a-1) provides that, notwithstanding any provision of this act, the
36 legal regulated rent for any vacancy lease entered into after the effec-
37 tive date of this subdivision shall be as hereinafter set forth. The
38 previous legal regulated rent for such housing accommodation shall be
39 increased by the following: (i) if the vacancy lease is for a term of
40 two years, twenty percent of the previous legal regulated rent; or (ii)
41 if the vacancy lease is for a term of one year the increase shall be
42 twenty percent of the previous legal regulated rent less an amount equal
43 to the difference between (a) the two year renewal lease guideline
44 promulgated by the guidelines board of the county in which the housing
45 accommodation is located applied to the previous legal regulated rent
46 and (b) the one year renewal lease guideline promulgated by the guide-
47 lines board of the county in which the housing accommodation is located
48 applied to the previous legal regulated rent. In addition, if the legal
49 regulated rent was not increased with respect to such housing accommo-
50 dation by a permanent vacancy allowance within eight years prior to a
51 vacancy lease executed on or after the effective date of this subdivi-
52 sion, the legal regulated rent may be further increased by an amount
53 equal to the product resulting from multiplying such previous legal
54 regulated rent by six-tenths of one percent and further multiplying the
55 amount of rent increase resulting therefrom by the greater of (A) the
56 number of years since the imposition of the last permanent vacancy

1 allowance, or (B) if the rent was not increased by a permanent vacancy
2 allowance since the housing accommodation became subject to this act,
3 the number of years that such housing accommodation has been subject to
4 this act. Provided that if the previous legal regulated rent was less
5 than three hundred dollars the total increase shall be as calculated
6 above plus one hundred dollars per month. Provided, further, that if the
7 previous legal regulated rent was at least three hundred dollars and no
8 more than five hundred dollars in no event shall the total increase
9 pursuant to this subdivision be less than one hundred dollars per month.
10 Such increase shall be in lieu of any allowance authorized for the one
11 or two year renewal component thereof, but shall be in addition to any
12 other increases authorized pursuant to this act including an adjustment
13 based upon a major capital improvement, or a substantial modification or
14 increase of dwelling space or services, or installation of new equipment
15 or improvements or new furniture or furnishings provided in or to the
16 housing accommodation pursuant to section six of this act. **The increase**
17 **authorized in this subdivision may not be implemented more than one time**
18 **in any calendar year, notwithstanding the number of vacancy leases**
19 **entered into in such year.**

20 § 9. Paragraph (n) of subdivision 2 of section 2 of chapter 274 of the
21 laws of 1946, constituting the emergency housing rent control law, as
22 amended by chapter 82 of the laws of 2003, is amended to read as
23 follows:

24 (n) any housing accommodation with a maximum rent of two thousand
25 dollars or more per month at any time between the effective date of this
26 paragraph and October first, nineteen hundred ninety-three which is or
27 becomes vacant on or after the effective date of this paragraph[~~r~~]; **or,**
28 **for** any housing accommodation with a maximum rent of two thousand
29 dollars or more per month at any time on or after the effective date of
30 the rent regulation reform act of 1997 **and before the effective date of**
31 **the rent act of 2011,** which is or becomes vacant on or after the effec-
32 tive date of the rent regulation reform act of 1997 **and before the**
33 **effective date of the rent act of 2011.** **This exclusion shall apply**
34 **regardless of whether the next tenant in occupancy or any subsequent**
35 **tenant in occupancy is charged or pays less than two thousand dollars a**
36 **month; or, for any housing accommodation with a maximum rent of two**
37 **thousand five hundred dollars or more per month at any time on or after**
38 **the effective date of the rent act of 2011, which is or becomes vacant**
39 **on or after such effective date.** This exclusion shall apply regardless
40 of whether the next tenant in occupancy or any subsequent tenant in
41 occupancy actually is charged or pays less than two thousand **five**
42 **hundred** dollars a month. [~~This~~] **An exclusion pursuant to this paragraph**
43 **shall not apply, however, to or become effective with respect to housing**
44 **accommodations which the commissioner determines or finds that the land-**
45 **lord or any person acting on his or her behalf, with intent to cause the**
46 **tenant to vacate, has engaged in any course of conduct (including, but**
47 **not limited to, interruption or discontinuance of required services)**
48 **which interfered with or disturbed or was intended to interfere with or**
49 **disturb the comfort, repose, peace or quiet of the tenant in his or her**
50 **use or occupancy of the housing accommodations and in connection with**
51 **such course of conduct, any other general enforcement provision of this**
52 **law shall also apply.**

53 § 10. Paragraph 13 of subdivision a of section 5 of section 4 of chap-
54 ter 576 of the laws of 1974, constituting the emergency tenant
55 protection act of nineteen seventy-four, as amended by chapter 82 of the
56 laws of 2003, is amended to read as follows:

1 (13) any housing accommodation with a legal regulated rent of two
2 thousand dollars or more per month at any time between the effective
3 date of this paragraph and October first, nineteen hundred ninety-three
4 which is or becomes vacant on or after the effective date of this para-
5 graph~~[7]~~; or, for any housing accommodation with a legal regulated rent
6 of two thousand dollars or more per month at any time on or after the
7 effective date of the rent regulation reform act of 1997 and before the
8 effective date of the rent act of 2011, which is or becomes vacant on or
9 after the effective date of the rent regulation reform act of 1997 and
10 before the effective date of the rent act of 2011. This exclusion shall
11 apply regardless of whether the next tenant in occupancy or any subse-
12 quent tenant in occupancy is charged or pays less than two thousand
13 dollars a month; or, for any housing accommodation with a legal regu-
14 lated rent of two thousand five hundred dollars or more per month at any
15 time on or after the effective date of the rent act of 2011, which is or
16 becomes vacant on or after such effective date. [~~This~~] An exclusion
17 pursuant to this paragraph shall apply regardless of whether the next
18 tenant in occupancy or any subsequent tenant in occupancy actually is
19 charged or pays less than two thousand five hundred dollars a month.
20 Provided however, that [~~this~~] an exclusion pursuant to this paragraph
21 shall not apply to housing accommodations which became or become subject
22 to this act (a) by virtue of receiving tax benefits pursuant to section
23 four hundred twenty-one-a or four hundred eighty-nine of the real prop-
24 erty tax law, except as otherwise provided in subparagraph (i) of para-
25 graph (f) of subdivision two of section four hundred twenty-one-a of the
26 real property tax law, or (b) by virtue of article seven-C of the multi-
27 ple dwelling law. This paragraph shall not apply, however, to or become
28 effective with respect to housing accommodations which the commissioner
29 determines or finds that the landlord or any person acting on his or her
30 behalf, with intent to cause the tenant to vacate, has engaged in any
31 course of conduct (including, but not limited to, interruption or
32 discontinuance of required services) which interfered with or disturbed
33 or was intended to interfere with or disturb the comfort, repose, peace
34 or quiet of the tenant in his or her use or occupancy of the housing
35 accommodations and in connection with such course of conduct, any other
36 general enforcement provision of this act shall also apply.

37 § 11. Subparagraph (k) of paragraph 2 of subdivision e of section
38 26-403 of the administrative code of the city of New York, as amended by
39 chapter 82 of the laws of 2003, is amended to read as follows:

40 (k) Any housing accommodation which becomes vacant on or after April
41 first, nineteen hundred ninety-seven and before the effective date of
42 the rent act of 2011, and where at the time the tenant vacated such
43 housing accommodation the maximum rent was two thousand dollars or more
44 per month; or, for any housing accommodation which is or becomes vacant
45 on or after the effective date of the rent regulation reform act of 1997
46 and before the effective date of the rent act of 2011 with a maximum
47 rent of two thousand dollars or more per month. This exclusion shall
48 apply regardless of whether the next tenant in occupancy or any subse-
49 quent tenant in occupancy is charged or pays less than two thousand
50 dollars a month; or, for any housing accommodation with a maximum rent
51 of two thousand five hundred dollars or more per month at any time on or
52 after the effective date of the rent act of 2011, which is or becomes
53 vacant on or after such effective date. This exclusion shall apply
54 regardless of whether the next tenant in occupancy or any subsequent
55 tenant in occupancy actually is charged or pays less than two thousand
56 five hundred dollars a month. Provided however, that [~~this~~] an exclu-

1 sion pursuant to this subparagraph shall not apply to housing accommo-
2 dations which became or become subject to this law by virtue of receiv-
3 ing tax benefits pursuant to section four hundred eighty-nine of the
4 real property tax law. This subparagraph shall not apply, however, to or
5 become effective with respect to housing accommodations which the
6 commissioner determines or finds that the landlord or any person acting
7 on his or her behalf, with intent to cause the tenant to vacate, has
8 engaged in any course of conduct (including, but not limited to, inter-
9 ruption or discontinuance of required services) which interfered with or
10 disturbed or was intended to interfere with or disturb the comfort,
11 repose, peace or quiet of the tenant in his or her use or occupancy of
12 the housing accommodations and in connection with such course of
13 conduct, any other general enforcement provision of this law shall also
14 apply.

15 § 12. Section 26-504.2 of the administrative code of the city of New
16 York, as amended by chapter 116 of the laws of 1997, subdivision a as
17 amended by chapter 82 of the laws of 2003 and subdivision b as added by
18 local law number 12 of the city of New York for the year 2000, is
19 amended to read as follows:

20 § 26-504.2 Exclusion of high rent accommodations. a. "Housing accommo-
21 dations" shall not include: any housing accommodation which becomes
22 vacant on or after April first, nineteen hundred ninety-seven and before
23 the effective date of the rent act of 2011 and where at the time the
24 tenant vacated such housing accommodation the legal regulated rent was
25 two thousand dollars or more per month[~~7~~]; or, for any housing accommo-
26 dation which is or becomes vacant on or after the effective date of the
27 rent regulation reform act of 1997 and before the effective date of the
28 rent act of 2011, with a legal regulated rent of two thousand dollars or
29 more per month. This exclusion shall apply regardless of whether the
30 next tenant in occupancy or any subsequent tenant in occupancy is
31 charged or pays less than two thousand dollars a month; or, for any
32 housing accommodation with a legal regulated rent of two thousand five
33 hundred dollars or more per month at any time on or after the effective
34 date of the rent act of 2011, which is or becomes vacant on or after
35 such effective date. This exclusion shall apply regardless of whether
36 the next tenant in occupancy or any subsequent tenant in occupancy actu-
37 ally is charged or pays less than two thousand five hundred dollars a
38 month. Provided however, that [~~this~~] an exclusion pursuant to this
39 subdivision shall not apply to housing accommodations which became or
40 become subject to this law (a) by virtue of receiving tax benefits
41 pursuant to section four hundred twenty-one-a or four hundred eighty-
42 nine of the real property tax law, except as otherwise provided in
43 subparagraph (i) of paragraph (f) of subdivision two of section four
44 hundred twenty-one-a of the real property tax law, or (b) by virtue of
45 article seven-C of the multiple dwelling law. This section shall not
46 apply, however, to or become effective with respect to housing accommo-
47 dations which the commissioner determines or finds that the landlord or
48 any person acting on his or her behalf, with intent to cause the tenant
49 to vacate, engaged in any course of conduct (including, but not limited
50 to, interruption or discontinuance of required services) which interfer-
51 ed with or disturbed or was intended to interfere with or disturb the
52 comfort, repose, peace or quiet of the tenant in his or her use or occu-
53 pancy of the housing accommodations and in connection with such course
54 of conduct, any other general enforcement provision of this law shall
55 also apply.

1 b. The owner of any housing accommodation that is not subject to this
2 law pursuant to the provisions of subdivision a of this section or
3 subparagraph k of paragraph 2 of subdivision e of section 26-403 of this
4 code shall give written notice certified by such owner to the first
5 tenant of that housing accommodation after such housing accommodation
6 becomes exempt from the provisions of this law or the city rent and
7 rehabilitation law. Such notice shall contain the last regulated rent,
8 the reason that such housing accommodation is not subject to this law or
9 the city rent and rehabilitation law, a calculation of how either the
10 rental amount charged when there is no lease or the rental amount
11 provided for in the lease has been derived so as to reach two thousand
12 dollars or more per month or, for a housing accommodation with a legal
13 regulated rent or maximum rent of two thousand five hundred dollars or
14 more per month on or after the effective date of the rent act of 2011,
15 which is or becomes vacant on or after such effective date, whether the
16 next tenant in occupancy or any subsequent tenant in occupancy actually
17 is charged or pays less than a legal regulated rent or maximum rent of
18 two thousand five hundred dollars or more per month, a statement that
19 the last legal regulated rent or the maximum rent may be verified by the
20 tenant by contacting the state division of housing and community
21 renewal, or any successor thereto, and the address and telephone number
22 of such agency, or any successor thereto. Such notice shall be sent by
23 certified mail within thirty days after the tenancy commences or after
24 the signing of the lease by both parties, whichever occurs first or
25 shall be delivered to the tenant at the signing of the lease. In addi-
26 tion, the owner shall send and certify to the tenant a copy of the
27 registration statement for such housing accommodation filed with the
28 state division of housing and community renewal indicating that such
29 housing accommodation became exempt from the provisions of this law or
30 the city rent and rehabilitation law, which form shall include the last
31 regulated rent, and shall be sent to the tenant within thirty days after
32 the tenancy commences or the filing of such registration, whichever
33 occurs later.

34 § 13. Subdivision a-2 of section 10 of section 4 of chapter 576 of the
35 laws of 1974, constituting the emergency tenant protection act of nine-
36 teen seventy-four, as added by chapter 82 of the laws of 2003, is
37 amended to read as follows:

38 [~~a-2.~~] (a-2) Provides that where the amount of rent charged to and
39 paid by the tenant is less than the legal regulated rent for the housing
40 accommodation, the amount of rent for such housing accommodation which
41 may be charged upon renewal or upon vacancy thereof may, at the option
42 of the owner, be based upon such previously established legal regulated
43 rent, as adjusted by the most recent applicable guidelines increases and
44 other increases authorized by law. Where, subsequent to vacancy, such
45 legal regulated rent, as adjusted by the most recent applicable guide-
46 lines increases and any other increases authorized by law is two thou-
47 sand dollars or more per month or, for any housing accommodation which
48 is or becomes vacant on or after the effective date of the rent act of
49 2011, is two thousand five hundred dollars or more per month, such hous-
50 ing accommodation shall be excluded from the provisions of this act
51 pursuant to paragraph thirteen of subdivision a of section five of this
52 act.

53 § 14. Paragraph 14 of subdivision c of section 26-511 of the adminis-
54 trative code of the city of New York, as added by chapter 82 of the laws
55 of 2003, is amended to read as follows:

1 (14) provides that where the amount of rent charged to and paid by the
2 tenant is less than the legal regulated rent for the housing accommo-
3 dation, the amount of rent for such housing accommodation which may be
4 charged upon renewal or upon vacancy thereof may, at the option of the
5 owner, be based upon such previously established legal regulated rent,
6 as adjusted by the most recent applicable guidelines increases and any
7 other increases authorized by law. Where, subsequent to vacancy, such
8 legal regulated rent, as adjusted by the most recent applicable guide-
9 lines increases and any other increases authorized by law is two thou-
10 sand dollars or more per month or, for any housing accommodation which
11 is or becomes vacant on or after the effective date of the rent act of
12 2011, is two thousand five hundred dollars or more per month, such hous-
13 ing accommodation shall be excluded from the provisions of this law
14 pursuant to section 26-504.2 of this chapter.

15 § 15. Subparagraph (e) of paragraph 1 of subdivision g of section
16 26-405 of the administrative code of the city of New York, as amended by
17 chapter 253 of the laws of 1993, is amended to read as follows:

18 (e) The landlord and tenant by mutual voluntary written agreement
19 agree to a substantial increase or decrease in dwelling space or a
20 change in the services, furniture, furnishings or equipment provided in
21 the housing accommodations. An adjustment under this subparagraph shall
22 be equal to one-fortieth, in the case of a building with thirty-five or
23 fewer housing accommodations, or one-sixtieth, in the case of a building
24 with more than thirty-five housing accommodations where such adjustment
25 takes effect on or after September twenty-fourth, two thousand eleven,
26 of the total cost incurred by the landlord in providing such modifica-
27 tion or increase in dwelling space, services, furniture, furnishings or
28 equipment, including the cost of installation, but excluding finance
29 charges, provided further [~~than~~] that an owner who is entitled to a rent
30 increase pursuant to this subparagraph shall not be entitled to a
31 further rent increase based upon the installation of similar equipment,
32 or new furniture or furnishings within the useful life of such new
33 equipment, or new furniture or furnishings. The owner shall give written
34 notice to the city rent agency of any such adjustment pursuant to this
35 subparagraph[-]; or

36 § 16. Paragraph 13 of subdivision c of section 26-511 of the adminis-
37 trative code of the city of New York, as added by chapter 253 of the
38 laws of 1993, is amended to read as follows:

39 (13) provides that an owner is entitled to a rent increase where there
40 has been a substantial modification or increase of dwelling space or an
41 increase in the services, or installation of new equipment or improve-
42 ments or new furniture or furnishings provided in or to a tenant's hous-
43 ing accommodation, on written tenant consent to the rent increase. In
44 the case of a vacant housing accommodation, tenant consent shall not be
45 required. The permanent increase in the legal regulated rent for the
46 affected housing accommodation shall be one-fortieth, in the case of a
47 building with thirty-five or fewer housing accommodations, or one-sixti-
48 eth, in the case of a building with more than thirty-five housing accom-
49 modations where such permanent increase takes effect on or after Septem-
50 ber twenty-fourth, two thousand eleven, of the total cost incurred by
51 the landlord in providing such modification or increase in dwelling
52 space, services, furniture, furnishings or equipment, including the cost
53 of installation, but excluding finance charges. Provided further that an
54 owner who is entitled to a rent increase pursuant to this paragraph
55 shall not be entitled to a further rent increase based upon the instal-

1 lation of similar equipment, or new furniture or furnishings within the
2 useful life of such new equipment, or new furniture or furnishings.

3 § 17. Intentionally omitted.

4 § 18. Paragraph 1 of subdivision d of section 6 of section 4 of chap-
5 ter 576 of the laws of 1974, constituting the emergency tenant
6 protection act of nineteen seventy-four, as added by chapter 253 of the
7 laws of 1993, is amended to read as follows:

8 (1) there has been a substantial modification or increase of dwelling
9 space or an increase in the services, or installation of new equipment
10 or improvements or new furniture or furnishings, provided in or to a
11 tenant's housing accommodation, on written tenant consent to the rent
12 increase. In the case of a vacant housing accommodation, tenant consent
13 shall not be required. The permanent increase in the legal regulated
14 rent for the affected housing accommodation shall be one-fortieth, in
15 the case of a building with thirty-five or fewer housing accommodations,
16 or one-sixtieth, in the case of a building with more than thirty-five
17 housing accommodations where such permanent increase takes effect on or
18 after September twenty-fourth, two thousand eleven, of the total cost
19 incurred by the landlord in providing such modification or increase in
20 dwelling space, services, furniture, furnishings or equipment, including
21 the cost of installation, but excluding finance charges. Provided
22 further [~~than~~] that an owner who is entitled to a rent increase pursuant
23 to this paragraph shall not be entitled to a further rent increase based
24 upon the installation of similar equipment, or new furniture or
25 furnishings within the useful life of such new equipment, or new furni-
26 ture or furnishings.

27 § 19. Intentionally omitted.

28 § 20. Intentionally omitted.

29 § 21. Intentionally omitted.

30 § 22. Intentionally omitted.

31 § 23. Intentionally omitted.

32 § 24. Intentionally omitted.

33 § 25. The second undesignated paragraph of paragraph (a) of subdivi-
34 sion 4 of section 4 of chapter 274 of the laws of 1946, constituting the
35 emergency housing rent control law, as amended by chapter 21 of the laws
36 of 1962, clause 5 as amended by chapter 253 of the laws of 1993, is
37 amended to read as follows:

38 No application for adjustment of maximum rent based upon a sales price
39 valuation shall be filed by the landlord under this subparagraph prior
40 to six months from the date of such sale of the property. In addition,
41 no adjustment ordered by the commission based upon such sales price
42 valuation shall be effective prior to one year from the date of such
43 sale. Where, however, the assessed valuation of the land exceeds four
44 times the assessed valuation of the buildings thereon, the commission
45 may determine a valuation of the property equal to five times the equal-
46 ized assessed valuation of the buildings, for the purposes of this
47 subparagraph. The commission may make a determination that the valu-
48 ation of the property is an amount different from such equalized
49 assessed valuation where there is a request for a reduction in such
50 assessed valuation currently pending; or where there has been a
51 reduction in the assessed valuation for the year next preceding the
52 effective date of the current assessed valuation in effect at the time
53 of the filing of the application. Net annual return shall be the amount
54 by which the earned income exceeds the operating expenses of the proper-
55 ty, excluding mortgage interest and amortization, and excluding allow-
56 ances for obsolescence and reserves, but including an allowance for

1 depreciation of two per centum of the value of the buildings exclusive
2 of the land, or the amount shown for depreciation of the buildings in
3 the latest required federal income tax return, whichever is lower;
4 provided, however, that (1) no allowance for depreciation of the build-
5 ings shall be included where the buildings have been fully depreciated
6 for federal income tax purposes or on the books of the owner; or (2) the
7 landlord who owns no more than four rental units within the state has
8 not been fully compensated by increases in rental income sufficient to
9 offset unavoidable increases in property taxes, fuel, utilities, insur-
10 ance and repairs and maintenance, excluding mortgage interest and amor-
11 tization, and excluding allowances for depreciation, obsolescence and
12 reserves, which have occurred since the federal date determining the
13 maximum rent or the date the property was acquired by the present owner,
14 whichever is later; or (3) the landlord operates a hotel or rooming
15 house or owns a cooperative apartment and has not been fully compensated
16 by increases in rental income from the controlled housing accommodations
17 sufficient to offset unavoidable increases in property taxes and other
18 costs as are allocable to such controlled housing accommodations,
19 including costs of operation of such hotel or rooming house, but exclud-
20 ing mortgage interest and amortization, and excluding allowances for
21 depreciation, obsolescence and reserves, which have occurred since the
22 federal date determining the maximum rent or the date the landlord
23 commenced the operation of the property, whichever is later; or (4) the
24 landlord and tenant voluntarily enter into a valid written lease in good
25 faith with respect to any housing accommodation, which lease provides
26 for an increase in the maximum rent not in excess of fifteen per centum
27 and for a term of not less than two years, except that where such lease
28 provides for an increase in excess of fifteen per centum, the increase
29 shall be automatically reduced to fifteen per centum; or (5) the land-
30 lord and tenant by mutual voluntary written agreement agree to a
31 substantial increase or decrease in dwelling space or a change in the
32 services, furniture, furnishings or equipment provided in the housing
33 accommodations; provided that an owner shall be entitled to a rent
34 increase where there has been a substantial modification or increase of
35 dwelling space or an increase in the services, or installation of new
36 equipment or improvements or new furniture or furnishings provided in or
37 to a tenant's housing accommodation. The permanent increase in the maxi-
38 mum rent for the affected housing accommodation shall be one-fortieth,
39 in the case of a building with thirty-five or fewer housing accommo-
40 dations, or one-sixtieth, in the case of a building with more than thir-
41 ty-five housing accommodations where such permanent increase takes
42 effect on or after September twenty-fourth, two thousand eleven, of the
43 total cost incurred by the landlord in providing such modification or
44 increase in dwelling space, services, furniture, furnishings or equip-
45 ment, including the cost of installation, but excluding finance charges
46 provided further that an owner who is entitled to a rent increase pursu-
47 ant to this clause shall not be entitled to a further rent increase
48 based upon the installation of similar equipment, or new furniture or
49 furnishings within the useful life of such new equipment, or new furni-
50 ture or furnishings. The owner shall give written notice to the commis-
51 sion of any such adjustment pursuant to this clause; or (6) there has
52 been, since March first, nineteen hundred fifty, an increase in the
53 rental value of the housing accommodations as a result of a substantial
54 rehabilitation of the building or housing accommodation therein which
55 materially adds to the value of the property or appreciably prolongs its
56 life, excluding ordinary repairs, maintenance and replacements; or (7)

1 there has been since March first, nineteen hundred fifty, a major capi-
 2 tal improvement required for the operation, preservation or maintenance
 3 of the structure; or (8) there has been since March first, nineteen
 4 hundred fifty, in structures containing more than four housing accommo-
 5 dations, other improvements made with the express consent of the tenants
 6 in occupancy of at least seventy-five per centum of the housing accom-
 7 modations, provided, however, that no adjustment granted hereunder shall
 8 exceed fifteen per centum unless the tenants have agreed to a higher
 9 percentage of increase, as herein provided; or (9) there has been,
 10 since March first, nineteen hundred fifty, a subletting without written
 11 consent from the landlord or an increase in the number of adult occu-
 12 pants who are not members of the immediate family of the tenant, and the
 13 landlord has not been compensated therefor by adjustment of the maximum
 14 rent by lease or order of the commission or pursuant to the federal act;
 15 or (10) the presence of unique or peculiar circumstances materially
 16 affecting the maximum rent has resulted in a maximum rent which is
 17 substantially lower than the rents generally prevailing in the same area
 18 for substantially similar housing accommodations.

19 § 26. Intentionally omitted.

20 § 27. Intentionally omitted.

21 § 28. Intentionally omitted.

22 § 29. Paragraph 12 of subdivision a of section 5 of section 4 of chap-
 23 ter 576 of the laws of 1974, constituting the emergency tenant
 24 protection act of nineteen seventy-four, as amended by chapter 116 of
 25 the laws of 1997, is amended to read as follows:

26 (12) upon issuance of an order by the division, housing accommodations
 27 which are: (1) occupied by persons who have a total annual income [~~in~~
 28 ~~excess of one hundred seventy-five thousand dollars per annum in each of~~
 29 ~~the two preceding calendar years, as defined in and subject to the limi-~~
 30 ~~tations and process set forth in section five-a of this act]~~ as defined
 31 in and subject to the limitations and process set forth in section
 32 five-a of this act in excess of the deregulation income threshold, as
 33 defined in section five-a of this act, in each of the two preceding
 34 calendar years; and (2) have a legal regulated rent [~~of two thousand~~
 35 ~~dollars or more per month]~~ that equals or exceeds the deregulation rent
 36 threshold, as defined in section five-a of this act. Provided however,
 37 that this exclusion shall not apply to housing accommodations which
 38 became or become subject to this act (a) by virtue of receiving tax
 39 benefits pursuant to section four hundred twenty-one-a or four hundred
 40 eighty-nine of the real property tax law, except as otherwise provided
 41 in subparagraph (i) of paragraph (f) of subdivision two of section four
 42 hundred twenty-one-a of the real property tax law, or (b) by virtue of
 43 article seven-C of the multiple dwelling law.

44 § 30. Section 5-a of section 4 of chapter 576 of the laws of 1974,
 45 constituting the emergency tenant protection act of nineteen seventy-
 46 four, as added by chapter 253 of the laws of 1993, subdivision (b) and
 47 paragraphs 1 and 2 of subdivision (c) as amended and subdivision (e) as
 48 added by chapter 116 of the laws of 1997, is amended to read as follows:

49 § 5-a. High income rent [~~derecontrol~~] deregulation. (a) 1. For purposes
 50 of this section, annual income shall mean the federal adjusted gross
 51 income as reported on the New York state income tax return. Total annual
 52 income means the sum of the annual incomes of all persons whose names
 53 are recited as the tenant or co-tenant on a lease who occupy the housing
 54 accommodation and all other persons that occupy the housing accommo-
 55 dation as their primary residence on other than a temporary basis,
 56 excluding bona fide employees of such occupants residing therein in

1 connection with such employment and excluding bona fide subtenants in
2 occupancy pursuant to the provisions of section two hundred twenty-six-b
3 of the real property law. In the case where a housing accommodation is
4 sublet, the annual income of the tenant or co-tenant recited on the
5 lease who will reoccupy the housing accommodation upon the expiration of
6 the sublease shall be considered.

7 2. Deregulation income threshold means total annual income equal to
8 one hundred seventy-five thousand dollars in each of the two preceding
9 calendar years for proceedings commenced before July first, two thousand
10 eleven. For proceedings commenced on or after July first, two thousand
11 eleven, the deregulation income threshold means the total annual income
12 equal to two hundred thousand dollars in each of the two preceding
13 calendar years.

14 3. Deregulation rent threshold means two thousand dollars for
15 proceedings commenced before July first, two thousand eleven. For
16 proceedings commenced on or after July first, two thousand eleven, the
17 deregulation rent threshold means two thousand five hundred dollars.

18 (b) On or before the first day of May in each calendar year, the owner
19 of each housing accommodation for which the legal regulated monthly rent
20 [~~is two thousand dollars or more per month~~] equals or exceeds the dereg-
21 ulation rent threshold may provide the tenant or tenants residing there-
22 in with an income certification form prepared by the division of housing
23 and community renewal on which such tenant or tenants shall identify all
24 persons referred to in subdivision (a) of this section and shall certify
25 whether the total annual income is in excess of [~~one hundred seventy-~~
26 ~~five thousand dollars in each of the two preceding calendar years~~] the
27 deregulation income threshold in each of the two preceding calendar
28 years. Such income certification form shall state that the income level
29 certified to by the tenant may be subject to verification by the depart-
30 ment of taxation and finance pursuant to section one hundred seventy-
31 one-b of the tax law, and shall not require disclosure of any informa-
32 tion other than whether the aforementioned threshold has been exceeded.
33 Such income certification form shall clearly state that: (i) only
34 tenants residing in housing accommodations which had a legal regulated
35 monthly rent [~~of two thousand dollars or more per month~~] that equals or
36 exceeds the deregulation rent threshold are required to complete the
37 certification form; (ii) that tenants have protections available to them
38 which are designed to prevent harassment; (iii) that tenants are not
39 required to provide any information regarding their income except that
40 which is requested on the form and may contain such other information
41 the division deems appropriate. The tenant or tenants shall return the
42 completed certification to the owner within thirty days after service
43 upon the tenant or tenants. In the event that the total annual income as
44 certified is in excess of [~~one hundred seventy-five thousand dollars in~~
45 ~~each such year~~] the deregulation income threshold in each of the two
46 preceding calendar years, the owner may file the certification with the
47 state division of housing and community renewal on or before June thir-
48 tieth of such year. Upon filing such certification with the division,
49 the division shall, within thirty days after the filing, issue an order
50 providing that such housing accommodation shall not be subject to the
51 provisions of this act upon the expiration of the existing lease. A copy
52 of such order shall be mailed by regular and certified mail, return
53 receipt requested, to the tenant or tenants and a copy thereof shall be
54 mailed to the owner.

55 (c) 1. In the event that the tenant or tenants either fail to return
56 the completed certification to the owner on or before the date required

1 by subdivision (b) of this section or the owner disputes the certifi-
2 cation returned by the tenant or tenants, the owner may, on or before
3 June thirtieth of such year, petition the state division of housing and
4 community renewal to verify, pursuant to section one hundred seventy-
5 one-b of the tax law, whether the total annual income exceeds [~~one~~
6 ~~hundred seventy five thousand dollars in each of the two preceding~~
7 ~~calendar years~~] the deregulation income threshold in each of the two
8 preceding calendar years. Within twenty days after the filing of such
9 request with the division, the division shall notify the tenant or
10 tenants that such tenant or tenants named on the lease must provide the
11 division with such information as the division and the department of
12 taxation and finance shall require to verify whether the total annual
13 income exceeds [~~one hundred seventy five thousand dollars in each such~~
14 ~~year~~] the deregulation income threshold in each of the two preceding
15 calendar years. The division's notification shall require the tenant or
16 tenants to provide the information to the division within sixty days of
17 service upon such tenant or tenants and shall include a warning in bold
18 faced type that failure to respond will result in an order being issued
19 by the division providing that such housing accommodations shall not be
20 subject to the provisions of this act.

21 2. If the department of taxation and finance determines that the total
22 annual income is in excess of [~~one hundred seventy five thousand dollars~~
23 ~~in each of the two preceding calendar years~~] the deregulation income
24 threshold in each of the two preceding calendar years, the division
25 shall, on or before November fifteenth of such year, notify the owner
26 and tenants of the results of such verification. Both the owner and the
27 tenants shall have thirty days within which to comment on such verifica-
28 tion results. Within forty-five days after the expiration of the
29 comment period, the division shall, where appropriate, issue an order
30 providing that such housing accommodation shall not be subject to the
31 provisions of this act upon expiration of the existing lease. A copy of
32 such order shall be mailed by regular and certified mail, return receipt
33 requested, to the tenant or tenants and a copy thereof shall be sent to
34 the owner.

35 3. In the event the tenant or tenants fail to provide the information
36 required pursuant to paragraph one of this subdivision, the division
37 shall issue, on or before December first of such year, an order provid-
38 ing that such housing accommodation shall not be subject to the
39 provisions of this act upon the expiration [~~or~~] of the current lease. A
40 copy of such order shall be mailed by regular and certified mail, return
41 receipt requested, to the tenant or tenants and a copy thereof shall be
42 sent to the owner.

43 4. The provisions of the state freedom of information act shall not
44 apply to any income information obtained by the division pursuant to
45 this section.

46 (d) This section shall apply only to paragraph twelve of subdivision a
47 of section five of this act.

48 (e) Upon receipt of such order of [~~decontrol~~] deregulation pursuant to
49 this section, an owner shall offer the housing accommodation subject to
50 such order to the tenant at a rent not in excess of the market rent,
51 which for the purposes of this section means a rent obtainable in an
52 arm's length transaction. Such rental offer shall be made by the owner
53 in writing to the tenant by certified and regular mail and shall inform
54 the tenant that such offer must be accepted in writing within ten days
55 of receipt. The tenant shall respond within ten days after receipt of
56 such offer. If the tenant declines the offer or fails to respond within

1 such period, the owner may commence an action or proceeding for the
2 eviction of such tenant.

3 § 31. Paragraph (m) of subdivision 2 of section 2 of chapter 274 of
4 the laws of 1946, constituting the emergency housing rent control law,
5 as amended by chapter 116 of the laws of 1997, is amended to read as
6 follows:

7 (m) upon the issuance of an order of [~~decontrol~~] deregulation by the
8 division, housing accommodations which: (1) are occupied by persons who
9 have a total annual income, as defined in and subject to the limitations
10 and process set forth in section two-a of this law, in excess of [~~one~~
11 ~~hundred seventy-five thousand dollars in each of the two preceding~~
12 ~~calendar years, as defined in and subject to the limitations and process~~
13 ~~set forth in section two-a of this law~~] the deregulation income thresh-
14 old as defined in section two-a of this law in each of the two preceding
15 calendar years; and (2) have a maximum rent [~~of two thousand dollars or~~
16 ~~more per month~~] that equals or exceeds the deregulation rent threshold
17 as defined in section two-a of this law.

18 § 32. Section 2-a of chapter 274 of the laws of 1946, constituting the
19 emergency housing rent control law, as added by chapter 253 of the laws
20 of 1993, subdivision (b) and paragraphs 1 and 2 of subdivision (c) as
21 amended and subdivision (e) as added by chapter 116 of the laws of 1997,
22 is amended to read as follows:

23 § 2-a. (a) 1. For purposes of this section, annual income shall mean
24 the federal adjusted gross income as reported on the New York state
25 income tax return. Total annual income means the sum of the annual
26 incomes of all persons who occupy the housing accommodation as their
27 primary residence on other than a temporary basis, excluding bona fide
28 employees of such occupants residing therein in connection with such
29 employment and excluding bona fide subtenants in occupancy pursuant to
30 the provisions of section two hundred twenty-six-b of the real property
31 law. In the case where a housing accommodation is sublet, the annual
32 income of the sublessor shall be considered.

33 2. Deregulation income threshold means total annual income equal to
34 one hundred seventy-five thousand dollars in each of the two preceding
35 calendar years for proceedings commenced before July first, two thousand
36 eleven. For proceedings commenced on or after July first, two thousand
37 eleven, the deregulation income threshold means the total annual income
38 equal to two hundred thousand dollars in each of the two preceding
39 calendar years.

40 3. Deregulation rent threshold means two thousand dollars for
41 proceedings commenced prior to July first, two thousand eleven. For
42 proceedings commenced on or after July first, two thousand eleven, the
43 deregulation rent threshold means two thousand five hundred dollars.

44 (b) On or before the first day of May in each calendar year, the owner
45 of each housing accommodation for which the maximum monthly rent [~~is two~~
46 ~~thousand dollars or more per month~~] equals or exceeds the deregulation
47 rent threshold may provide the tenant or tenants residing therein with
48 an income certification form prepared by the division of housing and
49 community renewal on which such tenant or tenants shall identify all
50 persons referred to in subdivision (a) of this section and shall certify
51 whether the total annual income is in excess of [~~one hundred seventy-~~
52 ~~five thousand dollars in each of the two preceding calendar years~~] the
53 deregulation income threshold in each of the two preceding calendar
54 years. Such income certification form shall state that the income level
55 certified to by the tenant may be subject to verification by the depart-
56 ment of taxation and finance pursuant to section one hundred seventy-

1 one-b of the tax law and shall not require disclosure of any income
2 information other than whether the aforementioned threshold has been
3 exceeded. Such income certification form shall clearly state that: (i)
4 only tenants residing in housing accommodations which had a maximum
5 monthly rent equal to or in excess of [~~two thousand dollars or more per~~
6 month] ~~the deregulation rent threshold~~ are required to complete the
7 certification form; (ii) that tenants have protections available to them
8 which are designed to prevent harassment; (iii) that tenants are not
9 required to provide any information regarding their income except that
10 which is requested on the form and may contain such other information
11 the division deems appropriate. The tenant or tenants shall return the
12 completed certification to the owner within thirty days after service
13 upon the tenant or tenants. In the event that the total annual income as
14 certified is in excess of [~~one hundred seventy-five thousand dollars in~~
15 ~~each such year] the deregulation income threshold in each of the two
16 preceding calendar years, the owner may file the certification with the
17 state division of housing and community renewal on or before June thir-
18 tieth of such year. Upon filing such certification with the division,
19 the division shall, within thirty days after the filing, issue an order
20 of [~~decontrol] deregulation~~ providing that such housing accommodations
21 shall not be subject to the provisions of this law as of the first day
22 of June in the year next succeeding the filing of the certification by
23 the owner. A copy of such order shall be mailed by regular and certified
24 mail, return receipt requested, to the tenant or tenants and a copy
25 thereof shall be mailed to the owner.~~

26 (c) 1. In the event that the tenant or tenants either fail to return
27 the completed certification to the owner on or before the date required
28 by subdivision (b) of this section or the owner disputes the certifi-
29 cation returned by the tenant or tenants, the owner may, on or before
30 June thirtieth of such year, petition the state division of housing and
31 community renewal to verify, pursuant to section one hundred seventy-
32 one-b of the tax law, whether the total annual income exceeds [~~one~~
33 ~~hundred seventy-five thousand dollars in each of the two preceding~~
34 ~~calendar years] the deregulation income threshold in each of the two
35 preceding calendar years. Within twenty days after the filing of such
36 request with the division, the division shall notify the tenant or
37 tenants that such tenant or tenants must provide the division with such
38 information as the division and the department of taxation and finance
39 shall require to verify whether the total annual income exceeds [~~one~~
40 ~~hundred seventy-five thousand dollars in each such year] the deregu-
41 lation income threshold in each of the two preceding calendar years.
42 The division's notification shall require the tenant or tenants to
43 provide the information to the division within sixty days of service
44 upon such tenant or tenants and shall include a warning in bold faced
45 type that failure to respond will result in an order of [~~decontrol]~~
46 deregulation being issued by the division for such housing accommo-
47 dation.~~~~

48 2. If the department of taxation and finance determines that the total
49 annual income is in excess of [~~one hundred seventy-five thousand dollars~~
50 ~~in each of the two preceding calendar years] the deregulation income
51 threshold in each of the two preceding calendar years, the division
52 shall, on or before November fifteenth of such year, notify the owner
53 and tenants of the results of such verification. Both the owner and the
54 tenants shall have thirty days within which to comment on such verifica-
55 tion results. Within forty-five days after the expiration of the
56 comment period, the division shall, where appropriate, issue an order of~~

1 [~~decontrol~~] deregulation providing that such housing accommodation shall
2 not be subject to the provisions of this law as of the first day of
3 March in the year next succeeding the filing of the owner's petition
4 with the division. A copy of such order shall be mailed by regular and
5 certified mail, return receipt requested, to the tenant or tenants and a
6 copy thereof shall be sent to the owner.

7 3. In the event the tenant or tenants fail to provide the information
8 required pursuant to paragraph one of this subdivision, the division
9 shall issue, on or before December first of such year, an order of
10 [~~decontrol~~] deregulation providing that such housing accommodation shall
11 not be subject to the provisions of this law as of the first day of
12 March in the year next succeeding the last day on which the tenant or
13 tenants were required to provide the information required by such para-
14 graph. A copy of such order shall be mailed by regular and certified
15 mail, return receipt requested, to the tenant or tenants and a copy
16 thereof shall be sent to the owner.

17 4. The provisions of the state freedom of information act shall not
18 apply to any income information obtained by the division pursuant to
19 this section.

20 (d) This section shall apply only to paragraph (m) of subdivision two
21 of section two of this law.

22 (e) Upon receipt of such order of [~~decontrol~~] deregulation pursuant to
23 this section, an owner shall offer the housing accommodation subject to
24 such order to the tenant at a rent not in excess of the market rent,
25 which for the purposes of this section means a rent obtainable in an
26 arm's length transaction. Such rental offer shall be made by the owner
27 in writing to the tenant by certified and regular mail and shall inform
28 the tenant that such offer must be accepted in writing within ten days
29 of receipt. The tenant shall respond within ten days after receipt of
30 such offer. If the tenant declines the offer or fails to respond within
31 such period, the owner may commence an action or proceeding for the
32 eviction of such tenant.

33 § 33. Subparagraph (j) of paragraph 2 of subdivision e of section
34 26-403 of the administrative code of the city of New York, as amended by
35 chapter 116 of the laws of 1997, is amended to read as follows:

36 (j) Upon the issuance of an order of [~~decontrol~~] deregulation by the
37 division, housing accommodations which: (1) are occupied by persons who
38 have a total annual income, as defined in and subject to the limitations
39 and process set forth in section 26-403.1 of this chapter, in excess of
40 [~~one hundred seventy-five thousand dollars per annum~~] the deregulation
41 income threshold, as defined in section 26-403.1 of this chapter, in
42 each of the two preceding calendar years[~~, as defined in and subject to~~
43 ~~the limitations and process set forth in section 26-403.1 of this chap-~~
44 ~~ter~~]; and (2) have a maximum rent [~~of two thousand dollars or more per~~
45 ~~month~~] that equals or exceeds the deregulation rent threshold, as
46 defined in section 26-403.1 of this chapter. Provided however, that
47 this exclusion shall not apply to housing accommodations which became or
48 become subject to this law by virtue of receiving tax benefits pursuant
49 to section four hundred eighty-nine of the real property tax law.

50 § 34. Section 26-403.1 of the administrative code of the city of New
51 York, as added by chapter 253 of the laws of 1993, subdivision (b) and
52 paragraphs 1 and 2 of subdivision (c) as amended and subdivision (e) as
53 added by chapter 116 of the laws of 1997, is amended to read as follows:

54 § 26-403.1 High income rent [~~decontrol~~] deregulation. (a) 1. For
55 purposes of this section, annual income shall mean the federal adjusted
56 gross income as reported on the New York state income tax return. Total

1 annual income means the sum of the annual incomes of all persons who
 2 occupy the housing accommodation as their primary residence other than
 3 on a temporary basis, excluding bona fide employees of such occupants
 4 residing therein in connection with such employment and excluding bona
 5 fide subtenants in occupancy pursuant to the provisions of section two
 6 hundred twenty-six-b of the real property law. In the case where a hous-
 7 ing accommodation is sublet, the annual income of the sublessor shall be
 8 considered.

9 2. Deregulation income threshold means total annual income equal to
 10 one hundred seventy-five thousand dollars in each of the two preceding
 11 calendar years for proceedings commenced prior to July first, two thou-
 12 sand eleven. For proceedings commenced on or after July first, two
 13 thousand eleven, the deregulation income threshold means the total annu-
 14 al income equal to two hundred thousand dollars in each of the two
 15 preceding calendar years.

16 3. Deregulation rent threshold means two thousand dollars for
 17 proceedings commenced before July first, two thousand eleven. For
 18 proceedings commenced on or after July first, two thousand eleven, the
 19 deregulation rent threshold means two thousand five hundred dollars.

20 (b) On or before the first day of May in each calendar year, the owner
 21 of each housing accommodation for which the maximum rent [~~is two thou-~~
 22 ~~sand dollars or more per month~~] equals or exceeds the deregulation rent
 23 threshold may provide the tenant or tenants residing therein with an
 24 income certification form prepared by the division of housing and commu-
 25 nity renewal on which such tenant or tenants shall identify all persons
 26 referred to in subdivision (a) of this section and shall certify whether
 27 the total annual income is in excess of [~~one hundred seventy-five thou-~~
 28 ~~sand dollars in each of the two preceding calendar years~~] the deregu-
 29 lation income threshold in each of the two preceding calendar years.
 30 Such income certification form shall state that the income level certi-
 31 fied to by the tenant may be subject to verification by the department
 32 of taxation and finance pursuant to section one hundred seventy-one-b of
 33 the tax law and shall not require disclosure of any income information
 34 other than whether the aforementioned threshold has been exceeded. Such
 35 income certification form shall clearly state that: (i) only tenants
 36 residing in housing accommodations which have a maximum monthly rent [~~of~~
 37 ~~two thousand dollars or more per month~~] that equals or exceeds the
 38 deregulation rent threshold are required to complete the certification
 39 form; (ii) that tenants have protections available to them which are
 40 designed to prevent harassment; (iii) that tenants are not required to
 41 provide any information regarding their income except that which is
 42 requested on the form and may contain such other information the divi-
 43 sion deems appropriate. The tenant or tenants shall return the completed
 44 certification to the owner within thirty days after service upon the
 45 tenant or tenants. In the event that the total annual income as certi-
 46 fied is in excess of [~~one hundred seventy-five thousand dollars in each~~
 47 ~~such year~~] the deregulation income threshold in each of the two preced-
 48 ing calendar years, the owner may file the certification with the state
 49 division of housing and community renewal on or before June thirtieth of
 50 such year. Upon filing such certification with the division, the divi-
 51 sion shall, within thirty days after the filing, issue an order of
 52 [~~decontrol~~] deregulation providing that such housing accommodations
 53 shall not be subject to the provisions of this law as of the first day
 54 of June in the year next succeeding the filing of the certification by
 55 the owner. A copy of such order shall be mailed by regular and certified

1 mail, return receipt requested, to the tenant or tenants and a copy
2 thereof shall be mailed to the owner.

3 (c) 1. In the event that the tenant or tenants either fail to return
4 the completed certification to the owner on or before the date required
5 by subdivision (b) of this section or the owner disputes the certifi-
6 cation returned by the tenant or tenants, the owner may, on or before
7 June thirtieth of such year, petition the state division of housing and
8 community renewal to verify, pursuant to section one hundred seventy-
9 one-b of the tax law, whether the total annual income exceeds [~~one~~
10 ~~hundred seventy five thousand dollars in each of the two preceding~~
11 ~~calendar years~~] the deregulation income threshold in each of the two
12 preceding calendar years. Within twenty days after the filing of such
13 request with the division, the division shall notify the tenant or
14 tenants that such tenant or tenants must provide the division with such
15 information as the division and the department of taxation and finance
16 shall require to verify whether the total annual income exceeds [~~one~~
17 ~~hundred seventy five thousand dollars in each such year~~] the deregu-
18 lation income threshold in each of the two preceding calendar years.
19 The division's notification shall require the tenant or tenants to
20 provide the information to the division within sixty days of service
21 upon such tenant or tenants and shall include a warning in bold faced
22 type that failure to respond will result in an order of [~~decontrol~~]
23 deregulation being issued by the division for such housing accommo-
24 dation.

25 2. If the department of taxation and finance determines that the total
26 annual income is in excess of [~~one hundred seventy five thousand dollars~~
27 ~~in each of the two preceding calendar years~~] the deregulation income
28 threshold in each of the two preceding calendar years, the division
29 shall, on or before November fifteenth of such year, notify the owner
30 and tenants of the results of such verification. Both the owner and the
31 tenants shall have thirty days within which to comment on such verifica-
32 tion results. Within forty-five days after the expiration of the
33 comment period, the division shall, where appropriate, issue an order of
34 [~~decontrol~~] deregulation providing that such housing accommodation shall
35 not be subject to the provisions of this law as of the first day of
36 March in the year next succeeding the filing of the owner's petition
37 with the division. A copy of such order shall be mailed by regular and
38 certified mail, return receipt requested, to the tenant or tenants and a
39 copy thereof shall be sent to the owner.

40 3. In the event the tenant or tenants fail to provide the information
41 required pursuant to paragraph one of this subdivision, the division
42 shall issue, on or before December first of such year, an order of
43 [~~decontrol~~] deregulation providing that such housing accommodation shall
44 not be subject to the provisions of this law as of the first day of
45 March in the year next succeeding the last day on which the tenant or
46 tenants were required to provide the information required by such para-
47 graph. A copy of such order shall be mailed by regular and certified
48 mail, return receipt requested, to the tenant or tenants and a copy
49 thereof shall be sent to the owner.

50 4. The provisions of the state freedom of information act shall not
51 apply to any income information obtained by the division pursuant to
52 this section.

53 (d) This section shall apply only to subparagraph (j) of paragraph two
54 of subdivision e of section 26-403 of this [~~code~~] chapter.

55 (e) Upon receipt of such order of [~~decontrol~~] deregulation pursuant to
56 this section, an owner shall offer the housing accommodation subject to

1 such order to the tenant at a rent not in excess of the market rent,
 2 which for the purposes of this section means a rent obtainable in an
 3 arm's length transaction. Such rental offer shall be made by the owner
 4 in writing to the tenant by certified and regular mail and shall inform
 5 the tenant that such offer must be accepted in writing within ten days
 6 of receipt. The tenant shall respond within ten days after receipt of
 7 such offer. If the tenant declines the offer or fails to respond within
 8 such period, the owner may commence an action or proceeding for the
 9 eviction of such tenant.

10 § 35. Section 26-504.1 of the administrative code of the city of New
 11 York, as amended by chapter 116 of the laws of 1997, is amended to read
 12 as follows:

13 § 26-504.1 Exclusion of accommodations of high income renters. Upon
 14 the issuance of an order by the division, "housing accommodations" shall
 15 not include housing accommodations which: (1) are occupied by persons
 16 who have a total annual income, as defined in and subject to the limita-
 17 tions and process set forth in section 26-504.3 of this chapter, in
 18 excess of [~~one hundred seventy five thousand dollars per annum~~] the
 19 deregulation income threshold, as defined in section 26-504.3 of this
 20 chapter, for each of the two preceding calendar years[~~, as defined in~~
 21 ~~and subject to the limitations and process set forth in section 26-504.3~~
 22 ~~of this chapter~~]; and (2) have a legal regulated monthly rent [~~of two~~
 23 ~~thousand dollars or more per month~~] that equals or exceeds the deregu-
 24 lation rent threshold, as defined in section 26-504.3 of this chapter.

25 Provided, however, that this exclusion shall not apply to housing accom-
 26 modations which became or become subject to this law (a) by virtue of
 27 receiving tax benefits pursuant to section four hundred twenty-one-a or
 28 four hundred eighty-nine of the real property tax law, except as other-
 29 wise provided in subparagraph (i) of paragraph (f) of subdivision two of
 30 section four hundred twenty-one-a of the real property tax law, or (b)
 31 by virtue of article seven-C of the multiple dwelling law.

32 § 36. Section 26-504.3 of the administrative code of the city of New
 33 York, as added by chapter 253 of the laws of 1993, subdivision (b) and
 34 paragraphs 1 and 2 of subdivision (c) as amended and subdivision (e) as
 35 added by chapter 116 of the laws of 1997, is amended to read as follows:

36 § 26-504.3 High income rent [~~decontrol~~] deregulation. (a) 1. For
 37 purposes of this section, annual income shall mean the federal adjusted
 38 gross income as reported on the New York state income tax return. Total
 39 annual income means the sum of the annual incomes of all persons whose
 40 names are recited as the tenant or co-tenant on a lease who occupy the
 41 housing accommodation and all other persons that occupy the housing
 42 accommodation as their primary residence on other than a temporary
 43 basis, excluding bona fide employees of such occupants residing therein
 44 in connection with such employment and excluding bona fide subtenants in
 45 occupancy pursuant to the provisions of section two hundred twenty-six-b
 46 of the real property law. In the case where a housing accommodation is
 47 sublet, the annual income of the tenant or co-tenant recited on the
 48 lease who will reoccupy the housing accommodation upon the expiration of
 49 the sublease shall be considered.

50 2. Deregulation income threshold means total annual income equal to
 51 one hundred seventy-five thousand dollars in each of the two preceding
 52 calendar years for proceedings commenced before July first, two thousand
 53 eleven. For proceedings commenced on or after July first, two thousand
 54 eleven, the deregulation income threshold means the total annual income
 55 equal to two hundred thousand dollars in each of the two preceding
 56 calendar years.

1 3. Deregulation rent threshold means two thousand dollars for
2 proceedings commenced before July first, two thousand eleven. For
3 proceedings commenced on or after July first, two thousand eleven, the
4 deregulation rent threshold means two thousand five hundred dollars.

5 (b) On or before the first day of May in each calendar year, the owner
6 of each housing accommodation for which the legal regulated rent [~~is two~~
7 ~~thousand dollars or more per month~~] equals or exceeds the deregulation
8 rent threshold may provide the tenant or tenants residing therein with
9 an income certification form prepared by the division of housing and
10 community renewal on which such tenant or tenants shall identify all
11 persons referred to in subdivision (a) of this section and shall certify
12 whether the total annual income is in excess of [~~one hundred seventy-~~
13 ~~five thousand dollars in each of the two preceding calendar years~~] the
14 deregulation income threshold in each of the two preceding calendar
15 years. Such income certification form shall state that the income level
16 certified to by the tenant may be subject to verification by the depart-
17 ment of taxation and finance pursuant to section one hundred seventy-
18 one-b of the tax law and shall not require disclosure of any income
19 information other than whether the aforementioned threshold has been
20 exceeded. Such income certification form shall clearly state that: (i)
21 only tenants residing in housing accommodations which have a legal regu-
22 lated monthly rent [~~of two thousand dollars or more per month~~], that
23 equals or exceeds the deregulation rent threshold are required to
24 complete the certification form; (ii) that tenants have protections
25 available to them which are designed to prevent harassment; (iii) that
26 tenants are not required to provide any information regarding their
27 income except that which is requested on the form and may contain such
28 other information the division deems appropriate. The tenant or tenants
29 shall return the completed certification to the owner within thirty days
30 after service upon the tenant or tenants. In the event that the total
31 annual income as certified is in excess of [~~one hundred seventy-five~~
32 ~~thousand dollars in each such year~~] the deregulation income threshold in
33 each of the two preceding calendar years, the owner may file the certif-
34 ication with the state division of housing and community renewal on or
35 before June thirtieth of such year. Upon filing such certification with
36 the division, the division shall, within thirty days after the filing,
37 issue an order providing that such housing accommodation shall not be
38 subject to the provisions of this act upon the expiration of the exist-
39 ing lease. A copy of such order shall be mailed by regular and certified
40 mail, return receipt requested, to the tenant or tenants and a copy
41 thereof shall be mailed to the owner.

42 (c) 1. In the event that the tenant or tenants either fail to return
43 the completed certification to the owner on or before the date required
44 by subdivision (b) of this section or the owner disputes the certif-
45 ication returned by the tenant or tenants, the owner may, on or before
46 June thirtieth of such year, petition the state division of housing and
47 community renewal to verify, pursuant to section one hundred seventy-
48 one-b of the tax law, whether the total annual income exceeds [~~one~~
49 ~~hundred seventy-five thousand dollars in each of the two preceding~~
50 ~~calendar years~~] the deregulation income threshold in each of the two
51 preceding calendar years. Within twenty days after the filing of such
52 request with the division, the division shall notify the tenant or
53 tenants named on the lease that such tenant or tenants must provide the
54 division with such information as the division and the department of
55 taxation and finance shall require to verify whether the total annual
56 income exceeds [~~one hundred seventy-five thousand dollars in each such~~

1 ~~year]~~ the deregulation income threshold in each of the two preceding
2 calendar years. The division's notification shall require the tenant or
3 tenants to provide the information to the division within sixty days of
4 service upon such tenant or tenants and shall include a warning in bold
5 faced type that failure to respond will result in an order being issued
6 by the division providing that such housing accommodation shall not be
7 subject to the provisions of this law.

8 2. If the department of taxation and finance determines that the total
9 annual income is in excess of [~~one hundred seventy five thousand dollars~~
10 ~~in each of the two preceding calendar years]~~ the deregulation income
11 threshold in each of the two preceding calendar years, the division
12 shall, on or before November fifteenth of such year, notify the owner
13 and tenants of the results of such verification. Both the owner and the
14 tenants shall have thirty days within which to comment on such verifica-
15 tion results. Within forty-five days after the expiration of the
16 comment period, the division shall, where appropriate, issue an order
17 providing that such housing accommodation shall not be subject to the
18 provisions of this law upon the expiration of the existing lease. A copy
19 of such order shall be mailed by regular and certified mail, return
20 receipt requested, to the tenant or tenants and a copy thereof shall be
21 sent to the owner.

22 3. In the event the tenant or tenants fail to provide the information
23 required pursuant to paragraph one of this subdivision, the division
24 shall issue, on or before December first of such year, an order provid-
25 ing that such housing accommodation shall not be subject to the
26 provisions of this law upon the expiration of the current lease. A copy
27 of such order shall be mailed by regular and certified mail, return
28 receipt requested, to the tenant or tenants and a copy thereof shall be
29 sent to the owner.

30 4. The provisions of the state freedom of information act shall not
31 apply to any income information obtained by the division pursuant to
32 this section.

33 (d) This section shall apply only to section 26-504.1 of this [~~code~~]
34 chapter.

35 (e) Upon receipt of such order of [~~decontrol~~] deregulation pursuant to
36 this section, an owner shall offer the housing accommodation subject to
37 such order to the tenant at a rent not in excess of the market rent,
38 which for the purposes of this section means a rent obtainable in an
39 arm's length transaction. Such rental offer shall be made by the owner
40 in writing to the tenant by certified and regular mail and shall inform
41 the tenant that such offer must be accepted in writing within ten days
42 of receipt. The tenant shall respond within ten days after receipt of
43 such offer. If the tenant declines the offer or fails to respond within
44 such period, the owner may commence an action or proceeding for the
45 eviction of such tenant.

46 § 37. Paragraph (b) of subdivision 3 of section 171-b of the tax law,
47 as amended by chapter 116 of the laws of 1997, is amended to read as
48 follows:

49 (b) The department, when requested by the division of housing and
50 community renewal, shall verify the total annual income of all persons
51 residing in housing accommodations as their primary residence subject to
52 rent regulation and shall notify the commissioner of the division of
53 housing and community renewal as may be appropriate whether the total
54 annual income exceeds [~~one hundred seventy five thousand dollars per~~
55 ~~annum in each of the two preceding calendar years]~~ the applicable dereg-
56 ulation income threshold in each of the two preceding calendar years.

1 No other information regarding the annual income of such persons shall
2 be provided.

3 § 38. Subparagraph (i) of paragraph (a) of subdivision 2 of section
4 421-a of the real property tax law, as amended by chapter 288 of the
5 laws of 1985, is amended to read as follows:

6 (i) Within a city having a population of one million or more, new
7 multiple dwellings, except hotels, shall be exempt from taxation for
8 local purposes, other than assessments for local improvements, for the
9 tax year or years immediately following taxable status dates occurring
10 subsequent to the commencement and prior to the completion of
11 construction, but not to exceed three such tax years, except for new
12 multiple dwellings the construction of which commenced between January
13 first, two thousand seven, and June thirtieth, two thousand nine, shall
14 have an additional thirty-six months to complete construction and shall
15 be eligible for full exemption from taxation for the first three years
16 of the period of construction; any eligible project that seeks to
17 utilize the six-year period of construction authorized by this section
18 must apply for a preliminary certificate of eligibility within one year
19 of the effective date of the rent act of 2011, provided, however that
20 such multiple dwellings shall be eligible for a maximum of three years
21 of benefits during the construction period, and shall continue to be
22 exempt from such taxation in tax years immediately following the taxable
23 status date first occurring after the expiration of the exemption herein
24 conferred during construction so long as used at the completion of
25 construction for dwelling purposes for a period not to exceed ten years
26 in the aggregate after the taxable status date immediately following the
27 completion thereof, as follows:

28 (A) except as otherwise provided herein there shall be full exemption
29 from taxation during the period of construction or the period of three
30 years immediately following commencement of construction, whichever
31 expires sooner, except for new multiple dwellings the construction of
32 which commenced between January first, two thousand seven, and June
33 thirtieth, two thousand nine, shall have an additional thirty-six months
34 to complete construction and shall be eligible for full exemption from
35 taxation for the first three years of the period of construction; any
36 eligible project that seeks to utilize the six-year period of
37 construction authorized by this section must apply for a preliminary
38 certificate of eligibility within one year of the effective date of the
39 rent act of 2011, provided, however that such multiple dwellings shall
40 be eligible for a maximum of three years of benefits during the
41 construction period, and for two years following such period;

42 (B) followed by two years of exemption from eighty per cent of such
43 taxation;

44 (C) followed by two years of exemption from sixty per cent of such
45 taxation;

46 (D) followed by two years of exemption from forty per cent of such
47 taxation;

48 (E) followed by two years of exemption from twenty per cent of such
49 taxation;

50 The following table shall illustrate the computation of the tax
51 exemption:

52 CONSTRUCTION OF CERTAIN MULTIPLE DWELLINGS	
53	Exemption
54 During Construction (maximum three years);	100%

1 except construction commenced between January
 2 first, two thousand seven and June
 3 thirtieth, two thousand nine (maximum
 4 three years)

5 Following completion of work
 6 Year:

7	1	100%
8	2	100
9	3	80
10	4	80
11	5	60
12	6	60
13	7	40
14	8	40
15	9	20
16	10	20

17 § 39. Clause (A) of subparagraph (ii) of paragraph (a) of subdivision
 18 2 of section 421-a of the real property tax law, as amended by chapter
 19 288 of the laws of 1985, is amended to read as follows:

20 (A) Within a city having a population of one million or more the local
 21 housing agency may adopt rules and regulations providing that except in
 22 areas excluded by local law new multiple dwellings, except hotels, shall
 23 be exempt from taxation for local purposes, other than assessments for
 24 local improvements, for the tax year or years immediately following
 25 taxable status dates occurring subsequent to the commencement and prior
 26 to the completion of construction, but not to exceed three such tax
 27 years, except for new multiple dwellings the construction of which
 28 commenced between January first, two thousand seven, and June thirtieth,
 29 two thousand nine, shall have an additional thirty-six months to
 30 complete construction and shall be eligible for full exemption from
 31 taxation for the first three years of the period of construction; any
 32 eligible project that seeks to utilize the six-year period of
 33 construction authorized by this section must apply for a preliminary
 34 certificate of eligibility within one year of the effective date of the
 35 rent act of 2011, provided, however that such multiple dwellings shall
 36 be eligible for a maximum of three years of benefits during the
 37 construction period, and shall continue to be exempt from such taxation
 38 in tax years immediately following the taxable status date first occur-
 39 ring after the expiration of the exemption herein conferred during such
 40 construction so long as used at the completion of construction for
 41 dwelling purposes for a period not to exceed fifteen years in the aggre-
 42 gate, as follows:

43 a. except as otherwise provided herein there shall be full exemption
 44 from taxation during the period of construction or the period of three
 45 years immediately following commencement of construction, whichever
 46 expires sooner, except for new multiple dwellings the construction of
 47 which commenced between January first, two thousand seven, and June
 48 thirtieth, two thousand nine, shall have an additional thirty-six months
 49 to complete construction and shall be eligible for full exemption from
 50 taxation for the first three years of the period of construction; any
 51 eligible project that seeks to utilize the six-year period of
 52 construction authorized by this section must apply for a preliminary
 53 certificate of eligibility within one year of the effective date of the
 54 rent act of 2011, provided, however that such multiple dwellings shall

1 be eligible for a maximum of three years of benefits during the
2 construction period, and for eleven years following such period;

3 b. followed by one year of exemption from eighty percent of such taxa-
4 tion;

5 c. followed by one year of exemption from sixty percent of such taxa-
6 tion;

7 d. followed by one year of exemption from forty percent of such taxa-
8 tion;

9 e. followed by one year of exemption from twenty percent of such taxa-
10 tion.

11 § 40. Clause (A) of subparagraph (iii) of paragraph (a) of subdivision
12 2 of section 421-a of the real property tax law, as amended by chapter
13 702 of the laws of 1992, is amended to read as follows:

14 (A) Within a city having a population of one million or more the local
15 housing agency may adopt rules and regulations providing that new multi-
16 ple dwellings, except hotels, shall be exempt from taxation for local
17 purposes, other than assessments for local improvements, for the tax
18 year or years immediately following taxable status dates occurring
19 subsequent to the commencement and prior to the completion of
20 construction, but not to exceed three such tax years, except for new
21 multiple dwellings the construction of which commenced between January
22 first, two thousand seven, and June thirtieth, two thousand nine, shall
23 have an additional thirty-six months to complete construction and shall
24 be eligible for full exemption from taxation for the first three years
25 of the period of construction; any eligible project that seeks to
26 utilize the six-year period of construction authorized by this section
27 must apply for a preliminary certificate of eligibility within one year
28 of the effective date of the rent act of 2011, provided, however that
29 such multiple dwellings shall be eligible for a maximum of three years
30 of benefits during the construction period, and shall continue to be
31 exempt from such taxation in tax years immediately following the taxable
32 status date first occurring after the expiration of the exemption herein
33 conferred during such construction so long as used at the completion of
34 construction for dwelling purposes for a period not to exceed twenty-
35 five years in the aggregate, provided that the area in which the project
36 is situated is a neighborhood preservation program area as determined by
37 the local housing agency as of June first, nineteen hundred eighty-five,
38 or is a neighborhood preservation area as determined by the New York
39 city planning commission as of June first, nineteen hundred eighty-five,
40 or is an area that was eligible for mortgage insurance provided by the
41 rehabilitation mortgage insurance corporation as of May first, nineteen
42 hundred ninety-two or is an area receiving funding for a neighborhood
43 preservation project pursuant to the neighborhood reinvestment corpo-
44 ration act (42 U.S.C. §§180 et seq.) as of June first, nineteen hundred
45 eighty-five, as follows:

46 a. except as otherwise provided herein there shall be full exemption
47 from taxation during the period of construction or the period of three
48 years immediately following commencement of construction, whichever
49 expires sooner, except for new multiple dwellings the construction of
50 which commenced between January first, two thousand seven, and June
51 thirtieth, two thousand nine, shall have an additional thirty-six months
52 to complete construction and shall be eligible for full exemption from
53 taxation for the first three years of the period of construction; any
54 eligible project that seeks to utilize the six-year period of
55 construction authorized by this section must apply for a preliminary
56 certificate of eligibility within one year of the effective date of the

1 rent act of 2011, provided, however that such multiple dwellings shall
 2 be eligible for a maximum of three years of benefits during the
 3 construction period, and for twenty-one years following such period;

4 b. followed by one year of exemption from eighty percent of such taxa-
 5 tion;

6 c. followed by one year of exemption from sixty percent of such taxa-
 7 tion;

8 d. followed by one year of exemption from forty percent of such taxa-
 9 tion;

10 e. followed by one year of exemption from twenty percent of such taxa-
 11 tion.

12 § 41. The opening paragraph of clause (A) of subparagraph (iv) of
 13 paragraph (a) of subdivision 2 of section 421-a of the real property tax
 14 law, as amended by chapter 618 of the laws of 2007, is amended to read
 15 as follows:

16 Unless excluded by local law, in the city of New York, the benefits of
 17 this subparagraph shall be available in the borough of Manhattan for new
 18 multiple dwellings on tax lots now existing or hereafter created south
 19 of or adjacent to either side of one hundred tenth street [~~which~~] that
 20 commence construction after July first, nineteen hundred ninety-two and
 21 before [~~December twenty-eighth~~] June fifteenth, two thousand [~~ten~~]
 22 fifteen only if:

23 § 42. Subparagraph (ii) of paragraph (c) of subdivision 2 of section
 24 421-a of the real property tax law, as amended by chapter 618 of the
 25 laws of 2007, is amended to read as follows:

26 (ii) construction is commenced after January first, nineteen hundred
 27 seventy-five and before [~~December twenty-eighth~~] June fifteenth, two
 28 thousand [~~ten~~] fifteen provided, however, that such commencement period
 29 shall not apply to multiple dwellings eligible for benefits under
 30 subparagraph (iv) of paragraph (a) of this subdivision;

31 § 43. The real property tax law is amended by adding a new section
 32 421-m to read as follows:

33 § 421-m. Exemption of certain new or substantially rehabilitated
 34 multiple dwellings from local taxation. 1. (a) A city, town or village
 35 may, by local law, provide for the exemption of multiple dwellings
 36 constructed or substantially rehabilitated in a benefit area designated
 37 in such local law from taxation and special ad valorem levies, but not
 38 special assessments, as provided in this section. Subsequent to the
 39 adoption of such a local law, any other municipal corporation in which
 40 the designated benefit area is located may likewise exempt such property
 41 from its taxation and special ad valorem levies by local law, or in the
 42 case of a school district, by resolution.

43 (b) As used in this section, the term "benefit area" means the area
 44 within a city, town or village, designated by local law, to which an
 45 exemption, established pursuant to this section, applies.

46 (c) The term "substantial rehabilitation" means all work necessary to
 47 bring a property into compliance with all applicable laws and regu-
 48 lations including but not limited to the installation, replacement or
 49 repair of heating, plumbing, electrical and related systems and the
 50 elimination of all hazardous and immediately hazardous violations in the
 51 structure in accordance with state and local laws and regulations of
 52 state and local agencies. Substantial rehabilitation may also include
 53 reconstruction or work to improve the habitability or prolong the useful
 54 life of the property; provided substantial rehabilitation shall not
 55 include ordinary maintenance or repair.

1 (d) The term "multiple dwelling" means a dwelling, other than a hotel,
 2 which is to be occupied or is occupied as the residence or home of three
 3 or more families living independently of one another, whether such
 4 dwelling is rented or owned as a cooperative or condominium.

5 2. (a) Eligible new or substantially rehabilitated multiple dwellings
 6 in a designated benefit area shall be exempt according to the following
 7 schedule:

8 CONSTRUCTION OR SUBSTANTIAL REHABILITATION OF CERTAIN
 9 MULTIPLE DWELLINGS

<u>During construction or</u>	<u>Exemption</u>
<u>substantial rehabilitation</u>	
<u>(maximum three years)</u>	<u>100%</u>
<u>Following completion of work year:</u>	
<u>1 through 12</u>	<u>100%</u>
<u>13-14</u>	<u>80%</u>
<u>15-16</u>	<u>60%</u>
<u>17-18</u>	<u>40%</u>
<u>19-20</u>	<u>20%</u>

19 (b) Provided that taxes shall be paid during any such period at least
 20 in the amount of the taxes paid on such land and any improvements there-
 21 on during the tax year preceding the commencement of such exemption.
 22 Provided further that no other exemption may be granted concurrently to
 23 the same improvements under any other section of law.

24 3. To be eligible for exemption under this section:

25 (a) Such construction or substantial rehabilitation shall take place
 26 on vacant, predominantly vacant or under-utilized land, or on land
 27 improved with a non-conforming use or on land containing one or more
 28 substandard or structurally unsound dwellings, or a dwelling that has
 29 been certified as unsanitary by the local health agency.

30 (b) Such construction or substantial rehabilitation was commenced on
 31 or after the effective date of the local law, ordinance or resolution
 32 described in subdivision one of this section, but no later than June
 33 fifteenth, two thousand fifteen.

34 (c) At least twenty percent of the units shall be affordable to indi-
 35 viduals or families of low and moderate income whose incomes at the time
 36 of initial occupancy do not exceed ninety percent of the area median
 37 income adjusted for family size and the individual or family shall pay
 38 in rent or monthly carrying charges no more than thirty percent of their
 39 adjusted gross income as reported in their federal income tax return, or
 40 would be reported if such return were required, less such personal
 41 exemptions and deductions and medical expenses as are actually taken by
 42 the taxpayer, as verified according to procedures established by the
 43 state division of housing and community renewal. Such procedures shall
 44 be published through notice in the state register without further action
 45 required for the promulgation of regulations pursuant to the state
 46 administrative procedure act.

47 (d) Such construction or substantial rehabilitation is carried out
 48 with the assistance of grants, loans or subsidies for the construction
 49 or substantial rehabilitation of affordable housing from any federal,
 50 state or local agency or instrumentality thereof.

51 4. Application for exemption under this section shall be made on a
 52 form prescribed by the commissioner and filed with the assessor on or
 53 before the applicable taxable status date.

54 5. In the case of property which is used partially as a multiple
 55 dwelling and partially for commercial or other purposes, the property
 56 shall be eligible for the exemption authorized by this section if:

1 (a) The square footage of the portion used as a multiple dwelling
2 represents at least fifty percent of the square footage of the entire
3 property;

4 (b) At least twenty percent of the units are affordable to individuals
5 or families of low and moderate income, as determined according to the
6 criteria set forth in paragraph (c) of subdivision three of this
7 section; and

8 (c) The requirements of this section are otherwise satisfied with
9 respect to the portion of the property used as a multiple dwelling.

10 6. The exemption authorized by this section shall not be available in
11 a jurisdiction to which the provisions of section four hundred twenty-
12 one-a or four hundred twenty-one-c of this article are applicable.

13 7. A city, town or village providing an exemption pursuant to the
14 authority of this section shall develop an income monitoring and compli-
15 ance plan to meet the criteria of paragraph (c) of subdivision three of
16 this section and such plan shall be reviewed, evaluated and approved by
17 the state division of housing and community renewal as a condition of
18 providing such exemption. Such plan shall include an annual certifi-
19 ication that the multiple dwelling receiving an exemption meets the
20 requirements of this section. Such certification shall be provided to
21 the assessor and the state division of housing and community renewal. If
22 such requirements are not met, then the multiple dwelling shall not
23 qualify for the exemption in that year.

24 § 44. The division of housing and community renewal shall, pursuant to
25 this act, promulgate rules and regulations to implement and enforce all
26 provisions of this act and any law renewed or continued by this act.

27 § 45. Severability clause. If any clause, sentence, paragraph, subdi-
28 vision, section or part of this act shall be adjudged by any court of
29 competent jurisdiction to be invalid, such judgment shall not affect,
30 impair, or invalidate the remainder thereof, but shall be confined in
31 its operation to the clause, sentence, paragraph, subdivision, section
32 or part thereof directly involved in the controversy in which such judg-
33 ment shall have been rendered. It is hereby declared to be the intent of
34 the legislature that this act would have been enacted even if such
35 invalid provisions had not been included herein.

36 § 46. This act shall take effect immediately and shall be deemed to
37 have been in full force and effect on and after June 24, 2011; provided,
38 however, that:

39 (a) the amendments to chapter 4 of title 26 of the administrative code
40 of the city of New York made by sections seven, twelve, fourteen,
41 sixteen, thirty-five and thirty-six of this act shall expire on the same
42 date as such chapter expires and shall not affect the expiration of such
43 chapter as provided under section 26-520 of such law;

44 (b) the amendments to section 4 of chapter 576 of the laws of 1974
45 constituting the emergency tenant protection act of nineteen seventy-
46 four made by sections eight, ten, thirteen, eighteen, twenty-nine and
47 thirty of this act shall expire on the same date as such act expires and
48 shall not affect the expiration of such act as provided in section 17 of
49 chapter 576 of the laws of 1974;

50 (c) the amendments to section 2 of the emergency housing rent control
51 law made by sections nine, twenty-five, thirty-one and thirty-two of
52 this act shall expire on the same date as such law expires and shall not
53 affect the expiration of such law as provided in subdivision 2 of
54 section 1 of chapter 274 of the laws of 1946;

55 (d) the amendments to chapter 3 of title 26 of the administrative code
56 of the city of New York made by sections eleven, fifteen, thirty-three

1 and thirty-four of this act shall remain in full force and effect only
2 as long as the public emergency requiring the regulation and control of
3 residential rents and evictions continues, as provided in subdivision 3
4 of section 1 of the local emergency housing rent control act;

5 (e) the amendments to section 421-a of the real property tax law made
6 by sections thirty-eight, thirty-nine, forty, forty-one and forty-two of
7 this act shall be deemed to have been in full force and effect as of
8 December 28, 2010; and

9 (f) the amendments made by sections thirty through thirty-seven of
10 this act shall not be grounds for dismissal of any owner application for
11 deregulation where a notice or application for such deregulation, that
12 is filed or served between May 1, 2011 through July 1, 2011, used the
13 income and rent deregulation thresholds in effect prior to the effective
14 date of such sections. Any tenant failure to respond to such notice or
15 application because of the use of such income or deregulation thresholds
16 shall constitute grounds to afford such tenant an additional opportunity
17 to respond.

18

PART C

19 Section 1. This act enacts into law major components of legislation
20 relating to mandate relief. Each component is wholly contained within a
21 Subpart identified as Subparts A through H. The effective date for each
22 particular provision contained within such Subpart is set forth in the
23 last section of such Subpart. Any provision in any section contained
24 within a Subpart, including the effective date of the Subpart, which
25 makes a reference to a section "of this act", when used in connection
26 with that particular component, shall be deemed to mean and refer to the
27 corresponding section of the Subpart in which it is found. Section three
28 of this act sets forth the general effective date of this act.

29

SUBPART A

30 Section 1. Subdivisions 3 and 5 of section 97-g of the state finance
31 law, subdivision 3 as amended by section 45 of part K of chapter 81 of
32 the laws of 2002 and subdivision 5 as added by chapter 710 of the laws
33 of 1964, are amended to read as follows:

34 3. Moneys of the fund shall be available to the commissioner of gener-
35 al services for the purchase of food, supplies and equipment for [~~state~~
36 ~~institutions and other~~] state agencies, and for the purpose of furnish-
37 ing or providing centralized services to or for [~~state institutions and~~
38 ~~other~~] state agencies; provided further that such moneys shall be avail-
39 able to the commissioner of general services for purposes pursuant to
40 items (d) and (f) of subdivision four of this section to or for poli-
41 tical subdivisions. Beginning the first day of April, two thousand two,
42 moneys in such fund shall also be transferred by the state comptroller
43 to the revenue bond tax fund account of the general debt service fund in
44 amounts equal to those required for payments to authorized issuers for
45 revenue bonds issued pursuant to article five-C of this chapter for the
46 purpose of lease purchases and installment purchases by or for state
47 agencies and institutions for personal or real property purposes.

48 5. The amount expended from such fund for the above-stated purposes
49 shall be charged against the [~~state institution or~~] agency or political
50 subdivisions above receiving such food, supplies, equipment and services
51 and all payments received therefor shall be credited to such fund.

1 § 2. Subdivision 4 of section 97-g of the state finance law, as
2 amended by chapter 410 of the laws of 2009, is amended to read as
3 follows:

4 4. The term "centralized services" as used in this section shall mean
5 and include only (a) communications services, (b) mail, messenger and
6 reproduction services, (c) computer services, (d) fuels, including
7 natural gas, hydrogen, biofuels and gasoline, and automotive services,
8 (e) renovation and maintenance services, (f) purchases of electricity,
9 renewable energy, renewable energy credits or attributes from the power
10 authority of the state of New York and, in consultation with the power
11 authority of the state of New York, from other suppliers, (g) real prop-
12 erty management services, (h) building design and construction services,
13 (i) parking services, (j) distribution of United States department of
14 agriculture donated foods to eligible recipients, pursuant to all appli-
15 cable statutes and regulations, (k) distribution of federal surplus
16 property donations to all eligible recipients, pursuant to applicable
17 statutes and regulations, and (l) payments and related services for
18 lease purchases and installment purchases by or for state agencies and
19 institutions for personal property purposes financed through the issu-
20 ance of certificates of participation. The services defined in items (a)
21 through (c), (e), (g) and (h) of this subdivision shall be provided to
22 state agencies and institutions only.

23 § 3. Intentionally omitted

24 § 4. Section 103 of the general municipal law is amended by adding a
25 new subdivision 1-b to read as follows:

26 1-b. A political subdivision or any district therein shall have the
27 option of purchasing information technology and telecommunications hard-
28 ware, software and professional services through cooperative purchasing
29 permissible pursuant to federal general services administration informa-
30 tion technology schedule seventy or any successor schedule. A political
31 subdivision or any district therein that purchases through general
32 services administration schedule seventy, information technology and
33 consolidated schedule contracts shall comply with federal schedule
34 ordering procedures as provided in federal acquisition regulation
35 8.405-1 or 8.405-2 or successor regulations, whichever is applicable.
36 Adherence to such procedures shall constitute compliance with the
37 competitive bidding requirements under this section.

38 § 5. Subdivision 3 of section 103 of the general municipal law, as
39 amended by chapter 343 of the laws of 2007, is amended to read as
40 follows:

41 3. Notwithstanding the provisions of subdivision one of this section,
42 any officer, board or agency of a political subdivision or of any
43 district therein authorized to make purchases of materials, equipment or
44 supplies, or to contract for services, may make such purchases, or may
45 contract for services, other than services subject to article [~~eight or~~]
46 nine of the labor law, when available, through the county in which the
47 political subdivision or district is located or through any county with-
48 in the state subject to the rules established pursuant to subdivision
49 two of section four hundred eight-a of the county law; provided that the
50 political subdivision or district for which such officer, board or agen-
51 cy acts shall accept sole responsibility for any payment due the vendor
52 or contractor. All purchases and all contracts for such services shall
53 be subject to audit and inspection by the political subdivision or
54 district for which made. Prior to making such purchases or contracts the
55 officer, board or agency shall consider whether such contracts will
56 result in cost savings after all factors, including charges for service,

1 material, and delivery, have been considered. No officer, board or agen-
2 cy of a political subdivision or of any district therein shall make any
3 purchase or contract for any such services through the county in which
4 the political subdivision or district is located or through any county
5 within the state when bids have been received for such purchase or such
6 services by such officer, board or agency, unless such purchase may be
7 made or the contract for such services may be entered into upon the same
8 terms, conditions and specifications at a lower price through the coun-
9 ty.

10 § 6. Subdivision 2 of section 408-a of the county law, as amended by
11 section 2 of part X of chapter 62 of the laws of 2003, is amended to
12 read as follows:

13 2. The board of supervisors may, in the case of any purchase contract
14 or any contract for services, other than services subject to article
15 [~~eight or~~] nine of the labor law, of the county to be awarded to the
16 lowest responsible bidder after advertisement for bids, authorize the
17 inclusion of a provision whereby purchases may be made or such services
18 may be obtained under such contract by any political subdivision or fire
19 company (as both are defined in section one hundred of the general
20 municipal law) or district. In such event, the board shall adopt rules
21 prescribing the conditions under which, and the manner in which,
22 purchases may be made or services may be obtained by such political
23 subdivision, fire company or district.

24 § 7. Section 104 of the general municipal law, as amended by chapter
25 137 of the laws of 2008, is amended to read as follows:

26 § 104. Purchase through office of general services; certain federal
27 contracts. 1. Notwithstanding the provisions of section one hundred
28 three of this article or of any other general, special or local law, any
29 officer, board or agency of a political subdivision, of a district ther-
30 ein, of a fire company or of a voluntary ambulance service authorized to
31 make purchases of materials, equipment, food products, or supplies, or
32 services available pursuant to sections one hundred sixty-one and one
33 hundred sixty-seven of the state finance law, may make such purchases,
34 except of printed material, through the office of general services
35 subject to such rules as may be established from time to time pursuant
36 to sections one hundred sixty-three and one hundred sixty-seven of the
37 state finance law [~~or through the general services administration pursu-~~
38 ~~ant to section 1555 of the federal acquisition streamlining act of 1994,~~
39 ~~P.L. 103-355~~]; provided that any such purchase shall exceed five hundred
40 dollars and that the political subdivision, district, fire company or
41 voluntary ambulance service for which such officer, board or agency acts
42 shall accept sole responsibility for any payment due the vendor. All
43 purchases shall be subject to audit and inspection by the political
44 subdivision, district, fire company or voluntary ambulance service for
45 which made. No officer, board or agency of a political subdivision, or a
46 district therein, of a fire company or of a voluntary ambulance service
47 shall make any purchase through such office when bids have been received
48 for such purchase by such officer, board or agency, unless such purchase
49 may be made upon the same terms, conditions and specifications at a
50 lower price through such office. Two or more fire companies or voluntary
51 ambulance services may join in making purchases pursuant to this
52 section, and for the purposes of this section such groups shall be
53 deemed "fire companies or voluntary ambulance services."

54 2. Notwithstanding the provisions of section one hundred three of this
55 article or of any other general, special or local law, any officer,
56 board or agency of a political subdivision, or of a district therein,

1 may make purchases from federal general service administration supply
 2 schedules pursuant to section 211 of the federal e-government act of
 3 2002, P.L. 107-347, and pursuant to section 1122 of the national defense
 4 authorization act for fiscal year 1994, P.L. 103-160, or any successor
 5 schedules in accordance with procedures established pursuant thereto.
 6 Prior to making such purchases the officer, board or agency shall
 7 consider whether such purchases will result in cost savings after all
 8 factors, including charges for service, material, and delivery, have
 9 been considered.

10 § 8. Subdivision 2 of section 27 of the municipal home rule law, as
 11 amended by chapter 259 of the laws of 1987, is amended to read as
 12 follows:

13 2. Each such certified copy shall contain the text only of the local
 14 law without the brackets and without the matter within the brackets, the
 15 matter with a line run through it, or the italicizing or underscoring,
 16 if any, to indicate the changes made by it, except that each such certi-
 17 fied copy of a local law enacted by a city with a population of one
 18 million or more shall be printed in the same form as the official copy
 19 of the proposed local law which became the local law provided that line
 20 numbers, the printed number of the bill and explanatory matter shall be
 21 omitted[, and also have attached thereto a certificate executed by the
 22 corporation counsel, municipal attorney or other principal law officer
 23 to the effect that it contains the correct text and that all proper
 24 proceedings have been had or taken for the enactment of such local law,
 25 which certificate shall constitute presumptive evidence thereof,
 26 provided that any failure or omission so to certify shall not invalidate
 27 such local law].

28 § 9. This act shall take effect immediately, provided, however that:

29 1. sections one, four, five, six and seven of this act shall expire
 30 and be deemed repealed 3 years after they shall have become a law;

31 2. the amendments to subdivision 4 of section 97-g of the state
 32 finance law made by section two of this act shall not affect the expira-
 33 tion and reversion of such subdivision as provided in section 3 of chap-
 34 ter 410 of the laws of 2009, and shall expire and be deemed repealed
 35 therewith;

36 3. sections four, five, six and seven of this act shall apply to any
 37 contract let or awarded on or after such effective date.

38

SUBPART B

39 Section 1. Section 99-r of the general municipal law, as amended by
 40 section 1 of part B of chapter 494 of the laws of 2009, is amended to
 41 read as follows:

42 § 99-r. Contracts for services. Notwithstanding any other provisions
 43 of law to the contrary, the governing board of any municipal corporation
 44 may enter into agreements and/or contracts with any state agency includ-
 45 ing any department, board, bureau, commission, division, office, coun-
 46 cil, committee, or officer of the state, whether permanent or temporary,
 47 or a public benefit corporation or public authority, or a soil and water
 48 conservation district, and any unit of the state university of New York,
 49 pursuant to and consistent with sections three hundred fifty-five and
 50 sixty-three hundred one of the education law within or without such
 51 municipal corporation to provide or receive fuel, equipment, maintenance
 52 and repair, supplies, water supply, street sweeping or maintenance,
 53 sidewalk maintenance, right-of-way maintenance, storm water and other
 54 drainage, sewage disposal, landscaping, mowing, or any other services of

1 government. Such state agency, soil and water conservation district, or
2 unit of the state university of New York, within the limits of any
3 specific statutory appropriation authorized and made available therefor
4 by the legislature or by the governing body responsible for the opera-
5 tion of such state agency, soil and water conservation district, or unit
6 of the state university of New York may contract with any municipal
7 corporation for such services as herein provided and may provide, in
8 agreements and/or contracts entered into pursuant to this section, for
9 the reciprocal provision of services or other consideration of approxi-
10 mately equivalent value, including, but not limited to, routine and/or
11 emergency services, monies, equipment, buildings and facilities, materi-
12 als or a commitment to provide future routine and/or emergency services,
13 monies, equipment, buildings and facilities or materials. Any such
14 contract may be entered into by direct negotiations and shall not be
15 subject to the provisions of section one hundred three of this chapter.

16 § 2. Paragraph (e) of subdivision 4 of section 10-c of the highway
17 law, as amended by chapter 413 of the laws of 1991, is amended to read
18 as follows:

19 (e) Funds allocated for local street or highway projects under this
20 subdivision shall be used to undertake work on a project either with the
21 municipality's own forces or by contract, provided however, that whenev-
22 er the estimate for the construction contract work exceeds one hundred
23 thousand dollars but does not exceed two hundred fifty thousand dollars
24 such work must be performed either with the municipality's own forces or
25 by contract let by competitive bid in accordance with the provisions of
26 section one hundred three of the general municipal law and provided
27 further, however, that whenever the estimate for the construction
28 contract work exceeds two hundred fifty thousand dollars such work must
29 be performed by contract let by competitive bid in accordance with the
30 provisions of section one hundred three of the general municipal law.

31 § 3. Section 102 of the general municipal law, as added by chapter 861
32 of the laws of 1953 and subdivision 2 as amended by chapter 537 of the
33 laws of 1984, is amended to read as follows:

34 § 102. Deposits on plans and specifications. 1. Notwithstanding any
35 inconsistent provision of any general, special or local law, the offi-
36 cer, board or agency of any political subdivision or of any district
37 therein, charged with the duty of preparing plans and specifications for
38 and awarding or entering into contracts for the performance of public
39 work, [~~shall~~] may require, as a deposit to guarantee the safe return of
40 such plans and specifications, the payment of a fixed sum of money, not
41 exceeding one hundred dollars for each copy thereof, by persons or
42 corporations desiring a copy thereof. Any person or corporation desiring
43 a copy of such plans and specifications and making the [~~deposit~~] payment
44 required by this section shall be furnished with one copy of the plans
45 and specifications.

46 2. If a proposal is duly submitted by any person or corporation making
47 the deposit required by subdivision one and such proposal is accompanied
48 by a certified check or other security in accordance with the require-
49 ments contained in the plans and specifications or in the public adver-
50 tisement for bids, and if the copy of the plans and specifications used
51 by such person or corporation, other than the successful bidder, is
52 returned in good condition within thirty days following the award of the
53 contract covered by such plans and specifications or the rejection of
54 the bid of such person or corporation, the full amount of such deposit
55 for one copy of the plans and specifications shall be returned to such
56 person or corporation, including the successful bidder. Partial

1 reimbursement, in an amount equal to the full amount of such deposit for
2 one set of plans and specifications per unsuccessful bidder or non-bid-
3 der less the actual cost of reproduction of the plans and specifications
4 as determined by the officer, board or agency of any political subdivi-
5 sion or of any district therein, charged with the duty of preparing the
6 plans and specifications, shall be made for the return of all other
7 copies of the plans and specifications in good condition within thirty
8 days following the award of the contract or the rejection of the bids
9 covered by such plans and specifications.

10 § 4. This act shall take effect immediately.

11

SUBPART C

12 Section 1. Section 72-c of the general municipal law, as amended by
13 chapter 229 of the laws of 1992, is amended to read as follows:

14 § 72-c. Expenses of members of the police department and other peace
15 officers in attending police training schools. The board or body of a
16 county, city, town or village authorized to appropriate and to raise
17 money by taxation and to make payments therefrom, is hereby authorized,
18 in its discretion, to appropriate and to raise money by taxation and to
19 make payments from such moneys, for the annual expenses of the members
20 of the police department of such municipal corporation in attending a
21 police training school, as provided by the regulations of the depart-
22 ment, either within such municipal corporation or elsewhere within the
23 state; and for the payment of reasonable expenses of such members and
24 other police officers or peace officers of the municipality while going
25 to, attending, and returning from any training school conducted by or
26 under the auspices of the federal bureau of investigation, whether with-
27 in or without the state. Notwithstanding any inconsistent provision of
28 any general, special or local law to the contrary, whenever a member of
29 the police department of a municipal corporation[~~, having a population~~
30 ~~of ten thousand or less,~~] has attended a police training school, the
31 expense of which was borne by such municipal corporation, terminates
32 employment with such municipal corporation and commences employment with
33 any other municipal corporation or employer county sheriff, such employ-
34 er municipal corporation or employer county sheriff shall reimburse the
35 prior employer municipal corporation[~~, having a population of ten thou-~~
36 ~~sand or less,~~] for such expenses, including, salary, tuition, enrollment
37 fees, books, and the cost of transportation to and from training school,
38 as follows: on a pro rata basis, to be calculated by subtracting from
39 the number of days in the three years following the date of the member's
40 graduation from police training school, the number of days between the
41 date of the member's graduation from training school and the date of the
42 termination of employment with the municipal corporation which paid for
43 such training, and multiplying the difference by the per diem cost of
44 such expenses, to be calculated by dividing the total cost of such
45 expenses by the number of days in the three years following the date of
46 the member's graduation, if such change in employment occurs within
47 three years of such member's graduation from police training school.
48 Provided, however, the employer municipal corporation or employer county
49 sheriff shall not be required to reimburse the prior employer municipal
50 corporation for that portion of such expenses which is reimbursable by
51 the member to the prior employer municipal corporation under the terms
52 of an employment or labor agreement. Provided, further, however, the
53 employer municipal corporation or employer county sheriff shall not be
54 required to reimburse the prior employer municipal corporation for such

1 basic training if such change in employment occurs after the expiration
2 of the validity of the member's certificate attesting to the satisfac-
3 tory completion of an approved municipal police basic training program.

4 § 2. Section 207-m of the general municipal law is REPEALED.

5 § 3. The opening paragraph and paragraph (1) of subdivision 4 of
6 section 20.40 of the criminal procedure law, paragraph (1) as amended by
7 chapter 346 of the laws of 2007, are amended to read as follows:

8 A person may be convicted in an appropriate criminal court of a
9 particular county, of an offense of which the criminal courts of this
10 state have jurisdiction pursuant to section 20.20, committed either by
11 his or her own conduct or by the conduct of another for which he or she
12 is legally accountable pursuant to section 20.00 of the penal law, when:

13 (1) An offense of identity theft or unlawful possession of personal
14 ~~[identification]~~ identifying information and all criminal acts committed
15 as part of the same criminal transaction as defined in subdivision two
16 of section 40.10 of this chapter may be prosecuted (i) in any county in
17 which part of the offense took place regardless of whether the defendant
18 was actually present in such county, or (ii) in the county in which the
19 person who suffers financial loss resided at the time of the commission
20 of the offense, or (iii) in the county where the person whose personal
21 ~~[identification]~~ identifying information was used in the commission of
22 the offense resided at the time of the commission of the offense. The
23 law enforcement agency of any such county shall take a police report of
24 the matter and provide the complainant with a copy of such report at no
25 charge.

26 § 4. Section 176 of the family court act is amended to read as
27 follows:

28 § 176. Inter-county probation. [~~If a person placed under probation by~~
29 ~~the family court resides in or moves to a county other than the county~~
30 ~~in which he was placed on probation, the family court which placed him~~
31 ~~on probation may transfer the proceedings to the county in which the~~
32 ~~probationer resides or to which he has moved or may place him under the~~
33 ~~supervision of the probation service attached to the family court in~~
34 ~~which the probationer resides or to which he has moved.~~]

35 1. Where a person placed on probation resides in another jurisdiction
36 within the state at the time of the order of disposition, the family
37 court which placed him or her on probation shall transfer supervision to
38 the probation department in the jurisdiction in which the person
39 resides. Where, after a probation disposition is pronounced, a proba-
40 tioner requests to reside in another jurisdiction within the state, the
41 family court which placed him or her on probation may, in its
42 discretion, approve a change in residency and, upon approval, shall
43 transfer supervision to the probation department serving the county of
44 the probationer's proposed new residence. Any transfer under this subdivi-
45 vision must be in accordance with rules adopted by the commissioner of
46 the division of criminal justice services.

47 2. Upon completion of a transfer as authorized pursuant to subdivision
48 one of this section, the family court within the jurisdiction of the
49 receiving probation department shall assume all powers and duties of the
50 family court which placed the probationer on probation and shall have
51 sole jurisdiction in the case. The family court which placed the proba-
52 tioner on probation shall immediately forward its entire case record to
53 the receiving court.

54 3. Upon completion of a transfer as authorized pursuant to subdivision
55 one of this section, the probation department in the receiving jurisdic-
56 tion shall assume all powers and duties of the probation department in

1 the jurisdiction of the family court which placed the probationer on
 2 probation.

3 § 5. The mental hygiene law is amended by adding a new section 29.28
 4 to read as follows:

5 § 29.28 Payment of costs for prosecution of inmate-patients.

6 (a) When an inmate-patient, as defined in subdivision (a) of section
 7 29.27 of this article, who was committed from a state correctional
 8 facility, is alleged to have committed an offense while in the custody
 9 of the department, the department of corrections and community super-
 10 vision shall pay all reasonable costs for the prosecution of such
 11 offense, including but not limited to, costs for: a grand jury impaneled
 12 to hear and examine evidence of such offense, petit jurors, witnesses,
 13 the defense of any inmate financially unable to obtain counsel in
 14 accordance with the provisions of the county law, the district attorney,
 15 the costs of the sheriff and the appointment of additional court attend-
 16 ants, officers or other judicial personnel.

17 (b) It shall be the duty of the governing body of any county wherein
 18 such prosecution occurs to cause a sworn statement of all costs to be
 19 forwarded to the department. Upon certification by the department that
 20 such costs as authorized by this statute have been incurred, the depart-
 21 ment shall forward the proper vouchers to the state comptroller. It
 22 shall be the duty of the comptroller to examine such statement and to
 23 correct same by striking therefrom any and all items which are not
 24 authorized pursuant to the provisions of this section and after correct-
 25 ing such statement, the comptroller shall draw his warrant for the
 26 amount of any such costs in favor of the appropriate county treasurer,
 27 which sum shall be paid to said county treasurer out of any moneys
 28 appropriated therefor.

29 (c) The department shall, after consultation with the director of the
 30 budget, promulgate rules and regulations to carry out the provisions of
 31 this section.

32 § 6. This act shall take effect immediately, provided, that section
 33 five of this act shall take effect on the thirtieth day after it shall
 34 have become law.

35 SUBPART D

36 Section 1. Section 514 of the general municipal law, as amended by
 37 chapter 492 of the laws of 1963, is amended to read as follows:

38 § 514. Filing of proposed plans. The municipality or agency, as the
 39 case may be, shall file with the commissioner a copy of [~~each~~] any
 40 proposed urban renewal program assisted by state loans, periodic subsi-
 41 dies or capital grants, embodying the plans, layout, estimated cost and
 42 proposed [~~method~~] method of financing. Any change made in [~~the~~] an urban
 43 renewal program assisted by state loans, periodic subsidies or capital
 44 grants shall be filed with the commissioner. From time to time prior to
 45 completion, and with reasonable promptness after [~~each~~] any urban
 46 renewal program assisted by state loans, periodic subsidies or capital
 47 grants shall have been completed, upon request of the commissioner, the
 48 municipality or agency shall file with the commissioner a detailed
 49 statement of the cost thereof.

50 Upon receipt of a copy of a proposed urban renewal program, or any
 51 proposed change therein, the commissioner may transmit his criticism and
 52 suggestions to the municipality or agency, as the case may be. No change
 53 in an urban renewal program assisted by state loans, periodic subsidies

1 or capital grants may be made by a municipality or agency without the
2 approval of the commissioner.

3 § 2. Subdivision 1 of section 553 of the general municipal law, as
4 amended by chapter 681 of the laws of 1963, subparagraph 1 of paragraph
5 (a) as amended by chapter 213 of the laws of 1966, is amended to read as
6 follows:

7 1. (a) Upon the establishment of a municipal urban renewal agency by
8 special act of the legislature, the mayor of the city or village wherein
9 such agency is established, or the town board of the town, shall file
10 within six months after the effective date of the special act of the
11 legislature establishing such agency or before the first day of July,
12 nineteen hundred sixty-four, whichever date shall be later, [~~in the~~
13 ~~office of the commissioner, and a duplicate~~] in the office of the secre-
14 tary of state, a certificate signed by him setting forth: (1) the effec-
15 tive date of the special act establishing the agency; (2) the name of
16 the agency; (3) the names of the members and their terms of office,
17 specifying which member is the chairman; and (4) facts establishing the
18 need for the establishment of an agency in such city, town or village.

19 (b) Every such agency shall be perpetual in duration, except that if
20 [~~(1) such certificate is not filed with and approved by the commissioner~~
21 ~~within six months after the effective date of the special act of the~~
22 ~~legislature establishing such agency or before the first day of July,~~
23 ~~nineteen hundred sixty-four, whichever date shall be later, or if (2)],~~
24 at the expiration of ten years subsequent to the effective date of the
25 special act, there shall be outstanding no bonds or other obligations
26 theretofore issued by such agency or by the municipality for or on [~~in~~]
27 behalf of the agency, then the corporate existence of such agency shall
28 thereupon terminate and it shall [~~there upon~~] thereupon be deemed to be
29 and shall be dissolved.

30 § 3. Subdivision 2 of section 553 of the general municipal law, as
31 added by chapter 921 of the laws of 1962, is amended to read as follows:

32 2. An agency shall be a corporate governmental agency, constituting a
33 public benefit corporation. Except as otherwise provided by special act
34 of the Legislature, an agency shall consist of not less than three nor
35 more than five members who shall be appointed by the mayor of a city or
36 village or the town board of a town and who shall serve at the pleasure
37 of the appointing authority. A member shall continue to hold office
38 until his successor is appointed and has qualified. The mayor of a city
39 or village, or the town board of a town, shall designate the first
40 chairman [~~and file with the commissioner a certificate of appointment or~~
41 ~~re-appointment of any member~~]. Such members shall receive no compen-
42 sation for their services but shall be entitled to the necessary
43 expenses, including traveling expenses, incurred in the discharge of
44 their duties.

45 § 4. This act shall take effect immediately.

46

SUBPART E

47 Section 1. Section 410-x of the social services law is amended by
48 adding a new subdivision 8 to read as follows:

49 8. Notwithstanding any provision of law to the contrary, child care
50 assistance payments made pursuant to this section may be made by direct
51 deposit or debit card, as elected by the recipient, and administered
52 electronically, and in accordance with such guidelines, as may be set
53 forth by regulation of the office of children and family services. The
54 office of children and family services may enter into contracts on

1 behalf of local social services districts for such direct deposit or
2 debit card services in accordance with section twenty-one-a of this
3 chapter.

4 § 2. Subdivision 2 of section 378 of the social services law, as
5 amended by chapter 555 of the laws of 1978, is amended to read as
6 follows:

7 2. Such certificates and licenses shall be valid for not more than
8 [~~one year~~] two years after date of issue but may be renewed or extended
9 subject to regulations established by the [~~department~~] office of chil-
10 dren and family services.

11 § 3. This act shall take effect immediately.

12 SUBPART F

13 Section 1. Subdivision 1 of section 3241 of the education law, as
14 amended by chapter 971 of the laws of 1969, is amended to read as
15 follows:

16 1. The board of education of each city, except in cities having a
17 population of one hundred twenty-five thousand or more, shall constitute
18 a permanent census board in such city. Such board shall, under its regu-
19 lations, cause a census of the children in its city to be taken and to
20 be amended from day to day, as changes of residence shall occur among
21 persons in such cities within the ages prescribed in subdivision two of
22 this section and as other persons shall come within the ages prescribed
23 therein and as other persons within such ages shall become residents of
24 such cities, so that there shall always be on file with such board a
25 complete census giving the facts and information required in subdivision
26 two of this section; provided, however, that for pre-school students
27 from birth to five years of age, such census may be prepared and filed
28 biennially on or before the fifteenth day of October.

29 § 2. Section 3242 of the education law, as amended by chapter 425 of
30 the laws of 1993, is amended to read as follows:

31 § 3242. School census in school districts. The trustees or board of
32 education of every school district may cause a census to be taken of all
33 children between birth and eighteen years of age, including all such
34 facts and information as are required in the census provided for in
35 section thirty-two hundred forty-one of this chapter. Such census shall
36 be prepared annually for children between ages five and eighteen who are
37 entitled to attend the public schools without payment of tuition in
38 duplicate in their respective school districts, and one copy thereof
39 filed with the teacher or principal and the other copy filed with the
40 district superintendent or superintendent on or before the [~~fifteen~~]
41 fifteenth day of October. For pre-school students from birth to five
42 years of age, such census may be prepared and filed biennially on or
43 before the fifteenth day of October. Such census shall include the
44 reports and information required from cities as provided in section
45 thirty-two hundred forty-one. All information regarding a [~~handicapped~~
46 person] student with a disability under the age of twenty-one years
47 shall be filed annually with the superintendent of the board of cooper-
48 ative educational services of which said district may be a part.

49 § 3. Section 3635 of the education law is amended by adding a new
50 subdivision 8 to read as follows:

51 8. a. The trustees or board of education of a school district may, at
52 its discretion, provide student transportation based upon patterns of
53 actual ridership. The actual ridership shall be determined by a school
54 district based upon documented history and experience that yields a

1 consistent pattern of eligible pupils not using district transportation;
2 or modeling of future ridership; or the sharing of transportation
3 regionally; or other criteria approved by the commissioner; provided
4 however that any methodology shall require an additional ten percent in
5 seating capacity above the number of seats derived using such methodol-
6 ogy which shall be available in case of unanticipated riders.

7 Nothing in this subdivision shall be construed to reduce or relieve
8 school districts from the responsibility of providing transportation to
9 students otherwise eligible for such transportation. Nothing in this
10 subdivision shall be construed to authorize a school district to have
11 standing passengers in violation of section thirty-six hundred thirty-
12 five-c of this article, and unanticipated ridership shall not be deemed
13 an unforeseen occurrence for purposes of subdivision two of such section
14 after the first day in which such unanticipated ridership occurs.

15 Any school district that, at its discretion, has elected to provide
16 student transportation based upon patterns of actual ridership shall
17 place such plans on the school district's website, if one exists, on or
18 before August fifteenth of the school year in which the transportation
19 plan will be implemented and shall be required to have a back up plan as
20 part of their emergency management practices for pupil transportation in
21 the event that a bus is filled beyond capacity.

22 b. The commissioner shall evaluate the effectiveness of this subdivi-
23 sion including the methodologies used by school districts to determine
24 the patterns of actual ridership and whether such methodologies ensure
25 that all students otherwise eligible receive transportation and that
26 student safety is assured.

27 § 4. Clause (b) of subparagraph 3 of paragraph e of subdivision 6 of
28 section 3602 of the education law, as amended by section 1 of part F of
29 chapter 383 of the laws of 2001, is amended to read as follows:

30 (b) Such assumed amortization for a project approved by the commis-
31 sioner on or after the later of the first day of December, two thousand
32 one or thirty days after the date upon which this subdivision shall have
33 become a law and prior to the first day of July, two thousand eleven or
34 for any debt service related to projects approved by the commissioner
35 prior to such date where a bond, capital note or bond anticipation note
36 is first issued on or after [~~such date~~] the first day of December, two
37 thousand one to fund such projects, shall commence: (i) eighteen months
38 after such approval or (ii) on the date of receipt by the commissioner
39 of a certification by the district that a general construction contract
40 has been awarded for such project by the district, whichever is later,
41 and such assumed amortization for a project approved by the commissioner
42 on or after the first day of July, two thousand eleven shall commence:
43 (iii) eighteen months after such approval or (iv) on the date of receipt
44 by the commissioner of both the final certificate of substantial
45 completion of the project issued by the architect or engineer and the
46 final cost report for such project, whichever is later or (v) upon the
47 date of a finding by the commissioner that the certificate of substan-
48 tial completion of the project has been issued by the architect or engi-
49 neer, but the district is unable to complete the final cost report
50 because of circumstances beyond the control of the district. Such
51 assumed amortization shall provide for equal semiannual payments of
52 principal and interest based on an interest rate established pursuant to
53 subparagraph five of this paragraph for such purpose for the school year
54 during which such certification is received. The first installment of
55 obligations issued by the school district in support of such projects

1 may mature not later than the dates established pursuant to sections
2 21.00 and 22.10 of the local finance law.

3 § 5. Subdivision 35 of section 1604 of the education law, as added by
4 chapter 263 of the laws of 2005, is amended to read as follows:

5 35. a. In their discretion, to adopt a resolution establishing the
6 office of claims auditor and appoint a claims auditor who shall hold his
7 or her position subject to the pleasure of such trustees. In its
8 discretion, the trustees may adopt a resolution establishing the office
9 of deputy claims auditor who shall act as claims auditor in the absence
10 of the claims auditor. Such claims auditor shall report directly to the
11 trustees. No person shall be eligible for appointment to the office of
12 claims auditor or deputy claims auditor who shall also be:

13 (1) a trustee of the school district;

14 (2) the clerk or treasurer of the school district;

15 (3) the superintendent of schools or other official of the district
16 responsible for business management;

17 (4) the person designated as purchasing agent; or

18 (5) clerical or professional personnel directly involved in accounting
19 and purchasing functions of the school district.

20 b. Such claims auditor or deputy claims auditor shall not be required
21 to be a resident of the district, and the [~~position~~] positions of claims
22 auditor and deputy claims auditor shall be classified in the exempt
23 class of the civil service. The trustees, at any time after the estab-
24 lishment of the office of claims auditor or deputy claims auditor, may
25 adopt a resolution abolishing such office, whereupon such office shall
26 be abolished. When the office of claims auditor shall have been estab-
27 lished and a claims auditor shall have been appointed and shall have
28 qualified, the powers and duties of the trustees with respect to claims
29 auditing, and allowing or rejecting all accounts, charges, claims or
30 demands against the school district, shall devolve upon and thereafter
31 be exercised by such claims auditor during the continuance of such
32 office. The trustees shall be permitted to delegate the claims audit
33 function to one or more independent entities by using (1) inter-muni-
34 pal cooperative agreements, (2) shared services to the extent authorized
35 by section nineteen hundred fifty of this title, or (3) independent
36 contractors, to fulfill this function.

37 c. When the trustees delegate the claims audit function using an
38 inter-municipal cooperative agreement, shared service authorized by
39 section nineteen hundred fifty of this title, or an independent contrac-
40 tor, the trustees shall be responsible for auditing all claims for
41 services from the entity providing the delegated claims auditor, either
42 directly or through a delegation to a different independent entity.

43 § 6. Subdivision 20-a of section 1709 of the education law, as
44 amended by chapter 263 of the laws of 2005, is amended to read as
45 follows:

46 20-a. a. In its discretion to adopt a resolution establishing the
47 office of claims auditor and appoint a claims auditor who shall hold his
48 or her position subject to the pleasure of such board of education. In
49 its discretion, the board of education may adopt a resolution establish-
50 ing the office of deputy claims auditor who shall act as claims auditor
51 in the absence of the claims auditor. Such claims auditor shall report
52 directly to the board of education. No person shall be eligible for
53 appointment to the office of claims auditor or deputy claims auditor who
54 shall also be:

55 (1) a member of the board of education;

56 (2) the clerk or treasurer of the board of education;

1 (3) the superintendent of schools or other official of the district
2 responsible for business management;

3 (4) the person designated as purchasing agent; or

4 (5) clerical or professional personnel directly involved in accounting
5 and purchasing functions of the school district.

6 b. Such claims auditor or deputy claims auditor shall not be required
7 to be a resident of the district, and such position shall be classified
8 in the exempt class of the civil service. Such board of education, at
9 any time after the establishment of the office of claims auditor or
10 deputy claims auditor, may adopt a resolution abolishing such office,
11 whereupon such office shall be abolished. When the office of claims
12 auditor shall have been established and a claims auditor shall have been
13 appointed and shall have qualified, the powers and duties of the board
14 of education with respect to claims auditing, allowing or rejecting all
15 accounts, charges, claims or demands against the school district shall
16 devolve upon and thereafter be exercised by such claims auditor, during
17 the continuance of such office. A board shall be permitted to delegate
18 the claims audit function to one or more independent entities by using
19 (1) inter-municipal cooperative agreements, (2) shared services to the
20 extent authorized by section nineteen hundred fifty of this title, or
21 (3) independent contractors, to fulfill this function.

22 c. When the board of education delegates the claims audit function
23 using an inter-municipal cooperative agreement, shared service author-
24 ized by section nineteen hundred fifty of this title, or an independent
25 contractor, the board shall be responsible for auditing all claims for
26 services from the entity providing the delegated claims auditor, either
27 directly or through a delegation to a different independent entity.

28 § 7. Paragraph e of subdivision 2 of section 1711 of the education
29 law, as amended by chapter 263 of the laws of 2005, is amended to read
30 as follows:

31 e. To have supervision and direction of associate, assistant and other
32 superintendents, directors, supervisors, principals, teachers, lectur-
33 ers, medical inspectors, nurses, claims auditors, deputy claims audi-
34 tors, attendance officers, janitors and other persons employed in the
35 management of the schools or the other educational activities of the
36 district authorized by this chapter and under the direction and manage-
37 ment of the board of education; to transfer teachers from one school to
38 another, or from one grade of the course of study to another grade in
39 such course, and to report immediately such transfers to such board for
40 its consideration and actions; to report to such board violations of
41 regulations and cases of insubordination, and to suspend an associate,
42 assistant or other superintendent, director, supervisor, expert, princi-
43 pal, teacher or other employee until the next regular meeting of such
44 board, when all facts relating to the case shall be submitted to such
45 board for its consideration and action.

46 § 8. Subdivision 1 of section 1724 of the education law, as amended by
47 chapter 259 of the laws of 1975, is amended to read as follows:

48 1. No claim against a central school district or a union free school
49 district, except for compensation for services of an officer or employee
50 engaged at agreed wages by the hour, day, week, month or year or for the
51 principal of or interest on indebtedness of the district, shall be paid
52 unless an itemized voucher therefor approved by the officer whose action
53 gave rise or origin to the claim, shall have been presented to the board
54 of education of the district and shall have been audited and allowed;
55 provided, however that in the case of a school district with a public
56 school enrollment of ten thousand students or more, the board of educa-

1 tion may, at its discretion, use a risk-based or sampling methodology to
2 determine which claims are to be audited in lieu of auditing all claims
3 so long as it is determined by resolution of the board of education that
4 the methodology for choosing the sample provides reasonable assurance
5 that all the claims represented in the sample are proper charges against
6 the school district. The board of education shall be authorized, but
7 not required, to prescribe the form of such voucher.

8 § 9. Subdivision 5 of section 2503 of the education law, as amended by
9 chapter 263 of the laws of 2005, is amended to read as follows:

10 5. Shall create, abolish, maintain and consolidate such positions,
11 divisions, boards or bureaus as, in its judgment, may be necessary for
12 the proper and efficient administration of its work; shall appoint prop-
13 erly qualified persons to fill such positions, including a superinten-
14 dent of schools, such associate, assistant and other superintendents,
15 directors, supervisors, principals, teachers, lecturers, special
16 instructors, medical inspectors, nurses, claims auditors, deputy claims
17 auditors, attendance officers, secretaries, clerks, custodians, janitors
18 and other employees and other persons or experts in educational, social
19 or recreational work or in the business management or direction of its
20 affairs as said board shall determine necessary for the efficient
21 management of the schools and other educational, social, recreational
22 and business activities; and shall determine their duties except as
23 otherwise provided herein.

24 § 10. Subdivision 5 of section 2508 of the education law, as amended
25 by chapter 263 of the laws of 2005, is amended to read as follows:

26 5. To have supervision and direction of associate, assistant and other
27 superintendents, directors, supervisors, principals, teachers, lectur-
28 ers, medical inspectors, nurses, claims auditors, deputy claims audi-
29 tors, attendance officers, janitors and other persons employed in the
30 management of the schools or the other educational activities of the
31 district authorized by this chapter and under the direction and manage-
32 ment of the board of education; to transfer teachers from one school to
33 another, or from one grade of the course of study to another grade in
34 such course, and to report immediately such transfers to such board for
35 its consideration and action; to report to such board violations of
36 regulations and cases of insubordination, and to suspend an associate,
37 assistant or other superintendent, director, supervisor, expert, princi-
38 pal, teacher or other employee until the next regular meeting of such
39 board, when all facts relating to the case shall be submitted to such
40 board for its consideration and action.

41 § 11. Subdivision 2 of section 2523 of the education law, as amended
42 by chapter 263 of the laws of 2005, is amended to read as follows:

43 2. Such moneys shall be disbursed only on the signature of such treas-
44 urer by checks payable to the person or persons entitled thereto. The
45 board of education may in its discretion require that such checks-other
46 than checks for salary, be countersigned by another officer of such
47 district. When authorized by resolution of the board of education such
48 checks may be signed with the facsimile signature of the treasurer and
49 other district officer whose signature is required, as reproduced by a
50 machine or device commonly known as a check-signer. Each check drawn by
51 the treasurer shall state the fund against which it is drawn. No fund
52 shall be overdrawn nor shall any check be drawn upon one fund to pay a
53 claim chargeable to another. No money shall be paid out by the treasurer
54 except upon the warrant of the clerk of the board of education after
55 audit and allowance by such board, or if a claims auditor or deputy
56 claims auditor shall have been appointed, except upon the warrant of

1 such claims auditor or deputy claims auditor after audit and allowance
2 thereof; provided, however, when provision for payment has been made in
3 the annual budget the treasurer may pay, without such warrant or prior
4 audit and allowance, (a) the principal of and interest on bonds, notes
5 or other evidences of indebtedness of the district or for the payment of
6 which the district shall be liable, and (b) compensation for services of
7 officers or employees engaged at agreed wages by the hour, day, week,
8 month or year upon presentation of a duly certified payroll; and
9 provided further that in the case of a city school district with a
10 public school enrollment of ten thousand students or more, the board of
11 education may, at its discretion, use a risk-based or sampling methodol-
12 ogy to determine which claims are to be audited in lieu of auditing all
13 claims so long as it is determined by resolution of the board of educa-
14 tion that the methodology for choosing the sample provides reasonable
15 assurance that all the claims represented in the sample are proper
16 charges against the school district. By resolution duly adopted, the
17 board may determine to enter into a contract to provide for the deposit
18 of the periodic payroll of the school district in a bank or trust compa-
19 ny for disbursement by it in accordance with provisions of section ninety-
20 six-b of the banking law.

21 § 12. Subdivision 1 of section 2524 of the education law, as amended
22 by chapter 263 of the laws of 2005, is amended to read as follows:

23 1. No claim against a city school district, except for compensation
24 for services of an officer or employee engaged at agreed wages by the
25 hour, day, week, month or year or for the principal of or interest on
26 indebtedness of the district, shall be paid unless an itemized voucher
27 therefor approved by the officer whose action gave rise or origin to the
28 claim, shall have been presented to the board of education, or the
29 claims auditor or deputy claims auditor of the city school district and
30 shall have been audited and allowed, provided that in the case of a city
31 school district with a public school enrollment of ten thousand students
32 or more, the board of education may, at its discretion, use a risk-based
33 or sampling methodology to determine which claims are to be audited in
34 lieu of auditing all claims so long as it is determined by resolution of
35 the board of education that the methodology for choosing the sample
36 provides reasonable assurance that all the claims represented in the
37 sample are proper charges against the school district. The board of
38 education shall be authorized, but not required, to prescribe the form
39 of such voucher.

40 § 13. Section 2525 of the education law, as amended by chapter 263 of
41 the laws of 2005, is amended to read as follows:

42 § 2525. Audit of claims. 1. The board of education, in considering any
43 claim or where applicable a sampling of claims, may require any person
44 presenting the same to be sworn before it or before any member thereof
45 and to give testimony relative to the justness and accuracy of such
46 claim, and may take evidence and examine witnesses under oath in respect
47 to the claim, and for that purpose may issue subpoenas for the attend-
48 ance of witnesses. When a claim or where applicable a sampling of claims
49 has been finally audited by the board of education the clerk of such
50 board shall endorse thereon or attach thereto a certificate of such
51 audit and file the same as a public record in his or her office. When
52 any claim has been so audited and a certificate thereof so filed, the
53 clerk of the board of education shall draw a warrant specifying the name
54 of the claimant, the amount allowed and the fund, function and object
55 chargeable therewith and such other information as may be deemed neces-
56 sary and essential, directed to the treasurer of the district, authoriz-

1 ing and directing him or her to pay to the claimant the amount allowed
2 upon his or her claim. A copy of such warrant shall be filed in the
3 office of the clerk.

4 2. In a city school district in which the office of claims auditor or
5 deputy claims auditor has been created, the claims auditor or deputy
6 claims auditor in considering a claim or where applicable a sampling of
7 claims, may require any person presenting the same to be sworn before
8 him or her and to give testimony relative to the justness and accuracy
9 of such claim, and may take evidence and examine witnesses under oath in
10 respect to the claim, and for that purpose may issue subpoenas for the
11 attendance of witnesses. When a claim, or where applicable a sampling of
12 claims, has been finally audited by the claims auditor or deputy claims
13 auditor he or she shall endorse thereon or attach thereto a certificate
14 of such audit and file the same as a public record in his or her office.
15 When any claim has been so audited and a certificate thereof so filed,
16 the claims auditor or deputy claims auditor shall draw a warrant speci-
17 fying the number of the claim, the name of the claimant, the amount
18 allowed and the fund, function and object chargeable therewith and such
19 other information as may be deemed necessary or essential, directed to
20 the treasurer of the district, authorizing and directing him or her to
21 pay to the claimant the amount allowed upon his or her claim. In the
22 case of a city school district with a public school enrollment of ten
23 thousand students or more, the board of education may, at its
24 discretion, use a risk-based or sampling methodology to determine which
25 claims are to be audited in lieu of auditing all claims so long as it is
26 determined by resolution of the board of education that the methodology
27 for choosing the sample provides reasonable assurance that all the
28 claims represented in the sample are proper charges against the school
29 district. A copy of such warrant shall be filed in the office of the
30 clerk.

31 § 14. Section 2526 of the education law, as amended by chapter 263 of
32 the laws of 2005, is amended to read as follows:

33 § 2526. Claims auditor. 1. The board of education of a city school
34 district may adopt a resolution establishing the office of claims audi-
35 tor and appoint a claims auditor who shall hold his or her position
36 subject to the pleasure of such board of education. In its discretion,
37 the board may adopt a resolution establishing the office of deputy
38 claims auditor who shall act as claims auditor in the absence of the
39 claims auditor. Such claims auditor shall report directly to the board
40 of education. No person shall be eligible for appointment to the office
41 of claims auditor or deputy claims auditor who shall be:

- 42 (1) a member of the board of education;
- 43 (2) the clerk or treasurer of the board of education;
- 44 (3) the superintendent of schools or other official of the district
45 responsible for business management;
- 46 (4) the person designated as purchasing agent; or
- 47 (5) clerical or professional personnel directly involved in accounting
48 and purchasing functions of the school district.

49 1-a. The ~~[position]~~ positions of claims auditor and deputy claims
50 auditor shall be classified in the exempt class of civil service. Such
51 board of education, at any time after the establishment of the office of
52 claims auditor or deputy claims auditor, may adopt a resolution abolish-
53 ing such office, whereupon such office shall be abolished.

54 2. When the office of claims auditor shall have been established and a
55 claims auditor shall have been appointed and shall have qualified, the
56 powers and duties of the board of education with respect to claims

1 auditing, allowing or rejecting all accounts, charges, claims or demands
2 against the city school district shall devolve upon and thereafter be
3 exercised by such claims auditor, during the continuance of such office.
4 The board of education shall be permitted to delegate the claims audit
5 function to one or more independent entities by using (1) inter-muni-
6 pal cooperative agreements, (2) shared services to the extent authorized
7 by section nineteen hundred fifty of this title, or (3) independent
8 contractors, to fulfill this function.

9 3. When the board of education delegates the claims audit function
10 using an inter-municipal cooperative agreement, shared service author-
11 ized by section nineteen hundred fifty of this title, or an independent
12 contractor, the board shall be responsible for auditing all claims for
13 services from the entity providing the delegated claims auditor, either
14 directly or through a delegation to a different independent entity.

15 § 15. Section 2527 of the education law, as amended by chapter 263 of
16 the laws of 2005, is amended to read as follows:

17 § 2527. Official undertakings. The clerk of the board of education or,
18 where the office of claims auditor or deputy claims auditor has been
19 created, the claims auditor or deputy claims auditor, and the treasurer,
20 collector and such other officers and employees as the board of educa-
21 tion shall designate, shall, before they enter upon the duties of their
22 respective offices or positions, each execute to the school district and
23 file with the school district clerk an official undertaking in such sum
24 and with such corporate surety as the board of education shall direct
25 and approve. The board of education may, at any time, require any such
26 officer or employee to file a new official undertaking for such sum and
27 with such corporate surety as the board shall approve. Such undertakings
28 as shall have been approved by the board of education shall forthwith be
29 filed with the school district clerk. The expense of any undertaking
30 executed pursuant to this section shall be a school district charge.

31 § 16. Subdivision 2-a of section 2554 of the education law, as amended
32 by chapter 263 of the laws of 2005, is amended to read as follows:

33 2-a. a. In its discretion to adopt a resolution establishing the
34 office of claims auditor and appoint a claims auditor who shall hold his
35 or her position subject to the pleasure of the board. In its discretion,
36 the board may adopt a resolution establishing one or more offices of
37 deputy claims auditor who shall act as claims auditor in the absence of
38 the claims auditor. Such claims auditor shall report directly to the
39 board of education. No person shall be eligible for appointment to the
40 office of claims auditor or deputy claims auditor who shall be

41 (1) a member of the board of education;
42 (2) a clerk or treasurer of the board of education;
43 (3) the superintendent of schools or other official of the district
44 responsible for business management;
45 (4) the person designated as purchasing agent; or
46 (5) clerical or professional personnel directly involved in accounting
47 and purchasing functions of the school district.

48 b. The [~~position~~] positions of claims auditor or deputy claims auditor
49 shall be classified in the exempt class of civil service. The board of
50 education, at any time after the establishment of the office of claims
51 auditor or deputy claims auditor, may adopt a resolution abolishing the
52 office. When the office of claims auditor shall have been established
53 and a claims auditor shall have been appointed and shall have qualified,
54 the powers and duties of the board of education with respect to auditing
55 accounts, charges, claims or demands against the city school district
56 shall devolve upon and thereafter be exercised by such claims auditor,

1 during the continuance of the office. The board of education shall be
 2 permitted to delegate the claims audit function to one or more independ-
 3 ent entities by using (1) inter-municipal cooperative agreements, or (2)
 4 independent contractors, to fulfill this function.

5 c. When the board of education delegates the claims audit function
 6 using an inter-municipal cooperative agreement, shared service author-
 7 ized by section nineteen hundred fifty of this title, or an independent
 8 contractor, the board shall be responsible for auditing all claims for
 9 services from the entity providing the delegated claims auditor, either
 10 directly or through a delegation to a different independent entity.

11 § 17. Subdivision 2 of section 2562 of the education law, as amended
 12 by chapter 263 of the laws of 2005, is amended to read as follows:

13 2. The said board of education may require any person presenting for
 14 settlement an account or claim for any cause whatever against it to be
 15 sworn before it or a committee thereof, or before the claims auditor or
 16 deputy claims auditor, or before any person designated by said board,
 17 touching such account or claim, and when so sworn, to answer orally as
 18 to any facts relative to the justness of such account or claim. A member
 19 of the board, the claims auditor, or any other person designated as
 20 hereinbefore stated, shall have the power to administer an oath to any
 21 person who shall give testimony to the justness of such account or
 22 claim, and for the purpose of securing such testimony may issue subpoe-
 23 nas for the attendance of witnesses. Wilful false swearing before the
 24 said board of education, a committee thereof, the claims auditor or
 25 deputy claims auditor, or before any person designated as hereinbefore
 26 stated, is perjury and punishable as such.

27 § 18. Subdivision 6 of section 2566 of the education law, as amended
 28 by chapter 263 of the laws of 2005, is amended to read as follows:

29 6. To have supervision and direction of associate, assistant, district
 30 and other superintendents, directors, supervisors, principals, teachers,
 31 lecturers, medical inspectors, nurses, claims auditors, deputy claims
 32 auditors, attendance officers, janitors and other persons employed in
 33 the management of the schools or the other educational activities of the
 34 city authorized by this chapter and under the direction and management
 35 of the board of education, except that in the city school districts of
 36 the cities of Buffalo and Rochester to also appoint, within the amounts
 37 budgeted therefor, such associate, assistant and district superinten-
 38 dents and all other supervising staff who are excluded from the right to
 39 bargain collectively pursuant to article fourteen of the civil service
 40 law; to transfer teachers from one school to another, or from one grade
 41 of the course of study to another grade in such course, and to report
 42 immediately such transfers to said board for its consideration and
 43 action; to report to said board of education violations of regulations
 44 and cases of insubordination, and to suspend an associate, assistant,
 45 district or other superintendent, director, supervisor, expert, princi-
 46 pal, teacher or other employee until the next regular meeting of the
 47 board, when all facts relating to the case shall be submitted to the
 48 board for its consideration and action.

49 § 19. Paragraph a of subdivision 1 of section 2576 of the education
 50 law, as amended by chapter 263 of the laws of 2005, is amended to read
 51 as follows:

52 a. The salary of the superintendent of schools, associate, district or
 53 assistant or other superintendents, examiners, directors, supervisors,
 54 principals, teachers, lecturers, special instructors, claims auditors,
 55 deputy claims auditors, medical inspectors, nurses, attendance officers,
 56 clerks, custodians and janitors and the salary, fees or compensation of

1 all other employees appointed or employed by said board of education. In
2 addition, the expenses of personnel utilized to fulfill the internal
3 audit function pursuant to section twenty-one hundred sixteen-b of this
4 [~~chapter~~] title.

5 § 20. Subdivisions 2 and 4 of section 2580 of the education law,
6 subdivision 2 as amended by chapter 263 of the laws of 2005 and subdivi-
7 sion 4 as amended by chapter 452 of the laws of 1964, are amended to
8 read as follows:

9 2. Such funds shall be disbursed by authority of the board of educa-
10 tion upon written orders drawn on the city treasurer or other fiscal
11 officer of the city. Such orders shall be signed by the superintendent
12 of schools and the secretary of the board of education or such other
13 officers as the board may authorize. If a claims auditor or deputy
14 claims auditor shall have been appointed, orders shall be signed by
15 [~~the~~] such claims auditor; provided, however, that the board may
16 require, in addition, the signature of such other officer or officers as
17 it may by resolution direct. Orders shall be numbered consecutively and
18 shall specify the purpose for which they are drawn and the person or
19 corporation to whom they are payable.

20 4. It shall be unlawful for a city treasurer or other officer having
21 the custody of such city funds to permit their use for any purpose other
22 than that for which they are lawfully authorized; they shall be paid out
23 only on audit of the board of education or as otherwise provided herein;
24 provided, however, that the board of education may, at its discretion,
25 use a risk-based or sampling methodology to determine which claims are
26 to be audited in lieu of auditing all claims so long as it is determined
27 by resolution of the board of education that the methodology for choos-
28 ing the sample provides reasonable assurance that all the claims repres-
29 ented in the sample are proper charges against the school district.

30 Payments from such funds shall be made only by checks signed by the
31 treasurer or other custodian of such moneys and payable to the person or
32 persons entitled thereto and countersigned either by the comptroller, or
33 in a city having no comptroller, by an officer designated by the officer
34 or body having the general control of the financial affairs of such
35 city. The board of education of such city shall make, in addition to
36 such classification of its funds and accounts as it desires for its own
37 use and information, such further classification of the funds under its
38 management and control and of the disbursements thereof as the comp-
39 troller of the city, or the officer or body having the general control
40 of the financial affairs of such city, shall require, and such board
41 shall furnish such data in relation to such funds and their disburse-
42 ments as the comptroller or such other financial officer or body of the
43 city shall require.

44 § 21. The education law is amended by adding a new section 1527-c to
45 read as follows:

46 § 1527-c. Shared superintendent program. Notwithstanding any other
47 provision of law, rule or regulation to the contrary, the governing
48 board of a school district with an enrollment of less than one thousand
49 students in the previous year shall be authorized to enter into a school
50 superintendent sharing contract with no more than two additional school
51 districts each of which had fewer than one thousand in enrolled pupils
52 in the previous year. Each shared superintendent arrangement shall be
53 governed by the boards of education of the school districts participat-
54 ing in the shared contract. Provided however, that this section shall
55 not be construed to alter, affect or impair any employment contract
56 which is in effect on or before July first, two thousand thirteen. Any

1 school district which has entered into a school superintendent sharing
2 program will continue to be eligible to complete such contract notwith-
3 standing that the enrollment of the school district exceeded one thou-
4 sand students after entering into a shared superintendent contract.

5 § 22. Section 1604 of the education law is amended by adding a new
6 subdivision 21-b to read as follows:

7 21-b. a. The trustees are authorized to provide regional transporta-
8 tion services by rendering such services jointly with other school
9 districts or boards of cooperative educational services. Such services
10 may include pupil transportation between home and school, transportation
11 during the day to and from school and a special education program or
12 service or a program at a board of cooperative educational services or
13 an approved shared program at another school district, transportation
14 for field trips or to and from extracurricular activities, and cooper-
15 ative school bus maintenance.

16 b. The trustees are authorized to enter into a contract with another
17 school district, a county, municipality, or the state office of children
18 and family services to provide transportation for children, including
19 contracts to provide such transportation as regional transportation
20 services, provided that the contract cost is appropriate. In determining
21 the appropriate transportation contract cost, the transportation service
22 provider school district shall use a calculation consistent with regu-
23 lations adopted by the commissioner for the purpose of assuring that
24 charges reflect the true costs that would be incurred by a prudent
25 person in the conduct of a competitive transportation business.

26 § 23. Paragraphs g and h of subdivision 25 of section 1709 of the
27 education law, paragraph g as added by chapter 367 of the laws of 1979
28 and paragraph h as added by chapter 700 of the laws of 1993, are amended
29 to read as follows:

30 g. The board of education is authorized to provide regional transpor-
31 tation services by rendering such services jointly with other school
32 districts or boards of cooperative educational services. Such services
33 may include pupil transportation between home and school, transportation
34 during the day to and from school and a special education program or
35 service or a program at a board of cooperative educational services or
36 an approved shared program at another school district, transportation
37 for field trips or to and from extracurricular activities, and cooper-
38 ative school bus maintenance.

39 h. The board of education is authorized to enter into a contract with
40 another school district, a county, municipality, or the state [~~division~~
41 ~~for youth~~] office of children and family services to provide transporta-
42 tion for children, including contracts to provide such transportation as
43 regional transportation services, provided that the contract cost is
44 appropriate. In determining the appropriate transportation contract
45 cost, the transportation service provider school district shall use a
46 calculation consistent with regulations adopted by the commissioner for
47 the purpose of assuring that charges reflect the true costs that would
48 be incurred by a prudent person in the conduct of a competitive trans-
49 portation business.

50 § 24. Paragraph b of subdivision 2 of section 33 of the general
51 municipal law, as added by chapter 267 of the laws of 2005, is amended
52 to read as follows:

53 b. In undertaking such audits the comptroller's review shall include,
54 but not be limited to:

55 (1) examining, auditing and evaluating financial documents and records
56 of school districts, BOCES and charter schools,

1 (2) assessing the current financial practices of school districts,
2 BOCES and charter schools to ensure that they are consistent with estab-
3 lished standards, including whether any school district that uses a
4 risk-based or sampling methodology to determine which claims are to be
5 audited in lieu of auditing all claims has adopted a methodology that
6 provides reasonable assurance that all the claims represented in the
7 sample are proper charges against the school district; and

8 (3) determining that school districts, BOCES, and charter schools
9 provide for adequate protections against any fraud, theft, or profes-
10 sional misconduct.

11 § 25. The comptroller shall review the effectiveness of allowing
12 school districts to use a risk-based or sampling methodology to deter-
13 mine which claims are to be audited in lieu of auditing all claims
14 including whether this practice maintains adequate school district
15 fiscal accountability and any recommendations for improvements or
16 modifications that should be made and whether school districts should be
17 authorized to continue such practice. Such report shall be issued to the
18 governor and the legislature by January 15, 2014.

19 § 26. This act shall take effect immediately provided, however, that
20 the provisions of section three of this act shall expire June 30, 2014
21 when upon such date the provisions of such section shall be deemed
22 repealed; provided, further that the provisions of sections eight, elev-
23 en, twelve, thirteen and twenty of this act shall expire July 1, 2014
24 when upon such date the provisions of such sections shall be deemed
25 repealed.

26 SUBPART G

27 Section 1. Paragraph 1 of subdivision (c) of section 81.44 of the
28 mental hygiene law, as added by chapter 175 of the laws of 2008, is
29 amended to read as follows:

30 1. serve a copy of the statement of death upon the court examiner, the
31 duly appointed personal representative of the decedent's estate, or, if
32 no ~~person~~ personal representative has been appointed, then upon the
33 personal representative named in the decedent's will or any trust
34 instrument, if known, upon the local department of social services and
35 upon the public administrator of the chief fiscal officer of the county
36 in which the guardian was appointed, and

37 § 2. Subdivision 4 of section 458-b of the social services law is
38 amended by adding a new paragraph (d) to read as follows:

39 (d) Payments pursuant to this section may be made by direct deposit or
40 debit card, as elected by the recipient, and administered electron-
41 ically, and in accordance with section twenty-one-a of this chapter and
42 with such guidelines as may be set forth by regulation of the office of
43 children and family services. The office of children and family services
44 may enter into contracts on behalf of local social services districts
45 for such direct deposit or debit card services in accordance with
46 section twenty-one-a of this chapter.

47 § 3. This act shall take effect immediately; provided, however that
48 section one of this act shall take effect on the ninetieth day after it
49 shall have become law; provided, further, that section two of this act
50 shall take effect on the same date and in the same manner as section 4
51 of part F of chapter 58 of the laws of 2010, takes effect.

52 SUBPART H

1 Section 1. Section 204-a of the state administrative procedure act,
2 as added by chapter 479 of the laws of 2001, is amended to read as
3 follows:

4 § 204-a. Alternate methods for implementing regulatory mandates. 1. As
5 used in this section:

6 (a) "local government" means any county, city, town, village, school
7 district, fire district or other special district;

8 (b) "regulatory mandate" means any rule which requires one or more
9 local governments to create a new program, increase the level of service
10 for an existing program or otherwise comply with mandatory requirements;
11 and

12 (c) "petition" means a document submitted by a local government seek-
13 ing approval of an alternate method for implementing a regulatory
14 mandate.

15 2. A local government, or two or more local governments acting joint-
16 ly, may seek approval for an alternate method of implementing a regula-
17 tory mandate by submitting to the appropriate state agency a petition
18 which shall include but not be limited to:

19 (a) for each involved local government, an indication that submission
20 has been approved by the governing body of the local government or by an
21 officer duly authorized by the governing body to do so;

22 (b) an identification of the regulatory mandate which is the subject
23 of the petition and information sufficient to establish that the
24 proposed alternate method of implementation is consistent with and will
25 effectively carry out the objectives of the regulatory mandate;

26 (c) ~~information [on the process used by the local government to ensure~~
27 ~~that all stakeholders have been appropriately involved in the process of~~
28 ~~developing the alternate method, including where relevant the date of~~
29 ~~any hearing, forum or other meeting to seek input on the alternate meth-~~
30 ~~ed] sufficient to establish that the proposed alternate method of imple-~~
31 ~~mentation is consistent with and will effectively carry out the objec-~~
32 ~~tives of the regulatory mandate;~~

33 (d) documentation that the petition has been submitted to the author-
34 ized agents of any certified or recognized employee organizations
35 representing employees who would be effected by implementation of the
36 alternate method;

37 (e) ~~[a proposed plan and timetable for compiling and reporting infor-~~
38 ~~mation to facilitate evaluation of the effectiveness of the alternate~~
39 ~~method;]~~

40 (f) if] whether the state [provides] has provided financial assistance
41 for complying with the regulatory mandate[, ~~any proposed amount or~~
42 ~~percentage of such assistance which would be returned to the state due~~
43 ~~to savings from implementing the alternate method]; and~~

44 [~~(g)~~] (f) the name, public office address and telephone number of the
45 representative of the local government who will coordinate requests for
46 additional information on the petition; and

47 [~~3.—Two~~] (g) where two or more local governments [~~may submit a peti-~~
48 ~~tion] have petitioned jointly, [~~provided that each local government~~
49 ~~meets the requirements of paragraphs (a), (c), (d) and (g) of subdivi-~~
50 ~~sion two of this section, and provided that the petition]~~ information
51 which addresses the manner in which responsibility for implementation
52 will be allocated between or among the participating local governments.~~

53 [4] 3. The agency shall cause a notice of the petition to be
54 published in the state register and a newspaper of general circulation
55 in the impacted community and shall receive comments on the petition for
56 a period of thirty days. Such notice shall either include the full text

1 of the information set forth in the petition or shall set forth the
2 address of a website on which the full text has been posted. The notice
3 shall include the name, public office address and telephone number, and
4 may include a fax number and electronic mail address, of an agency
5 representative from whom additional information on the petition can be
6 obtained and to whom comments on the petition may be submitted.

7 ~~[5.—(a)]~~ 4. Not later than thirty days after the last day of the
8 comment period, the agency shall approve or disapprove the petition. The
9 agency may approve the petition without change or with such conditions
10 or modifications as the agency deems appropriate. Notice of the agency
11 determination shall be provided in writing to the local government and
12 shall be published in the state register. The agency shall not grant a
13 petition unless it determines that the petition has met the requirements
14 of subdivision two of this section and that the local government has
15 established that the alternate method is consistent with and will effec-
16 tively carry out the objectives of the regulatory mandate; provided,
17 however, that no petition shall be approved which would result in the
18 contravention of any environmental, health or safety standard or would
19 reduce any benefits or rights accorded by law or rule to third parties.
20 In approving a petition, an agency may waive a statutory provision only
21 if it is specifically authorized by law to waive such provision. An
22 approval shall include a timetable for agency evaluation of the effec-
23 tiveness of the alternate method.

24 (b) Notwithstanding the provisions of paragraph (a) of this subdivi-
25 sion, upon receipt of an objection to a petition from the authorized
26 agent of any certified or recognized employee organization representing
27 employees who would be affected by implementation of the alternate meth-
28 od, the agency shall provide any such organizations with an opportunity
29 for a hearing. If an adjudicatory proceeding is requested, the petition
30 shall not be approved unless the agency determines by a preponderance of
31 the evidence that implementing the alternate method would not affect
32 such employees by contravening any environmental, health or safety stan-
33 dard, reducing any rights or benefits or violating the terms of any
34 negotiated agreement, and that all other requirements of this section
35 have been met. The provisions of this subdivision are in addition to and
36 shall not be construed to impair or modify any rights of such employees
37 under any other law, regulation or contract.

38 5. A local government that objects to a state agency determination to
39 modify or disapprove its petition may appeal in writing to the mandate
40 relief council, who, upon review of the agency's findings and determi-
41 nation, may approve, modify or disapprove the petition.

42 6. Nothing in this section shall require a local government to
43 commence or continue an alternate method of implementation if it deter-
44 mines in its sole discretion not to do so, except to the extent that a
45 local government has committed to commencing or continuing an alternate
46 method in a joint petition submitted pursuant to subdivision ~~[three]~~ two
47 of this section.

48 7. A state agency may rescind its approval of a petition [at any time
49 if it determines, based on the information reported pursuant to para-
50 graph (e) of subdivision two of this section or other information avail-
51 able to it, that the alternate method is not effectively carrying out
52 the objectives of the regulatory mandate or is being implemented in a
53 manner detrimental to the public interest] only after a hearing,
54 provided, however, that the agency may suspend its approval of a peti-
55 tion prior to a hearing if it finds that immediate suspension is neces-
56 sary to address an imminent threat to health or safety. Notice of a

1 hearing must be provided to the petitioner at least thirty days prior to
 2 the hearing and must be posted on the agency's website. Such notice must
 3 state the basis for the agency's decision to seek rescission and inform
 4 the local government that it may request information relied upon by the
 5 agency in making its determination, which information must be provided
 6 to the local government at least seven days in advance of the hearing.
 7 After such hearing, the agency may rescind its approval upon a finding
 8 that the alternative method of implementation is not consistent with or
 9 does not effectively carry out the objectives of the regulatory mandate.

10 ~~[7.]~~ 8. Notwithstanding any other provision of law, implementation of
 11 an alternate method approved by an agency pursuant to this section shall
 12 be deemed to lawfully meet all requirements of the regulatory mandate.
 13 An agency shall retain the authority to enforce compliance with the
 14 alternate method in the same manner as it may enforce compliance with
 15 the underlying rule. Any action on a petition by a state agency shall be
 16 subject to review pursuant to article seventy-eight of the civil prac-
 17 tice law and rules.

18 ~~[8.]~~ 9. In accordance with the timetable established pursuant to
 19 subdivision ~~[four]~~ three of this section, the agency shall evaluate the
 20 effectiveness of the alternate method in carrying out the objectives of
 21 the regulatory mandate. The evaluation shall identify any savings or
 22 other benefits, and any costs or other disadvantages, of implementing
 23 the alternate method, and shall address the desirability of incorporat-
 24 ing the alternate method into the rules of the agency. Notice of avail-
 25 ability of the evaluation shall be published in the state register.

26 § 2. The executive law is amended by adding a new section 666 to read
 27 as follows:

28 § 666. Mandate relief council. 1. Definitions. a. "Mandate" means any
 29 requirement that a local government perform or administer any program,
 30 project or activity, required or imposed by a state law or state agency
 31 that requires a higher level of service for an existing local government
 32 program, project or activity.

33 b. "Local government" means a county, city, town, village, school
 34 district, or special district.

35 c. "State agency" or "agency" means any state agency, department,
 36 office, board, bureau, division, committee, council or office under the
 37 direction or control of the executive.

38 2. Mandate relief council. There is hereby created within the execu-
 39 tive department the mandate relief council, which shall be comprised of
 40 eleven members as follows: the secretary to the governor, who shall
 41 chair the council, the counsel to the governor, the director of the
 42 division of the budget, the secretary of state, and three additional
 43 members to be appointed by the governor from among his or her executive
 44 chamber staff, two members to be appointed by the temporary president of
 45 the senate, and two members to be appointed by the speaker of the assem-
 46 bly.

47 a. Six members of the council, or their designees in the case of the
 48 director of the division of the budget and the secretary of state, shall
 49 constitute a quorum.

50 b. The council shall meet regularly upon the call of its chair and as
 51 frequently as its business may require. The members of the council shall
 52 serve without compensation but shall receive reimbursement for their
 53 reasonable and necessary expenses.

54 c. The council shall, upon request of a local government or one of the
 55 members of the council, identify and review mandates that can be elimi-
 56 nated or reformed, and make such other and further inquiries, reports

1 and recommendations as the council may deem necessary and prudent to
2 effectuate its mission of mandate relief. In identifying and determining
3 whether such mandates are unsound, unduly burdensome or costly, the
4 council shall receive and consider public comment about them and shall
5 review them in light of cost-benefit principles and such other and
6 further factors as the council shall deem necessary and prudent. The
7 council shall not make a referral to the governor that a mandate be
8 eliminated or reformed regarding any of the following mandates:

9 (i) those which are required to comply with federal laws or rules or
10 to meet eligibility standards for federal entitlements;

11 (ii) those which reapportion the costs of activities between boards of
12 education, counties, and municipalities;

13 (iii) those which implement provisions of the state constitution; and

14 (iv) those which the council determines are necessary for the mainte-
15 nance of the public health or safety of the people of New York state.

16 d. All votes of the council, and all deliberations and reports of its
17 proceedings shall be open to the public pursuant to article seven of the
18 public officers law.

19 3. Council actions on regulatory mandates. Upon a determination that a
20 mandate in any regulation, rule or order of any state agency has been
21 imposed upon any local government in an unsound, unduly burdensome or
22 costly manner so as to necessitate that it be eliminated or reformed,
23 the council shall have the power to:

24 a. refer a request by a local government for a review of such regula-
25 tory mandate, for petition by such local government for a waiver,
26 modification or repeal of such regulatory mandate pursuant to section
27 two hundred four-a of the state administrative procedure act. In the
28 event the council votes to make such referral on behalf of a local
29 government, the state agency that is charged with reviewing the petition
30 shall provide the technical assistance and support for such local
31 government to properly prepare and submit such petition. In the event
32 that such state agency reviewing the petition of the local government
33 pursuant to section two hundred four-a of the state administrative
34 procedure act does not provide the remedy sought by such local govern-
35 ment, the council may hear and consider an appeal of such decision and
36 grant such relief as it deems appropriate, including the making of a
37 referral to the governor for the waiving, modifying or repealing of such
38 regulatory mandate. The council shall adopt procedures by which it
39 shall consider, decide and effectuate the remedies of such appeals
40 consistent with this section.

41 b. upon a two-thirds vote, refer a regulation to the governor for
42 repeal or modification, where the council has previously determined that
43 such regulation imposes upon any local government a mandate in an
44 unsound, unduly burdensome or costly manner, so as to necessitate that
45 it be eliminated or reformed. Upon receipt of such referral by the
46 council, the governor shall within sixty days, direct the state agency
47 responsible for the promulgation, repeal or modification of such regu-
48 lation to effectuate such repeal or modification of the regulation
49 pursuant to the procedures that such agency would otherwise be required
50 to follow under the law, had such agency on its own accord sought to
51 repeal or modify the regulation.

52 4. Council actions on statutory mandates. The council may, upon a vote
53 of seven members, refer a statute to the governor for repeal or modifi-
54 cation, where the council has previously determined that such statute
55 imposes upon any local government a mandate in an unsound, unduly
56 burdensome or costly manner, so as to necessitate that it be eliminated

1 or reformed. Upon receipt of the referral by the council, the governor,
2 within sixty days, shall have prepared a governor's program bill, for
3 introduction in both houses of the legislature, to effectuate such
4 repeal or modification of the statute.

5 5. Local government request. A local government may, by resolution of
6 its governing body, ask the council to review a specific statute, regu-
7 lation, rule or order of state government to determine whether such
8 statute, regulation, rule or order of state government is an unfunded
9 mandate or is otherwise unsound, unduly burdensome or costly so as to
10 require that it be eliminated or reformed. No local government may make
11 more than three such requests in each calendar year. Upon such review,
12 the council shall, by majority vote, determine whether such mandate has
13 been imposed upon such local government in an unsound, unduly burdensome
14 or costly manner, so as to necessitate that it be eliminated or
15 reformed. A determination of the council shall resolve any dispute
16 regarding whether such a statute, regulation, rule or order constitutes
17 such an unfunded mandate, but shall not be deemed a judicial determi-
18 nation under the law.

19 6. Appeals. Upon an appeal of a petition previously decided by a state
20 agency pursuant to section two hundred four-a of the state administra-
21 tive procedure act, the council, upon request of the local government,
22 shall review the state agency's determination and may affirm, modify or
23 reject such determination. Such appeal shall not preclude or limit a
24 local government or any other party with standing from pursuing any
25 right it may have pursuant to a proceeding instituted in accordance with
26 the provisions of article seventy-eight of the civil practice law and
27 rules or any other statute.

28 7. Reports. The council shall by December fifteenth of each year
29 report to the governor and legislature regarding its activities, and
30 regarding the issues, statutes, regulations, rules and orders which it
31 reviewed, examined, proposed, referred, and/or considered. Such reports,
32 which shall be adopted upon a majority vote of the members of the coun-
33 cil, or their designees in the case of the director of the division of
34 the budget or the secretary of state. All reports of the council shall
35 be posted on a publicly accessible website.

36 8. Assistance of other agencies. To effectuate the purposes of this
37 section, any state agency shall, at the request of the council, provide
38 to the council such facilities, assistance and data as will enable the
39 council to properly carry out its responsibilities and duties.

40 § 3. This act shall take effect immediately; provided, however, that
41 section one of this act shall take effect on the thirtieth day after it
42 shall have become a law and shall expire January 1, 2015 or upon the
43 departure from office of the fifty-sixth governor whichever comes first,
44 provided however that section two of this act shall take effect January
45 15, 2012 and shall expire January 1, 2015 or upon the departure from
46 office of the fifty-sixth governor whichever comes first.

47 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
48 sion, section or subpart of this act shall be adjudged by any court of
49 competent jurisdiction to be invalid, such judgment shall not affect,
50 impair, or invalidate the remainder thereof, but shall be confined in
51 its operation to the clause, sentence, paragraph, subdivision, section
52 or subpart thereof directly involved in the controversy in which such
53 judgment shall have been rendered. It is hereby declared to be the
54 intent of the legislature that this act would have been enacted even if
55 such invalid provisions had not been included herein.

1 § 3. This act shall take effect immediately provided, however, that
2 the applicable effective date of Subparts A through H of this act shall
3 be as specifically set forth in the last section of such Subparts.

4 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
5 sion, section or part of this act shall be adjudged by any court of
6 competent jurisdiction to be invalid, such judgment shall not affect,
7 impair, or invalidate the remainder thereof, but shall be confined in
8 its operation to the clause, sentence, paragraph, subdivision, section
9 or part thereof directly involved in the controversy in which such judg-
10 ment shall have been rendered. It is hereby declared to be the intent of
11 the legislature that this act would have been enacted even if such
12 invalid provisions had not been included herein.

13 § 3. This act shall take effect immediately provided, however, that
14 the applicable effective date of Parts A through C of this act shall be
15 as specifically set forth in the last section of such Parts; provided,
16 however that Part B of this act shall remain in full force and effect at
17 a minimum until and including June 15, 2015.

STATE OF NEW YORK

3994--A

2011-2012 Regular Sessions

IN SENATE

March 11, 2011

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law and the retirement and social security law, in relation to increasing certain special accidental death benefits

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

1 Section 1. Subdivision c of section 208-f of the general municipal
2 law, as amended by chapter 439 of the laws of 2010, is amended to read
3 as follows:

4 c. Commencing July first, two thousand [~~ten~~ **eleven** the special acci-
5 dental death benefit paid to a widow or widower or the deceased member's
6 children under the age of eighteen or, if a student, under the age of
7 twenty-three, if the widow or widower has died, shall be escalated by
8 adding thereto an additional percentage of the salary of the deceased
9 member (as increased pursuant to subdivision b of this section) in
10 accordance with the following schedule:

11	calendar year of death		
12	of the deceased member	per centum	
13	1977 or prior	[165.2%]	<u>173.2%</u>
14	1978	[157.5%]	<u>165.2%</u>
15	1979	[150.0%]	<u>157.5%</u>
16	1980	[142.7%]	<u>150.0%</u>
17	1981	[135.7%]	<u>142.7%</u>
18	1982	[128.8%]	<u>135.7%</u>
19	1983	[122.1%]	<u>128.8%</u>
20	1984	[115.7%]	<u>122.1%</u>
21	1985	[109.4%]	<u>115.7%</u>
22	1986	[103.3%]	<u>109.4%</u>
23	1987	[97.4%]	<u>103.3%</u>
24	1988	[91.6%]	<u>97.4%</u>
25	1989	[86.0%]	<u>91.6%</u>

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD10128-02-1

1	1990	[80.6%]	<u>86.0%</u>
2	1991	[75.4%]	<u>80.6%</u>
3	1992	[70.2%]	<u>75.4%</u>
4	1993	[65.3%]	<u>70.2%</u>
5	1994	[60.5%]	<u>65.3%</u>
6	1995	[55.8%]	<u>60.5%</u>
7	1996	[51.3%]	<u>55.8%</u>
8	1997	[46.9%]	<u>51.3%</u>
9	1998	[42.6%]	<u>46.9%</u>
10	1999	[38.4%]	<u>42.6%</u>
11	2000	[34.4%]	<u>38.4%</u>
12	2001	[30.5%]	<u>34.4%</u>
13	2002	[26.7%]	<u>30.5%</u>
14	2003	[23.0%]	<u>26.7%</u>
15	2004	[19.4%]	<u>23.0%</u>
16	2005	[15.9%]	<u>19.4%</u>
17	2006	[12.6%]	<u>15.9%</u>
18	2007	[9.3%]	<u>12.6%</u>
19	2008	[6.1%]	<u>9.3%</u>
20	2009	[3.0%]	<u>6.1%</u>
21	2010	[0.0%]	<u>3.0%</u>
22	<u>2011</u>		<u>0.0%</u>

23 § 2. Subdivision c of section 361-a of the retirement and social secu-
 24 rity law, as amended by chapter 439 of the laws of 2010, is amended to
 25 read as follows:

26 c. Commencing July first, two thousand [~~ten~~] **eleven** the special acci-
 27 dental death benefit paid to a widow or widower or the deceased member's
 28 children under the age of eighteen or, if a student, under the age of
 29 twenty-three, if the widow or widower has died, shall be escalated by
 30 adding thereto an additional percentage of the salary of the deceased
 31 member, as increased pursuant to subdivision b of this section, in
 32 accordance with the following schedule:

33	calendar year of death		
34	of the deceased member	per centum	
35	1977 or prior	[165.2%]	<u>173.2%</u>
36	1978	[157.5%]	<u>165.2%</u>
37	1979	[150.0%]	<u>157.5%</u>
38	1980	[142.7%]	<u>150.0%</u>
39	1981	[135.7%]	<u>142.7%</u>
40	1982	[128.8%]	<u>135.7%</u>
41	1983	[122.1%]	<u>128.8%</u>
42	1984	[115.7%]	<u>122.1%</u>
43	1985	[109.4%]	<u>115.7%</u>
44	1986	[103.3%]	<u>109.4%</u>
45	1987	[97.4%]	<u>103.3%</u>
46	1988	[91.6%]	<u>97.4%</u>
47	1989	[86.0%]	<u>91.6%</u>
48	1990	[80.6%]	<u>86.0%</u>
49	1991	[75.4%]	<u>80.6%</u>
50	1992	[70.2%]	<u>75.4%</u>
51	1993	[65.3%]	<u>70.2%</u>
52	1994	[60.5%]	<u>65.3%</u>
53	1995	[55.8%]	<u>60.5%</u>
54	1996	[51.3%]	<u>55.8%</u>
55	1997	[46.9%]	<u>51.3%</u>
56	1998	[42.6%]	<u>46.9%</u>

1	1999	[38.4%]	<u>42.6%</u>
2	2000	[34.4%]	<u>38.4%</u>
3	2001	[30.5%]	<u>34.4%</u>
4	2002	[26.7%]	<u>30.5%</u>
5	2003	[23.0%]	<u>26.7%</u>
6	2004	[19.4%]	<u>23.0%</u>
7	2005	[15.9%]	<u>19.4%</u>
8	2006	[12.6%]	<u>15.9%</u>
9	2007	[9.3%]	<u>12.6%</u>
10	2008	[6.1%]	<u>9.3%</u>
11	2009	[3.0%]	<u>6.1%</u>
12	2010	[0.0%]	<u>3.0%</u>
13	<u>2011</u>		<u>0.0%</u>

14 § 3. This act shall take effect July 1, 2011.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would amend both the General Municipal Law and the Retirement and Social Security Law to increase the salary used in the computation of the special accidental death benefit by 3% in cases where the date of death was before 2011.

Insofar as this bill would amend the Retirement and Social Security Law, it is estimated that there would be an additional annual cost of approximately \$372,000 above the approximately \$8.3 million current annual cost of this benefit. This cost would be shared by the State of New York and all participating employers of the New York State and Local Police and Fire Retirement System.

This estimate, dated January 21, 2011 and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-26, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

Pursuant to Legislative Law, Section 50:

PROVISIONS OF PROPOSED LEGISLATION - OVERVIEW:

With respect to the City of New York (the "City"), this proposed legislation would amend the General Municipal Law ("GML") Section 208-f.c to increase certain Special Accidental Death Benefits ("SADB") for line-of-duty widows/widowers and/or children of former uniformed employees of the City and the New York City Health and Hospitals Corporation and certain former employees of the Triborough Bridge and Tunnel Authority who were members of certain New York City Retirement Systems ("NYCRS").

In addition, the proposed legislation would amend Retirement and Social Security Law Section 361-a.c to cover such SADB for certain survivors of deceased members of the New York State and Local Police and Fire Retirement System.

The Effective Date of the proposed legislation would be July 1, 2011.

IMPACT ON BENEFITS - SADB RECIPIENTS: With respect to the NYCRS, the proposed legislation would impact the SADB payable to certain survivors of members of the:

* New York City Employees' Retirement System ("NYCERS"), or

* New York City Police Pension Fund ("POLICE"), or

* New York City Fire Department Pension Fund ("FIRE"), and

who were employed by one of the following employers in certain positions:

* New York City Police Department - Uniformed Position,

* New York City Fire Department - Uniformed Position,

* New York City Housing Authority - Uniformed Position,

* New York City Transit Authority - Uniformed Position,

* New York City Department of Correction - Uniformed Position,
 * (New York City - Uniformed Position as Emergency Medical Technician ("EMT")),

* New York City Health and Hospitals Corporation - Uniformed Position as EMT, or

* Triborough Bridge and Tunnel Authority - Bridge and Tunnel Position.

DESCRIPTION OF BENEFITS PAYABLE: Under the GML, the basic SADB is defined to equal:

The salary of the deceased member at date of death (or, in certain instances, a greater salary based on rank or other status) ("Final Salary"), less:

* Any death benefit as adjusted by any Supplementation or Cost-of-Living Adjustment ("COLA") paid by the NYCERS to the member's survivors,

* Any death benefit paid by Social Security to the member's survivors, and

* Any Worker's Compensation benefit paid to the member's survivors.

The SADB is paid to the deceased member's surviving widow or widower, if alive. If the widow/widower is no longer alive, then the SADB is paid to the deceased member's children until age eighteen or while attending school until age twenty-three.

The GML also provides that the SADB is subject to escalation based on the calendar year of death of the member. Each year since Calendar Year 1979 the SADB has been increased by an additional cumulative, incremental percentage of Final Salary. For example, for a covered member deceased in Calendar Year 1979, the SADB cumulative percentage is 150.0% of Final Salary as of July 1, 2010.

Under the proposed legislation, the additional, cumulative, incremental percentage of Final Salary to be effective July 1, 2011 would be 3.0%.

FINANCIAL IMPACT - ACTUARIAL PRESENT VALUES OF BENEFITS ("APVB"): With respect to NYCERS members under the actuarial assumptions and methods as noted herein, the enactment of this proposed legislation would increase APVB by approximately \$24.4 million as of June 30, 2011.

FINANCIAL IMPACT - EMPLOYER PAYMENTS: With respect to the NYCERS, as these SADB are provided on a pay-as-you-go basis, the additional annual employer payments expected to be paid during the first year, if the proposed legislation is enacted, would equal approximately \$2.4 million.

Note: These additional payments represent an increase of approximately 5.0% in the annual rate of SADB being paid.

The SADB payments are made by the NYCERS who are reimbursed by the City who is then reimbursed by the State of New York.

OTHER COSTS: The enactment of this proposed legislation would also be expected to result in modest increases in administrative expenses of NYCERS, POLICE, FIRE, the employers and certain New York City agencies.

CENSUS DATA: The financial impact of the proposed legislation is based upon the census data for such widows, widowers and children provided by the NYCERS and adjusted, as necessary, to prepare the computations and for consistency with other data.

The following table shows, by Retirement System as of June 30, 2010, the number of deceased members with eligible survivors and the estimated annual SADB rate prior to the increase proposed to be effective as of July 1, 2011.

Table 1
 SADB Census Data as of June 30, 2010
 (\$ Millions)

Retirement System	Number of Deceased Members with Eligible Survivors	Annual SADB Rate Prior to Proposed July 1, 2011 Increase
NYCERS	28	\$1.1
POLICE	296	13.9
FIRE	<u>608</u>	<u>33.8</u>
Total	932	\$48.8

ACTUARIAL ASSUMPTIONS AND METHODS: Additional APVB have been computed based on the actuarial assumptions and methods in effect for the June 30, 2010 (Lag) actuarial valuations of NYCERS, POLICE and FIRE used to determine the Preliminary Fiscal Year 2012 employer contributions, including an Actuarial Interest Rate ("AIR") assumption of 8.0% per annum.

The demographic actuarial assumptions were adopted by the Board of Trustees of each NYCERS during Fiscal Year 2006 and the AIR assumption was enacted by the New York State Legislature and Governor and continues in effect.

ACTUARIAL ASSUMPTIONS - UPDATE: The impact of enactment of the proposed legislation provided in this Fiscal Note has been based on the current actuarial assumptions and methods used to determine employer contributions to the NYCERS.

Historically, actuarial assumptions and methods have been reviewed on average every five years in connection with an actuarial experience study mandated by New York City Charter Section 96.

Following this review, the Actuary generally proposes changes in actuarial assumptions and methods that he believes appropriate and reasonably related to such experience period and future expectations.

The next such review is anticipated during Fiscal Year 2012 and the Actuary is likely to propose new packages of actuarial assumptions and methods to be effective for use in determining employer contributions beginning Fiscal Year 2012.

As such, not all assumptions employed in determining the results contained in this Fiscal Note represent the Actuary's current best estimate of future experience. However, the assumptions used to determine the results contained herein are generally those adopted by the NYCERS Boards of Trustees and enacted by the New York State Legislature and Governor.

Finally, the actuarial assumptions currently employed for determining employer contributions do not represent risk-adjusted, economic evaluations. Such risk-adjusted, economic evaluations could, for certain components of the proposed legislation, produce results that differ significantly from the results shown herein.

STATEMENT OF ACTUARIAL OPINION: I, Robert C. North, Jr., am the Chief Actuary for the New York City Retirement Systems. I am a Fellow of the Society of Actuaries and a Member of the American Academy of Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

FISCAL NOTE IDENTIFICATION: This estimate is intended for use only during the 2011 Legislative Session. It is Fiscal Note 2011-06, dated February 17, 2011, prepared by the Chief Actuary for the New York City Employees' Retirement System, the New York City Police Pension Fund and the New York City Fire Department Pension Fund.

STATE OF NEW YORK

5836

2011-2012 Regular Sessions

IN SENATE

June 21, 2011

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the retirement and social security law, in relation to certain employees' ability to borrow against contributions

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

1 Section 1. The retirement and social security law is amended by
2 adding a new section 1207 to read as follows:

3 § 1207. Loans to members. a. Notwithstanding any general, special or
4 local law to the contrary, a member in active service who has credit for
5 at least one year of member service may borrow, no more than once within
6 each twelve month period, an amount not exceeding seventy-five percent
7 of the total contributions made pursuant to section twelve hundred four
8 of this article or any other article of this chapter and not less than
9 one thousand dollars.

10 b. An amount so borrowed, together with interest on any unpaid balance
11 thereof, shall be repaid in equal installments which shall be made by
12 the borrower directly to the retirement system or through regular
13 payroll deduction. Such installments shall be in such amount as the
14 retirement system shall approve; however, they shall be at least (a) two
15 percent of the member's contract salary, and (b) sufficient to repay the
16 amount borrowed, together with interest on unpaid balances thereof,
17 within a period not in excess of five years. In the event of default,
18 the retirement system shall be authorized to collect such payments due
19 from the employer of such member through payroll deduction and such
20 member shall forfeit all future entitlement to borrow from the retire-
21 ment system until the unpaid balance of the loan outstanding at the time
22 of default is fully paid. The retirement system, at any time, may accept
23 payments on account of any loan in addition to the installments fixed
24 for repayment thereof. All payments of principal and interest at the
25 rates set forth in subdivision c of this section made by the member

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 shall be credited to his or her account as principal or interest. Any
2 additional interest paid by the member shall be credited to the appro-
3 appropriate fund of the retirement system.

4 c. The rate of interest payable upon loans made pursuant to this
5 section shall be one percent less than the valuation rate of interest
6 adopted for such system. Whenever there is a change in the interest
7 rate, it shall be applicable to loans made or renegotiated after the
8 date of such change in the interest rate.

9 d. A service charge payable upon loans made pursuant to this section
10 shall be set by the retirement system in an amount sufficient to cover
11 the cost to the retirement system of administering the loans. Such
12 charge shall be paid to the retirement system when the loan is made or
13 in equal installments over the period the loan is outstanding. The
14 amount of the service charge shall be credited to the fund from which
15 administrative expenses are paid.

16 e. 1. Each loan made pursuant to this section shall be insured against
17 the death of the member in an amount equal to the amount of the loan
18 outstanding at any given time; with the exception that until thirty days
19 have elapsed after the making thereof, no part of the loan shall be
20 insured. Such insurance shall be provided by the retirement system. Upon
21 the death of the member, the amount of insurance so payable shall be
22 credited to his or her account. The premium payable by the member for
23 such insurance shall be set by the retirement system at a rate not to
24 exceed one percent of the amount loaned.

25 2. Such premium shall be prorated to July first next, or such other
26 date fixed by the retirement system as is appropriate, and shall be paid
27 to the retirement system in equal installments over the period of the
28 loan. Thereafter, a premium not to exceed one percent per annum of the
29 present value of the outstanding loan as of July first, or such other
30 appropriate date, shall be paid in the same manner each succeeding year
31 until such loan is repaid or the member is retired.

32 3. The retirement system shall, at least annually, review such premium
33 rate, and may, in its discretion, increase or reduce the premium, modify
34 the terms or conditions of coverage, or discontinue the insurance of
35 loans. In no event shall this subdivision impose any obligation upon the
36 retirement system to continue to insure loans of members upon the terms
37 and conditions herein provided or upon any other terms or conditions.

38 f. The retirement system is authorized to establish such special funds
39 as may be necessary to carry out the provisions of subdivisions d and e
40 of this section.

41 g. Whenever a member of such a retirement system, for whom a loan is
42 outstanding, becomes entitled to the return of his or her contributions
43 because of withdrawal from such system or because of death, the amount
44 of any loan outstanding on such date, including accrued interest as
45 provided in subdivision d of this section, shall be construed to already
46 have been returned to such member and the refund of contributions to
47 which he shall then be entitled shall be the net amount of such contrib-
48 utions together with interest thereon.

49 h. Notwithstanding any general or special law to the contrary, whenev-
50 er a member of the retirement system, for whom a loan is outstanding,
51 retires, the retirement allowance payable without optional modification
52 shall be reduced by a life annuity which is actuarially equivalent to
53 the amount of the outstanding loan (all outstanding loans shall continue
54 to accrue interest charges until retirement), such life annuity being
55 calculated utilizing the interest rate on thirty year United States
56 treasury bonds as of January first of the calendar year of the effective

1 date of retirement and the mortality tables for options available under
2 section five hundred fourteen of this chapter.

3 i. The retirement system shall adopt such rules and regulations as it
4 finds to be necessary in administering the provisions of this section.

5 j. The retirement system shall discharge any evidence of a loan to a
6 member pursuant to this section upon the satisfaction of the obligation
7 of the member thereunder.

8 k. The retirement system shall have no right to bring suit in any
9 court against any member to enforce the amount due under this section,
10 and the retirement system's sole remedy upon death, retirement or with-
11 drawal shall be to offset the amount outstanding including interest from
12 the member's account or other benefits payable to or on behalf of the
13 member as provided in this section.

14 § 2. Subdivision b of section 517-c of the retirement and social secu-
15 rity law, as added by chapter 920 of the laws of 1990, is amended to
16 read as follows:

17 b. A member of the New York state and local employees' retirement
18 system, the New York state and local police and fire retirement system,
19 the New York city employees' retirement system or the New York city
20 board of education retirement system in active service who has credit
21 for at least one year of member service may borrow, no more than once
22 during each twelve month period, an amount not exceeding seventy-five
23 percent of the total contributions made pursuant to section five hundred
24 seventeen (including interest credited at the rate set forth in subdivi-
25 sion c of such section five hundred seventeen compounded annually) and
26 not less than one thousand dollars.

27 § 3. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would permit Tier 5 members of the New York State and Local Police and Fire Retirement System to borrow up to 75% of their member contributions at an interest rate of 1% less than the valuation interest rate. This loan program is currently available to Tiers 3, 4 and 5 members of the New York State and Local Employees' Retirement System.

If this bill is enacted, there would be an annual investment opportunity cost of 1% of the aggregate outstanding member loan balance. Therefore, for every \$1 million of outstanding member loans, there would be an annual cost of \$10,000, which would be borne by the State of New York and the participating employers in the New York State and Local Police and Fire Retirement System. Any administrative costs would be covered by the required loan fee (currently \$20 per loan).

This estimate, dated April 6, 2011, and intended for use only during the 2011 Legislative Session, is Fiscal Note Number 2011-153 prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

STATE OF NEW YORK

5460--A

Cal. No. 904

2011-2012 Regular Sessions

IN SENATE

May 24, 2011

Introduced by Sen. GRIFFO -- (at request of the State Comptroller) -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged and said bill committed to the Committee on Banks -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report, and to be reprinted as amended, retaining its place in the order of second report

AN ACT to amend the tax law, in relation to access to the wage reporting system

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

1 Section 1. Section 171-a of the tax law, as added by chapter 545 of
2 the laws of 1978, is amended by adding a new subdivision 6-b to read as
3 follows:

4 (6-b) Notwithstanding any provision of law to the contrary, the
5 commissioner shall enter into a cooperative agreement with the state
6 comptroller, which agreement shall provide for the utilization of infor-
7 mation obtained pursuant to subdivision one of this section, for
8 purposes of determining the amount a retired member of a retirement
9 system or pension plan administered by the state or any of its political
10 subdivisions who returns to public employment has earned for the
11 purposes of sections one hundred two, two hundred eleven, two hundred
12 twelve and four hundred two of the retirement and social security law.

13 § 2. Paragraph 3 of subsection (e) of section 697 of the tax law, as
14 amended by chapter 182 of the laws of 2010, is amended to read as
15 follows:

16 (3) Nothing herein shall be construed to prohibit the department, its
17 officers or employees from furnishing information to the office of
18 temporary and disability assistance relating to the payment of the cred-
19 it for certain household and dependent care services necessary for gain-

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 ful employment under subsection (c) of section six hundred six of this
2 article and the earned income credit under subsection (d) of section six
3 hundred six of this article and the enhanced earned income credit under
4 subsection (d-1) of section six hundred six of this article, or pursuant
5 to a local law enacted by a city having a population of one million or
6 more pursuant to subsection (f) of section thirteen hundred ten of this
7 chapter, only to the extent necessary to calculate qualified state
8 expenditures under paragraph seven of subdivision (a) of section four
9 hundred nine of the federal social security act or to document the prop-
10 er expenditure of federal temporary assistance for needy families funds
11 under section four hundred three of such act. The office of temporary
12 and disability assistance may redisclose such information to the United
13 States department of health and human services only to the extent neces-
14 sary to calculate such qualified state expenditures or to document the
15 proper expenditure of such federal temporary assistance for needy fami-
16 lies funds. Nothing herein shall be construed to prohibit the delivery
17 by the commissioner to a commissioner of jurors, appointed pursuant to
18 section five hundred four of the judiciary law, or, in counties within
19 cities having a population of one million or more, to the county clerk
20 of such county, of a mailing list of individuals to whom income tax
21 forms are mailed by the commissioner for the sole purpose of compiling a
22 list of prospective jurors as provided in article sixteen of the judici-
23 ary law. Provided, however, such delivery shall only be made pursuant to
24 an order of the chief administrator of the courts, appointed pursuant to
25 section two hundred ten of the judiciary law. No such order may be
26 issued unless such chief administrator is satisfied that such mailing
27 list is needed to compile a proper list of prospective jurors for the
28 county for which such order is sought and that, in view of the responsi-
29 bilities imposed by the various laws of the state on the department, it
30 is reasonable to require the commissioner to furnish such list. Such
31 order shall provide that such list shall be used for the sole purpose of
32 compiling a list of prospective jurors and that such commissioner of
33 jurors, or such county clerk, shall take all necessary steps to insure
34 that the list is kept confidential and that there is no unauthorized use
35 or disclosure of such list. Furthermore, nothing herein shall be
36 construed to prohibit the delivery to a taxpayer or his or her duly
37 authorized representative of a certified copy of any return or report
38 filed in connection with his or her tax or to prohibit the publication
39 of statistics so classified as to prevent the identification of partic-
40 ular reports or returns and the items thereof, or the inspection by the
41 attorney general or other legal representatives of the state of the
42 report or return of any taxpayer or of any employer filed under section
43 one hundred seventy-one-h of this chapter, where such taxpayer or
44 employer shall bring action to set aside or review the tax based there-
45 on, or against whom an action or proceeding under this chapter or under
46 this chapter and article eighteen of the labor law has been recommended
47 by the commissioner, the commissioner of labor with respect to unemploy-
48 ment insurance matters, or the attorney general or has been instituted,
49 or the inspection of the reports or returns required under this article
50 by the comptroller or duly designated officer or employee of the state
51 department of audit and control, for purposes of the audit of a refund
52 of any tax paid by a taxpayer under this article, or the furnishing to
53 the state department of labor of unemployment insurance information
54 obtained or derived from quarterly combined withholding, wage reporting
55 and unemployment insurance returns required to be filed by employers
56 pursuant to paragraph four of subsection (a) of section six hundred

1 seventy-four of this article, for purposes of administration of such
2 department's unemployment insurance program, employment services
3 program, federal and state employment and training programs, employment
4 statistics and labor market information programs, worker protection
5 programs, federal programs for which the department has administrative
6 responsibility or for other purposes deemed appropriate by the commis-
7 sioner of labor consistent with the provisions of the labor law, and
8 redisclosure of such information in accordance with the provisions of
9 sections five hundred thirty-six and five hundred thirty-seven of the
10 labor law or any other applicable law, or the furnishing to the state
11 office of temporary and disability assistance of information obtained or
12 derived from New York state personal income tax returns as described in
13 paragraph (b) of subdivision two of section one hundred seventy-one-g of
14 this chapter for the purpose of reviewing support orders enforced pursu-
15 ant to title six-A of article three of the social services law to aid in
16 the determination of whether such orders should be adjusted, or the
17 furnishing of information obtained from the reports required to be
18 submitted by employers regarding newly hired or re-hired employees
19 pursuant to section one hundred seventy-one-h of this chapter to the
20 state office of temporary and disability assistance, the state depart-
21 ment of health, the state department of labor and the workers' compen-
22 sation board for purposes of administration of the child support
23 enforcement program, verification of individuals' eligibility for one or
24 more of the programs specified in subsection (b) of section eleven
25 hundred thirty-seven of the federal social security act and for other
26 public assistance programs authorized by state law, and administration
27 of the state's employment security and workers' compensation programs,
28 and to the national directory of new hires established pursuant to
29 section four hundred fifty-three-A of the federal social security act
30 for the purposes specified in such section, or the furnishing to the
31 state office of temporary and disability assistance of the amount of an
32 overpayment of income tax and interest thereon certified to the comp-
33 troller to be credited against past-due support pursuant to section one
34 hundred seventy-one-c of this chapter and of the name and social securi-
35 ty number of the taxpayer who made such overpayment, or the disclosing
36 to the commissioner of finance of the city of New York, pursuant to
37 section one hundred seventy-one-l of this chapter, of the amount of an
38 overpayment and interest thereon certified to the comptroller to be
39 credited against a city of New York tax warrant judgment debt and of the
40 name and social security number of the taxpayer who made such overpay-
41 ment, or the furnishing to the New York state higher education services
42 corporation of the amount of an overpayment of income tax and interest
43 thereon certified to the comptroller to be credited against the amount
44 of a default in repayment of any education loan debt, including judg-
45 ments, owed to the federal or New York state government that is being
46 collected by the New York state higher education services corporation,
47 and of the name and social security number of the taxpayer who made such
48 overpayment, or the furnishing to the state department of health of the
49 information required by paragraph (f) of subdivision two and subdivision
50 two-a of section two thousand five hundred eleven of the public health
51 law and by subdivision eight of section three hundred sixty-six-a and
52 paragraphs (b) and (d) of subdivision two of section three hundred
53 sixty-nine-ee of the social services law, or the furnishing to the state
54 university of New York or the city university of New York respectively
55 or the attorney general on behalf of such state or city university the
56 amount of an overpayment of income tax and interest thereon certified to

1 the comptroller to be credited against the amount of a default in repay-
2 ment of a state university loan pursuant to section one hundred seven-
3 ty-one-e of this chapter and of the name and social security number of
4 the taxpayer who made such overpayment, or the disclosing to a state
5 agency, pursuant to section one hundred seventy-one-f of this chapter,
6 of the amount of an overpayment and interest thereon certified to the
7 comptroller to be credited against a past-due legally enforceable debt
8 owed to such agency and of the name and social security number of the
9 taxpayer who made such overpayment, or the furnishing of employee and
10 employer information obtained through the wage reporting system, pursu-
11 ant to section one hundred seventy-one-a of this chapter, as added by
12 chapter five hundred forty-five of the laws of nineteen hundred seven-
13 ty-eight, to the state office of temporary and disability assistance,
14 the department of health or to the state office of the medicaid inspec-
15 tor general for the purpose of verifying eligibility for and entitlement
16 to amounts of benefits under the social services law or similar law of
17 another jurisdiction, locating absent parents or other persons legally
18 responsible for the support of applicants for or recipients of public
19 assistance and care under the social services law and persons legally
20 responsible for the support of a recipient of services under section one
21 hundred eleven-g of the social services law and, in appropriate cases,
22 establishing support obligations pursuant to the social services law and
23 the family court act or similar provision of law of another jurisdiction
24 for the purpose of evaluating the effect on earnings of participation in
25 employment, training or other programs designed to promote self-suffici-
26 ency authorized pursuant to the social services law by current recipi-
27 ents of public assistance and care and by former applicants and recipi-
28 ents of public assistance and care, (except that with regard to former
29 recipients, information which relates to a particular former recipient
30 shall be provided with client identifying data deleted), to the state
31 office of temporary and disability assistance for the purpose of deter-
32 mining the eligibility of any child in the custody, care and custody or
33 custody and guardianship of a local social services district or of the
34 office of children and family services for federal payments for foster
35 care and adoption assistance pursuant to the provisions of title IV-E of
36 the federal social security act by providing information with respect to
37 the parents, the stepparents, the child and the siblings of the child
38 who were living in the same household as such child during the month
39 that the court proceedings leading to the child's removal from the
40 household were initiated, or the written instrument transferring care
41 and custody of the child pursuant to the provisions of section three
42 hundred fifty-eight-a or three hundred eighty-four-a of the social
43 services law was signed, provided however that the office of temporary
44 and disability assistance shall only use the information obtained pursu-
45 ant to this subdivision for the purpose of determining the eligibility
46 of such child for federal payments for foster care and adoption assist-
47 ance pursuant to the provisions of title IV-E of the federal social
48 security act, and to the state department of labor, or other individuals
49 designated by the commissioner of labor, for the purpose of the adminis-
50 tration of such department's unemployment insurance program, employment
51 services program, federal and state employment and training programs,
52 employment statistics and labor market information programs, worker
53 protection programs, federal programs for which the department has
54 administrative responsibility or for other purposes deemed appropriate
55 by the commissioner of labor consistent with the provisions of the labor
56 law, and redisclosure of such information in accordance with the

1 provisions of sections five hundred thirty-six and five hundred thirty-
2 seven of the labor law, or the furnishing of information, which is
3 obtained from the wage reporting system operated pursuant to section one
4 hundred seventy-one-a of this chapter, as added by chapter five hundred
5 forty-five of the laws of nineteen hundred seventy-eight, to the state
6 office of temporary and disability assistance so that it may furnish
7 such information to public agencies of other jurisdictions with which
8 the state office of temporary and disability assistance has an agreement
9 pursuant to paragraph (h) or (i) of subdivision three of section twenty
10 of the social services law, and to the state office of temporary and
11 disability assistance for the purpose of fulfilling obligations and
12 responsibilities otherwise incumbent upon the state department of labor,
13 under section one hundred twenty-four of the federal family support act
14 of nineteen hundred eighty-eight, by giving the federal parent locator
15 service, maintained by the federal department of health and human
16 services, prompt access to such information as required by such act, or
17 to the state department of health to verify eligibility under the child
18 health insurance plan pursuant to subdivisions two and two-a of section
19 two thousand five hundred eleven of the public health law, to verify
20 eligibility under the medical assistance and family health plus programs
21 pursuant to subdivision eight of section three hundred sixty-six-a and
22 paragraphs (b) and (d) of subdivision two of section three hundred
23 sixty-nine-ee of the social services law, and to verify eligibility for
24 the program for elderly pharmaceutical insurance coverage under title
25 three of article two of the elder law, or to the office of vocational
26 and educational services for individuals with disabilities of the educa-
27 tion department, the commission for the blind and visually handicapped
28 and any other state vocational rehabilitation agency, for purposes of
29 obtaining reimbursement from the federal social security administration
30 for expenditures made by such office, commission or agency on behalf of
31 disabled individuals who have achieved economic self-sufficiency or to
32 the higher education services corporation for the purpose of assisting
33 the corporation in default prevention and default collection of educa-
34 tion loan debt, including judgments, owed to the federal or New York
35 state government; provided, however, that such information shall be
36 limited to the names, social security numbers, home and/or business
37 addresses, and employer names of defaulted or delinquent student loan
38 borrowers, or to the office of the state comptroller for purposes of
39 verifying the income of a retired member of a retirement system or
40 pension plan administered by the state or any of its political subdivi-
41 sions who returns to public employment.

42 Provided, however, that with respect to employee information the
43 office of temporary and disability assistance shall only be furnished
44 with the names, social security account numbers and gross wages of those
45 employees who are (A) applicants for or recipients of benefits under the
46 social services law, or similar provision of law of another jurisdiction
47 (pursuant to an agreement under subdivision three of section twenty of
48 the social services law) or, (B) absent parents or other persons legally
49 responsible for the support of applicants for or recipients of public
50 assistance and care under the social services law or similar provision
51 of law of another jurisdiction (pursuant to an agreement under subdivi-
52 sion three of section twenty of the social services law), or (C) persons
53 legally responsible for the support of a recipient of services under
54 section one hundred eleven-g of the social services law or similar
55 provision of law of another jurisdiction (pursuant to an agreement under
56 subdivision three of section twenty of the social services law), or (D)

1 employees about whom wage reporting system information is being
2 furnished to public agencies of other jurisdictions, with which the
3 state office of temporary and disability assistance has an agreement
4 pursuant to paragraph (h) or (i) of subdivision three of section twenty
5 of the social services law, or (E) employees about whom wage reporting
6 system information is being furnished to the federal parent locator
7 service, maintained by the federal department of health and human
8 services, for the purpose of enabling the state office of temporary and
9 disability assistance to fulfill obligations and responsibilities other-
10 wise incumbent upon the state department of labor, under section one
11 hundred twenty-four of the federal family support act of nineteen
12 hundred eighty-eight, and, only if, the office of temporary and disabil-
13 ity assistance certifies to the commissioner that such persons are such
14 applicants, recipients, absent parents or persons legally responsible
15 for support or persons about whom information has been requested by a
16 public agency of another jurisdiction or by the federal parent locator
17 service and further certifies that in the case of information requested
18 under agreements with other jurisdictions entered into pursuant to
19 subdivision three of section twenty of the social services law, that
20 such request is in compliance with any applicable federal law. Provided,
21 further, that where the office of temporary and disability assistance
22 requests employee information for the purpose of evaluating the effects
23 on earnings of participation in employment, training or other programs
24 designed to promote self-sufficiency authorized pursuant to the social
25 services law, the office of temporary and disability assistance shall
26 only be furnished with the quarterly gross wages (excluding any refer-
27 ence to the name, social security number or any other information which
28 could be used to identify any employee or the name or identification
29 number of any employer) paid to employees who are former applicants for
30 or recipients of public assistance and care and who are so certified to
31 the commissioner by the commissioner of the office of temporary and
32 disability assistance. Provided, further, that with respect to employee
33 information, the department of health shall only be furnished with the
34 information required pursuant to the provisions of paragraph (f) of
35 subdivision two and subdivision two-a of section two thousand five
36 hundred eleven of the public health law and subdivision eight of section
37 three hundred sixty-six-a and paragraphs (b) and (d) of subdivision two
38 of section three hundred sixty-nine-ee of the social services law, with
39 respect to those individuals whose eligibility under the child health
40 insurance plan, medical assistance program, and family health plus
41 program is to be determined pursuant to such provisions and with respect
42 to those members of any such individual's household whose income affects
43 such individual's eligibility and who are so certified to the commis-
44 sioner or by the department of health. Provided, further, that wage
45 reporting information shall be furnished to the office of vocational and
46 educational services for individuals with disabilities of the education
47 department, the commission for the blind and visually handicapped and
48 any other state vocational rehabilitation agency only if such office,
49 commission or agency, as applicable, certifies to the commissioner that
50 such information is necessary to obtain reimbursement from the federal
51 social security administration for expenditures made on behalf of disa-
52 bled individuals who have achieved self-sufficiency. Reports and returns
53 shall be preserved for three years and thereafter until the commissioner
54 orders them to be destroyed.

55 § 3. This act shall take effect on the one hundred eightieth day after
56 it shall have become a law.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would give the state Comptroller access to the wage reporting system administered by the department of tax and finance. This would enable the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System to verify that retirees who return to work for any public employer are earning less than the limits under Sections 102, 211, 212 and 402 of the Retirement and Social Security Law.

If this bill is enacted, there would be no additional costs. However, utilization of this information could result in the partial recovery of the pensions of any retirees who earn in excess of these limits.

This estimate, dated May 31, 2011, and intended for use only during the 2011 Legislative Session, is Fiscal Note Number 2011-197 prepared by the Actuary for the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.

STATE OF NEW YORK

S. 3034

A. 4737

2011-2012 Regular Sessions

SENATE - ASSEMBLY

February 7, 2011

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Governmental Employees

AN ACT to authorize the village of Southampton, in the county of Suffolk, to offer certain retirement options to police officer Theodore Raffel, Jr.

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
 2 the village of Southampton, in the county of Suffolk, a participating
 3 employer in the New York state and local police and fire retirement
 4 system, which previously elected to offer the optional retirement plan
 5 established pursuant to section 384-d of the retirement and social secu-
 6 rity law to police officers employed by such village, is hereby author-
 7 ized to make participation in such plan available to Theodore Raffel,
 8 Jr., registration number 0A779322, a police officer employed by the
 9 village of Southampton, who, on the effective date of this act is
 10 covered under the provisions of section 375-i of the retirement and
 11 social security law, and who, for reasons not ascribable to his own
 12 negligence failed to make a timely application to participate in such
 13 optional retirement plan. The village of Southampton may so elect by
 14 filing with the state comptroller, on or before December 31, 2011, a
 15 resolution of its legislative body together with certification that such
 16 police officer did not bar himself from participation in such retirement
 17 plan as a result of his own negligence. Thereafter, such police officer
 18 may elect to be covered by the provisions of section 384-d of the
 19 retirement and social security law, and shall be entitled to the full
 20 rights and benefits associated with coverage under such section, by

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets
 [-] is old law to be omitted.

LBD07590-02-1

1 filing a request to that effect with the state comptroller on or before
2 June 30, 2012.

3 § 2. All past service costs associated with implementing the
4 provisions of this act shall be borne by the village of Southampton.

5 § 3. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill will allow the Village of Southampton to elect to reopen the provisions of Section 384-d of the Retirement and Social Security Law for police officer Theodore Raffel.

If this bill is enacted, and officer Theodore Raffel becomes covered under Section 384-d, we anticipate that there will be an increase of approximately \$10,200 in the annual contributions of the Village of Southampton for the fiscal year ending March 31, 2012.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately \$172,000 which would be borne by the Village of Southampton as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2012.

This estimate, dated January 27, 2011 and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-101, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

STATE OF NEW YORK

3667

2011-2012 Regular Sessions

IN SENATE

March 1, 2011

Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the retirement and social security law, in relation to the employment of police officers in the town of Southampton; and to repeal certain provisions of such law relating thereto

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

1 Section 1. Subdivision m of section 384-d of the retirement and social
2 security law is REPEALED and a new subdivision m is added to read as
3 follows:

4 m. Notwithstanding any inconsistent provision of law, if the town
5 board of the town of Southampton elects to make the benefits of this
6 section available to the members of its police department, each member
7 of such department shall be separated from service upon completion of
8 twenty years of service, provided, however, that the town board may
9 permit a member to continue in service on an annual basis after the
10 completion of twenty years of service, but in no event shall such annual
11 service be continued after a member has attained age fifty-five unless
12 such member has not attained twenty years of service, except however,
13 that members of such department who hold the rank of sergeant or higher
14 within such department may be permitted by the town board to remain in
15 service until the member has attained age sixty.

16 § 2. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill will amend Subdivision (m) of Section 384-d of the Retirement and Social Security Law so as to not force a police officer employed by the Town of Southampton to retire after attaining age 55 without 20 years of service.

If this bill is enacted, there will be no cost.

This estimate, dated January 7, 2011, and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-81, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD03874-02-1

STATE OF NEW YORK

3505

2011-2012 Regular Sessions

IN SENATE

February 24, 2011

Introduced by Sen. LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to authorize the village of Maybrook, in the county of Orange, to offer an optional twenty year retirement plan to police officer Michael E. Maresca

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
2 the village of Maybrook, in the county of Orange, a participating
3 employer in the New York state and local police and fire retirement
4 system, which previously elected to offer the optional twenty year
5 retirement plan, established pursuant to section 384-d of the retirement
6 and social security law, to police officers employed by such village, is
7 hereby authorized to make participation in such plan available to Micha-
8 el E. Maresca, a police officer employed by the village of Maybrook,
9 who, for reasons not ascribable to his own negligence failed to make a
10 timely application to participate in such optional twenty year retire-
11 ment plan. The village of Maybrook may so elect by filing with the
12 state comptroller, on or before December 31, 2011, a resolution of its
13 board of trustees together with certification that such police officer
14 did not bar himself from participation in such retirement plan as a
15 result of his own negligence. Thereafter, such police officer may elect
16 to be covered by the provisions of section 384-d of the retirement and
17 social security law, and shall be entitled to the full rights and bene-
18 fits associated with coverage under such section, by filing a request to
19 that effect with the state comptroller on or before June 30, 2012.

20 § 2. All past service costs associated with implementing the
21 provisions of this act shall be borne by the village of Maybrook.

22 § 3. This act shall take effect immediately.

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD02808-02-1

FISCAL NOTE.--This bill will allow the Village of Maybrook to elect to reopen the provisions of Section 384-d of the Retirement and Social Security Law for Police Officer Michael E. Maresca.

If this bill is enacted and the above officer become covered under Section 384-d, we anticipate that there will be an increase of approximately \$3,900 in the annual contributions of the Village of Maybrook for the fiscal year ending March 31, 2012.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately \$8,800 which would be borne by the Village of Maybrook. This estimate is based on the assumption that payment will be made on February 1, 2012.

This estimate, dated February 15, 2011 and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-114, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

STATE OF NEW YORK

S. 4048-A

A. 6335--A

2011-2012 Regular Sessions

SENATE - ASSEMBLY

March 15, 2011

IN SENATE -- Introduced by Sen. JOHNSON -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. RAIJA -- read once and referred to the Committee on Governmental Employees -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT granting retroactive tier IV membership in the New York state and local employees' retirement system to Michelle Merlino

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

1 Section 1. Notwithstanding any other provision of law, Michelle Merli-
 2 no, a member of the New York state and local employees' retirement
 3 system, who was employed on November 14, 2008, by Deer Park Union Free
 4 School District, who, for reasons not ascribable to her own negligence,
 5 did not file a membership application in such system until March 18,
 6 2010, which gave her Tier V status instead of Tier IV status, where she
 7 would have been had she been able to file a membership application when
 8 she became a permanent employee on November 14, 2008 may be deemed to
 9 have become a member of the New York state and local employees' retire-
 10 ment system on November 14, 2008 if on or before December 31, 2011 she
 11 shall file with the state comptroller a written request to that effect.
 12 Upon the granting of such retroactive membership, Michelle Merlino shall
 13 not be granted a refund of any employee contribution made by her to the
 14 New York state and local employees' retirement system.

15 § 2. Any past service costs incurred in implementing the provisions of
 16 this act shall be borne by the Deer Park Union Free School District.

17 § 3. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets
 [-] is old law to be omitted.

LBD09151-05-1

This bill would grant Tier 4 membership in the New York State and Local Employees' Retirement System to Michelle Merlino by changing her date of membership to November 14, 2008. She currently is a Tier 5 member.

If this bill is enacted, we anticipate that there will be an increase in the annual contributions of the Deer Park Union Free School District for the fiscal year ending March 31, 2012 of approximately 3.0% of Michelle Merlino's annual compensation.

Since the amount of this member's service credit is negligible, there will be no past service cost.

This estimate, dated March 4, 2011, and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-125, prepared by the Actuary for the New York State and Local Employees' Retirement System.

STATE OF NEW YORK

S. 5072

A. 7362

2011-2012 Regular Sessions

SENATE - ASSEMBLY

May 3, 2011

IN SENATE -- Introduced by Sen. McDONALD -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

IN ASSEMBLY -- Introduced by M. of A. CANESTRARI -- read once and referred to the Committee on Governmental Employees

AN ACT to authorize the town of East Greenbush, in the county of Rensselaer, to reopen the provisions of an optional twenty year retirement plan to police officer Edward A. Miano

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
 2 the town of East Greenbush, in the county of Rensselaer, a participating
 3 employer in the New York state and local police and fire retirement
 4 system, which offers the optional twenty year retirement plan estab-
 5 lished pursuant to section 384-d of the retirement and social security
 6 law to police officers employed by such town is hereby authorized to
 7 make participation in such plan available to Edward A. Miano, a police
 8 officer employed by the town of East Greenbush, who, for reasons not
 9 ascribable to his own negligence failed to make a timely application to
 10 participate in such optional twenty year retirement plan.

11 The town of East Greenbush may so elect by filing with the state comp-
 12 troller, on or before December 31, 2011, a resolution of its governing
 13 body together with certification that such police officer did not bar
 14 himself from participation in such retirement plan as a result of his
 15 own negligence. Thereafter such police officer may elect to be covered
 16 by the provisions of section 384-d of the retirement and social security
 17 law, and shall be entitled to the full rights and benefits associated
 18 with coverage under such section for the service rendered with the town
 19 of East Greenbush only, by filing a request to that effect with the
 20 state comptroller on or before June 30, 2012.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets
 [-] is old law to be omitted.

LBD09025-02-1

1 § 2. All past service costs associated with implementing the
2 provisions of this act shall be borne by the town of East Greenbush and
3 the past service costs associated with this act may be amortized over a
4 period of five or ten years.

5 § 3. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill will allow the Town of East Greenbush to elect to reopen the provisions of Section 384-d of the Retirement and Social Security Law for police officer Edward A. Miano.

If this bill is enacted, we anticipate that there will be an increase of approximately \$4,800 in the annual contributions of the Town of East Greenbush for the fiscal year ending March 31, 2012.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately \$57,700 which would be borne by the Town of East Greenbush as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2012. If the Town elects to amortize this cost over a period of five (5) or ten (10) years, the past service costs for the first year including interest, would be approximately \$13,300 or \$7,820 respectively.

This estimate, dated March 14, 2011, and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-134, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

STATE OF NEW YORK

5651

2011-2012 Regular Sessions

IN SENATE

June 8, 2011

Introduced by Sen. GOLDEN -- (at request of the State Comptroller) --
read twice and ordered printed, and when printed to be committed to
the Committee on Civil Service and Pensions

AN ACT to amend the retirement and social security law, in relation to
decreasing the minimum amount of time required before a service
retirement may become effective and retirees of certain retirement
systems may begin to receive their retirement

**The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:**

1 Section 1. Subdivision a of section 70 of the retirement and social
2 security law, as amended by chapter 207 of the laws of 1978, is amended
3 to read as follows:
4 a. Any member may retire if he or she shall have attained at least the
5 minimum retirement age while in service as a member, or while in federal
6 service, or in the service of the United Nations or other international
7 organizations of which the United States is a member, as a member
8 continued pursuant to paragraph one of subdivision f of section forty of
9 this article, or while entitled to make application for a vested retire-
10 ment allowance pursuant to section seventy-six of this [~~chapter~~] title.
11 Any such member desiring to retire shall execute and file with the comp-
12 troller an application for retirement, which shall specify the effective
13 date of his or her retirement, which shall be not less than [~~thirty~~]
14 fifteen nor more than ninety days subsequent to such date of filing. An
15 application for service retirement, filed hereunder in accordance with
16 the provisions of subdivision c of section sixty-two or subdivision f of
17 section sixty-three of this [~~chapter~~] article, shall be processed in the
18 regular manner, provided that if the application filed simultaneously
19 therewith under either of such subdivisions is granted, then and in that
20 event the retirement allowance granted in accordance with the provisions
21 of this section shall be appropriately adjusted.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD11194-01-1

1 § 2. Subdivision a of section 370 of the retirement and social securi-
2 ty law, as amended by chapter 570 of the laws of 1999, is amended to
3 read as follows:

4 a. Any member may retire if he or she shall have attained at least the
5 minimum retirement age while in service as a member, or while in federal
6 service, or in the service of the United Nations or other international
7 organizations of which the United States is a member, as a member
8 continued pursuant to paragraph one of subdivision f of section three
9 hundred forty of this article or while entitled to make application for
10 a vested retirement allowance pursuant to section three hundred seven-
11 ty-six of this [~~chapter~~] title. Any such member desiring to retire
12 shall execute and file with the comptroller an application for retire-
13 ment, which shall specify the effective date of his or her retirement,
14 which shall be not less than [~~thirty~~] fifteen nor more than ninety days
15 subsequent to such date of filing. An application for service retire-
16 ment, filed hereunder in accordance with the provisions of subdivision c
17 of section sixty-two or subdivision f of section sixty-three of this
18 chapter, shall be processed in the regular manner, provided that if the
19 application filed simultaneously therewith under either of such subdivi-
20 sions is granted, then and in that event the retirement allowance grant-
21 ed in accordance with the provisions of this section shall be appropri-
22 ately adjusted. Notwithstanding any other provision of law, any member
23 who is eligible to retire and who has died while in active service, and
24 who has filed an application for service retirement less than thirty
25 days prior to death, shall be deemed to have retired and the member's
26 designated beneficiary shall have the option to choose the benefit
27 provided by service retirement rather than the death benefit, provided,
28 however that if the designated beneficiary elects the service retirement
29 benefit such person shall be required to choose an option under section
30 three hundred ninety of this article.

31 § 3. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would decrease the minimum amount of time required before a service retirement may become effective for members of the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System. The current minimum of 30 days would be replaced by 15 days.

If this bill is enacted, there will be minimal administrative costs.

This estimate, dated April 26, 2011, and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-176 prepared by the Actuary for the New York State and Local Police and Fire Retirement System and the New York State and Local Employees' Retirement System.

STATE OF NEW YORK

5588

2011-2012 Regular Sessions

IN SENATE

June 3, 2011

Introduced by Sen. FARLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT granting retroactive tier IV membership in the New York state and local employees' retirement system to Randy Prock

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

1 Section 1. Notwithstanding any other provision of law, Randy Prock, a
2 member of the New York state and local employees' retirement system, who
3 was employed on August 13, 2009, by the Department of Taxation and
4 Finance as a temporary Tax Information Aid, who filed a membership
5 application in such system on December 17, 2009, which should have given
6 him Tier IV status but for reasons not ascribable to his own negligence
7 and due to an administrative error, the application was not processed in
8 the usual manner and therefore not processed, may be deemed to have
9 become a member of the New York state and local employees' retirement
10 system on December 17, 2009.

11 § 2. Any past service costs incurred in implementing the provisions of
12 this act shall be borne by the state.

13 § 3. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill will deem Randy Prock to have become a member of the New York State and Local Employees' Retirement System on December 17, 2009, the date he filed a membership application, thereby granting him Tier 4 status.

If this bill is enacted, we anticipate that there will be an increase in the annual contributions of the State of New York for the fiscal year ending March 31, 2012 of approximately \$1,150.

In addition to the annual contributions discussed above, there will be a one-time past service cost of approximately \$180 which will be borne by the State of New York, assuming a payment date of March 1, 2012.

This estimate, dated May 24, 2011 and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-187, prepared by the Actuary for the New York State and Local Employees' Retirement System.

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD11925-01-1

STATE OF NEW YORK

2374

2011-2012 Regular Sessions

IN SENATE

January 19, 2011

Introduced by Sens. STEWART-COUSINS, OPPENHEIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to authorize the county of Westchester to issue serial bonds to finance certain payments over a period of five years

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

- 1 Section 1. The county of Westchester is hereby authorized to issue
- 2 serial bonds in an aggregate principal amount to be determined by the
- 3 Westchester county board of legislators, for a period of probable
- 4 usefulness not to exceed five years, which shall apply to the specific
- 5 object or purpose of payment, by the county of Westchester, of all costs
- 6 associated with or related to the 2010 Early Retirement Incentive. In
- 7 anticipation of the issuance and sale of such serial bonds, bond antic-
- 8 ipation notes are hereby authorized to be issued.
- 9 § 2. This act shall take effect immediately.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD07545-01-1

STATE OF NEW YORK

5679

2011-2012 Regular Sessions

IN SENATE

June 10, 2011

Introduced by Sens. SKELOS, ALESI, BALL, BONACIC, DeFRANCISCO, FARLEY, FLANAGAN, FUSCHILLO, GALLIVAN, GOLDEN, GRIFFO, GRISANTI, HANNON, JOHNSON, LANZA, LARKIN, LAVALLE, LIBOUS, LITTLE, MARCELLINO, MARTINS, MAZIARZ, McDONALD, NOZZOLIO, O'MARA, RANZENHOFER, RITCHIE, ROBACH, SALAND, SEWARD, YOUNG, ZELDIN -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT in relation to establishing the public integrity reform act of 2011; to amend the public officers law, in relation to the business or professional activities of state employees; to amend the executive law, in relation to the commission on public integrity; to amend the legislative law, in relation to the legislative ethics office; to amend the public officers law, in relation to the joint commission on public ethics; and in relation to the transfer of certain powers and duties to the joint commission on public ethics (Part A); to amend the legislative law, in relation to reports by lobbyists (Part B); to amend the retirement and social security law, in relation to pension forfeiture for certain public officials; and to amend the criminal procedure law, in relation to notice of entry of plea involving a public official (Part C); to amend the legislative law, in relation to the definition of lobbying and gifts (Part D); and to amend the election law, in relation to political communication, independent expenditure reporting, enforcement proceeding and penalties for violations (Part E)

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

1 Section 1. This act shall be known and may be cited as the "Public
2 Integrity Reform Act of 2011."

3 § 2. This act enacts into law major components of legislation which
4 are necessary to enact ethics reform. Each component is wholly
5 contained within a Part identified as Parts A through E. The effective

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD12060-03-1

1 date for each particular provision contained within such Part is set
 2 forth in the last section of such Part. Any provision in any section
 3 contained within a Part, including the effective date of the Part, which
 4 makes a reference to a section "of this act", when used in connection
 5 with that particular component, shall be deemed to mean and refer to the
 6 corresponding section of the Part in which it is found. Section four of
 7 this act sets forth the general effective date of this act.

8

PART A

9 Section 1. Paragraph (a) of subdivision 1 of section 73 of the public
 10 officers law, as amended by chapter 813 of the laws of 1987, is amended
 11 to read as follows:

12 (a) The term "compensation" shall mean any money, thing of value or
 13 financial benefit conferred in return for services rendered or to be
 14 rendered. With regard to matters undertaken by a firm, corporation or
 15 association, compensation shall mean net revenues, as defined in accord-
 16 ance with generally accepted accounting principles as defined by the
 17 [~~state~~] joint commission on public ethics [~~commission~~] or legislative
 18 ethics [~~committee~~] commission in relation to persons subject to their
 19 respective jurisdictions.

20 § 2. Subdivision 2 of section 73 of the public officers law, as
 21 amended by chapter 813 of the laws of 1987, is amended to read as
 22 follows:

23 2. In addition to the prohibitions contained in subdivision seven
 24 [~~hereof~~] of this section, no statewide elected official, state officer
 25 or employee, member of the legislature or legislative employee shall
 26 receive, or enter into any agreement express or implied for, compen-
 27 sation for services to be rendered in relation to any case, proceeding,
 28 application, or other matter before any state agency, or any executive
 29 order, or any legislation or resolution before the state legislature,
 30 whereby his or her compensation is to be dependent or contingent upon
 31 any action by such agency or legislature with respect to any license,
 32 contract, certificate, ruling, decision, executive order, opinion, rate
 33 schedule, franchise, legislation, resolution or other benefit; provided,
 34 however, that nothing in this subdivision shall be deemed to prohibit
 35 the fixing at any time of fees based upon the reasonable value of the
 36 services rendered.

37 § 3. Paragraph (a) of subdivision 6 of section 73 of the public offi-
 38 cers law, as amended by chapter 813 of the laws of 1987, is amended to
 39 read as follows:

40 (a) Every legislative employee not subject to the provisions of
 41 section seventy-three-a of this chapter shall, on and after December
 42 fifteenth and before the following January fifteenth, in each year, file
 43 with the [~~legislative~~] joint commission on public ethics [~~committee~~]
 44 established by section eighty of the legislative law and the legisla-
 45 tive ethics commission a financial disclosure statement of

46 (1) each financial interest, direct or indirect of himself, his spouse
 47 and his unemancipated children under the age of eighteen years in any
 48 activity which is subject to the jurisdiction of a regulatory agency or
 49 name of the entity in which the interest is had and whether such inter-
 50 est is over or under five thousand dollars in value.

51 (2) every office and directorship held by him in any corporation, firm
 52 or enterprise which is subject to the jurisdiction of a regulatory agen-
 53 cy, including the name of such corporation, firm or enterprise.

1 (3) any other interest or relationship which he determines in his
2 discretion might reasonably be expected to be particularly affected by
3 legislative action or in the public interest should be disclosed.

4 § 4. Every state agency, department, division, office, and board;
5 every public benefit corporation, public authority and commission at
6 least one of whose members is appointed by the governor; the state
7 university of New York and the city university of New York, including
8 all their constituent units except community colleges of the state
9 university of New York; and the independent institutions operating stat-
10 utory or contract colleges on behalf of the state, shall cooperate with
11 the office of general services and supply to that office on a schedule
12 and in a format determined by the office of general services in consul-
13 tation with such governmental bodies, a list of all individuals, firms,
14 or other entities (other than state or local governmental agencies) who
15 have appeared before such governmental body in a representative capacity
16 on behalf of a client or customer for purposes of: (a) procuring a state
17 contract for real property, goods or services for such client; (b)
18 representing such client or customer in a proceeding relating to rate
19 making; (c) representing such client in a regulatory matter; (d) repres-
20 enting such client or customer in a judicial or quasi-judicial proceed-
21 ing; or (e) representing such client or customer in the adoption or
22 repeal of a rule or regulation. The office of general services shall
23 create forms upon which such information shall be supplied and a data-
24 base which shall collect and systemize the collection of such informa-
25 tion. The office of general services shall make the database available
26 and accessible to members of the public on a webpage subject to statuto-
27 ry confidentiality restrictions, and shall ensure that the information
28 contained in the database is readily searchable and available for down-
29 load. The database shall be known as "project sunlight".

30 § 5. Section 73-a of the public officers law, as added by chapter 813
31 of the laws of 1987, paragraph (b) of subdivision 1 as amended by chap-
32 ter 283 of the laws of 1996, subparagraphs (ii) and (iii) of paragraph
33 (c) and paragraph (d) of subdivision 1, subparagraphs (v), (vi) and
34 (vii) of paragraph (a) and paragraphs (e) and (g) of subdivision 2,
35 paragraph 4, subparagraph (a) of paragraph 5, paragraphs 6, 9, 10, 11,
36 subparagraph (b) of paragraph 12, paragraphs 13, 14, 15, 16, 17, 18 and
37 19 of subdivision 3 and subdivision 4 as amended and paragraph (l) of
38 subdivision 1, subparagraph (viii) of paragraph (a) and paragraph (j) of
39 subdivision 2 and the third and fourth undesignated paragraphs of para-
40 graph 3 of subdivision 3 as added by chapter 242 of the laws of 1989, is
41 amended to read as follows:

42 § 73-a. Financial disclosure. 1. As used in this section:

43 (a) The term "statewide elected official" shall mean the governor,
44 lieutenant governor, comptroller, or attorney general.

45 (b) The term "state agency" shall mean any state department, or divi-
46 sion, board, commission, or bureau of any state department, any public
47 benefit corporation, public authority or commission at least one of
48 whose members is appointed by the governor, or the state university of
49 New York or the city university of New York, including all their
50 constituent units except community colleges of the state university of
51 New York and the independent institutions operating statutory or
52 contract colleges on behalf of the state.

53 (c) The term "state officer or employee" shall mean:

54 (i) heads of state departments and their deputies and assistants;

55 (ii) officers and employees of statewide elected officials, officers
56 and employees of state departments, boards, bureaus, divisions, commis-

1 sions, councils or other state agencies, who receive annual compensation
2 in excess of the filing rate established by paragraph (1) of this subdi-
3 vision or who hold policy-making positions, as annually determined by
4 the appointing authority and set forth in a written instrument which
5 shall be filed with the [~~state~~] joint commission on public ethics
6 [~~commission~~] established by section ninety-four of the executive law
7 during the month of February, provided, however, that the appointing
8 authority shall amend such written instrument after such date within
9 thirty days after the undertaking of policy-making responsibilities by a
10 new employee or any other employee whose name did not appear on the most
11 recent written instrument; and

12 (iii) members or directors of public authorities, other than multi-
13 state authorities, public benefit corporations and commissions at least
14 one of whose members is appointed by the governor, and employees of such
15 authorities, corporations and commissions who receive annual compen-
16 sation in excess of the filing rate established by paragraph (1) of this
17 subdivision or who hold policy-making positions, as determined annually
18 by the appointing authority and set forth in a written instrument which
19 shall be filed with the [~~state~~] joint commission on public ethics
20 [~~commission~~] established by section ninety-four of the executive law
21 during the month of February, provided, however, that the appointing
22 authority shall amend such written instrument after such date within
23 thirty days after the undertaking of policy-making responsibilities by a
24 new employee or any other employee whose name did not appear on the most
25 recent written instrument.

26 (d) The term "legislative employee" shall mean any officer or employee
27 of the legislature who receives annual compensation in excess of the
28 filing rate established by paragraph (1) below or who is determined to
29 hold a policy-making position by the appointing authority as set forth
30 in a written instrument which shall be filed with the legislative ethics
31 commission and the joint commission on public ethics [~~committee estab-~~
32 ~~lished by section eighty of the legislative law~~].

33 (d-1) A financial disclosure statement required pursuant to section
34 seventy-three of this article and this section shall be deemed "filed"
35 with the joint commission on public ethics upon its filing, in accord-
36 ance with this section, with the legislative ethics commission for all
37 purposes including, but not limited to, subdivision fourteen of section
38 ninety-four of the executive law, subdivision nine of section eighty of
39 the legislative law and subdivision four of this section.

40 (e) The term "spouse" shall mean the husband or wife of the reporting
41 individual unless living separate and apart from the reporting individ-
42 ual with the intention of terminating the marriage or providing for
43 permanent separation or unless separated pursuant to: (i) a judicial
44 order, decree or judgment, or (ii) a legally binding separation agree-
45 ment.

46 (f) The term "relative" shall mean such individual's spouse, child,
47 stepchild, stepparent, or any person who is a direct descendant of the
48 grandparents of the reporting individual or of the reporting individ-
49 ual's spouse.

50 (g) The term "unemancipated child" shall mean any son, daughter, step-
51 son or stepdaughter who is under age eighteen, unmarried and living in
52 the household of the reporting individual.

53 (h) The term "political party chairman" shall have the same meaning as
54 ascribed to such term by subdivision one of section seventy-three of
55 this [~~chapter~~] article.

56 (i) The term "local agency" shall mean:

- 1 (i) any county, city, town, village, school district or district
 2 corporation, or any agency, department, division, board, commission or
 3 bureau thereof; and
- 4 (ii) any public benefit corporation or public authority not included
 5 in the definition of a state agency.
- 6 (j) The term "regulatory agency" shall have the same meaning as
 7 ascribed to such term by subdivision one of section seventy-three of
 8 this ~~chapter~~ article.
- 9 (k) The term "ministerial matter" shall have the same meaning as
 10 ascribed to such term by subdivision one of section seventy-three of
 11 this ~~chapter~~ article.
- 12 (l) The term "filing rate" shall mean the job rate of SG-24 as set
 13 forth in paragraph a of subdivision one of section one hundred thirty of
 14 the civil service law as of April first of the year in which an annual
 15 financial disclosure statement shall be filed.
- 16 (m) The term "lobbyist" shall have the same meaning as ascribed to
 17 such term in subdivision (a) of section one-c of the legislative law.
- 18 2. (a) Every statewide elected official, state officer or employee,
 19 member of the legislature, legislative employee and political party
 20 chairman and every candidate for statewide elected office or for member
 21 of the legislature shall file an annual statement of financial disclo-
 22 sure containing the information and in the form set forth in subdivision
 23 three ~~hereof~~ of this section. ~~[Such statement shall be filed on or~~
 24 ~~before the fifteenth day of May with respect to the preceding calendar~~
 25 ~~year, except that] On or before the fifteenth day of May with respect to~~
 26 the preceding calendar year: (1) every member of the legislature, every
 27 candidate for member of the legislature and legislative employee shall
 28 file such statement with the legislative ethics commission which shall
 29 provide such statement along with any requests for exemptions or
 30 deletions to the joint commission on public ethics for filing and
 31 rulings with respect to such requests for exemptions or deletions, on or
 32 before the thirtieth day of June; and (2) all other individuals required
 33 to file such statement shall file it with the joint commission on public
 34 ethics, except that:
- 35 (i) a person who is subject to the reporting requirements of this
 36 subdivision and who timely filed with the internal revenue service an
 37 application for automatic extension of time in which to file his or her
 38 individual income tax return for the immediately preceding calendar or
 39 fiscal year shall be required to file such financial disclosure state-
 40 ment on or before May fifteenth but may, without being subjected to any
 41 civil penalty on account of a deficient statement, indicate with respect
 42 to any item of the disclosure statement that information with respect
 43 thereto is lacking but will be supplied in a supplementary statement of
 44 financial disclosure, which shall be filed on or before the seventh day
 45 after the expiration of the period of such automatic extension of time
 46 within which to file such individual income tax return, provided that
 47 failure to file or to timely file such supplementary statement of finan-
 48 cial disclosure or the filing of an incomplete or deficient supplementa-
 49 ry statement of financial disclosure shall be subject to the notice and
 50 penalty provisions of this section respecting annual statements of
 51 financial disclosure as if such supplementary statement were an annual
 52 statement;
- 53 (ii) a person who is required to file an annual financial disclosure
 54 statement with the ~~state~~ joint commission on public ethics ~~commission~~
 55 ~~or with the legislative ethics committee~~, and who is granted an addi-
 56 tional period of time within which to file such statement due to justi-

1 fiable cause or undue hardship, in accordance with required rules and
2 regulations on the subject adopted pursuant to paragraph c of subdivi-
3 sion nine of section ninety-four of the executive law [~~or pursuant to~~
4 ~~paragraph c of subdivision eight of section eighty of the legislative~~
5 ~~law,~~] shall file such statement within the additional period of time
6 granted; and the legislative ethics commission shall notify the joint
7 commission on public ethics of any extension granted pursuant to this
8 paragraph;

9 (iii) candidates for statewide office who receive a party designation
10 for nomination by a state committee pursuant to section 6-104 of the
11 election law shall file such statement within [~~seven~~] ten days after the
12 date of the meeting at which they are so designated;

13 (iv) candidates for statewide office who receive twenty-five percent
14 or more of the vote cast at the meeting of the state committee held
15 pursuant to section 6-104 of the election law and who demand to have
16 their names placed on the primary ballot and who do not withdraw within
17 fourteen days after such meeting shall file such statement within
18 [~~seven~~] ten days after the last day to withdraw their names in accord-
19 ance with the provisions of such section of the election law;

20 (v) candidates for statewide office and candidates for member of the
21 legislature who file party designating petitions for nomination at a
22 primary election shall file such statement within [~~seven~~] ten days after
23 the last day allowed by law for the filing of party designating
24 petitions naming them as candidates for the next succeeding primary
25 election;

26 (vi) candidates for independent nomination who have not been desig-
27 nated by a party to receive a nomination shall file such statement with-
28 in [~~seven~~] ten days after the last day allowed by law for the filing of
29 independent nominating petitions naming them as candidates in the next
30 succeeding general or special election;

31 (vii) candidates who receive the nomination of a party for a special
32 election shall file such statement within [~~seven~~] ten days after the
33 date of the meeting of the party committee at which they are nominated;
34 [~~and~~]

35 (viii) a candidate substituted for another candidate, who fills a
36 vacancy in a party designation or in an independent nomination, caused
37 by declination, shall file such statement within [~~seven~~] ten days after
38 the last day allowed by law to file a certificate to fill a vacancy in
39 such party designation or independent nomination[+];

40 (ix) with respect to all candidates for member of the legislature, the
41 legislative ethics commission shall within five days of receipt provide
42 the joint commission on public ethics the statement filed pursuant to
43 subparagraphs (v), (vi), (vii) and (viii) of this paragraph.

44 (b) As used in this subdivision, the terms "party", "committee" (when
45 used in conjunction with the term "party"), "designation", "primary",
46 "primary election", "nomination", "independent nomination" and "ballot"
47 shall have the same meanings as those contained in section 1-104 of the
48 election law.

49 (c) If the reporting individual is a senator or member of assembly,
50 candidate for the senate or member of assembly or a legislative employ-
51 ee, such statement shall be filed with both the legislative ethics
52 [~~committee~~] commission established by section eighty of the legislative
53 law and the joint commission on public ethics in accordance with para-
54 graph (d-1) of subdivision one of this section. If the reporting indi-
55 vidual is a statewide elected official, candidate for statewide elected
56 office, a state officer or employee or a political party chairman, such

1 statement shall be filed with the [~~state~~] joint commission on public
2 ethics [~~commission~~] established by section ninety-four of the executive
3 law.

4 (d) The [~~legislative ethics committee and the state~~] joint commission
5 on public ethics [~~commission~~] shall obtain from the state board of
6 elections a list of all candidates for statewide office and for member
7 of the legislature, and from such list, shall determine and publish a
8 list of those candidates who have not, within ten days after the
9 required date for filing such statement, filed the statement required by
10 this subdivision.

11 (e) Any person required to file such statement who commences employ-
12 ment after May fifteenth of any year and political party chairman shall
13 file such statement within thirty days after commencing employment or of
14 taking the position of political party chairman, as the case may be. In
15 the case of members of the legislature and legislative employees, such
16 statements shall be filed with the legislative ethics commission within
17 thirty days after commencing employment, and the legislative ethics
18 commission shall provide such statements to the joint commission on
19 public ethics within forty-five days of receipt.

20 (f) A person who may otherwise be required to file more than one annu-
21 al financial disclosure statement with both the [~~state ethics commis-~~
22 ~~sion~~] joint commission on public ethics and the legislative ethics
23 [~~committee~~] commission in any one calendar year may satisfy such
24 requirement by filing one such statement with either body and by notify-
25 ing the other body of such compliance.

26 (g) A person who is employed in more than one employment capacity for
27 one or more employers certain of whose officers and employees are
28 subject to filing a financial disclosure statement with the same ethics
29 commission [~~or ethics committee~~], as the case may be, and who receives
30 distinctly separate payments of compensation for such employment shall
31 be subject to the filing requirements of this section if the aggregate
32 annual compensation for all such employment capacities is in excess of
33 the filing rate notwithstanding that such person would not otherwise be
34 required to file with respect to any one particular employment capacity.
35 A person not otherwise required to file a financial disclosure statement
36 hereunder who is employed by an employer certain of whose officers or
37 employees are subject to filing a financial disclosure statement with
38 the [~~state ethics~~] joint commission on public ethics and who is also
39 employed by an employer certain of whose officers or employees are
40 subject to filing a financial disclosure statement with the legislative
41 ethics [~~committee~~] commission shall not be subject to filing such state-
42 ment with either such commission [~~or such committee~~] on the basis that
43 his aggregate annual compensation from all such employers is in excess
44 of the filing rate.

45 (h) A statewide elected official or member of the legislature, who is
46 simultaneously a candidate for statewide elected office or member of the
47 legislature, shall satisfy the filing deadline requirements of this
48 subdivision by complying only with the deadline applicable to one who
49 holds a statewide elected office or who holds the office of member of
50 the legislature.

51 (i) A candidate whose name will appear on both a party designating
52 petition and on an independent nominating petition for the same office
53 or who will be listed on the election ballot for the same office more
54 than once shall satisfy the filing deadline requirements of this subdivi-
55 sion by complying with the earliest applicable deadline only.

1 (j) A member of the legislature who is elected to such office at a
2 special election prior to May fifteenth in any year shall satisfy the
3 filing requirements of this subdivision in such year by complying with
4 the earliest applicable deadline only.

5 (k) The joint commission on public ethics shall post for at least five
6 years beginning for filings made on January first, two thousand thirteen
7 the annual statement of financial disclosure and any amendments filed by
8 each person subject to the reporting requirements of this subdivision
9 who is an elected official on its website for public review within thir-
10 ty days of its receipt of such statement or within ten days of its
11 receipt of such amendment that reflects any corrections of deficiencies
12 identified by the commission or by the reporting individual after the
13 reporting individual's initial filing. Except upon an individual deter-
14 mination by the commission that certain information may be deleted from
15 a reporting individual's annual statement of financial disclosure, none
16 of the information in the statement posted on the commission's website
17 shall be otherwise deleted.

18 3. The annual statement of financial disclosure shall contain the
19 information and shall be in the form set forth hereinbelow:

20 ANNUAL STATEMENT OF FINANCIAL DISCLOSURE - (For calendar year _____)

- 21 1. Name _____
- 22 2. (a) Title of Position _____
- 23 (b) Department, Agency or other Governmental Entity _____
- 24 (c) Address of Present Office _____
- 25 (d) Office Telephone Number _____
- 26 3. (a) Marital Status _____. If married, please give spouse's
- 27 full name including maiden name where applicable.
- 28 _____ .

- 29 (b) List the names of all unemancipated children.
- 30 _____
- 31 _____
- 32 _____
- 33 _____
- 34 _____

35 Answer each of the following questions completely, with respect to
36 calendar year _____, unless another period or date is otherwise
37 specified. If additional space is needed, attach additional pages.

38 Whenever a "value" or "amount" is required to be reported herein, such
39 value or amount shall be reported as being within one of the following
40 Categories in Table I or Table II of this subdivision as called for in
41 the question: [Category A — under \$5,000; Category B — \$5,000 to under
42 \$20,000; Category C — \$20,000 to under \$60,000; Category D — \$60,000 to
43 under \$100,000; Category E — \$100,000 to under \$250,000; and Category F
44 — \$250,000 or over.] A reporting individual shall indicate the Category
45 by letter only.

46 Whenever "income" is required to be reported herein, the term "income"
47 shall mean the aggregate net income before taxes from the source identi-
48 fied.

49 The term "calendar year" shall mean the year ending the December 31st
50 preceding the date of filing of the annual statement.

1 4. (a) List any office, trusteeship, directorship, partnership, or
 2 position of any nature, whether compensated or not, held by the
 3 reporting individual with any firm, corporation, association, part-
 4 nership, or other organization other than the State of New York.
 5 Include compensated honorary positions; do NOT list membership or
 6 uncompensated honorary positions. If the listed entity was licensed
 7 by any state or local agency, was regulated by any state regulatory
 8 agency or local agency, or, as a regular and significant part of the
 9 business or activity of said entity, did business with, or had
 10 matters other than ministerial matters before, any state or local
 11 agency, list the name of any such agency.

12			State or
13	Position	Organization	Local Agency
14	_____		
15	_____		
16	_____		
17	_____		
18	_____		

19 (b) List any office, trusteeship, directorship, partnership, or position
 20 of any nature, whether compensated or not, held by the spouse or
 21 unemancipated child of the reporting individual, with any firm,
 22 corporation, association, partnership, or other organization other
 23 than the State of New York. Include compensated honorary positions;
 24 do NOT list membership or uncompensated honorary positions. If the
 25 listed entity was licensed by any state or local agency, was regu-
 26 lated by any state regulatory agency or local agency, or, as a regu-
 27 lar and significant part of the business or activity of said entity,
 28 did business with, or had matters other than ministerial matters
 29 before, any state or local agency, list the name of any such agency.

30			State or
31	Position	Organization	Local Agency
32	_____		
33	_____		
34	_____		
35	_____		
36	_____		

37 5. (a) List the name, address and description of any occupation,
 38 employment (other than the employment listed under Item 2 above),
 39 trade, business or profession engaged in by the reporting individ-
 40 ual. If such activity was licensed by any state or local agency, was
 41 regulated by any state regulatory agency or local agency, or, as a
 42 regular and significant part of the business or activity of said
 43 entity, did business with, or had matters other than ministerial
 44 matters before, any state or local agency, list the name of any such
 45 agency.

46			State or
47	Position	Name & Address of Organization	Local Agency
48		Description	

1 _____
 2 _____
 3 _____
 4 _____
 5 _____

6 (b) If the spouse or unemancipated child of the reporting individual was
 7 engaged in any occupation, employment, trade, business or profession
 8 which activity was licensed by any state or local agency, was regu-
 9 lated by any state regulatory agency or local agency, or, as a regu-
 10 lar and significant part of the business or activity of said entity,
 11 did business with, or had matters other than ministerial matters
 12 before, any state or local agency, list the name, address and
 13 description of such occupation, employment, trade, business or
 14 profession and the name of any such agency.

15				State or
16		Name & Address		Local
17	Position	of Organization	Description	Agency
18	_____			
19	_____			
20	_____			
21	_____			
22	_____			

23 6. List any interest, in EXCESS of \$1,000, held by the reporting indi-
 24 vidual, such individual's spouse or unemancipated child, or partner-
 25 ship of which any such person is a member, or corporation, 10% or
 26 more of the stock of which is owned or controlled by any such
 27 person, whether vested or contingent, in any contract made or
 28 executed by a state or local agency and include the name of the
 29 entity which holds such interest and the relationship of the report-
 30 ing individual or such individual's spouse or such child to such
 31 entity and the interest in such contract. Do NOT include bonds and
 32 notes. Do NOT list any interest in any such contract on which final
 33 payment has been made and all obligations under the contract except
 34 for guarantees and warranties have been performed, provided, howev-
 35 er, that such an interest must be listed if there has been an ongo-
 36 ing dispute during the calendar year for which this statement is
 37 filed with respect to any such guarantees or warranties. Do NOT list
 38 any interest in a contract made or executed by a local agency after
 39 public notice and pursuant to a process for competitive bidding or a
 40 process for competitive requests for proposals.

41		Entity	Relationship	Contracting	Category
42	Self,	Which Held	to Entity	State or	of
43	Spouse or	Interest in	and Interest	Local	Value of
44	Child	Contract	in Contract	Agency	Contract
45					(In Table II)

46 _____
 47 _____
 48 _____
 49 _____
 50 _____

1 7. List any position the reporting individual held as an officer of any
 2 political party or political organization, as a member of any poli-
 3 tical party committee, or as a political party district leader. The
 4 term "party" shall have the same meaning as "party" in the election
 5 law. The term "political organization" means any party or independ-
 6 ent body as defined in the election law or any organization that is
 7 affiliated with or a subsidiary of a party or independent body.

8 _____
 9 _____
 10 _____
 11 _____
 12 _____

13 8. (a) If the reporting individual practices law, is licensed by the
 14 department of state as a real estate broker or agent or practices a
 15 profession licensed by the department of education, or works as a
 16 member or employee of a firm required to register pursuant to
 17 section one-e of the legislative law as a lobbyist, give a general
 18 description of the principal subject areas of matters undertaken by
 19 such individual. Additionally, if such an individual practices with
 20 a firm or corporation and is a partner or shareholder of the firm or
 21 corporation, give a general description of principal subject areas
 22 of matters undertaken by such firm or corporation. [~~Do not list the~~
 23 ~~name of the individual clients, customers or patients.~~]

24 _____
 25 _____
 26 _____
 27 _____
 28 _____

29 (b) APPLICABLE ONLY TO NEW CLIENTS OR CUSTOMERS FOR WHOM SERVICES ARE
 30 PROVIDED ON OR AFTER JULY FIRST, TWO THOUSAND TWELVE, OR FOR NEW MATTERS
 31 FOR EXISTING CLIENTS OR CUSTOMERS WITH RESPECT TO THOSE SERVICES THAT
 32 ARE PROVIDED ON OR AFTER JULY FIRST, TWO THOUSAND TWELVE:

33 If the reporting individual personally provides services to any person
 34 or entity, or works as a member or employee of a partnership or corpo-
 35 ration that provides such services (referred to hereinafter as a
 36 "firm"), then identify each client or customer to whom the reporting
 37 individual personally provided services, or who was referred to the firm
 38 by the reporting individual, and from whom the reporting individual or
 39 his or her firm earned fees in excess of \$10,000 during the reporting
 40 period for such services rendered in direct connection with:

41 (i) A proposed bill or resolution in the senate or assembly during the
 42 reporting period;

43 (ii) A contract in an amount totaling \$50,000 or more from the state
 44 or any state agency for services, materials, or property;

45 (iii) A grant of \$25,000 or more from the state or any state agency
 46 during the reporting period;

47 (iv) A grant obtained through a legislative initiative during the
 48 reporting period; or

49 (v) A case, proceeding, application or other matter that is not a
 50 ministerial matter before a state agency during the reporting period.

1 For purposes of this question, "referred to the firm" shall mean:
 2 having intentionally and knowingly taken a specific act or series of
 3 acts to intentionally procure for the reporting individual's firm or
 4 knowingly solicit or direct to the reporting individual's firm in whole
 5 or substantial part, a person or entity that becomes a client of that
 6 firm for the purposes of representation for a matter as defined in
 7 subparagraphs (i) through (v) of this paragraph, as the result of such
 8 procurement, solicitation or direction of the reporting individual. A
 9 reporting individual need not disclose activities performed while
 10 lawfully acting pursuant to paragraphs (c), (d), (e) and (f) of subdivi-
 11 sion seven of section seventy-three of this article.

12 The disclosure requirement in this question shall not require disclo-
 13 sure of clients or customers receiving medical or dental services,
 14 mental health services, residential real estate brokering services, or
 15 insurance brokering services from the reporting individual or his or her
 16 firm. The reporting individual need not identify any client to whom he
 17 or she or his or her firm provided legal representation with respect to
 18 investigation or prosecution by law enforcement authorities, bankruptcy,
 19 or domestic relations matters. With respect to clients represented in
 20 other matters, where disclosure of a client's identity is likely to
 21 cause harm, the reporting individual shall request an exemption from the
 22 joint commission pursuant to paragraph (i) of subdivision nine of
 23 section ninety-four of the executive law. Only a reporting individual
 24 who first enters public office after July first, two thousand twelve,
 25 need not report clients or customers with respect to matters for which
 26 the reporting individual or his or her firm was retained prior to enter-
 27 ing public office.

Client	Nature of Services Provided

34 (c) List the name, principal address and general description or the
 35 nature of the business activity of any entity in which the reporting
 36 individual or such individual's spouse had an investment in excess of
 37 \$1,000 excluding investments in securities and interests in real proper-
 38 ty.

44 9. List each source of gifts, EXCLUDING campaign contributions, in
 45 EXCESS of \$1,000, received during the reporting period for which
 46 this statement is filed by the reporting individual or such individ-
 47 ual's spouse or unemancipated child from the same donor, EXCLUDING
 48 gifts from a relative. INCLUDE the name and address of the donor.
 49 The term "gifts" does not include reimbursements, which term is
 50 defined in item 10. Indicate the value and nature of each such
 51 gift.

	Self, Spouse or Child	Name of Donor	Address	Nature of Gift	Category of Value of Gift (In Table I)
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

11 10. Identify and briefly describe the source of any reimbursements for
 12 expenditures, EXCLUDING campaign expenditures and expenditures in
 13 connection with official duties reimbursed by the state, in EXCESS
 14 of \$1,000 from each such source. For purposes of this item, the term
 15 "reimbursements" shall mean any travel-related expenses provided by
 16 nongovernmental sources and for activities related to the reporting
 17 individual's official duties such as, speaking engagements, confer-
 18 ences, or factfinding events. The term "reimbursements" does NOT
 19 include gifts reported under item 9.

	Source	Description
20		
21		
22		
23		
24		
25		

26 11. List the identity and value, if reasonably ascertainable, of each
 27 interest in a trust, estate or other beneficial interest, including
 28 retirement plans (other than retirement plans of the state of New
 29 York or the city of New York), and deferred compensation plans
 30 (e.g., 401, 403(b), 457, etc.) established in accordance with the
 31 internal revenue code, in which the REPORTING INDIVIDUAL held a
 32 beneficial interest in EXCESS of \$1,000 at any time during the
 33 preceding year. Do NOT report interests in a trust, estate or other
 34 beneficial interest established by or for, or the estate of, a rela-
 35 tive.

	Identity	Category of Value* (In Table II)
36		
37		
38		
39		
40		
41		
42		
43		

44 * The value of such interest shall be reported only if reasonably
 45 ascertainable.

46 12. (a) Describe the terms of, and the parties to, any contract, prom-
 47 ise, or other agreement between the reporting individual and any
 48 person, firm, or corporation with respect to the employment of such

1 individual after leaving office or position (other than a leave of
2 absence).

3 _____
4 _____
5 _____
6 _____
7 _____

8 (b) Describe the parties to and the terms of any agreement providing
9 for continuation of payments or benefits to the REPORTING INDIVIDUAL
10 in EXCESS of \$1,000 from a prior employer OTHER THAN the State.
11 (This includes interests in or contributions to a pension fund,
12 profit-sharing plan, or life or health insurance; buy-out agree-
13 ments; severance payments; etc.)

14 _____
15 _____
16 _____
17 _____
18 _____

19 13. List below the nature and amount of any income in EXCESS of \$1,000
20 from EACH SOURCE for the reporting individual and such individual's
21 spouse for the taxable year last occurring prior to the date of
22 filing. Nature of income includes, but is not limited to, all
23 income (other than that received from the employment listed under
24 Item 2 above) from compensated employment whether public or private,
25 directorships and other fiduciary positions, contractual arrange-
26 ments, teaching income, partnerships, honorariums, lecture fees,
27 consultant fees, bank and bond interest, dividends, income derived
28 from a trust, real estate rents, and recognized gains from the sale
29 or exchange of real or other property. Income from a business or
30 profession and real estate rents shall be reported with the source
31 identified by the building address in the case of real estate rents
32 and otherwise by the name of the entity and not by the name of the
33 individual customers, clients or tenants, with the aggregate net
34 income before taxes for each building address or entity. The
35 receipt of maintenance received in connection with a matrimonial
36 action, alimony and child support payments shall not be listed.

37 Self/ Category
38 Spouse Source Nature of Amount
39 (In Table I)

40 _____
41 _____
42 _____
43 _____
44 _____

45 14. List the sources of any deferred income (not retirement income) in
46 EXCESS of \$1,000 from each source to be paid to the reporting indi-
47 vidual following the close of the calendar year for which this
48 disclosure statement is filed, other than deferred compensation
49 reported in item 11 hereinabove. Deferred income derived from the

1 practice of a profession shall be listed in the aggregate and shall
 2 identify as the source, the name of the firm, corporation, partner-
 3 ship or association through which the income was derived, but shall
 4 not identify individual clients.

5		Category
6	Source	of Amount
7		<u>(In Table I)</u>
8	_____	
9	_____	
10	_____	
11	_____	
12	_____	

13 15. List each assignment of income in EXCESS of \$1,000, and each trans-
 14 fer other than to a relative during the reporting period for which
 15 this statement is filed for less than fair consideration of an
 16 interest in a trust, estate or other beneficial interest, securities
 17 or real property, by the reporting individual, in excess of \$1,000,
 18 which would otherwise be required to be reported herein and is not
 19 or has not been so reported.

20	Item Assigned	Assigned or	Category
21	or Transferred	Transferred to	of Value
22			<u>(In Table I)</u>
23	_____		
24	_____		
25	_____		
26	_____		
27	_____		

28 16. List below the type and market value of securities held by the
 29 reporting individual or such individual's spouse from each issuing
 30 entity in EXCESS of \$1,000 at the close of the taxable year last
 31 occurring prior to the date of filing, including the name of the
 32 issuing entity exclusive of securities held by the reporting indi-
 33 vidual issued by a professional corporation. Whenever an interest in
 34 securities exists through a beneficial interest in a trust, the
 35 securities held in such trust shall be listed ONLY IF the reporting
 36 individual has knowledge thereof except where the reporting individ-
 37 ual or the reporting individual's spouse has transferred assets to
 38 such trust for his or her benefit in which event such securities
 39 shall be listed unless they are not ascertainable by the reporting
 40 individual because the trustee is under an obligation or has been
 41 instructed in writing not to disclose the contents of the trust to
 42 the reporting individual. Securities of which the reporting individ-
 43 ual or the reporting individual's spouse is the owner of record but
 44 in which such individual or the reporting individual's spouse has no
 45 beneficial interest shall not be listed. Indicate percentage of
 46 ownership ONLY if the reporting person or the reporting person's
 47 spouse holds more than five percent (5%) of the stock of a corpo-
 48 ration in which the stock is publicly traded or more than ten
 49 percent (10%) of the stock of a corporation in which the stock is
 50 NOT publicly traded. Also list securities owned for investment

1 purposes by a corporation more than fifty percent (50%) of the stock
 2 of which is owned or controlled by the reporting individual or such
 3 individual's spouse. For the purpose of this item the term "securi-
 4 ties" shall mean mutual funds, bonds, mortgages, notes, obligations,
 5 warrants and stocks of any class, investment interests in limited or
 6 general partnerships and certificates of deposits (CDs) and such
 7 other evidences of indebtedness and certificates of interest as are
 8 usually referred to as securities. The market value for such secu-
 9 rities shall be reported only if reasonably ascertainable and shall
 10 not be reported if the security is an interest in a general partner-
 11 ship that was listed in item 8 (a) or if the security is corporate
 12 stock, NOT publicly traded, in a trade or business of a reporting
 13 individual or a reporting individual's spouse.

14			Percentage	
15			of corporate	
16			stock owned	
17			or controlled	Category of
18			(if more than	Market Value
19			5% of pub-	as of the close
20			licly traded	of the
21			stock, or	taxable year
22			more than	last occurring
23			10% if stock	prior to
24	Self/	Issuing	not publicly	the filing of
25	Spouse	Entity	traded, is held)	this statement
26		Type of		<u>(In Table II)</u>
27				
28				
29				
30				
31				

32 17. List below the location, size, general nature, acquisition date,
 33 market value and percentage of ownership of any real property in
 34 which any vested or contingent interest in EXCESS of \$1,000 is held
 35 by the reporting individual or the reporting individual's spouse.
 36 Also list real property owned for investment purposes by a corpo-
 37 ration more than fifty percent (50%) of the stock of which is owned
 38 or controlled by the reporting individual or such individual's
 39 spouse. Do NOT list any real property which is the primary or
 40 secondary personal residence of the reporting individual or the
 41 reporting individual's spouse, except where there is a co-owner who
 42 is other than a relative.

43						Category
44	Self/		General	Acquisition	Percentage	of
45	Spouse/		Nature	Date	of	Market
46	Corporation	Location	Size		Ownership	Value
47						<u>(In</u>
48						<u>Table</u>
49						<u>II)</u>
50						
51						

1 _____
 2 _____
 3 _____

4 18. List below all notes and accounts receivable, other than from goods
 5 or services sold, held by the reporting individual at the close of
 6 the taxable year last occurring prior to the date of filing and
 7 other debts owed to such individual at the close of the taxable year
 8 last occurring prior to the date of filing, in EXCESS of \$1,000,
 9 including the name of the debtor, type of obligation, date due and
 10 the nature of the collateral securing payment of each, if any,
 11 excluding securities reported in item 16 hereinabove. Debts, notes
 12 and accounts receivable owed to the individual by a relative shall
 13 not be reported.

14	Type of Obligation, Date Due, and Nature of Collateral, if any	Category of Amount <u>(In Table II)</u>
15	Name of Debtor	
16	_____	_____
17	_____	_____
18	_____	_____
19	_____	_____
20	_____	_____
21	_____	_____
22	_____	_____

23 19. List below all liabilities of the reporting individual and such
 24 individual's spouse, in EXCESS of [~~\$5,000~~ \$10,000] as of the date of
 25 filing of this statement, other than liabilities to a relative. Do
 26 NOT list liabilities incurred by, or guarantees made by, the report-
 27 ing individual or such individual's spouse or by any proprietorship,
 28 partnership or corporation in which the reporting individual or such
 29 individual's spouse has an interest, when incurred or made in the
 30 ordinary course of the trade, business or professional practice of
 31 the reporting individual or such individual's spouse. Include the
 32 name of the creditor and any collateral pledged by such individual
 33 to secure payment of any such liability. A reporting individual
 34 shall not list any obligation to pay maintenance in connection with
 35 a matrimonial action, alimony or child support payments. Any loan
 36 issued in the ordinary course of business by a financial institution
 37 to finance educational costs, the cost of home purchase or improve-
 38 ments for a primary or secondary residence, or purchase of a
 39 personally owned motor vehicle, household furniture or appliances
 40 shall be excluded. If any such reportable liability has been guaran-
 41 teed by any third person, list the liability and name the guarantor.

42	Name of Creditor or Guarantor	Type of Liability and Collateral, if any	Category of Amount <u>(In Table II)</u>
43	_____	_____	_____
44	_____	_____	_____
45	_____	_____	_____
46	_____	_____	_____
47	_____	_____	_____
48	_____	_____	_____
49	_____	_____	_____
50	_____	_____	_____

1 The requirements of law relating to the reporting of financial
 2 interests are in the public interest and no adverse inference of
 3 unethical or illegal conduct or behavior will be drawn merely from
 4 compliance with these requirements.

5 _____
 6 (Signature of Reporting Individual) Date (month/day/year)

7 **TABLE I**

8	<u>Category A</u>	<u>none</u>
9	<u>Category B</u>	<u>\$ 1 to under \$ 1,000</u>
10	<u>Category C</u>	<u>\$ 1,000 to under \$ 5,000</u>
11	<u>Category D</u>	<u>\$ 5,000 to under \$ 20,000</u>
12	<u>Category E</u>	<u>\$ 20,000 to under \$ 50,000</u>
13	<u>Category F</u>	<u>\$ 50,000 to under \$ 75,000</u>
14	<u>Category G</u>	<u>\$ 75,000 to under \$ 100,000</u>
15	<u>Category H</u>	<u>\$ 100,000 to under \$ 150,000</u>
16	<u>Category I</u>	<u>\$ 150,000 to under \$ 250,000</u>
17	<u>Category J</u>	<u>\$ 250,000 to under \$ 350,000</u>
18	<u>Category K</u>	<u>\$ 350,000 to under \$ 450,000</u>
19	<u>Category L</u>	<u>\$ 450,000 to under \$ 550,000</u>
20	<u>Category M</u>	<u>\$ 550,000 to under \$ 650,000</u>
21	<u>Category N</u>	<u>\$ 650,000 to under \$ 750,000</u>
22	<u>Category O</u>	<u>\$ 750,000 to under \$ 850,000</u>
23	<u>Category P</u>	<u>\$ 850,000 to under \$ 950,000</u>
24	<u>Category Q</u>	<u>\$ 950,000 to under \$1,050,000</u>
25	<u>Category R</u>	<u>\$1,050,000 to under \$1,150,000</u>
26	<u>Category S</u>	<u>\$1,150,000 to under \$1,250,000</u>
27	<u>Category T</u>	<u>\$1,250,000 to under \$1,350,000</u>
28	<u>Category U</u>	<u>\$1,350,000 to under \$1,450,000</u>
29	<u>Category V</u>	<u>\$1,450,000 to under \$1,550,000</u>
30	<u>Category W</u>	<u>\$1,550,000 to under \$1,650,000</u>
31	<u>Category X</u>	<u>\$1,650,000 to under \$1,750,000</u>
32	<u>Category Y</u>	<u>\$1,750,000 to under \$1,850,000</u>
33	<u>Category Z</u>	<u>\$1,850,000 to under \$1,950,000</u>
34	<u>Category AA</u>	<u>\$1,950,000 to under \$2,050,000</u>
35	<u>Category BB</u>	<u>\$2,050,000 to under \$2,150,000</u>
36	<u>Category CC</u>	<u>\$2,150,000 to under \$2,250,000</u>
37	<u>Category DD</u>	<u>\$2,250,000 to under \$2,350,000</u>
38	<u>Category EE</u>	<u>\$2,350,000 to under \$2,450,000</u>
39	<u>Category FF</u>	<u>\$2,450,000 to under \$2,550,000</u>
40	<u>Category GG</u>	<u>\$2,550,000 to under \$2,650,000</u>
41	<u>Category HH</u>	<u>\$2,650,000 to under \$2,750,000</u>
42	<u>Category II</u>	<u>\$2,750,000 to under \$2,850,000</u>
43	<u>Category JJ</u>	<u>\$2,850,000 to under \$2,950,000</u>
44	<u>Category KK</u>	<u>\$2,950,000 to under \$3,050,000</u>
45	<u>Category LL</u>	<u>\$3,050,000 to under \$3,150,000</u>
46	<u>Category MM</u>	<u>\$3,150,000 to under \$3,250,000</u>
47	<u>Category NN</u>	<u>\$3,250,000 to under \$3,350,000</u>
48	<u>Category OO</u>	<u>\$3,350,000 to under \$3,450,000</u>
49	<u>Category PP</u>	<u>\$3,450,000 to under \$3,550,000</u>
50	<u>Category QQ</u>	<u>\$3,550,000 to under \$3,650,000</u>
51	<u>Category RR</u>	<u>\$3,650,000 to under \$3,750,000</u>
52	<u>Category SS</u>	<u>\$3,750,000 to under \$3,850,000</u>
53	<u>Category TT</u>	<u>\$3,850,000 to under \$3,950,000</u>
54	<u>Category UU</u>	<u>\$3,950,000 to under \$4,050,000</u>

1	<u>Category VV</u>	<u>\$4,050,000 to under \$4,150,000</u>
2	<u>Category WW</u>	<u>\$4,150,000 to under \$4,250,000</u>
3	<u>Category XX</u>	<u>\$4,250,000 to under \$4,350,000</u>
4	<u>Category YY</u>	<u>\$4,350,000 to under \$4,450,000</u>
5	<u>Category ZZ</u>	<u>\$4,450,000 to under \$4,550,000</u>
6	<u>Category AAA</u>	<u>\$4,550,000 to under \$4,650,000</u>
7	<u>Category BBB</u>	<u>\$4,650,000 to under \$4,750,000</u>
8	<u>Category CCC</u>	<u>\$4,750,000 to under \$4,850,000</u>
9	<u>Category DDD</u>	<u>\$4,850,000 to under \$4,950,000</u>
10	<u>Category EEE</u>	<u>\$4,950,000 to under \$5,050,000</u>
11	<u>Category FFF</u>	<u>\$5,050,000 to under \$5,150,000</u>
12	<u>Category GGG</u>	<u>\$5,150,000 to under \$5,250,000</u>
13	<u>Category HHH</u>	<u>\$5,250,000 to under \$5,350,000</u>
14	<u>Category III</u>	<u>\$5,350,000 to under \$5,450,000</u>
15	<u>Category JJJ</u>	<u>\$5,450,000 to under \$5,550,000</u>
16	<u>Category KKK</u>	<u>\$5,550,000 to under \$5,650,000</u>
17	<u>Category LLL</u>	<u>\$5,650,000 to under \$5,750,000</u>
18	<u>Category MMM</u>	<u>\$5,750,000 to under \$5,850,000</u>
19	<u>Category NNN</u>	<u>\$5,850,000 to under \$5,950,000</u>
20	<u>Category OOO</u>	<u>\$5,950,000 to under \$6,050,000</u>
21	<u>Category PPP</u>	<u>\$6,050,000 to under \$6,150,000</u>
22	<u>Category QQQ</u>	<u>\$6,150,000 to under \$6,250,000</u>
23	<u>Category RRR</u>	<u>\$6,250,000 to under \$6,350,000</u>
24	<u>Category SSS</u>	<u>\$6,350,000 to under \$6,450,000</u>
25	<u>Category TTT</u>	<u>\$6,450,000 to under \$6,550,000</u>
26	<u>Category UUU</u>	<u>\$6,550,000 to under \$6,650,000</u>
27	<u>Category VVV</u>	<u>\$6,650,000 to under \$6,750,000</u>
28	<u>Category WWW</u>	<u>\$6,750,000 to under \$6,850,000</u>
29	<u>Category XXX</u>	<u>\$6,850,000 to under \$6,950,000</u>
30	<u>Category YYY</u>	<u>\$6,950,000 to under \$7,050,000</u>
31	<u>Category ZZZ</u>	<u>\$7,050,000 to under \$7,150,000</u>
32	<u>Category AAAA</u>	<u>\$7,150,000 to under \$7,250,000</u>
33	<u>Category BBBB</u>	<u>\$7,250,000 to under \$7,350,000</u>
34	<u>Category CCCC</u>	<u>\$7,350,000 to under \$7,450,000</u>
35	<u>Category DDDD</u>	<u>\$7,450,000 to under \$7,550,000</u>
36	<u>Category EEEE</u>	<u>\$7,550,000 to under \$7,650,000</u>
37	<u>Category FFFF</u>	<u>\$7,650,000 to under \$7,750,000</u>
38	<u>Category GGGG</u>	<u>\$7,750,000 to under \$7,850,000</u>
39	<u>Category HHHH</u>	<u>\$7,850,000 to under \$7,950,000</u>
40	<u>Category IIII</u>	<u>\$7,950,000 to under \$8,050,000</u>
41	<u>Category JJJJ</u>	<u>\$8,050,000 to under \$8,150,000</u>
42	<u>Category KKKK</u>	<u>\$8,150,000 to under \$8,250,000</u>
43	<u>Category LLLL</u>	<u>\$8,250,000 to under \$8,350,000</u>
44	<u>Category MMMM</u>	<u>\$8,350,000 to under \$8,450,000</u>
45	<u>Category NNNN</u>	<u>\$8,450,000 to under \$8,550,000</u>
46	<u>Category OOOO</u>	<u>\$8,550,000 to under \$8,650,000</u>
47	<u>Category PPPP</u>	<u>\$8,650,000 to under \$8,750,000</u>
48	<u>Category QQQQ</u>	<u>\$8,750,000 to under \$8,850,000</u>
49	<u>Category RRRR</u>	<u>\$8,850,000 to under \$8,950,000</u>
50	<u>Category SSSS</u>	<u>\$8,950,000 to under \$9,050,000</u>
51	<u>Category TTTT</u>	<u>\$9,050,000 to under \$9,150,000</u>
52	<u>Category UUUU</u>	<u>\$9,150,000 to under \$9,250,000</u>
53	<u>Category VVVV</u>	<u>\$9,250,000 to under \$9,350,000</u>
54	<u>Category WWWW</u>	<u>\$9,350,000 to under \$9,450,000</u>
55	<u>Category XXXX</u>	<u>\$9,450,000 to under \$9,550,000</u>
56	<u>Category YYYY</u>	<u>\$9,550,000 to under \$9,650,000</u>

1	<u>Category ZZZZ</u>	<u>\$9,650,000 to under \$9,750,000</u>
2	<u>Category AAAAA</u>	<u>\$9,750,000 to under \$9,850,000</u>
3	<u>Category BBBBB</u>	<u>\$9,850,000 to under \$9,950,000</u>
4	<u>Category CCCCC</u>	<u>\$9,950,000 to under \$10,000,000</u>
5	<u>Category DDDDD</u>	<u>\$10,000,000 or over</u>

TABLE II

6		
7	<u>Category A</u>	<u>none</u>
8	<u>Category B</u>	<u>\$ 1 to under \$ 1,000</u>
9	<u>Category C</u>	<u>\$ 1,000 to under \$ 5,000</u>
10	<u>Category D</u>	<u>\$ 5,000 to under \$ 20,000</u>
11	<u>Category E</u>	<u>\$ 20,000 to under \$ 50,000</u>
12	<u>Category F</u>	<u>\$ 50,000 to under \$ 75,000</u>
13	<u>Category G</u>	<u>\$ 75,000 to under \$ 100,000</u>
14	<u>Category H</u>	<u>\$ 100,000 to under \$ 150,000</u>
15	<u>Category I</u>	<u>\$ 150,000 to under \$ 250,000</u>
16	<u>Category J</u>	<u>\$ 250,000 to under \$ 500,000</u>
17	<u>Category K</u>	<u>\$ 500,000 to under \$ 750,000</u>
18	<u>Category L</u>	<u>\$ 750,000 to under \$1,000,000</u>
19	<u>Category M</u>	<u>\$1,000,000 to under \$1,250,000</u>
20	<u>Category N</u>	<u>\$1,250,000 to under \$1,500,000</u>
21	<u>Category O</u>	<u>\$1,500,000 to under \$1,750,000</u>
22	<u>Category P</u>	<u>\$1,750,000 to under \$2,000,000</u>
23	<u>Category Q</u>	<u>\$2,000,000 to under \$2,250,000</u>
24	<u>Category R</u>	<u>\$2,250,000 to under \$2,500,000</u>
25	<u>Category S</u>	<u>\$2,500,000 to under \$2,750,000</u>
26	<u>Category T</u>	<u>\$2,750,000 to under \$3,000,000</u>
27	<u>Category U</u>	<u>\$3,000,000 to under \$3,250,000</u>
28	<u>Category V</u>	<u>\$3,250,000 to under \$3,500,000</u>
29	<u>Category W</u>	<u>\$3,500,000 to under \$3,750,000</u>
30	<u>Category X</u>	<u>\$3,750,000 to under \$4,000,000</u>
31	<u>Category Y</u>	<u>\$4,000,000 to under \$4,250,000</u>
32	<u>Category Z</u>	<u>\$4,250,000 to under \$4,500,000</u>
33	<u>Category AA</u>	<u>\$4,500,000 to under \$4,750,000</u>
34	<u>Category BB</u>	<u>\$4,750,000 to under \$5,000,000</u>
35	<u>Category CC</u>	<u>\$5,000,000 to under \$5,250,000</u>
36	<u>Category DD</u>	<u>\$5,250,000 to under \$5,500,000</u>
37	<u>Category EE</u>	<u>\$5,500,000 to under \$5,750,000</u>
38	<u>Category FF</u>	<u>\$5,750,000 to under \$6,000,000</u>
39	<u>Category GG</u>	<u>\$6,000,000 to under \$6,250,000</u>
40	<u>Category HH</u>	<u>\$6,250,000 to under \$6,500,000</u>
41	<u>Category II</u>	<u>\$6,500,000 to under \$6,750,000</u>
42	<u>Category JJ</u>	<u>\$6,750,000 to under \$7,000,000</u>
43	<u>Category KK</u>	<u>\$7,000,000 to under \$7,250,000</u>
44	<u>Category LL</u>	<u>\$7,250,000 to under \$7,500,000</u>
45	<u>Category MM</u>	<u>\$7,500,000 to under \$7,750,000</u>
46	<u>Category NN</u>	<u>\$7,750,000 to under \$8,000,000</u>
47	<u>Category OO</u>	<u>\$8,000,000 to under \$8,250,000</u>
48	<u>Category PP</u>	<u>\$8,250,000 to under \$8,500,000</u>
49	<u>Category QQ</u>	<u>\$8,500,000 to under \$8,750,000</u>
50	<u>Category RR</u>	<u>\$8,750,000 to under \$9,000,000</u>
51	<u>Category SS</u>	<u>\$9,000,000 to under \$9,250,000</u>
52	<u>Category TT</u>	<u>\$9,250,000 to under \$9,500,000</u>
53	<u>Category UU</u>	<u>\$9,500,000 or over</u>

54 4. A reporting individual who knowingly and wilfully fails to file an
55 annual statement of financial disclosure or who knowingly and wilfully

1 with intent to deceive makes a false statement or gives information
 2 which such individual knows to be false on such statement of financial
 3 disclosure filed pursuant to this section shall be subject to a civil
 4 penalty in an amount not to exceed [~~ten~~] forty thousand dollars. Assess-
 5 ment of a civil penalty hereunder shall be made by the [~~state~~] joint
 6 commission on public ethics [~~commission~~] or by the legislative ethics
 7 [~~committee~~] commission, as the case may be, with respect to persons
 8 subject to their respective jurisdictions. The [~~state~~] joint commission
 9 on public ethics [~~commission~~] acting pursuant to subdivision [~~thirteen~~]
 10 fourteen of section ninety-four of the executive law or the legislative
 11 ethics [~~committee~~] commission acting pursuant to subdivision [~~twelve~~]
 12 eleven of section eighty of the legislative law, as the case may be,
 13 may, in lieu of or in addition to a civil penalty, refer a violation to
 14 the appropriate prosecutor and upon such conviction, but only after such
 15 referral, such violation shall be punishable as a class A misdemeanor. A
 16 civil penalty for false filing may not be imposed hereunder in the event
 17 a category of "value" or "amount" reported hereunder is incorrect unless
 18 such reported information is falsely understated. Notwithstanding any
 19 other provision of law to the contrary, no other penalty, civil or crim-
 20 inal may be imposed for a failure to file, or for a false filing, of
 21 such statement, except that the appointing authority may impose disci-
 22 plinary action as otherwise provided by law. The [~~state~~] joint commis-
 23 sion on public ethics [~~commission~~] and the legislative ethics [~~commit-
 24 tee] commission shall each be deemed to be an agency within the meaning
 25 of article three of the state administrative procedure act and shall
 26 adopt rules governing the conduct of adjudicatory proceedings and
 27 appeals relating to the assessment of the civil penalties herein author-
 28 ized. Such rules, which shall not be subject to the approval require-
 29 ments of the state administrative procedure act, shall provide for due
 30 process procedural mechanisms substantially similar to those set forth
 31 in such article three but such mechanisms need not be identical in terms
 32 or scope. Assessment of a civil penalty shall be final unless modified,
 33 suspended or vacated within thirty days of imposition and upon becoming
 34 final shall be subject to review at the instance of the affected report-
 35 ing individual in a proceeding commenced against the [~~state~~] joint
 36 commission on public ethics [~~commission or legislative ethics committee~~]
 37 or the legislative ethics commission, pursuant to article seventy-eight
 38 of the civil practice law and rules.~~

39 5. Nothing contained in this section shall be construed as precluding
 40 any public authority or public benefit corporation from exercising any
 41 authority or power now or hereafter existing to require any of its
 42 members, directors, officers or employees to file financial disclosure
 43 statements with such public authority or public benefit corporation that
 44 are the same as, different from or supplemental to any of the require-
 45 ments contained herein and to provide only for internal employment
 46 discipline for any violation arising out of such internal filing.

47 6. Notwithstanding any other provision of law or any professional
 48 disciplinary rule to the contrary, the disclosure of the identity of any
 49 client or customer on a reporting individual's annual statement of
 50 financial disclosure shall not constitute professional misconduct or a
 51 ground for disciplinary action of any kind, or form the basis for any
 52 civil or criminal cause of action or proceeding.

53 § 6. Section 94 of the executive law, as added by chapter 813 of the
 54 laws of 1987, the section heading and subdivisions 1, 2, 3, 4, 5, 6, 7
 55 and 8 as amended by section 2, subdivisions 9, 10, 11, 12, 13, 14, 16
 56 and 17 as amended and subdivisions 13-a, 16-a and 18 as added by section

1 2-a, paragraph (1) of subdivision 9 as amended by section 3, paragraph
 2 (c) of subdivision 12 as amended by section 4, subdivision 15 as amended
 3 by section 5, and paragraphs (a) and (b) of subdivision 17 as amended by
 4 section 6 of chapter 14 of the laws of 2007, is amended to read as
 5 follows:

6 § 94. ~~Commission~~ Joint commission on public ~~[integrity]~~ ethics;
 7 functions, powers and duties; review of financial disclosure statements;
 8 advisory opinions; investigation and enforcement.

9 1. There is established within the department of state a joint commis-
 10 sion on public ~~[integrity]~~ ethics which shall consist of ~~[thirteen]~~
 11 fourteen members and shall have and exercise the powers and duties set
 12 forth in this section ~~[only]~~ with respect to statewide elected
 13 officials, members of the legislature and employees of the legislature,
 14 and state officers and employees, as defined in sections seventy-three
 15 and seventy-three-a of the public officers law, candidates for statewide
 16 elected office and for the senate or assembly, and the political party
 17 chairman as that term is defined in section seventy-three-a of the
 18 public officers law, lobbyists and the clients of lobbyists as such
 19 terms are defined in article one-A of the legislative law, and individ-
 20 uals who have formerly held such positions, were lobbyists or clients of
 21 lobbyists, as such terms are defined in article one-A of the legislative
 22 law, or who have formerly been such candidates. This section shall not
 23 ~~[revoke or rescind]~~ be deemed to have revoked or rescinded any regu-
 24 lations or advisory opinions issued by the legislative ethics commis-
 25 sion, the commission on public integrity, the state ethics commission
 26 and the temporary lobbying commission in effect upon the effective date
 27 of [a] chapter fourteen of the laws of two thousand seven which amended
 28 this section to the extent that such regulations or opinions are not
 29 inconsistent with any law of the state of New York, but such regulations
 30 and opinions shall apply only to matters over which such commissions had
 31 jurisdiction at the time such regulations and opinions were promulgated
 32 or issued. The commission shall undertake a comprehensive review of all
 33 such regulations and opinions, which will address the consistency of
 34 such regulations and opinions among each other and with the new statuto-
 35 ry language, and of the effectiveness of the existing laws, regulations,
 36 guidance and ethics enforcement structure to address the ethics of
 37 covered public officials and related parties. Such review shall be
 38 conducted with the legislative ethics commission and, to the extent
 39 possible, the report's findings shall reflect the full input and deliber-
 40 ations of both commissions after joint consultation. The commission
 41 shall, before ~~[April first, two thousand eight]~~ February first, two
 42 thousand fifteen, report to the governor and legislature regarding such
 43 review and shall propose any regulatory or statutory changes and issue
 44 any advisory opinions necessitated by such review.

45 2. The members of the commission shall be appointed ~~[by the governor~~
 46 ~~provided, however, that one member shall be appointed on the nomination~~
 47 ~~of the comptroller, one member shall be appointed on the nomination of~~
 48 ~~the attorney general, one member]~~ as follows: three members shall be
 49 appointed ~~[on the nomination of]~~ by the temporary president of the
 50 senate, ~~[one member]~~ three members shall be appointed ~~[on the nomination~~
 51 ~~of]~~ by the speaker of the assembly, one member shall be appointed ~~[on~~
 52 ~~the nomination of]~~ by the minority leader of the senate, ~~[and]~~ one
 53 member shall be appointed ~~[on the nomination of]~~ by the minority leader
 54 of the assembly, and six members shall be appointed by the governor and
 55 the lieutenant governor. In the event that a vacancy arises with
 56 respect to a member of the commission first appointed pursuant to the

1 chapter of the laws of two thousand eleven which amended this subdivi-
 2 sion by a legislative leader, the legislative leaders of the same poli-
 3 tical party in the same house shall appoint a member to fill such vacan-
 4 cy irrespective of whether that legislative leader's political party is
 5 in the majority or minority. Of the [~~seven~~] members appointed by the
 6 governor [~~without prior nomination, no more than four members shall~~
 7 ~~belong to the same political party and no members shall be public offi-~~
 8 ~~cers or employees or hold any public office, elected or appointed. No~~
 9 ~~member shall be a member of the legislature, a candidate for member of~~
 10 ~~the legislature, an employee of the legislature, a political party~~
 11 ~~chairman as defined in paragraph (k) of subdivision one of section~~
 12 ~~seventy-three of the public officers law, or a lobbyist as defined in~~
 13 ~~subdivision (a) of section one-e of the legislative law] and the lieu-~~
 14 ~~tenant governor, at least three members shall be and shall have been for~~
 15 ~~at least three years enrolled members of the major political party in~~
 16 ~~which the governor is not enrolled. In the event of a vacancy in a~~
 17 ~~position previously appointed by the governor and lieutenant governor,~~
 18 ~~the governor and lieutenant governor shall appoint a member of the same~~
 19 ~~political party as the member that vacated that position. Prior to~~
 20 ~~making their respective appointments, the governor and the lieutenant~~
 21 ~~governor and the legislative leaders shall solicit and receive recommen-~~
 22 ~~dations for appointees from the attorney general and the comptroller of~~
 23 ~~the state of New York, which recommendations shall be fully and properly~~
 24 ~~considered but shall not be binding.~~

25 No individual shall be eligible for appointment as a member of the
 26 commission who currently or within the last three years:

- 27 (i) is or has been registered as a lobbyist in New York state;
 28 (ii) is or has been a member of the New York state legislature or a
 29 statewide elected official or a commissioner of an executive agency
 30 appointed by the governor; or
 31 (iii) is or has been a political party chairman, as defined in para-
 32 graph (k) of subdivision one of section seventy-three of this article.

33 No individual shall be eligible for appointment as a member of the
 34 commission who currently or within the last year is or has been a state
 35 officer or employee or legislative employee as defined in section seven-
 36 ty-three of the public officers law.

37 3. Members of the commission shall serve for terms of five years;
 38 provided, however, that of the members first appointed [~~without prior~~
 39 ~~nomination] by the governor and lieutenant governor, one shall serve for
 40 one year, one shall serve for two years, one shall serve for three
 41 years, and one shall serve for four years, as designated by the gover-
 42 nor; the members first appointed [~~on the nominations of the comptroller~~
 43 ~~and] by the temporary president of the senate and by the speaker of the~~
 44 ~~assembly shall serve for four years and the members first appointed [~~
 45 ~~on the nominations of the attorney general and the speaker of] by the~~
 46 ~~minority leaders of the senate and] the assembly shall serve for two~~
 47 years.~~

48 4. The governor shall designate the chairman of the commission from
 49 among the members thereof, who shall serve as chairman at the pleasure
 50 of the governor. The chairman or any [~~seven~~] eight members of the
 51 commission may call a meeting.

52 5. Any vacancy occurring on the commission shall be filled within
 53 [~~sixty~~] thirty days of its occurrence[~~, by the governor,~~] in the same
 54 manner as the member whose vacancy is being filled was appointed. A
 55 person appointed to fill a vacancy occurring other than by expiration of

1 a term of office shall be appointed for the unexpired term of the member
2 he or she succeeds.

3 6. [~~Seven~~ Eight members of the commission shall constitute a quorum,
4 and the commission shall have power to act by majority vote of the total
5 number of members of the commission without vacancy except where the
6 commission acts pursuant to subdivision thirteen, subdivision fourteen-a
7 or subdivision fourteen-b of this section.

8 7. Members of the commission may be removed by the [~~governor~~ appoint-
9 ing authority solely for substantial neglect of duty, gross misconduct
10 in office, violation of the confidentiality restrictions in subdivision
11 nine-a of this section, inability to discharge the powers or duties of
12 office or violation of this section, after written notice and opportu-
13 nity for a reply.

14 8. [~~The members of the commission shall not receive compensation but~~
15 ~~shall be reimbursed for reasonable expenses incurred in the performance~~
16 ~~of their official duties] The members of the joint commission shall
17 receive a per diem allowance in the sum of three hundred dollars for
18 each day actually spent in the performance of his or her duties under
19 this article, and, in addition thereto, shall be reimbursed for all
20 reasonable expenses actually and necessarily incurred by him or her in
21 the performance of his or her duties under this article.~~

22 9. The commission shall:

23 (a) Appoint an executive director who shall act in accordance with the
24 policies of the commission. The appointment and removal of the execu-
25 tive director shall be made solely by a vote of a majority of the
26 commission, which majority shall include at least one member appointed
27 by the governor from each of the two major political parties, and one
28 member appointed by a legislative leader from each of the two major
29 political parties. The commission may delegate authority to the execu-
30 tive director to act in the name of the commission between meetings of
31 the commission provided such delegation is in writing [~~and~~], the specif-
32 ic powers to be delegated are enumerated, and the commission shall not
33 delegate any decisions specified in this section that require a vote of
34 the commission. The executive director shall be appointed without
35 regard to political affiliation and solely on the basis of fitness to
36 perform the duties assigned by this article, and shall be a qualified,
37 independent professional. The commission may remove the executive
38 director for neglect of duty, misconduct in office, violation of the
39 confidentiality restrictions in subdivision nine-a of this section, or
40 inability or failure to discharge the powers or duties of office,
41 including the failure to follow the lawful instructions of the commis-
42 sion;

43 (b) Appoint such other staff as are necessary to carry out its duties
44 under this section;

45 (b-1) Review and approve a staffing plan provided and prepared by the
46 executive director which shall contain, at a minimum, a list of the
47 various units and divisions as well as the number of positions in each
48 unit, titles and their duties, and salaries, as well as the various
49 qualifications for each position including, but not limited to, educa-
50 tion and prior experience for each position.

51 (c) Adopt, amend, and rescind rules and regulations to govern proce-
52 dures of the commission, which shall include, but not be limited to, the
53 procedure whereby a person who is required to file an annual financial
54 disclosure statement with the commission may request an additional peri-
55 od of time within which to file such statement, other than members of
56 the legislature, candidates for members of the legislature and legisla-

1 tive employees, due to justifiable cause or undue hardship; such rules
 2 or regulations shall provide for a date beyond which in all cases of
 3 justifiable cause or undue hardship no further extension of time will be
 4 granted;

5 (d) Adopt, amend, and rescind rules and regulations to assist appoint-
 6 ing authorities in determining which persons hold policy-making posi-
 7 tions for purposes of section seventy-three-a of the public officers
 8 law;

9 (d-1) Adopt, amend and rescind rules and regulations defining the
 10 permissible use of and promoting the proper use of public service
 11 announcements;

12 (e) Make available forms for annual statements of financial disclosure
 13 required to be filed pursuant to section seventy-three-a of the public
 14 officers law;

15 (f) Review financial disclosure statements in accordance with the
 16 provisions of this section, provided however, that the commission may
 17 delegate all or part of this review function to the executive director
 18 who shall be responsible for completing staff review of such statements
 19 in a manner consistent with the terms of the commission's delegation;

20 (g) Receive complaints and referrals alleging violations of section
 21 seventy-three, seventy-three-a or seventy-four of the public officers
 22 law, article one-A of the legislative law or section one hundred seven
 23 of the civil service law;

24 (h) Permit any person [~~subject to the jurisdiction of the commission~~]
 25 who is required to file a financial disclosure statement with the joint
 26 commission on public ethics to request that the commission [~~to~~] delete
 27 from the copy thereof made available for public inspection and copying
 28 one or more items of information which may be deleted by the commission
 29 upon a finding by the commission that the information which would other-
 30 wise be required to be made available for public inspection and copying
 31 will have no material bearing on the discharge of the reporting person's
 32 official duties. If such request for deletion is denied, the commission,
 33 in its notification of denial, shall inform the person of his or her
 34 right to appeal the commission's determination pursuant to its rules
 35 governing adjudicatory proceedings and appeals adopted pursuant to
 36 subdivision [~~thirteen~~] fourteen of this section;

37 (i) Permit any person [~~subject to the jurisdiction of the commission~~]
 38 who is required to file a financial disclosure statement with the joint
 39 commission on public ethics to request an exemption from any requirement
 40 to report one or more items of information which pertain to such
 41 person's spouse or unemancipated children which item or items may be
 42 exempted by the commission upon a finding by the commission that the
 43 reporting individual's spouse, on his or her own behalf or on behalf of
 44 an unemancipated child, objects to providing the information necessary
 45 to make such disclosure and that the information which would otherwise
 46 be required to be reported will have no material bearing on the
 47 discharge of the reporting person's official duties. If such request for
 48 exemption is denied, the commission, in its notification of denial,
 49 shall inform the person of his or her right to appeal the commission's
 50 determination pursuant to its rules governing adjudicatory proceedings
 51 and appeals adopted pursuant to subdivision [~~thirteen~~] fourteen of this
 52 section;

53 (i-1) Permit any person required to file a financial disclosure state-
 54 ment to request an exemption from any requirement to report the identity
 55 of a client pursuant to question 8(b) in such statement based upon an
 56 exemption set forth in that question. The reporting individual need not

1 seek an exemption to refrain from disclosing the identity of any client
 2 with respect to any matter he or she or his or her firm provided legal
 3 representation to the client in connection with an investigation or
 4 prosecution by law enforcement authorities, bankruptcy, or domestic
 5 relations matters; in addition, clients or customers receiving medical
 6 or dental services, mental health services, residential real estate
 7 brokering services, or insurance brokering services need not be
 8 disclosed.

9 (j) Advise and assist any state agency in establishing rules and regu-
 10 lations relating to possible conflicts between private interests and
 11 official duties of present or former statewide elected officials and
 12 state officers and employees;

13 (k) Permit any person who has not been determined by his or her
 14 appointing authority to hold a policy-making position but who is other-
 15 wise required to file a financial disclosure statement to request an
 16 exemption from such requirement in accordance with rules and regulations
 17 governing such exemptions. Such rules and regulations shall provide for
 18 exemptions to be granted either on the application of an individual or
 19 on behalf of persons who share the same job title or employment classi-
 20 fication which the commission deems to be comparable for purposes of
 21 this section. Such rules and regulations may permit the granting of an
 22 exemption where, in the discretion of the commission, the public inter-
 23 est does not require disclosure and the applicant's duties do not
 24 involve the negotiation, authorization or approval of:

25 (i) contracts, leases, franchises, revocable consents, concessions,
 26 variances, special permits, or licenses as defined in section seventy-
 27 three of the public officers law;

28 (ii) the purchase, sale, rental or lease of real property, goods or
 29 services, or a contract therefor;

30 (iii) the obtaining of grants of money or loans; or

31 (iv) the adoption or repeal of any rule or regulation having the force
 32 and effect of law;

33 (l) Prepare an annual report to the governor and legislature summariz-
 34 ing the activities of the commission during the previous year and recom-
 35 mending any changes in the laws governing the conduct of persons subject
 36 to the jurisdiction of the commission, or the rules, regulations and
 37 procedures governing the commission's conduct. Such report shall
 38 include: (i) a listing by assigned number of each complaint and referral
 39 received which alleged a possible violation within its jurisdiction,
 40 including the current status of each complaint, and (ii) where a matter
 41 has been resolved, the date and nature of the disposition and any sanc-
 42 tion imposed, subject to the confidentiality requirements of this
 43 section, provided, however, that such annual report shall not contain
 44 any information for which disclosure is not permitted pursuant to subdi-
 45 vision [~~seventeen~~ nineteen of this section; ~~and~~]

46 (m) Determine a question common to a class or defined category of
 47 persons or items of information required to be disclosed, where determi-
 48 nation of the question will prevent undue repetition of requests for
 49 exemption or deletion or prevent undue complication in complying with
 50 the requirements of such section[~~+~~]; and

51 (n) Promulgate guidelines for the commission to conduct a program of
 52 random reviews, to be carried out in the following manner: (i) annual
 53 statements of financial disclosure shall be selected for review in a
 54 manner pursuant to which the identity of any particular person whose
 55 statement is selected is unknown to the commission and its staff prior
 56 to its selection; (ii) such review shall include a preliminary examina-

1 tion of the selected statement for internal consistency, a comparison
2 with other records maintained by the commission, including previously
3 filed statements and requests for advisory opinions, and examination of
4 relevant public information; (iii) upon completion of the preliminary
5 examination, the commission shall determine whether further inquiry is
6 warranted, whereupon it shall notify the reporting individual in writing
7 that the statement is under review, advise the reporting individual of
8 the specific areas of inquiry, and provide the reporting individual with
9 the opportunity to provide any relevant information related to the
10 specific areas of inquiry, and the opportunity to file amendments to the
11 selected statement on forms provided by the commission; and (iv) if
12 thereafter sufficient cause exists, the commission shall take additional
13 actions, as appropriate and consistent with law.

14 9-a. (a) When an individual becomes a commissioner or staff of the
15 commission, that individual shall be required to sign a non-disclosure
16 statement.

17 (b) Except as otherwise required or provided by law, testimony
18 received or any other information obtained by a commissioner or staff of
19 the commission shall not be disclosed by any such individual to any
20 person or entity outside the commission during the pendency of any
21 matter. Any confidential communication to any person or entity outside
22 the commission related to the matters before the commission may occur
23 only as authorized by the commission.

24 (c) The commission shall establish procedures necessary to prevent the
25 unauthorized disclosure of any information received by any member of the
26 commission or staff of the commission. Any breaches of confidentiality
27 shall be investigated by the inspector general and appropriate action
28 shall be taken. Any commissioner or person employed by the commission
29 who intentionally and without authorization releases confidential infor-
30 mation received by the commission shall be guilty of a class A misdemea-
31 nor.

32 9-b. During the period of his or her service as a commissioner of the
33 commission, each commissioner shall refrain from making, or soliciting
34 from other persons, any contributions to candidates for election to the
35 offices of governor, lieutenant governor, member of the assembly or the
36 senate, attorney general or state comptroller.

37 10. The commission shall prepare materials and design and administer
38 an ethics training program for individuals subject to the financial
39 disclosure requirements of section seventy-three-a of the public offi-
40 cers law with respect to the provisions of sections seventy-three,
41 seventy-three-a, and seventy-four of the public officers law and any
42 other law, administrative regulation, or internal policy that is of
43 relevance to the ethical conduct of such individuals in public service,
44 as follows:

45 (a) The commission shall develop and administer a comprehensive ethics
46 training course and shall designate and train instructors to conduct
47 such training. Such course shall be designed as a two-hour program and
48 shall include practical application of the material covered and a ques-
49 tion-and-answer participatory segment. Unless the commission grants an
50 extension or waiver for good cause shown, all individuals subject to the
51 financial disclosure requirements of section seventy-three-a of the
52 public officers law shall complete such course within two years of the
53 effective date of the chapter of the laws of two thousand eleven which
54 amended this section, or for those individuals elected or appointed
55 after the effective date of the chapter of the laws of two thousand
56 eleven which amended this section, within two years of becoming subject

1 to the financial disclosure requirements of section seventy-three-a of
2 the public officers law.

3 (b) The commission shall develop and administer an online ethics
4 orientation course and shall notify all individuals newly subject to the
5 financial disclosure requirements of section seventy-three-a of the
6 public officers law of such course, which shall be completed by such
7 individuals within three months of becoming subject to such require-
8 ments, unless the commission grants an extension or waiver for good
9 cause shown. Individuals who have completed the comprehensive ethics
10 training course shall not be required to complete the online ethics
11 orientation course.

12 (c) The commission shall develop and administer an ethics seminar or
13 ethics seminars for individuals who have previously completed the
14 comprehensive ethics training course. Such seminars shall be designed as
15 ninety-minute programs and shall include any changes in law, regulation,
16 or policy or in the interpretation thereof, practical application of the
17 material covered, and a question-and-answer segment. Unless the commis-
18 sion grants an extension or waiver for good cause shown, such individ-
19 uals shall be scheduled to attend a seminar at least once every three
20 years after having completed the comprehensive ethics training course.
21 In lieu of attending an ethics seminar, such individuals may complete a
22 subsequent comprehensive ethics training program.

23 (d) The provisions of this subdivision shall be applicable to the
24 legislature except to the extent that an ethics training program is
25 otherwise established by the assembly or senate for their respective
26 members and employees and such program meets or exceeds each of the
27 requirements set forth in this section.

28 (e) On an annual basis, the joint commission in coordination with the
29 legislative ethics commission shall determine the status of compliance
30 with these training requirements by each state agency and by the senate
31 and the assembly. Such determination shall include aggregate statistics
32 regarding participation in such training, and shall be reported to the
33 governor and the legislature in writing.

34 11. The commission, or the executive director and staff of the commis-
35 sion if responsibility therefor has been delegated, shall inspect all
36 financial disclosure statements filed with the commission to ascertain
37 whether any person subject to the reporting requirements of section
38 seventy-three-a of the public officers law has failed to file such a
39 statement, has filed a deficient statement or has filed a statement
40 which reveals a possible violation of section seventy-three, seventy-
41 three-a or seventy-four of the public officers law.

42 ~~[11.]~~ 12. If a person required to file a financial disclosure state-
43 ment with the commission has failed to file a disclosure statement or
44 has filed a deficient statement, the commission shall notify the report-
45 ing person in writing, state the failure to file or detail the deficien-
46 cy, provide the person with a fifteen day period to cure the deficiency,
47 and advise the person of the penalties for failure to comply with the
48 reporting requirements. Such notice shall be confidential. If the person
49 fails to make such filing or fails to cure the deficiency within the
50 specified time period, the commission shall send a notice of delinquen-
51 cy: (a) to the reporting person; (b) in the case of a statewide elected
52 official, member of the legislature, or a legislative employee, to the
53 temporary president of the senate and the speaker of the assembly; and
54 (c) in the case of a state officer or employee, to the appointing
55 authority for such person. Such notice of delinquency may be sent at any
56 time during the reporting person's service as a statewide elected offi-

1 cial, state officer or employee, member of the assembly or the senate,
 2 or a legislative employee or a political party chair or while a candi-
 3 date for statewide office, or within one year after termination of such
 4 service or candidacy. The jurisdiction of the commission, when acting
 5 pursuant to subdivision [~~thirteen~~] fourteen of this section with respect
 6 to financial disclosure, shall continue notwithstanding that the report-
 7 ing person separates from state service, or ceases to hold public or
 8 political party office [~~as a statewide elected official or political~~
 9 ~~party chair~~], or ceases to be a candidate, provided the commission noti-
 10 fies such person of the alleged failure to file or deficient filing
 11 pursuant to this subdivision.

12 [~~12.~~] 13. (a) Investigations. If the commission receives a sworn
 13 complaint alleging a violation of section seventy-three,
 14 seventy-three-a, or seventy-four of the public officers law, section one
 15 hundred seven of the civil service law or article one-A of the legisla-
 16 tive law by a person or entity subject to the jurisdiction of the
 17 commission including members of the legislature and legislative employ-
 18 ees and candidates for member of the legislature, or if a reporting
 19 individual has filed a statement which reveals a possible violation of
 20 these provisions, or if the commission determines on its own initiative
 21 to investigate a possible violation, the commission shall notify the
 22 individual in writing, describe the possible or alleged violation of
 23 such laws and provide the person with a fifteen day period in which to
 24 submit a written response setting forth information relating to the
 25 activities cited as a possible or alleged violation of law. [~~If the~~
 26 ~~commission thereafter makes a determination that further inquiry is~~
 27 ~~justified, it shall give the individual an opportunity to be heard.] The
 28 commission shall, within forty-five calendar days after a complaint or a
 29 referral is received or an investigation is initiated on the commis-
 30 sion's own initiative, vote on whether to commence a full investigation
 31 of the matter under consideration to determine whether a substantial
 32 basis exists to conclude that a violation of law has occurred. The
 33 staff of the joint commission shall provide to the members prior to such
 34 vote information regarding the likely scope and content of the investi-
 35 gation, and a subpoena plan, to the extent such information is avail-
 36 able. Such investigation shall be conducted if at least eight members
 37 of the commission vote to authorize it. Where the subject of such
 38 investigation is a member of the legislature or a legislative employee
 39 or a candidate for member of the legislature, at least two of the eight
 40 or more members who so vote to authorize such an investigation must have
 41 been appointed by a legislative leader or leaders from the major poli-
 42 tical party in which the subject of the proposed investigation is
 43 enrolled if such person is enrolled in a major political party. Where
 44 the subject of such investigation is a state officer or state employee,
 45 at least two of the eight or more members who so vote to authorize such
 46 an investigation must have been appointed by the governor and lieutenant
 47 governor. Where the subject of such investigation is a statewide elected
 48 official or a direct appointee of such an official, at least two of the
 49 eight or more members who so vote to authorize such an investigation
 50 must have been appointed by the governor and lieutenant governor and be
 51 enrolled in the major political party in which the subject of the
 52 proposed investigation is enrolled, if such person is enrolled in a
 53 major political party.~~

54 (b) Substantial basis investigation. Upon the affirmative vote of not
 55 less than eight commission members to commence a substantial basis
 56 investigation, written notice of the commission's decision shall be

1 provided to the individual who is the subject of such substantial basis
 2 investigation. Such written notice shall include a copy of the commis-
 3 sion's rules and procedures and shall also include notification of such
 4 individual's right to be heard within thirty calendar days of the date
 5 of the commission's written notice. The commission shall also inform the
 6 individual of its rules regarding the conduct of adjudicatory
 7 proceedings and appeals and the other due process procedural mechanisms
 8 available to such individual. If the commission determines at any stage
 9 [~~of the proceeding,~~] that there is no violation or that any potential
 10 conflict of interest violation has been rectified, it shall so advise
 11 the individual and the complainant, if any. All of the foregoing
 12 proceedings shall be confidential.

13 [~~(b) If the commission determines that there is reasonable cause to~~
 14 ~~believe that a violation has occurred, it shall send a notice of reason-~~
 15 ~~able cause: (i) to the reporting person; (ii) to the complainant if any;~~
 16 ~~(iii) in the case of a statewide elected official, to the temporary~~
 17 ~~president of the senate and the speaker of the assembly; and (iv) in the~~
 18 ~~case of a state officer or employee, to the appointing authority for~~
 19 ~~such person.]~~

20 (c) The jurisdiction of the commission when acting pursuant to this
 21 section shall continue notwithstanding that a statewide elected official
 22 or a state officer or employee or member of the legislature or legisla-
 23 tive employee separates from state service, or a political party chair
 24 ceases to hold such office, or a candidate ceases to be a candidate, or
 25 a lobbyist or client of a lobbyist ceases to act as such, provided that
 26 the commission notifies such individual or entity of the alleged
 27 violation of law pursuant to paragraph (a) of this subdivision within
 28 one year from his or her separation from state service or his or her
 29 termination of party service or candidacy, or from his, her or its last
 30 report filed pursuant to article one-A of the legislative law. Nothing
 31 in this section shall serve to limit the jurisdiction of the commission
 32 in enforcement of subdivision eight of section seventy-three of the
 33 public officers law.

34 [~~13.~~ 14. An individual subject to the jurisdiction of the commission
 35 who knowingly and intentionally violates the provisions of subdivisions
 36 two through [~~five~~] five-a, seven, eight, twelve or fourteen through
 37 seventeen of section seventy-three of the public officers law, section
 38 one hundred seven of the civil service law, or a reporting individual
 39 who knowingly and wilfully fails to file an annual statement of finan-
 40 cial disclosure or who knowingly and wilfully with intent to deceive
 41 makes a false statement or fraudulent omission or gives information
 42 which such individual knows to be false on such statement of financial
 43 disclosure filed pursuant to section seventy-three-a of the public offi-
 44 cers law shall be subject to a civil penalty in an amount not to exceed
 45 forty thousand dollars and the value of any gift, compensation or bene-
 46 fit received as a result of such violation. An individual who knowingly
 47 and intentionally violates the provisions of paragraph a, b, c, d, e, g,
 48 or i of subdivision three of section seventy-four of the public officers
 49 law shall be subject to a civil penalty in an amount not to exceed ten
 50 thousand dollars and the value of any gift, compensation or benefit
 51 received as a result of such violation. [~~An individual who knowingly and~~
 52 ~~intentionally violates the provisions of paragraph a, e or g of subdivi-~~
 53 ~~sion three of section seventy-four of the public officers law shall be~~
 54 ~~subject to a civil penalty in an amount not to exceed the value of any~~
 55 ~~gift, compensation or benefit received as a result of such violation.]~~
 56 An individual subject to the jurisdiction of the commission who knowing-

1 ly and willfully violates article one-A of the legislative law shall be
 2 subject to civil penalty as provided for in that article. [~~Assessment~~]
 3 Except with respect to members of the legislature and legislative
 4 employees, assessment of a civil penalty hereunder shall be made by the
 5 commission with respect to persons subject to its jurisdiction. With
 6 respect to a violation of any law other than sections seventy-three,
 7 seventy-three-a, and seventy-four of the public officers law, where the
 8 commission finds sufficient cause by a vote held in the same manner as
 9 set forth in paragraph (b) of subdivision thirteen of this section, it
 10 shall refer such matter to the appropriate prosecutor for further inves-
 11 tigation. In assessing the amount of the civil penalties to be imposed,
 12 the commission shall consider the seriousness of the violation, the
 13 amount of gain to the individual and whether the individual previously
 14 had any civil or criminal penalties imposed pursuant to this section,
 15 and any other factors the commission deems appropriate. [~~For~~] Except
 16 with respect to members of the legislature and legislative employees,
 17 for a violation of this subdivision, other than for conduct which
 18 constitutes a violation of section one hundred seven of the civil
 19 service law, subdivisions twelve or fourteen through seventeen of
 20 section seventy-three or section seventy-four of the public officers law
 21 or article one-A of the legislative law, the commission [~~may, in lieu of~~
 22 ~~a civil penalty,~~] may, in lieu of or in addition to a civil penalty,
 23 refer a violation to the appropriate prosecutor and upon such
 24 conviction, such violation shall be punishable as a class A misdemeanor.
 25 A civil penalty for false filing may not be imposed hereunder in the
 26 event a category of "value" or "amount" reported hereunder is incorrect
 27 unless such reported information is falsely understated. Notwithstanding
 28 any other provision of law to the contrary, no other penalty, civil or
 29 criminal may be imposed for a failure to file, or for a false filing, of
 30 such statement, or a violation of subdivision six of section seventy-
 31 three of the public officers law, except that the appointing authority
 32 may impose disciplinary action as otherwise provided by law. The commis-
 33 sion may refer violations of this subdivision to the appointing authori-
 34 ty for disciplinary action as otherwise provided by law. The commission
 35 shall be deemed to be an agency within the meaning of article three of
 36 the state administrative procedure act and shall adopt rules governing
 37 the conduct of adjudicatory proceedings and appeals taken pursuant to a
 38 proceeding commenced under article seventy-eight of the civil practice
 39 law and rules relating to the assessment of the civil penalties herein
 40 authorized and commission denials of requests for certain deletions or
 41 exemptions to be made from a financial disclosure statement as author-
 42 ized in paragraph (h) or paragraph (i) of subdivision nine of this
 43 section. Such rules, which shall not be subject to the approval require-
 44 ments of the state administrative procedure act, shall provide for due
 45 process procedural mechanisms substantially similar to those set forth
 46 in article three of the state administrative procedure act but such
 47 mechanisms need not be identical in terms or scope. Assessment of a
 48 civil penalty or commission denial of such a request shall be final
 49 unless modified, suspended or vacated within thirty days of imposition,
 50 with respect to the assessment of such penalty, or unless such denial of
 51 request is reversed within such time period, and upon becoming final
 52 shall be subject to review at the instance of the affected reporting
 53 individuals in a proceeding commenced against the commission, pursuant
 54 to article seventy-eight of the civil practice law and rules.
 55 [~~13-a. If the commission has a reasonable basis to believe that any~~
 56 ~~person subject to the jurisdiction of the legislative ethics commission~~

1 ~~may have violated any provisions of section seventy-three or seventy-~~
2 ~~four of the public officers law, it shall refer such violation to the~~
3 ~~legislative ethics commission unless the commission determines that such~~
4 ~~a referral would compromise the prosecution or confidentiality of its~~
5 ~~investigations and, if so, shall make such a referral as soon as practi-~~
6 ~~cable. The referral by the commission to the legislative ethics commis-~~
7 ~~sion shall include any information relating thereto coming into the~~
8 ~~custody or under the control of the commission at any time prior or~~
9 ~~subsequent to the time of the referral.~~

10 14.] 14-a. The joint commission on public ethics shall have jurisdic-
11 tion to investigate, but shall have no jurisdiction to impose penalties
12 upon members of or candidates for member of the legislature or legisla-
13 tive employees for any violation of the public officers law. If, after
14 its substantial basis investigation, by a vote of at least eight
15 members, two of whom are enrolled members of the investigated individ-
16 ual's political party if the individual is enrolled in a major political
17 party and were appointed by a legislative leader of such political
18 party, the joint commission on public ethics has found a substantial
19 basis to conclude that a member of the legislature or a legislative
20 employee or candidate for member of the legislature has violated any
21 provisions of such laws, it shall present a written report to the legis-
22 lative ethics commission, and deliver a copy of the report to the indi-
23 vidual who is the subject of the report. Such written report shall
24 include:

25 (a) the commission's findings of fact and any evidence addressed in
26 such findings; conclusions of law and citations to any relevant law,
27 rule, opinion, regulation or standard of conduct upon which it relied;
28 and

29 (b) a determination that a substantial basis exists to conclude that a
30 violation has occurred, and the reasons and basis for such determi-
31 nation.

32 The joint commission shall also separately provide to the legislative
33 ethics commission copies of additional documents or other evidence
34 considered including evidence that may contradict the joint commission's
35 findings, the names of and other information regarding any additional
36 witnesses, and any other materials. With respect to a violation of any
37 law other than sections seventy-three, seventy-three-a, and seventy-four
38 of the public officers law, where the joint commission finds sufficient
39 cause by a vote held in the same manner as set forth in paragraph (b) of
40 subdivision thirteen of this section, it shall refer such matter to the
41 appropriate prosecutor.

42 14-b. With respect to the investigation of any individual who is not a
43 member of the legislature or a legislative employee or candidate for
44 member of the legislature, if after its investigation the joint commis-
45 sion has found a substantial basis to conclude that the individual has
46 violated the public officers law or the legislative law, the joint
47 commission shall send a substantial basis investigation report contain-
48 ing its findings of fact and conclusions of law to the individual. With
49 respect to an individual who is a statewide elected official or a direct
50 appointee of such an official, no violation may be found unless the
51 majority voting in support of such a finding includes at least two
52 members appointed by the governor and lieutenant governor and enrolled
53 in the individual's major political party, if he or she is enrolled in a
54 major political party. Where the subject of such investigation is a
55 state officer or employee who is not a direct appointee of a statewide
56 elected official, at least two of the eight or more members who vote to

1 issue a substantial basis investigation report must have been appointed
 2 by the governor and lieutenant governor. The commission shall release
 3 such report publicly within forty-five days of its issuance.

4 14-c. With respect to an investigation of a lobbyist, if after its
 5 investigation the joint commission has found a substantial basis to
 6 conclude that the lobbyist has violated the legislative law, the joint
 7 commission shall issue a substantial basis investigation report contain-
 8 ing its findings of fact and conclusions of law to the lobbyist and
 9 shall make public such report within forty-five days of its issuance.

10 15. A copy of any notice of delinquency or [notice of reasonable cause
 11 sent pursuant to subdivisions eleven and twelve of this section]
 12 substantial basis investigation report shall be included in the report-
 13 ing person's file and be available for public inspection and copying
 14 pursuant to the provisions of this section.

15 ~~[15-]~~ 16. Upon written request from any person who is subject to the
 16 jurisdiction of the commission and the requirements of sections seven-
 17 ty-three, seventy-three-a or seventy-four of the public officers law,
 18 other than members of the legislature, candidates for member of the
 19 legislature and employees of the legislature, the commission shall
 20 render written advisory opinions on the requirements of said provisions.
 21 An opinion rendered by the commission, until and unless amended or
 22 revoked, shall be binding on the commission in any subsequent proceeding
 23 concerning the person who requested the opinion and who acted in good
 24 faith, unless material facts were omitted or misstated by the person in
 25 the request for an opinion. Such opinion may also be relied upon by such
 26 person, and may be introduced and shall be a defense, in any criminal or
 27 civil action. Such requests shall be confidential but the commission may
 28 publish such opinions provided that the name of the requesting person
 29 and other identifying details shall not be included in the publication.

30 ~~[16-]~~ 17. In addition to any other powers and duties specified by law,
 31 the commission shall have the power and duty to:

32 (a) Promulgate rules concerning restrictions on outside activities and
 33 limitations on the receipt of gifts and honoraria by persons subject to
 34 its jurisdiction, provided, however, a violation of such rules in and of
 35 itself shall not be punishable pursuant to subdivision ~~[thirteen]~~ four-
 36 teen of this section unless the conduct constituting the violation would
 37 otherwise constitute a violation of this section; and

38 (b) ~~[Conduct training programs in cooperation with the governor's~~
 39 ~~office of employee relations to provide education to individuals subject~~
 40 ~~to its jurisdiction; and~~

41 ~~(c)]~~ Administer and enforce all the provisions of this section; and

42 ~~[(d)]~~ (c) Conduct any investigation necessary to carry out the
 43 provisions of this section. Pursuant to this power and duty, the commis-
 44 sion may administer oaths or affirmations, subpoena witnesses, compel
 45 their attendance and require the production of any books or records
 46 which it may deem relevant or material;

47 ~~[16-a-]~~ 18. Within one hundred twenty days of the effective date of
 48 this subdivision, the commission shall create and thereafter maintain a
 49 publicly accessible website which shall set forth the procedure for
 50 filing a complaint with the commission, and which shall contain the
 51 documents identified in subdivision ~~seventeen~~ nineteen of this
 52 section, other than financial disclosure statements~~[7]~~ filed by state
 53 officers or employees or legislative employees, and any other records or
 54 information which the commission determines to be appropriate.

1 ~~[17.]~~ **19.** (a) Notwithstanding the provisions of article six of the
2 public officers law, the only records of the commission which shall be
3 available for public inspection and copying are:

4 (1) the information set forth in an annual statement of financial
5 disclosure filed pursuant to section seventy-three-a of the public offi-
6 cers law except ~~[the categories of value or amount, which shall remain~~
7 ~~confidential, and any other item of]~~ information deleted pursuant to
8 paragraph (h) of subdivision nine of this section;

9 (2) notices of delinquency sent under subdivision ~~[eleven]~~ **twelve** of
10 this section;

11 (3) ~~[notices of reasonable cause sent under paragraph (b) of subdivi-~~
12 ~~sion twelve of this section;~~

13 ~~(4)]~~ notices of civil assessments imposed under this section which
14 shall include a description of the nature of the alleged wrongdoing, the
15 procedural history of the complaint, the findings and determinations
16 made by the commission, and any sanction imposed;

17 ~~[(5)]~~ **(4)** the terms of any settlement or compromise of a complaint or
18 referral which includes a fine, penalty or other remedy; ~~[and~~

19 ~~(6)]~~ **(5)** those required to be held or maintained publicly available
20 pursuant to article one-A of the legislative law~~[-]; and~~

21 **(6) substantial basis investigation reports issued by the commission**
22 **pursuant to subdivision fourteen-a or fourteen-b of this section. With**
23 **respect to reports concerning members of the legislature or legislative**
24 **employees or candidates for member of the legislature, the joint commis-**
25 **sion shall not publicly disclose or otherwise disseminate such reports**
26 **except in conformance with the requirements of paragraph (b) of subdivi-**
27 **sion nine of section eighty of the legislative law.**

28 (b) Notwithstanding the provisions of article seven of the public
29 officers law, no meeting or proceeding, including any such proceeding
30 contemplated under paragraph (h) or (i) of subdivision nine of this
31 section, of the commission shall be open to the public, except if
32 expressly provided otherwise by the commission or as is required by
33 article one-A of the legislative law.

34 (c) Pending any application for deletion or exemption to the commis-
35 sion, all information which is the subject or a part of the application
36 shall remain confidential. Upon an adverse determination by the commis-
37 sion, the reporting individual may request, and upon such request the
38 commission shall provide, that any information which is the subject or
39 part of the application remain confidential for a period of thirty days
40 following notice of such determination. In the event that the reporting
41 individual resigns his office and holds no other office subject to the
42 jurisdiction of the commission, the information shall not be made public
43 and shall be expunged in its entirety.

44 ~~[18]~~ **20.** If any part or provision of this section or the application
45 thereof to any person or organization is adjudged by a court of compe-
46 tent jurisdiction to be unconstitutional or otherwise invalid, such
47 judgment shall not affect or impair any other part or provision or the
48 application thereof to any other person or organization, but shall be
49 confined in its operation to such part or provision.

50 § 7. Section 1-d of the legislative law is amended by adding a new
51 subdivision (h) to read as follows:

52 **(h) provide an online ethics training course for individuals regis-**
53 **tered as lobbyists pursuant to section one-e of this article. The**
54 **curriculum for the course shall include, but not be limited to, explana-**
55 **tions and discussions of the statutes and regulations of New York**
56 **concerning ethics in the public officers law, the election law, the**

1 legislative law, summaries of advisory opinions, underlying purposes and
 2 principles of the relevant laws, and examples of practical application
 3 of these laws and principles. The commission shall prepare those methods
 4 and materials necessary to implement the curriculum. Each individual
 5 registered as a lobbyist pursuant to section one-e of this article shall
 6 complete such training course at least once in any three-year period
 7 during which he or she is registered as a lobbyist.

8 § 7-a. Subdivision (c) of section 1-e of the legislative law is
 9 amended by adding a new paragraph 8 to read as follows:

10 (8) (i) the name and public office address of any statewide elected
 11 official, state officer or employee, member of the legislature or legis-
 12 lative employee and entity with whom the lobbyist has a reportable busi-
 13 ness relationship;

14 (ii) a description of the general subject or subjects of the trans-
 15 actions between the lobbyist or lobbyists and the statewide elected
 16 official, state officer or employee, member of the legislature or legis-
 17 lative employee and entity; and

18 (iii) the compensation, including expenses, to be paid and paid by
 19 virtue of the business relationship.

20 § 7-b. Subdivision (b) of section 1-j of the legislative law is
 21 amended by adding a new paragraph 6 to read as follows:

22 (6) (i) the name and public office address of any statewide elected
 23 official, state officer or employee, member of the legislature or legis-
 24 lative employee and entity with whom the client of a lobbyist has a
 25 reportable business relationship;

26 (ii) a description of the general subject or subjects of the trans-
 27 actions between the client of a lobbyist and the statewide elected offi-
 28 cial, state officer or employee, member of the legislature or legisla-
 29 tive employee and entity; and

30 (iii) the compensation, including expenses, to be paid and paid by
 31 virtue of the business relationship.

32 § 8. Section 1-c of the legislative law is amended by adding a new
 33 subdivision (w) to read as follows:

34 (w) The term "reportable business relationship" shall mean a relation-
 35 ship in which compensation is paid by a lobbyist or by a client of a
 36 lobbyist, in exchange for any goods, services or anything of value, the
 37 total value of which is in excess of one thousand dollars annually, to
 38 be performed or provided by or intended to be performed or provided by
 39 (i) any statewide elected official, state officer, state employee,
 40 member of the legislature or legislative employee, or (ii) any entity in
 41 which the lobbyist or the client of a lobbyist knows or has reason to
 42 know the statewide elected official, state officer, state employee,
 43 member of the legislature or legislative employee is a proprietor, part-
 44 ner, director, officer or manager, or owns or controls ten percent or
 45 more of the stock of such entity (or one percent in the case of a corpo-
 46 ration whose stock is regularly traded on an established securities
 47 exchange).

48 § 9. Section 80 of the legislative law, as amended by chapter 14 of
 49 the laws of 2007, is amended to read as follows:

50 § 80. Legislative ethics commission; functions, powers and duties;
 51 review of financial disclosure statements; advisory opinions; [~~investi-~~
 52 ~~gation and enforcement~~] imposition of penalties or other enforcement
 53 actions. 1. There is established a legislative ethics commission which
 54 shall consist of nine members. Four members shall be members of the
 55 legislature and shall be appointed as follows: one by the temporary
 56 president of the senate, one by the speaker of the assembly, one by the

1 minority leader of the senate and one by the minority leader of the
2 assembly. The remaining five members shall not be present or former
3 members of the legislature, candidates for member of the legislature,
4 employees of the legislature, political party chairmen as defined in
5 paragraph (k) of subdivision one of section seventy-three of the public
6 officers law, or lobbyists, as defined in section one-c of this chapter,
7 or persons who have been employees of the legislature, political party
8 chairmen as defined in paragraph (k) of subdivision one of section
9 seventy-three of the public officers law, or lobbyists, as defined in
10 section one-c of this chapter in the previous five years, and shall be
11 appointed as follows: one by the temporary president of the senate, one
12 by the speaker of the assembly, one by the minority leader of the
13 senate, one by the minority leader of the assembly, and one jointly by
14 the speaker of the assembly and majority leader of the senate. The
15 commission shall serve as described in this section and have and exer-
16 cise the powers and duties set forth in this section only with respect
17 to members of the legislature, legislative employees as defined in
18 section seventy-three of the public officers law, candidates for member
19 of the legislature and individuals who have formerly held such positions
20 or who have formerly been such candidates.

21 2. Members of the legislature who serve on the commission shall each
22 have a two year term concurrent with their legislative terms of office.
23 The members of the commission who are not members of the legislature and
24 who are first appointed by the temporary president of the senate, speak-
25 er of the assembly, minority leader of the senate, and minority leader
26 of the assembly shall serve one, two, three and four year terms, respec-
27 tively. The member of the commission first appointed jointly by the
28 temporary president of the senate and speaker of the assembly shall
29 serve a four year term. Each member of the commission who is not a
30 member of the legislature shall be appointed thereafter for a term of
31 four years.

32 3. The temporary president of the senate and the speaker of the assem-
33 bly shall each designate one member of the commission as a co-chairper-
34 son thereof. The commission shall meet at least bi-monthly and at such
35 additional times as may be called for by the co-chairpersons jointly or
36 any five members of the commission.

37 4. Any vacancy occurring on the commission shall be filled within
38 thirty days by the appointing authority.

39 5. Five members of the commission shall constitute a quorum, and the
40 commission shall have power to act by majority vote of the total number
41 of members of the commission without vacancy.

42 6. The members of the commission who are not members of the legisla-
43 ture shall be reimbursed for reasonable expenses [~~incurred~~] and receive
44 a per diem allowance in the sum of three hundred dollars for each day
45 spent in the performance of their official duties.

46 7. The commission shall:

47 a. Appoint an executive director who shall act in accordance with the
48 policies of the commission, provided that the commission may remove the
49 executive director for neglect of duty, misconduct in office, or inabil-
50 ity or failure to discharge the powers or duties of office;

51 b. Appoint such other staff as are necessary to assist it to carry out
52 its duties under this section;

53 c. Adopt, amend, and rescind policies, rules and regulations consist-
54 ent with this section to govern procedures of the commission which shall
55 not be subject to the promulgation and hearing requirements of the state
56 administrative procedure act;

1 d. Administer the provisions of this section;

2 e. Specify the procedures whereby a person who is required to file an
3 annual financial disclosure statement with the commission may request an
4 additional period of time within which to file such statement, due to
5 justifiable cause or undue hardship; such rules or regulations shall
6 provide for a date beyond which in all cases of justifiable cause or
7 undue hardship no further extension of time will be granted;

8 f. Promulgate guidelines to assist appointing authorities in determin-
9 ing which persons hold policy-making positions for purposes of section
10 seventy-three-a of the public officers law and may promulgate guidelines
11 to assist firms, associations and corporations in separating affected
12 persons from net revenues for purposes of subdivision ten of section
13 seventy-three of the public officers law, and promulgate guidelines to
14 assist any firm, association or corporation in which any present or
15 former statewide elected official, state officer or employee, member of
16 the legislature or legislative employee, or political party chairman is
17 a member, associate, retired member, of counsel or shareholder, in
18 complying with the provisions of subdivision ten of section seventy-
19 three of the public officers law with respect to the separation of such
20 present or former statewide elected official, state officer or employee,
21 member of the legislature or legislative employee, or political party
22 chairman from the net revenues of the firm, association or corporation.
23 Such firm, association or corporation shall not be required to adopt the
24 procedures contained in the guidelines to establish compliance with
25 subdivision ten of section seventy-three of the public officers law, but
26 if such firm, association or corporation does adopt such procedures, it
27 shall be deemed to be in compliance with such subdivision ten;

28 g. Make available forms for financial disclosure statements required
29 to be filed pursuant to subdivision six of section seventy-three and
30 section seventy-three-a of the public officers law as provided by the
31 joint commission on public ethics;

32 h. Review financial disclosure statements in accordance with the
33 provisions of this section, provided however, that the commission may
34 delegate all or part of the review function relating to financial
35 disclosure statements filed by legislative employees pursuant to
36 sections seventy-three and seventy-three-a of the public officers law to
37 the executive director who shall be responsible for completing staff
38 review of such statements in a manner consistent with the terms of the
39 commission's delegation;

40 ~~i. [Permit any person required to file a financial disclosure state-~~
41 ~~ment to request the commission to delete from the copy thereof made~~
42 ~~available for public inspection and copying one or more items of infor-~~
43 ~~mation, which may be deleted by the commission upon a finding that the~~
44 ~~information which would otherwise be required to be disclosed will have~~
45 ~~no material bearing on the discharge of the reporting person's official~~
46 ~~duties;~~

47 ~~j. Permit any person required to file a financial disclosure statement~~
48 ~~to request an exemption from any requirement to report one or more items~~
49 ~~of information which pertain to such person's spouse or unemancipated~~
50 ~~children which item or items may be exempted by the commission upon a~~
51 ~~finding that the reporting individual's spouse, on his or her own behalf~~
52 ~~or on behalf of an unemancipated child, objects to providing the infor-~~
53 ~~mation necessary to make such disclosure and that the information which~~
54 ~~would otherwise be required to be reported will have no material bearing~~
55 ~~on the discharge of the reporting person's official duties;~~

1 ~~k. Advise and assist the legislature in establishing rules and regu-~~
2 ~~lations relating to possible conflicts between private interests and~~
3 ~~official duties of present members of the legislature and legislative~~
4 ~~employees;~~

5 ~~l. Receive and act on complaints regarding persons subject to its~~
6 ~~jurisdiction alleging a possible violation of section seventy three,~~
7 ~~seventy three a or seventy four of the public officers law, and conduct~~
8 ~~such investigations and proceedings as are authorized and necessary to~~
9 ~~carry out the provisions of this section. In connection with such inves-~~
10 ~~tigations, the commission may administer oaths or affirmations, subpoena~~
11 ~~witnesses, compel their attendance and require the production of any~~
12 ~~books or records which it may deem relevant or material;~~

13 ~~m. Accept and act upon, as if it were a sworn complaint, any referral~~
14 ~~from another state oversight body indicating that a violation of section~~
15 ~~seventy three or seventy four of the public officers law may have~~
16 ~~occurred involving persons subject to the jurisdiction of the commis-~~
17 ~~sion;~~

18 ~~n.]~~ Upon written request from any person who is subject to the juris-
19 diction of the commission and the requirements of sections seventy-
20 three, seventy-three-a and seventy-four of the public officers law,
21 render formal advisory opinions on the requirements of said provisions.
22 A formal written opinion rendered by the commission, until and unless
23 amended or revoked, shall be binding on the legislative ethics commis-
24 sion in any subsequent proceeding concerning the person who requested
25 the opinion and who acted in good faith, unless material facts were
26 omitted or misstated by the person in the request for an opinion. Such
27 opinion may also be relied upon by such person, and may be introduced
28 and shall be a defense in any criminal or civil action. The joint
29 commission on public ethics shall not investigate an individual for
30 potential violations of law based upon conduct approved and covered in
31 its entirety by such an opinion, except that such opinion shall not
32 prevent or preclude an investigation of and report to the legislative
33 ethics commission concerning the conduct of the person who obtained it
34 by the joint commission on public ethics for violations of section
35 seventy-three, seventy-three-a or seventy-four of the public officers
36 law to determine whether the person accurately and fully represented to
37 the legislative ethics commission the facts relevant to the formal advi-
38 sory opinion and whether the person's conduct conformed to those factual
39 representations. The joint commission shall be authorized and shall have
40 jurisdiction to investigate potential violations of the law arising from
41 conduct outside of the scope of the terms of the advisory opinion; and

42 ~~[o.]~~ j. Issue and publish generic advisory opinions covering questions
43 frequently posed to the commission, or questions common to a class or
44 defined category of persons, or that will tend to prevent undue repe-
45 tition of requests or undue complication, and which are intended to
46 provide general guidance and information to persons subject to the
47 commission's jurisdiction;

48 ~~[p.]~~ k. Develop educational materials and training with regard to
49 legislative ethics for members of the legislature and legislative
50 employees including an online ethics orientation course for newly-hired
51 employees and, as requested by the senate or the assembly, materials and
52 training in relation to a comprehensive ethics training program; and

53 ~~[q.]~~ l. Prepare an annual report to the governor and legislature
54 summarizing the activities of the commission during the previous year
55 and recommending any changes in the laws governing the conduct of
56 persons subject to the jurisdiction of the commission, or the rules,

1 regulations and procedures governing the commission's conduct. Such
2 report shall include: (i) a listing by assigned number of each complaint
3 and ~~[referral]~~ report received from the joint commission on public
4 ethics which alleged a possible violation within its jurisdiction,
5 including the current status of each complaint, and (ii) where a matter
6 has been resolved, the date and nature of the disposition and any sanc-
7 tion imposed, subject to the confidentiality requirements of this
8 section. Such annual report shall not contain any information for which
9 disclosure is not permitted pursuant to subdivision ~~[fourteen]~~ twelve of
10 this section.

11 ~~8. [The commission, or the executive director and staff of the commis-~~
12 ~~sion if responsibility regarding such financial disclosure statements~~
13 ~~filed by legislative employees has been delegated, shall inspect all~~
14 ~~financial disclosure statements filed with the commission to ascertain~~
15 ~~whether any person subject to the reporting requirements of subdivision~~
16 ~~six of section seventy three or section seventy three a of the public~~
17 ~~officers law has failed to file such a statement, has filed a deficient~~
18 ~~statement or has filed a statement which reveals a possible violation of~~
19 ~~section seventy three, seventy three a or seventy four of the public~~
20 ~~officers law.~~

21 ~~9. If a person required to file a financial disclosure statement with~~
22 ~~the commission has failed to file a financial disclosure statement or~~
23 ~~has filed a deficient statement, the commission shall notify the report-~~
24 ~~ing person in writing, state the failure to file or detail the deficien-~~
25 ~~cy, provide the person with a fifteen day period to cure the deficiency,~~
26 ~~and advise the person of the penalties for failure to comply with the~~
27 ~~reporting requirements. Such notice shall be confidential. If the person~~
28 ~~fails to make such filing or fails to cure the deficiency within the~~
29 ~~specified time period, the commission shall send a notice of delinquen-~~
30 ~~cy: (a) to the reporting person; (b) in the case of a senator, to the~~
31 ~~temporary president of the senate, and if a member of assembly, to the~~
32 ~~speaker of the assembly; and (c) in the case of a legislative employee,~~
33 ~~to the appointing authority for such person and to the temporary presi-~~
34 ~~dent of the senate and/or the speaker of the assembly, as the case may~~
35 ~~be, who has jurisdiction over such appointing authority. Such notice of~~
36 ~~delinquency may be sent at any time during the reporting person's~~
37 ~~service as a member of the legislature or legislative employee or while~~
38 ~~a candidate for member of the legislature, or within one year after~~
39 ~~separation from such service or the termination of such candidacy. The~~
40 ~~jurisdiction of the commission, when acting pursuant to subdivision~~
41 ~~eleven of this section with respect to financial disclosure, shall~~
42 ~~continue notwithstanding that the reporting person separates from state~~
43 ~~service or terminates his or her candidacy, provided the commission~~
44 ~~notifies such person of the alleged failure to file or deficient filing~~
45 ~~pursuant to this subdivision.~~

46 ~~10. a. If a reporting person has filed a statement which reveals a~~
47 ~~possible violation of section seventy three, seventy three a or seven-~~
48 ~~ty four of the public officers law, or the commission receives a refer-~~
49 ~~ral from another state oversight body, or the commission receives a~~
50 ~~sworn complaint alleging such a violation by a reporting person or a~~
51 ~~legislative employee subject to the provisions of such laws, or if the~~
52 ~~commission determines on its own initiative to investigate a possible~~
53 ~~violation by a reporting person or a legislative employee subject to the~~
54 ~~provisions of such laws, the commission shall notify the reporting~~
55 ~~person in writing, describe the possible or alleged violation thereof~~
56 ~~and provide the person with a fifteen day period in which to submit a~~

1 ~~written response setting forth information relating to the activities~~
 2 ~~cited as a possible or alleged violation of law. If the commission ther-~~
 3 ~~eafter makes a determination that further inquiry is justified, it shall~~
 4 ~~give the reporting person an opportunity to be heard. The commission~~
 5 ~~shall also inform the reporting individual of its rules regarding the~~
 6 ~~conduct of adjudicatory proceedings and appeals and the due process~~
 7 ~~procedural mechanisms available to such individual. If the commission~~
 8 ~~determines at any stage of the proceeding, that there is no violation or~~
 9 ~~that any potential conflict of interest violation has been rectified, it~~
 10 ~~shall so advise the reporting person and the complainant, if any. All of~~
 11 ~~the foregoing proceedings shall be confidential.~~

12 ~~b. If the commission determines that there is reasonable cause to~~
 13 ~~believe that a violation has occurred, it shall send a notice of reason-~~
 14 ~~able cause: (i) to the reporting person; (ii) to the complainant if any;~~
 15 ~~(iii) in the case of a senator, to the temporary president of the~~
 16 ~~senate, and if a member of the assembly, to the speaker of the assembly;~~
 17 ~~and (iv) in the case of a legislative employee, to the appointing~~
 18 ~~authority for such person and to the temporary president of the senate~~
 19 ~~and/or the speaker of the assembly, as the case may be, who has juris-~~
 20 ~~isdiction over such appointing authority.~~

21 ~~e.] The jurisdiction of the commission to impose penalties when acting~~
 22 ~~pursuant to this section shall continue notwithstanding that a member of~~
 23 ~~the legislature or a legislative employee separates from state service,~~
 24 ~~or a candidate for member of the legislature ceases to be a candidate,~~
 25 ~~provided that [~~the commission notifies~~] such individual has been noti-~~
 26 ~~fied of the alleged violation of law [~~pursuant to paragraph a of this~~~~
 27 ~~~~subdivision~~] within one year from his or her separation from state~~
 28 ~~service or the termination of his or her candidacy. [~~Nothing in this~~~~
 29 ~~~~section shall serve to limit the jurisdiction of the commission in~~~~
 30 ~~~~enforcement of subdivision eight of section seventy three of the public~~~~
 31 ~~~~officers law.~~~~

32 ~~11.] 9. (a) An individual subject to the jurisdiction of the commis-~~
 33 ~~sion with respect to the imposition of penalties who knowingly and~~
 34 ~~intentionally violates the provisions of subdivisions two through [~~five~~]~~
 35 ~~five-a, seven, eight, twelve, fourteen or fifteen of section seventy-~~
 36 ~~three of the public officers law or a reporting individual who knowingly~~
 37 ~~and wilfully fails to file an annual statement of financial disclosure~~
 38 ~~or who knowingly and wilfully with intent to deceive makes a false~~
 39 ~~statement or gives information which such individual knows to be false~~
 40 ~~on such statement of financial disclosure filed pursuant to section~~
 41 ~~seventy-three-a of the public officers law shall be subject to a civil~~
 42 ~~penalty in an amount not to exceed forty thousand dollars and the value~~
 43 ~~of any gift, compensation or benefit received as a result of such~~
 44 ~~violation. Any such individual who knowingly and intentionally violates~~
 45 ~~the provisions of paragraph a, b, c, d, e, g, or i of subdivision three~~
 46 ~~of section seventy-four of the public officers law shall be subject to a~~
 47 ~~civil penalty in an amount not to exceed ten thousand dollars and the~~
 48 ~~value of any gift, compensation or benefit received as a result of such~~
 49 ~~violation. [~~Any such individual who knowingly and intentionally violates~~~~
 50 ~~~~the provisions of paragraph a, e or g of subdivision three of section~~~~
 51 ~~~~seventy-four of the public officers law shall be subject to a civil~~~~
 52 ~~~~penalty in an amount equal to the value of any gift, compensation or~~~~
 53 ~~~~benefit received as a result of such violation.]~~ Assessment of a civil
 54 penalty hereunder shall be made by the commission with respect to
 55 persons subject to its jurisdiction. In assessing the amount of the
 56 civil penalties to be imposed, the commission shall consider the seri-~~

1 ousness of the violation, the amount of gain to the individual and
2 whether the individual previously had any civil or criminal penalties
3 imposed pursuant to this section, and any other factors the commission
4 deems appropriate. For a violation of this section, other than for
5 conduct which constitutes a violation of subdivision twelve, fourteen or
6 fifteen of section seventy-three or section seventy-four of the public
7 officers law, the legislative ethics commission may, in lieu of or in
8 addition to a civil penalty, refer a violation to the appropriate prose-
9 cutor and upon such conviction, but only after such referral, such
10 violation shall be punishable as a class A misdemeanor. Where the
11 commission finds sufficient cause, it shall refer such matter to the
12 appropriate prosecutor. A civil penalty for false filing may not be
13 imposed hereunder in the event a category of "value" or "amount"
14 reported hereunder is incorrect unless such reported information is
15 falsely understated. Notwithstanding any other provision of law to the
16 contrary, no other penalty, civil or criminal may be imposed for a fail-
17 ure to file, or for a false filing, of such statement, or a violation of
18 subdivision six of section seventy-three of the public officers law,
19 except that the appointing authority may impose disciplinary action as
20 otherwise provided by law. The legislative ethics commission shall be
21 deemed to be an agency within the meaning of article three of the state
22 administrative procedure act and shall adopt rules governing the conduct
23 of adjudicatory proceedings and appeals taken pursuant to a proceeding
24 commenced under article seventy-eight of the civil practice law and
25 rules relating to the assessment of the civil penalties herein author-
26 ized [~~and commission denials of requests for certain deletions or~~
27 ~~exemptions to be made from a financial disclosure statement as author-~~
28 ~~ized in paragraph i or paragraph j of subdivision seven of this~~
29 ~~section]. Such rules, which shall not be subject to the promulgation and~~
30 hearing requirements of the state administrative procedure act, shall
31 provide for due process procedural mechanisms substantially similar to
32 those set forth in such article three but such mechanisms need not be
33 identical in terms or scope. Assessment of a civil penalty [~~or commis-~~
34 ~~sion denial of such a deletion or exemption request]~~ shall be final
35 unless modified, suspended or vacated within thirty days of imposition,
36 with respect to the assessment of such penalty, or unless such denial of
37 request is reversed within such time period, and upon becoming final
38 shall be subject to review at the instance of the affected reporting
39 individuals in a proceeding commenced against the legislative ethics
40 commission, pursuant to article seventy-eight of the civil practice law
41 and rules.

42 [12.] (b) Not later than forty-five calendar days after receipt from
43 the joint commission on public ethics of a written substantial basis
44 investigation report and any supporting documentation or other materials
45 regarding a matter before the commission pursuant to subdivision four-
46 teen-a of section ninety-four of the executive law, unless requested by
47 a law enforcement agency to suspend the commission's action because of
48 an ongoing criminal investigation, the legislative ethics commission
49 shall make public such report in its entirety; provided, however, that
50 the commission may withhold such information for not more than one addi-
51 tional period of the same duration or refer the matter back to the joint
52 commission on public ethics once for additional investigation, in which
53 case the legislative ethics commission shall, upon the termination of
54 such additional period or upon receipt of a new report by the joint
55 commission on public ethics after such additional investigation, make
56 public the written report and publish it on the commission's website.

1 If the legislative ethics commission fails to make public the written
 2 report received from the joint commission in accordance with this para-
 3 graph, the joint commission shall release such report publicly promptly
 4 and in any event no later than ten days after the legislative ethics
 5 commission is required to release such report. The legislative ethics
 6 commission shall not refer the matter back to the joint commission on
 7 public ethics for additional investigation more than once. If the
 8 commission refers the matter back to the joint commission for additional
 9 fact-finding, the joint commission's original report shall remain confi-
 10 dential.

11 10. Upon receipt of a written report from the joint commission on
 12 public ethics pursuant to subdivision fourteen-a of section seventy-
 13 three of the public officers law, the legislative ethics commission
 14 shall commence its review of the matter addressed in such report. No
 15 later than ninety days after receipt of such report, the legislative
 16 ethics commission shall dispose of the matter by making one or more of
 17 the following determinations:

18 a. whether the legislative ethics commission concurs with the joint
 19 commission's conclusions of law and the reasons therefor;

20 b. whether and which penalties have been assessed pursuant to applica-
 21 ble law or rule and the reasons therefor; and

22 c. whether further actions have been taken by the commission to punish
 23 or deter the misconduct at issue and the reasons therefor.

24 The commission's disposition shall be reported in writing and
 25 published on its website no later than ten days after such disposition
 26 unless requested by a law enforcement agency to suspend the commission's
 27 action because of an ongoing criminal investigation.

28 11. If the commission has a reasonable basis to believe that any
 29 person subject to the jurisdiction of another state oversight body may
 30 have violated section seventy-three or seventy-four of the public offi-
 31 cers law, section one hundred seven of the civil service law, or article
 32 one-A of this chapter, it shall refer such violation to such oversight
 33 body unless the commission determines that such a referral would compro-
 34 mise the prosecution or confidentiality of its [investigations]
 35 proceedings and, if so, shall make such a referral as soon as practica-
 36 ble. The referral by the commission shall include any information relat-
 37 ing thereto coming into the custody or under the control of the commis-
 38 sion at any time prior or subsequent to the time of the referral.

39 ~~[13. A copy of any notice of delinquency or notice of reasonable cause~~
 40 ~~sent pursuant to subdivisions nine and ten of this section shall be~~
 41 ~~included in the reporting person's file and be available for public~~
 42 ~~inspection and copying.~~

43 ~~14.]~~ 12. a. Notwithstanding the provisions of article six of the
 44 public officers law, the only records of the commission which shall be
 45 available for public inspection and copying are:

46 (1) ~~[the information set forth in an annual statement of financial~~
 47 ~~disclosure filed pursuant to section seventy three a of the public offi-~~
 48 ~~cers law except the categories of value or amount which shall be confi-~~
 49 ~~dential, and any other item of information deleted pursuant to paragraph~~
 50 ~~i of subdivision seven of this section;~~

51 (2) ~~financial disclosure statements filed pursuant to subdivision six~~
 52 ~~of section seventy three of the public officers law;~~

53 (3) ~~notices of delinquency sent under subdivision nine of this~~
 54 ~~section;~~

55 (4) ~~notices of reasonable cause sent under paragraph b of subdivision~~
 56 ~~ten of this section;~~

1 ~~(5) notices of civil assessment imposed under this section which shall~~
 2 ~~include a description of the nature of the alleged wrongdoing, the~~
 3 ~~procedural history of the complaint, the findings and determinations~~
 4 ~~made by the commission, and any sanction imposed;~~

5 ~~(6)]~~ the terms of any settlement or compromise of a complaint or
 6 referral or report which includes a fine, penalty or other remedy
 7 reached after the commission has received a report from the joint
 8 commission on public ethics pursuant to subdivision fourteen-a of
 9 section ninety-four of the executive law;

10 [~~7)]~~ (2) generic advisory opinions; [~~and~~

11 ~~(8)]~~ (3) all reports required by this section~~[-]; and~~

12 (4) all reports received from the joint commission on public ethics
 13 pursuant to subdivision fourteen-a of section ninety-four of the execu-
 14 tive law and in conformance with paragraph (b) of subdivision nine-b of
 15 this section.

16 b. Notwithstanding the provisions of article seven of the public offi-
 17 cers law, no meeting or proceeding of the commission shall be open to
 18 the public, except if expressly provided otherwise by this section or
 19 the commission.

20 [~~15-]~~ 13. Within one hundred twenty days of the effective date of this
 21 subdivision, the commission shall create and thereafter maintain a
 22 publicly accessible website which shall set forth the procedure for
 23 filing a complaint with the joint commission on public ethics, and which
 24 shall contain [~~the documents identified in subdivision fourteen of this~~
 25 ~~section, other than financial disclosure statements, and]~~ any other
 26 records or information which the commission determines to be appropri-
 27 ate.

28 [~~16-]~~ 14. This section shall not revoke or rescind any policies,
 29 rules, regulations or advisory opinions issued by the legislative ethics
 30 committee in effect upon the effective date of this subdivision, to the
 31 extent that such regulations or opinions are not inconsistent with any
 32 laws of the state of New York. The legislative ethics commission shall
 33 undertake a comprehensive review of all such policies, rules, regu-
 34 lations or advisory opinions which will address the consistency of such
 35 policies, rules, regulations or advisory opinions with the laws of the
 36 state of New York. The legislative ethics commission shall, before April
 37 first, two thousand eight, report to the governor and legislature
 38 regarding such review and shall propose any regulatory changes and issue
 39 any advisory opinions necessitated by such review.

40 [~~17-]~~ 15. Separability clause. If any part or provision of this
 41 section or the application thereof to any person is adjudged by a court
 42 of competent jurisdiction to be unconstitutional or otherwise invalid,
 43 such judgment shall not affect or impair any other part or provision or
 44 the application thereof to any other person, but shall be confined to
 45 such part or provision.

46 § 10. Paragraph (h) of subdivision 8 of section 73 of the public offi-
 47 cers law, as added by chapter 514 of the laws of 2002, is amended to
 48 read as follows:

49 (h) Notwithstanding the provisions of subparagraphs (i) and (ii) of
 50 paragraph (a) of this subdivision, a former state officer or employee
 51 may contract individually, or as a member or employee of a firm, corpo-
 52 ration or association, to render services to any state agency when the
 53 agency head certifies in writing to the [~~state ethics]~~ joint commission
 54 on public ethics that the services of such former officer or employee
 55 are required in connection with the agency's response to a disaster

1 emergency declared by the governor pursuant to section twenty-eight of
2 the executive law.

3 § 11. The opening paragraph of subdivision 8-a of section 73 of the
4 public officers law, as amended by chapter 357 of the laws of 2001, is
5 amended to read as follows:

6 The provisions of subparagraphs (i) and (ii) of paragraph (a) of
7 subdivision eight of this section shall not apply to any such former
8 state officer or employee engaged in any of the specific permitted
9 activities defined in this subdivision that are related to any civil
10 action or proceeding in any state or federal court, provided that the
11 attorney general has certified in writing to the [~~state ethics~~] joint
12 commission on public ethics, with a copy to such former state officer or
13 employee, that the services are rendered on behalf of the state, a state
14 agency, state officer or employee, or other person or entity represented
15 by the attorney general, and that such former state officer or employee
16 has expertise, knowledge or experience which is unique or outstanding in
17 a field or in a particular matter or which would otherwise be generally
18 unavailable at a comparable cost to the state, a state agency, state
19 officer or employee, or other person or entity represented by the attor-
20 ney general in such civil action or proceeding. In those instances where
21 a state agency is not represented by the attorney general in a civil
22 action or proceeding in state or federal court, a former state officer
23 or employee may engage in permitted activities provided that the general
24 counsel of the state agency, after consultation with the [~~state ethics~~]
25 joint commission on public ethics, provides to the [~~state ethics~~] joint
26 commission on public ethics a written certification which meets the
27 requirements of this subdivision. For purposes of this subdivision the
28 term "permitted activities" shall mean generally any activity performed
29 at the request of the attorney general or the attorney general's desig-
30 nee, or in cases where the state agency is not represented by the attor-
31 ney general, the general counsel of such state agency, including without
32 limitation:

33 § 12. Subdivision 8-b of section 73 of the public officers law, as
34 added by chapter 523 of the laws of 2004, is amended to read as follows:

35 8-b. Notwithstanding the provisions of subparagraphs (i) and (ii) of
36 paragraph (a) of subdivision eight of this section, a former state offi-
37 cer or employee may contract individually, or as a member or employee of
38 a firm, corporation or association, to render services to any state
39 agency if, prior to engaging in such service, the agency head certifies
40 in writing to the [~~state ethics~~] joint commission on public ethics that
41 such former officer or employee has expertise, knowledge or experience
42 with respect to a particular matter which meets the needs of the agency
43 and is otherwise unavailable at a comparable cost. Where approval of the
44 contract is required under section one hundred twelve of the state
45 finance law, the comptroller shall review and consider the reasons for
46 such certification. The [~~state ethics~~] joint commission on public ethics
47 must review and approve all certifications made pursuant to this subdi-
48 vision.

49 § 13. Subdivision 10 of section 73 of the public officers law, as
50 amended by chapter 813 of the laws of 1987, is amended to read as
51 follows:

52 10. Nothing contained in this section, the judiciary law, the educa-
53 tion law or any other law or disciplinary rule shall be construed or
54 applied to prohibit any firm, association or corporation, in which any
55 present or former statewide elected official, state officer or employee,
56 or political party chairman, member of the legislature or legislative

1 employee is a member, associate, retired member, of counsel or share-
2 holder, from appearing, practicing, communicating or otherwise rendering
3 services in relation to any matter before, or transacting business with
4 a state agency, or a city agency with respect to a political party
5 chairman in a county wholly included in a city with a population of more
6 than one million, otherwise proscribed by this section, the judiciary
7 law, the education law or any other law or disciplinary rule with
8 respect to such official, member of the legislature or officer or
9 employee, or political party chairman, where such statewide elected
10 official, state officer or employee, member of the legislature or legis-
11 lative employee, or political party chairman does not share in the net
12 revenues, as defined in accordance with generally accepted accounting
13 principles by the [~~state~~] joint commission on public ethics [~~commission~~]
14 or by the legislative ethics committee in relation to persons subject to
15 their respective jurisdictions, resulting therefrom, or, acting in good
16 faith, reasonably believed that he or she would not share in the net
17 revenues as so defined; nor shall anything contained in this section,
18 the judiciary law, the education law or any other law or disciplinary
19 rule be construed to prohibit any firm, association or corporation in
20 which any present or former statewide elected official, member of the
21 legislature, legislative employee, full-time salaried state officer or
22 employee or state officer or employee who is subject to the provisions
23 of section seventy-three-a of this [~~chapter~~] article is a member, asso-
24 ciate, retired member, of counsel or shareholder, from appearing, prac-
25 ticing, communicating or otherwise rendering services in relation to any
26 matter before, or transacting business with, the court of claims, where
27 such statewide elected official, member of the legislature, legislative
28 employee, full-time salaried state officer or employee or state officer
29 or employee who is subject to the provisions of section seventy-three-a
30 of this [~~chapter~~] article does not share in the net revenues, as defined
31 in accordance with generally accepted accounting principles by the
32 [~~state~~] joint commission on public ethics [~~commission~~] or by the legis-
33 lative ethics committee in relation to persons subject to their respec-
34 tive jurisdictions, resulting therefrom, or, acting in good faith,
35 reasonably believed that he or she would not share in the net revenues
36 as so defined.

37 § 14. Transfer of records. The state commission on public integrity,
38 shall deliver to the joint commission on public ethics all books,
39 papers, records, and property as requested by the joint commission.

40 § 15. Continuity of authority. For the purpose of succession to all
41 functions, powers, duties and obligations transferred and assigned to,
42 devolved upon and assumed by it pursuant to this act, the joint commis-
43 sion on public ethics shall be deemed and held to constitute the contin-
44 uation of the state commission on public integrity.

45 § 16. Completion of unfinished business. Any business or other matter
46 undertaken or commenced by the state commission on public integrity or
47 the legislative ethics commission pertaining to or connected with the
48 functions, powers, obligations and duties hereby transferred and
49 assigned to the joint commission on public ethics, and pending on the
50 effective date of this act may be conducted and completed by the joint
51 commission on public ethics in the same manner and under the same terms
52 and conditions and with the same effect as if conducted and completed by
53 the former state commission on public integrity or the legislative
54 ethics commission.

55 § 17. Terms occurring in laws, contracts and other documents. Whenever
56 the state commission on public integrity is referred to or designated in

1 any law, contract or documents pertaining solely to those functions,
2 powers, obligations and duties hereby transferred and assigned to the
3 joint commission on public ethics, such reference or designation shall
4 be deemed to refer to the joint commission on public ethics as created
5 by this act.

6 § 18. Existing rights and remedies preserved. No existing right or
7 remedy of any character shall be lost, impaired or affected by reason of
8 this act.

9 § 19. Pending actions and proceedings. No action or proceeding pending
10 at the time when this act shall take effect, brought by or against the
11 state commission on public integrity shall be affected by this act, but
12 the same may be prosecuted or defended in the name of the joint commis-
13 sion on public ethics and upon application to the court, the joint
14 commission on public ethics shall be substituted as a party.

15 § 20. Notwithstanding any contrary provision of the state finance law,
16 transfer of appropriations heretofore made to the state commission on
17 public integrity, all appropriations or reappropriations for the func-
18 tions herein transferred heretofore made to the state commission on
19 public integrity, or segregated pursuant to law, to the extent of
20 remaining unexpended or unencumbered balances thereof, whether allocated
21 or unallocated and whether obligated or unobligated, are hereby trans-
22 ferred to the joint commission on public ethics to the extent necessary
23 to carry out its functions, powers and duties subject to the approval of
24 the director of the budget for the same purposes for which originally
25 appropriated or reappropriated and shall be payable on vouchers certi-
26 fied or approved by the joint commission on public ethics on audit and
27 warrant of the comptroller.

28 § 21. No later than June 1, 2014, the governor and the legislative
29 leaders shall jointly appoint a review commission to review and evaluate
30 the activities and performance of the joint commission on public ethics
31 and the legislative ethics commission in implementing the provisions of
32 this act. On or before March 1, 2015, the review commission shall report
33 to the governor and the legislature on its review and evaluation which
34 report shall include any administrative and legislative recommendations
35 on strengthening the administration and enforcement of the ethics law in
36 New York state. The review commission shall be comprised of eight
37 members and the governor and the legislative leaders shall jointly
38 designate a chair from among the members.

39 § 22. This act shall take effect immediately, provided that:

40 1. the state commission on public integrity shall continue to accept
41 filings and provide records as otherwise required but shall not other-
42 wise investigate, discipline or provide advisory opinions;

43 2. the joint commission on public ethics shall be fully operational on
44 or before the one hundred twentieth day after this act shall have become
45 a law and until such time as it becomes operational (a) the state
46 commission on public integrity shall deposit all records in its
47 possession with the inspector general and (b) the legislative ethics
48 commission shall continue to exercise such functions, powers, obli-
49 gations and duties to be transferred to the joint commission on public
50 ethics; and

51 3. section four of this act, the amendments to subdivision 3 of
52 section 73-a of the public officers law made by section five of this
53 act, paragraph (i-1) of subdivision 9 of section 94 of the executive
54 law, as added by section six of this act, and the amendments to subpara-
55 graph 1 of paragraph (a) of subdivision 19 of section 94 of the execu-

1 tive law, made by section six of this act, shall take effect January 1,
2 2013.

3

PART B

4 Section 1. Subdivision (c) of section 1-h of the legislative law is
5 amended by adding a new paragraph 4 to read as follows:

6 (4) Any lobbyist registered pursuant to section one-e of this article
7 whose lobbying activity is performed on its own behalf and not pursuant
8 to retention by a client:

9 (i) that has spent over fifty thousand dollars for reportable compen-
10 sation and expenses for lobbying either during the calendar year, or
11 during the twelve-month period, prior to the date of this bi-monthly
12 report, and

13 (ii) at least three percent of whose total expenditures during the
14 same period were devoted to lobbying in New York
15 shall report to the commission the names of each source of funding over
16 five thousand dollars from a single source that were used to fund the
17 lobbying activities reported and the amounts received from each identi-
18 fied source of funding.

19 This disclosure shall not require disclosure of the sources of funding
20 whose disclosure, in the determination of the commission based upon a
21 review of the relevant facts presented by the reporting lobbyist, may
22 cause harm, threats, harassment, or reprisals to the source or to indi-
23 viduals or property affiliated with the source. The reporting lobbyist
24 may appeal the commission's determination and such appeal shall be heard
25 by a judicial hearing officer who is independent and not affiliated with
26 or employed by the commission, pursuant to regulations promulgated by
27 the commission. The reporting lobbyist shall not be required to disclose
28 the sources of funding that are the subject of such appeal pending final
29 judgment on appeal.

30 The disclosure shall not apply to:

31 (i) any corporation registered pursuant to article seven-A of the
32 executive law that is qualified as an exempt organization by the United
33 States Department of the Treasury under I.R.C. § 501(c)(3);

34 (ii) any corporation registered pursuant to article seven-A of the
35 executive law that is qualified as an exempt organization by the United
36 States Department of the Treasury under I.R.C. § 501(c)(4) and whose
37 primary activities concern any area of public concern determined by the
38 commission to create a substantial likelihood that application of this
39 disclosure requirement would lead to harm, threats, harassment, or
40 reprisals to a source of funding or to individuals or property affil-
41 liated with such source, including but not limited to the area of civil
42 rights and civil liberties and any other area of public concern deter-
43 mined pursuant to regulations promulgated by the commission to form a
44 proper basis for exemption on this basis from this disclosure require-
45 ment; or

46 (iii) any governmental entity.

47 The joint commission on public ethics shall promulgate regulations to
48 implement these requirements.

49 § 2. Subdivision (c) of section 1-j of the legislative law is amended
50 by adding a new paragraph 4 to read as follows:

51 (4) Any client of a lobbyist that is required to file a semi-annual
52 report and:

53 (i) that has spent over fifty thousand dollars for reportable compen-
54 sation and expenses for lobbying either during the calendar year, or

1 during the twelve-month period, prior to the date of this semi-annual
 2 report, and

3 (ii) at least three percent of whose total expenditures during the
 4 same period were devoted to lobbying in New York
 5 shall report to the commission the names of each source of funding over
 6 five thousand dollars from a single source that were used to fund the
 7 lobbying activities reported and the amounts received from each identi-
 8 fied source of funding.

9 This disclosure shall not require disclosure of the sources of funding
 10 whose disclosure, in the determination of the commission based upon a
 11 review of the relevant facts presented by the reporting client or lobby-
 12 ist, may cause harm, threats, harassment, or reprisals to the source or
 13 to individuals or property affiliated with the source. The reporting
 14 lobbyist may appeal the commission's determination and such appeal shall
 15 be heard by a judicial hearing officer who is independent and not affil-
 16 iated with or employed by the commission, pursuant to regulations
 17 promulgated by the commission. The reporting lobbyist shall not be
 18 required to disclose the sources of funding that are the subject of such
 19 appeal pending final judgment on appeal.

20 The disclosure shall not apply to:

21 (i) any corporation registered pursuant to article seven-A of the
 22 executive law that is qualified as an exempt organization by the United
 23 States Department of the Treasury under I.R.C. § 501(c)(3);

24 (ii) any corporation registered pursuant to article seven-A of the
 25 executive law that is qualified as an exempt organization by the United
 26 States Department of the Treasury under I.R.C. § 501(c)(4) and whose
 27 primary activities concern any area of public concern determined by the
 28 commission to create a substantial likelihood that application of this
 29 disclosure requirement would lead to harm, threats, harassment, or
 30 reprisals to a source of funding or to individuals or property affil-
 31 iated with such source, including but not limited to the area of civil
 32 rights and civil liberties and any other area of public concern deter-
 33 mined pursuant to regulations promulgated by the commission to form a
 34 proper basis for exemption on this basis from this disclosure require-
 35 ment; or

36 (iii) any governmental entity.

37 The joint commission on public ethics shall promulgate regulations to
 38 implement these requirements.

39 § 3. This act shall take effect June 1, 2012.

40 PART C

41 Section 1. The retirement and social security law is amended by adding
 42 a new article 3-B to read as follows:

43 ARTICLE 3-B

44 PENSION FORFEITURE FOR PUBLIC OFFICIALS

45 Section 156. Definitions.

46 157. Pension forfeiture.

47 158. Pension contributions returned.

48 159. Miscellaneous.

49 § 156. Definitions. The following words and phrases, as used in this
 50 article, shall have the following meanings, unless a different meaning
 51 is plainly required by the context:

52 1. "Crime related to public office" shall mean any of the following
 53 criminal offenses whether committed in this state or in any other juris-
 54 isdiction by a public official through the use of his or her public office

1 or by the individual representing that he or she was acting with the
2 authority of any governmental entity, and acting as a public official:

3 (a) a felony for committing, aiding or abetting a larceny of public
4 funds from the state or a municipality;

5 (b) a felony committed in direct connection with service as a public
6 official; or

7 (c) a felony committed by such person who, with the intent to defraud,
8 realizes or obtains, or attempts to realize or obtain, a profit, gain or
9 advantage for himself or herself or for some other person, through the
10 use or attempted use of the power, rights, privileges or duties of his
11 or her position as a public official.

12 2. "Chief administrator of the retirement system" shall mean the comp-
13 troller of the state of New York with respect to the New York state and
14 local employees' retirement system and the boards of trustees with
15 respect to the other public retirement systems and pension funds of the
16 state and the city of New York.

17 3. "Defendant" shall mean a state or local officer against whom a
18 forfeiture action is commenced.

19 4. "Dependent person" shall mean and include:

20 (a) any child of a public official or other person for whom such
21 person is legally responsible to provide support;

22 (b) any present or former spouse or domestic partner of a public offi-
23 cial;

24 (c) any family or household member of a public official, regardless of
25 such person's age, where such person has a disability, as defined in
26 subdivision twenty-one of section two hundred ninety-two of the execu-
27 tive law; and

28 (d) any person to whom a public official has provided support.

29 5. "Pension" shall mean the annual allowance for life, payable in
30 monthly installments, derived from contributions made by a public offi-
31 cial to the appropriate pension accumulation fund of a retirement system
32 pursuant to applicable law.

33 6. (a) "Public official" shall mean any of the following individuals
34 who were not members of any retirement system prior to the effective
35 date of the chapter of the laws of two thousand eleven which added this
36 article but who have become members of a covered retirement system on or
37 after the effective date of the chapter of the laws of two thousand
38 eleven which added this article:

39 (i) the governor, lieutenant governor, comptroller or attorney gener-
40 al;

41 (ii) members of the state legislature;

42 (iii) state officers and employees including:

43 (A) heads of state departments and their deputies and assistants other
44 than members of the board of regents of the university of the state of
45 New York who receive no compensation or are compensated on a per diem
46 basis;

47 (B) officers and employees of statewide elected officials;

48 (C) officers and employees of state departments, boards, bureaus,
49 divisions, commissions, councils or other state agencies; and

50 (D) members or directors of public authorities, other than multi-state
51 authorities, public benefit corporations and commissions at least one of
52 whose members is appointed by the governor, and employees of such
53 authorities, corporations and commissions;

54 (iv) judges, justices and employees of the unified court system;

55 (v) officers and employees of the legislature; and

1 (vi) paid municipal officers and employees including an officer or
2 employee of a municipality, paid members of any administrative board,
3 commission or other agency thereof and in the case of a county, shall be
4 deemed to also include any officer or employee paid from county funds.

5 (b) A person who receives no compensation or is compensated on a per
6 diem basis for his or her duties as a public official shall not be
7 deemed a public official pursuant to this subdivision.

8 7. "Retirement system" shall mean the New York state and local employ-
9 ees' retirement system, and the New York city employees' retirement
10 system.

11 § 157. Pension forfeiture. 1. Notwithstanding any other law to the
12 contrary, it shall be a term and condition of membership for every
13 public official who becomes a member of any retirement system on or
14 after the effective date of the chapter of the laws of two thousand
15 eleven which added this article, that such public official's rights to a
16 pension in a retirement system that accrue in such retirement system
17 after his or her date of initial membership in the retirement system
18 shall be subject to the provisions of this article.

19 2. In the case of a public official who stands convicted, by plea of
20 nolo contendere or plea of guilty to, or by conviction after trial, of
21 any crime related to public office, an action may be commenced in
22 supreme court of the county in which such public official was convicted
23 of such felony crime, by the district attorney having jurisdiction over
24 such crime, or by the attorney general if the attorney general brought
25 the criminal charge which resulted in such conviction, for an order to
26 reduce or revoke the pension to which such public official is otherwise
27 entitled for service as a public official. Such complaint shall specify
28 with particularity which category of felony pursuant to subdivision one
29 of section one hundred fifty-six of this article the defendant has
30 committed, and all other facts that are alleged to qualify such crime as
31 a felony crime related to public office subject to pension reduction or
32 revocation pursuant to this article, and the amount of pension reduction
33 or revocation requested. Such action shall be commenced within six
34 months after such conviction.

35 3. Before commencing an action described in subdivision two of this
36 section, the district attorney or the attorney general, as the case may
37 be, shall serve written notice on the chief administrator of the defend-
38 ant's retirement system stating that he or she has reason to believe
39 that the person convicted committed the crime related to public office
40 in the performance of or failure to perform the public official's duties
41 and responsibilities. Such notice shall specify with particularity
42 which category of felony pursuant to subdivision one of section one
43 hundred fifty-six of this article the defendant has committed. Within
44 twenty days after receipt of such notice, the chief administrator of the
45 defendant's retirement system shall submit a notice of applicability to
46 the district attorney or the attorney general as the case may be. The
47 notice of applicability shall contain a statement specifying whether the
48 person convicted is or has been a member or retired member of a retire-
49 ment system and shall describe the portion of such rights and benefits
50 to which such person is or will be entitled to solely from service as
51 such a public official.

52 4. No forfeiture action may be commenced by the district attorney or
53 the attorney general until such district attorney or the attorney gener-
54 al, as the case may be, has received and served on the defendant the
55 notice of applicability as set forth in subdivision three of this
56 section.

1 5. The district attorney or the attorney general, or any interested
2 party, may seek, or the court on its own motion may order, that some or
3 all of the pension that would otherwise be reduced or revoked pursuant
4 to this article be paid for the benefit of any dependent persons, as may
5 be in the interests of justice.

6 6. The defendant shall have the right to a hearing.

7 7. The burden of proof shall be upon the district attorney or the
8 attorney general, as the case may be, to prove by clear and convincing
9 evidence the facts necessary to establish a claim of pension forfeiture.
10 The district attorney or the attorney general as the case may be must,
11 at the time of the hearing, prove by clear and convincing evidence that
12 the defendant knowingly and intentionally committed the crime related to
13 public office.

14 8. In determining whether the pension shall be reduced or revoked, the
15 supreme court shall consider and make findings of fact and conclusions
16 of law that include, but shall not be limited to, a consideration of the
17 following factors:

18 (a) Whether the defendant stands convicted of such a felony of a crime
19 related to public office, and the specific paragraph or paragraphs of
20 subdivision one of section one hundred fifty-six of this article that
21 have been proven or not proven;

22 (b) The severity of the crime related to public office of which the
23 defendant stands convicted;

24 (c) The amount of monetary loss suffered by such state or municipality
25 as a result of such crime related to public office;

26 (d) The degree of public trust reposed in the public official by
27 virtue of the person's position as a public official;

28 (e) If the crime related to public office was part of a fraudulent
29 scheme against the state or a municipality, the role of the public offi-
30 cial in such fraudulent scheme against such state or a municipality;

31 (f) The defendant's criminal history, if any;

32 (g) The impact of forfeiture, in whole or in part, on defendant's
33 dependents, present or former spouses, or domestic partners;

34 (h) The proportionality of forfeiture of all or part of the pension to
35 the crime committed; and

36 (i) Any such other factors as, in the judgment of the supreme court,
37 justice may require.

38 9. At any time during the pendency of a forfeiture action, the court
39 may dismiss the action if it finds that such relief is warranted by the
40 existence of some compelling factor, consideration or circumstance or
41 other information or evidence which demonstrates that forfeiture would
42 not serve the ends of justice. The court may order that some or all of
43 the reduced or revoked pension be paid to satisfy the terms of any
44 existing order for the payment of maintenance, child support or restitu-
45 tion or for the benefit of any dependent persons, as may be in the
46 interests of justice, after taking into consideration the financial
47 needs and resources available for support of such persons.

48 10. Upon a finding by the court by clear and convincing evidence that
49 the defendant knowingly and intentionally committed a crime related to
50 public office, the court may issue an order to the appropriate retire-
51 ment system to reduce or revoke the defendant's pension to which he or
52 she is otherwise entitled as such a public official. All orders and
53 findings made by the court pursuant to this section shall be served by
54 the attorney general or the district attorney, as the case may be upon
55 the chief administrator of the defendant's retirement system and the
56 defendant.

1 11. The court shall issue a written decision including findings of
2 fact and conclusions of law that are the basis for any order issued
3 pursuant to this section.

4 12. Upon a final determination that reverses or vacates the conviction
5 or convictions of a crime related to public office, or reduces such
6 crime to a violation, misdemeanor or other criminal act that is not a
7 crime related to public office, the public official, or if he or she
8 shall be deceased, his or her estate, shall have such pension retroac-
9 tively restored upon application to the court with jurisdiction over the
10 forfeiture action. Such court, upon finding that such a final determi-
11 nation has occurred, shall issue an order retroactively restoring such
12 pension, together with such other relief deemed appropriate.

13 13. A final judgment entered pursuant to this article may be appealed
14 pursuant to subdivision (a) of section fifty-seven hundred one and
15 section fifty-six hundred two of the civil practice law and rules.

16 14. Except as otherwise provided by this article, the civil practice
17 law and rules shall govern the procedure in all actions commenced pursu-
18 ant to this article, except where the action is specifically regulated
19 by any inconsistent provisions herein.

20 § 158. Pension contributions returned. 1. Any public official whose
21 pension is reduced or revoked pursuant to this article shall be entitled
22 to a return of his or her contribution paid into the relevant retirement
23 system, without interest.

24 2. Notwithstanding the provisions of subdivision one of this section,
25 no payments in return of contributions shall be made or ordered unless
26 and until the supreme court determines that the public official whose
27 pension has been reduced or revoked has satisfied in full any judgments
28 or orders rendered by any court of competent jurisdiction for the
29 payment of restitution to the state or a municipality for losses
30 incurred as a result of such crime related to public office. If the
31 supreme court determines that such public official whose pension is to
32 be reduced or revoked has failed to satisfy any outstanding judgment or
33 order of restitution rendered by a court of competent jurisdiction, it
34 may order that any funds otherwise due to such public official as a
35 return of contribution, or any portion thereof, be paid in satisfaction
36 of such judgment or order.

37 § 159. Miscellaneous. The remedies provided for in this article are
38 not intended to substitute for, limit or supersede the lawful authority
39 of any public officer, agency or other person to enforce any other right
40 or remedy provided for by law.

41 § 2. The criminal procedure law is amended by adding a new section
42 220.51 to read as follows:

43 § 220.51 Notice before entry of plea or trial involving a public offi-
44 cial.

45 Prior to trial, and before accepting a defendant's plea to a count or
46 counts of an indictment or a superior court information charging a felo-
47 ny offense, the court must individually advise the defendant, on the
48 record, that if at the time of the alleged felony crime the defendant
49 was a public official, as defined in subdivision six of section one
50 hundred fifty-six of the retirement and social security law, the defend-
51 ant's plea of guilty and the court's acceptance thereof or conviction
52 after trial may result in proceedings for the reduction or revocation of
53 such defendant's pension pursuant to article three-B of the retirement
54 and social security law.

1 § 3. This act shall take effect on the ninetieth day after it shall
 2 have become a law and shall only apply to acts committed by public offi-
 3 cials on or after such date.

4

PART D

5 Section 1. Paragraph (i) of subdivision (c) and subdivision (j) of
 6 section 1-c of the legislative law, paragraph (i) of subdivision (c) as
 7 added by chapter 1 of the laws of 2005 and subdivision (j) as added by
 8 chapter 14 of the laws of 2007, are amended to read as follows:

9 (i) the passage or defeat of any legislation or resolution by either
 10 house of the state legislature including but not limited to the intro-
 11 duction or intended introduction of such legislation or resolution or
 12 approval or disapproval of any legislation by the governor;

13 (j) The term "gift" shall mean anything of more than nominal value
 14 given to a public official in any form including, but not limited to
 15 money, service, loan, travel, lodging, meals, refreshments, enter-
 16 tainment, discount, forbearance, or promise, having a monetary value.
 17 The following are excluded from the definition of a gift:

18 (i) complimentary attendance, including food and beverage, at bona
 19 fide charitable or political events [~~, and food and beverage of a nominal~~
 20 ~~value offered other than as part of a meal~~];

21 (ii) complimentary attendance, food and beverage offered by the spon-
 22 sor of [~~an event that is~~] a widely attended [or was in good faith
 23 intended to be widely attended, when attendance at the event is related
 24 to the attendee's duties or responsibilities as a public official or
 25 allows the public official to perform a ceremonial function appropriate
 26 to his or her position] event. The term "widely attended event" shall
 27 mean an event: (A) which at least twenty-five individuals other than
 28 members, officers, or employees from the governmental entity in which
 29 the public official serves attend or were, in good faith, invited to
 30 attend, and (B) which is related to the attendee's duties or responsi-
 31 bilities or which allows the public official to perform a ceremonial
 32 function appropriate to his or her position. For the purposes of this
 33 exclusion, a public official's duties or responsibilities shall include
 34 but not be limited to either (1) attending an event or a meeting at
 35 which a speaker or attendee addresses an issue of public interest or
 36 concern as a significant activity at such event or meeting; or (2) for
 37 elected public officials, or their staff attending with or on behalf of
 38 such elected officials, attending an event or a meeting at which more
 39 than one-half of the attendees, or persons invited in good faith to
 40 attend, are residents of the county, district or jurisdiction from which
 41 the elected public official was elected;

42 (iii) awards, plaques, and other ceremonial items which are publicly
 43 presented, or intended to be publicly presented, in recognition of
 44 public service, provided that the item or items are of the type custom-
 45 arily bestowed at such or similar ceremonies and are otherwise reason-
 46 able under the circumstances, and further provided that the functionali-
 47 ty of such items shall not determine whether such items are permitted
 48 under this paragraph;

49 (iv) an honorary degree bestowed upon a public official by a public or
 50 private college or university;

51 (v) promotional items having no substantial resale value such as pens,
 52 mugs, calendars, hats, and t-shirts which bear an organization's name,
 53 logo, or message in a manner which promotes the organization's cause;

1 (vi) goods and services, or discounts for goods and services, offered
 2 to the general public or a segment of the general public defined on a
 3 basis other than status as a public official and offered on the same
 4 terms and conditions as the goods or services are offered to the general
 5 public or segment thereof;

6 (vii) gifts from a family member, member of the same household, or
 7 person with a personal relationship with the public official, including
 8 invitations to attend personal or family social events, when the circum-
 9 stances establish that it is the family, household, or personal
 10 relationship that is the primary motivating factor; in determining moti-
 11 vation, the following factors shall be among those considered: (A) the
 12 history and nature of the relationship between the donor and the recipi-
 13 ent, including whether or not items have previously been exchanged; (B)
 14 whether the item was purchased by the donor; and (C) whether or not the
 15 donor at the same time gave similar items to other public officials; the
 16 transfer shall not be considered to be motivated by a family, household,
 17 or personal relationship if the donor seeks to charge or deduct the
 18 value of such item as a business expense or seeks reimbursement from a
 19 client;

20 (viii) contributions reportable under article fourteen of the election
 21 law, including contributions made in violation of that article of the
 22 election law;

23 (ix) travel reimbursement or payment for transportation, meals and
 24 accommodations for an attendee, panelist or speaker at an informational
 25 event or informational meeting when such reimbursement or payment is
 26 made by a governmental entity or by an in-state accredited public or
 27 private institution of higher education that hosts the event on its
 28 campus, provided, however, that the public official may only accept
 29 lodging from an institution of higher education: (A) at a location on or
 30 within close proximity to the host campus; and (B) for the night preced-
 31 ing and the nights of the days on which the attendee, panelist or speak-
 32 er actually attends the event or meeting;

33 (x) provision of local transportation to inspect or tour facilities,
 34 operations or property ~~owned or operated by the entity providing such~~
 35 ~~transportation~~ located in New York state, provided, however, that such
 36 inspection or tour is related to the individual's official duties or
 37 responsibilities and that payment or reimbursement ~~of~~ for expenses for
 38 lodging[, meals] or travel expenses to and from the locality where such
 39 facilities, operations or property are located shall be considered to be
 40 gifts unless otherwise permitted under this subdivision; ~~and~~

41 (xi) meals or refreshments when participating in a professional or
 42 educational program and the meals or refreshments are provided to all
 43 participants; and

44 (xii) food or beverage valued at fifteen dollars or less.

45 § 2. This act shall take effect immediately.

46

PART E

47 Section 1. The state board of elections shall, no later than January
 48 1, 2012, issue regulations setting forth and implementing the require-
 49 ments under existing law for individuals, organizations, corporations,
 50 political committees, or any other entities to disclose independent
 51 expenditures made for advertisements or any other type of advocacy that
 52 expressly identifies a political candidate or ballot proposal. Such
 53 regulations shall require such disclosure to the fullest extent of the
 54 law.

1 § 2. Section 14-106 of the election law, as amended by chapter 8 of
2 the laws of 1978, is amended to read as follows:

3 § 14-106. Political [~~advertisements and literature~~] communication.
4 The statements required to be filed under the provisions of this article
5 next succeeding a primary, general or special election shall be accompa-
6 nied by a [~~facsimile or~~] copy of all broadcast, cable or satellite sche-
7 dules and scripts, internet, print and other types of advertisements,
8 pamphlets, circulars, flyers, brochures, letterheads and other printed
9 matter purchased or produced [~~and a schedule of all radio or television~~
10 ~~time, and scripts used therein~~], purchased in connection with such
11 election by or under the authority of the person filing the statement or
12 the committee or the person on whose behalf it is filed, as the case may
13 be. Such [~~facsimiles,~~] copies, schedules and scripts shall be preserved
14 by the officer with whom or the board with which it is required to be
15 filed for a period of one year from the date of filing thereof.

16 § 3. Section 14-126 of the election law, as amended by chapter 8 of
17 the laws of 1978, subdivision 1 as amended by chapter 128 of the laws of
18 1994 and subdivisions 2, 3 and 4 as redesignated by chapter 9 of the
19 laws of 1978, is amended to read as follows:

20 § 14-126. Violations; penalties. 1. Any person who fails to file a
21 statement required to be filed by this article shall be subject to a
22 civil penalty, not in excess of [~~five hundred~~] one thousand dollars, to
23 be recoverable in a special proceeding or civil action to be brought by
24 the state board of elections or other board of elections. Any person
25 who, three or more times within a given election cycle for such term of
26 office, fails to file a statement or statements required to be filed by
27 this article, shall be subject to a civil penalty, not in excess of ten
28 thousand dollars, to be recoverable as provided for in this subdivision.

29 2. Any person who, acting as or on behalf of a candidate or political
30 committee, under circumstances evincing an intent to violate such law,
31 unlawfully accepts a contribution in excess of a contribution limitation
32 established in this article, shall be required to refund such excess
33 amount and shall be subject to a civil penalty equal to the excess
34 amount plus a fine of up to ten thousand dollars, to be recoverable in a
35 special proceeding or civil action to be brought by the state board of
36 elections.

37 3. Any person who knowingly and willfully fails to file a statement
38 required to be filed by this article within ten days after the date
39 provided for filing such statement or any person who knowingly and will-
40 fully violates any other provision of this article shall be guilty of a
41 misdemeanor.

42 [~~3.~~] 4. Any person who knowingly and willfully contributes, accepts or
43 aids or participates in the acceptance of a contribution in an amount
44 exceeding an applicable maximum specified in this article shall be guilty
45 of a misdemeanor.

46 [~~4.~~] 5. Any person who shall, acting on behalf of a candidate or poli-
47 tical committee, knowingly and willfully solicit, organize or coordinate
48 the formation of activities of one or more unauthorized committees, make
49 expenditures in connection with the nomination for election or election
50 of any candidate, or solicit any person to make any such expenditures,
51 for the purpose of evading the contribution limitations of this article,
52 shall be guilty of a class E felony.

53 § 4. Section 16-100 of the election law is amended to read as follows:

54 § 16-100. Jurisdiction; supreme court, county court. 1. The supreme
55 court is vested with jurisdiction to summarily determine any question of

1 law or fact arising as to any subject set forth in this article, which
2 shall be construed liberally.

3 2. The county court is vested with jurisdiction to summarily determine
4 any question of law or fact except proceedings as to a nomination or
5 election at a primary election or a nomination at a judicial convention,
6 proceedings as to the casting and canvass of ballots ~~and~~, proceedings
7 for examination or preservation of ballots and proceedings to enforce
8 the provisions of article fourteen of this chapter.

9 § 5. The election law is amended by adding a new section 16-120 to
10 read as follows:

11 § 16-120. Enforcement proceedings. 1. The supreme court or a justice
12 thereof, in a proceeding instituted by the state board of elections, may
13 impose a civil penalty, as provided for in subdivisions one and two of
14 section 14-126 of this chapter.

15 2. Upon proof that a violation of article fourteen of this chapter, as
16 provided in subdivision one of this section, has occurred, the court may
17 impose a civil penalty, pursuant to subdivisions one and two of section
18 14-126 of this chapter, after considering, among other factors, the
19 severity of the violation or violations, whether the subject of the
20 violation made a good faith effort to correct the violation and whether
21 the subject of the violation has a history of similar violations. All
22 such determinations shall be made on a fair and equitable basis without
23 regard to the status of the candidate or political committee.

24 § 6. Separability clause. If any clause, sentence, paragraph, section
25 or part of this act shall be adjudged by any court of competent juris-
26 diction to be invalid, such judgment shall not affect, impair or invali-
27 date the remainder thereof, but shall be confined in its operation to
28 the clause, sentence, paragraph, section or part thereof directly
29 involved in the controversy in which such judgment shall have been
30 rendered.

31 § 7. This act shall take effect immediately.

32 § 3. Severability clause. If any clause, sentence, paragraph, subdivi-
33 sion, section or part of this act shall be adjudged by any court of
34 competent jurisdiction to be invalid, such judgment shall not affect,
35 impair, or invalidate the remainder thereof, but shall be confined in
36 its operation to the clause, sentence, paragraph, subdivision, section
37 or part thereof directly involved in the controversy in which such judg-
38 ment shall have been rendered. It is hereby declared to be the intent of
39 the legislature that this act would have been enacted even if such
40 invalid provisions had not been included herein.

41 § 4. This act shall take effect immediately provided, however, that
42 the applicable effective date of Parts A through E of this act shall be
43 as specifically set forth in the last section of such Parts.

STATE OF NEW YORK

S. 3550

A. 5665

2011-2012 Regular Sessions

SENATE - ASSEMBLY

February 25, 2011

IN SENATE -- Introduced by Sen. McDONALD -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

IN ASSEMBLY -- Introduced by M. of A. CANESTRARI -- read once and referred to the Committee on Governmental Employees

AN ACT to authorize the town of North Greenbush to offer an optional twenty year retirement plan to certain police officers employed by such town

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
2 the town of North Greenbush, a participating employer in the New York
3 state and local police and fire retirement system, which previously
4 elected to offer the optional twenty year retirement plan, established
5 pursuant to section 384-d of the retirement and social security law, to
6 police officers employed by such town, is hereby authorized to make
7 participation in such plan available to Kate Anslow, Joseph Farrell,
8 Lisa Giddings-Fumarola, Michael Merola, Randy Pastore, Douglas Pinzer
9 and Clifford Ruschmeyer, police officers employed by the town of North
10 Greenbush, who, for reasons not ascribable to their own negligence,
11 failed to make a timely application to participate in such optional
12 twenty year retirement plan. The town of North Greenbush may so elect by
13 filing with the state comptroller, on or before December 31, 2011, a
14 resolution of its local legislative body together with certification
15 that such police officers did not bar themselves from participation in
16 such retirement plan as a result of their own negligence. Thereafter,
17 such police officers may elect to be covered by the provisions of
18 section 384-d of the retirement and social security law, and shall be
19 entitled to the full rights and benefits associated with coverage under

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD01496-03-1

1 such section, by filing a request to that effect with the state comp-
2 troller on or before June 30, 2012.

3 § 2. All past service costs associated with implementing the
4 provisions of this act shall be borne by the town of North Greenbush and
5 may be amortized over a ten year period.

6 § 3. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill will allow the Town of North Greenbush to reopen the provisions of Section 384-d of the Retirement and Social Security Law for police officers Kate Anslow, Joseph Farrell, Lisa Giddings-Fumarola, Michael Merola, Randy Pastore, Douglas Pinzer and Clifford Ruschmeyer.

If this legislation is enacted during the 2011 legislative session, we anticipate that there will be an increase of approximately \$31,700 in the annual contributions of the Town of North Greenbush for the fiscal year ending March 31, 2012.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately \$253,000, which would be borne by the Town of North Greenbush as a one-time payment. If this cost were amortized over a ten (10) year period, the cost for the first year including interest, would be approximately \$34,300. This estimate is based on the assumption that payment will be made on February 1, 2012.

This estimate, dated February 14, 2011 and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-122, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

STATE OF NEW YORK

2953--A

2011-2012 Regular Sessions

IN SENATE

February 3, 2011

Introduced by Sen. LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to authorize the city of Newburgh, in the county of Orange, to offer an optional twenty year retirement plan to certain police officers and firefighters

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
2 the city of Newburgh, in the county of Orange, a participating employer
3 in the New York state and local police and fire retirement system, which
4 previously elected to offer the optional twenty year retirement plan,
5 established pursuant to section 384-d of the retirement and social secu-
6 rity law, to police officers and firefighters employed by such city, is
7 hereby authorized to make participation in such plan available to Daniel
8 Cameron, Lorenzo D'Angelico, John Jenerose, Matthew M. Kirwan and Kevin
9 Romero, police officers, and Robert Bain Jr., Mark Bethea and William
10 Wiseman, firefighters employed by the city of Newburgh, who, for reasons
11 not ascribable to their own negligence failed to make timely applica-
12 tions to participate in such optional twenty year retirement plan.

13 The city of Newburgh may so elect by filing with the state comp-
14 troller, on or before December 31, 2011, a resolution of its governing
15 body together with certification that such police officers and fire-
16 fighters did not bar themselves from participation in such retirement
17 plan as a result of their own negligence. Thereafter, such police offi-
18 cers and firefighters may elect to be covered by the provisions of
19 section 384-d of the retirement and social security law, and shall be
20 entitled to the full rights and benefits associated with coverage under
21 such section, by filing a request to that effect with the state comp-
22 troller on or before June 30, 2012.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD06154-04-1

1 § 2. All past service costs associated with implementing the
2 provisions of this act shall be borne by the city of Newburgh over a
3 period of ten years.

4 § 3. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill will allow the City of Newburgh to reopen the provisions of Section 384-d of the Retirement and Social Security Law for police officers Daniel Cameron, Lorenzo D'Angelico, John Jenerose, Matthew M. Kirwan, Kevin Romero and firefighters Robert Bain Jr, Mark Bethea and William Wiseman.

If this legislation is enacted during the 2011 legislative session, we anticipate that there will be an increase of approximately \$45,700 in the annual contributions of the City of Newburgh for the fiscal year ending March 31, 2012.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately \$620,000, which would be borne by the City of Newburgh as a one-time payment. This estimate is based on the assumption that payment will be made on February 1, 2012. The City of Newburgh may amortize this cost over a period of ten (10) years. The first year cost, including interest, will be approximately \$84,000.

This estimate, dated April 6, 2011 and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-156, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

STATE OF NEW YORK

5655

2011-2012 Regular Sessions

IN SENATE

June 9, 2011

Introduced by Sen. BONACIC -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the retirement and social security law, in relation to disability retirement applications made by or on behalf of certain deputy sheriffs

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

1 Section 1. Subdivision aa of section 555 of the retirement and social
2 security law, as added by chapter 165 of the laws of 1995, is amended to
3 read as follows:

4 aa. At the time of the filing of an application pursuant to this
5 section, the member must:

- 6 1. Have at least ten years of total service credit, and
- 7 2. Actually be in service upon which his or her membership is based,
8 or, have been discontinued from service, either voluntarily or involun-
9 tarily, for not more than ninety days, providing the member was disabled
10 prior to such discontinuance.

11 An application for disability retirement shall not be disapproved on
12 the basis of a deputy sheriff having failed to engage directly in crimi-
13 nal law enforcement activities that aggregate fifty per centum of a
14 deputy sheriff's service during a period preceding the filing of the
15 application provided the failure to do so was the result of the disabil-
16 ity alleged in the application and further provided the deputy sheriff
17 was certified as so engaged in criminal law enforcement activities by
18 the county sheriff for the calendar year preceding the onset of the
19 disability.

20 After the filing of such an application, such member shall be given one
21 or more medical examinations. If the comptroller determines that the
22 member is physically or mentally incapacitated for the performance of
23 duty and ought to be retired for ordinary disability, he or she shall be

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD11832-02-1

1 so retired. Such retirement shall be effective as of a date approved by
2 the comptroller.

3 § 2. Subdivision a of section 556 of the retirement and social securi-
4 ty law, as amended by chapter 489 of the laws of 2008, is amended to
5 read as follows:

6 a. A member shall be entitled to an accidental disability retirement
7 allowance if, at the time application therefor is filed, he or she is:

8 1. Physically or mentally incapacitated for performance of duty as the
9 natural and proximate result of an accident not caused by his or her own
10 willful negligence sustained in such service and while actually a member
11 of the retirement system, and

12 2. Actually in service upon which his or her membership is based.
13 However, in a case where a member is discontinued from service subse-
14 quent to the accident, either voluntarily or involuntarily, and provided
15 that the member meets the requirements of paragraph one of this subdivi-
16 sion, application may be made either (a) by a vested member incapaci-
17 tated as the result of a qualifying World Trade Center condition as
18 defined in section two of this chapter at any time, or (b) not later
19 than two years after the member is first discontinued from service and
20 provided that the member meets the requirements of paragraph one of this
21 subdivision.

22 An application for disability retirement shall not be disapproved on
23 the basis of a deputy sheriff having failed to engage directly in crimi-
24 nal law enforcement activities that aggregate fifty per centum of a
25 deputy sheriff's service during a period preceding the filing of the
26 application provided the failure to do so was the result of the disabil-
27 ity alleged in the application and further provided the deputy sheriff
28 was certified as so engaged in criminal law enforcement activities by
29 the county sheriff at the time the accident is alleged to have occurred.

30 § 3. Subdivision b of section 558 of the retirement and social securi-
31 ty law, as added by chapter 165 of the laws of 1995, paragraph 2 as
32 amended by chapter 489 of the laws of 2008, is amended to read as
33 follows:

34 b. Eligibility. A member shall be entitled to retirement for disabili-
35 ty incurred in the performance of duty if, at the time application
36 therefor is filed, he or she is:

37 1. Physically or mentally incapacitated for performance of duty as the
38 natural and proximate result of a disability not caused by his or her
39 own willful negligence sustained in such service and while actually a
40 member of the retirement system, and

41 2. Actually in service upon which his or her membership is based.
42 However, in a case where a member is discontinued from service, and
43 provided that the member meets the requirements of paragraph one of this
44 subdivision, application may be made, either (a) by a vested member
45 incapacitated as the result of a qualifying World Trade Center condition
46 as defined in section two of this chapter at any time, or (b) not later
47 than two years after the member is discontinued from service and
48 provided that the member meets the requirements of subdivision a of this
49 section and this subdivision.

50 An application for disability retirement shall not be disapproved on
51 the basis of a deputy sheriff having failed to engage directly in crimi-
52 nal law enforcement activities that aggregate fifty per centum of a
53 deputy sheriff's service during a period preceding the filing of the
54 application provided the failure to do so was the result of the disabil-
55 ity alleged in the application and further provided the deputy sheriff
56 was certified as so engaged in criminal law enforcement activities by

1 the county sheriff at the time the physical or mental incapacitation for
2 the performance of duty is alleged to have occurred.

3 § 4. This act shall take effect immediately and shall apply to all
4 applications filed pursuant to section 555, 556 or 558 of the retirement
5 and social security law on and after July 1, 2009.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would amend the requirements for certain deputy sheriffs who file a disability application. The application would not be disapproved on the basis that such deputy failed to engage directly in criminal law enforcement activities that aggregate at least fifty percent during a period preceding the filing of the application, provided the failure to do so was the result of the disability alleged in the application. Further such deputy must have been certified by the county sheriff as engaged in criminal law enforcement activities that aggregate at least fifty percent at the time the accident is alleged to have occurred. This will apply to all applications filed on and after July 1, 2009.

If this bill is enacted, the number of affected members cannot be readily determined. The cost would depend on the number of affected cases, as well as the type of disability granted, the age, service, salary, plan and tier of the affected members. These costs would be borne by the State of New York and all participating employers in the New York State and Local Employees' Retirement System.

This estimate, dated May 31, 2011, and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-190, prepared by the Actuary for the New York State and Local Employees' Retirement System.

STATE OF NEW YORK

S. 4899

A. 7298

2011-2012 Regular Sessions

SENATE - ASSEMBLY

April 29, 2011

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the local finance law, in relation to providing for a period of probable usefulness to the payment for a separation incentive program by the town of East Hampton, county of Suffolk

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

- 1 Section 1. Paragraph a of section 11.00 of the local finance law is
- 2 amended by adding a new subdivision 105 to read as follows:
- 3 105. Payments by the town of East Hampton, county of Suffolk to
- 4 employees upon separation from employment, as may be approved by the
- 5 town and including, but not limited to, cash payment for separation
- 6 incentives and/or payment of the monetary value of accrued and accumu-
- 7 lated but unused and unpaid sick leave, personal leave, holiday leave,
- 8 vacation time, time allowances granted in lieu of overtime compensation
- 9 and any other forms of payment required to be paid to such employees
- 10 upon separation from employment, ten years.
- 11 § 2. This act shall take effect immediately.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD11140-01-1

STATE OF NEW YORK

5362

2011-2012 Regular Sessions

IN SENATE

May 11, 2011

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the local finance law, in relation to authorizing and empowering the town of Stony Point to amortize the cost of payments to or for the benefit of employees upon separation of service from the town of Stony Point

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

- 1 Section 1. Paragraph a of section 11.00 of the local finance law is
 2 amended by adding a new subdivision 105 to read as follows:
 3 105. Payments by the town of Stony Point to or for the benefit of
 4 employees upon separation from employment, as may be approved by the
 5 town and including, but not limited to, cash payment for separation
 6 incentives and/or payment of the monetary value of accrued and accumu-
 7 lated but unused and unpaid sick leave, personal leave, holiday leave,
 8 vacation time, time allowances granted in lieu of overtime compensation,
 9 premiums or contributions with respect to health, dental and vision care
 10 insurance plans for the fiscal year in which such separation occurs, and
 11 any other forms of payment required to be paid to or for the benefit of
 12 such employees in connection with the separation from employment, ten
 13 years.
 14 § 2. This act shall take effect immediately.

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets
 [-] is old law to be omitted.

LBD10987-01-1

STATE OF NEW YORK

5413

2011-2012 Regular Sessions

IN SENATE

May 18, 2011

Introduced by Sen. O'MARA -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT authorizing Michael P. Koval to receive retirement service credit for prior service

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

1 Section 1. Notwithstanding any other provision of law, Michael P.
2 Koval, who was a police officer in the village of Watkins Glen, for the
3 period from September 6, 1988 through July 1, 1991, and who is currently
4 an officer with the city of Ithaca police department, and who is a
5 member of the New York state and local police and fire retirement
6 system, and who, for reasons not ascribable to his own negligence did
7 not receive service credit toward his optional 20 year retirement plan
8 for such period, shall be entitled to receive service credit toward such
9 plan for such period if, within one year from the effective date of this
10 act, he files a written request to that effect with the state comp-
11 troller.

12 § 2. All past service costs associated with the implementation of this
13 act shall be borne by the village of Watkins Glen.

14 § 3. This act shall take effect immediately.

FISCAL NOTE.--This bill will allow Police Officer Michael Koval, currently employed by the City of Ithaca, to receive credit under the provisions of Section 384-d of the Retirement and Social Security Law for the period from September 6, 1988 through July 1, 1991 when he was a police officer with the Village of Watkins Glen.

If this bill is enacted, we anticipate that there will be an immediate past service cost of approximately \$66,000, which will be borne by the Village of Watkins Glen as a one-time payment. This estimate assumes a February 1, 2012 payment date.

This estimate, dated May 12, 2011 and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-183, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD09286-07-1

STATE OF NEW YORK

S. 5846

A. 8513

2011-2012 Regular Sessions

SENATE - ASSEMBLY

June 22, 2011

IN SENATE -- Introduced by Sen. ROBACH -- (at request of the Governor)
 -- read twice and ordered printed, and when printed to be committed to
 the Committee on Rules

IN ASSEMBLY -- Introduced by M. of A. ABBATE -- (at request of the
 Governor) -- read once and referred to the Committee on Ways and Means

AN ACT to amend the civil service law and the state finance law, in
 relation to compensation and other terms and conditions of employment
 of certain state officers and employees, to authorize funding of joint
 labor-management committees, to implement agreements between the state
 and an employee organization; to amend chapter 333 of the laws of 1969
 amending the civil service law and other laws relating to salary
 increases for certain state officers and employees, in relation to
 rates of pay for certain state employees; to repeal certain provisions
 of the civil service law relating thereto; and making an appropriation
 for the purpose of effectuating certain provisions hereof (Part A); to
 amend the civil service law and the correction law, in relation to
 salaries; to repeal certain provisions of such laws relating thereto;
 and making an appropriation for the purpose of effectuating certain
 provisions hereof (Part B)

**The People of the State of New York, represented in Senate and Assem-
 bly, do enact as follows:**

1 Section 1. This act enacts into law legislation necessary to implement
 2 collective bargaining agreements, to make changes to an existing collec-
 3 tive bargaining agreement, and to implement changes to salary and bene-
 4 fits for certain state officers and employees excluded from collective
 5 negotiating units. Each component is wholly contained within a Part
 6 identified as Parts A through B. The effective date for each particular
 7 provision contained within such Part is set forth in the last section of
 8 such Part. Any provision in any section contained within a Part, includ-
 9 ing the effective date of the Part, which makes reference to a section

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets
 [-] is old law to be omitted.

LBD12077-02-1

1 "of this act", when used in connection with that particular component,
 2 shall be deemed to mean and refer to the corresponding section of the
 3 Part in which it is found. Section two of this act sets forth the gener-
 4 al severability clause applying to this act. Section three of this act
 5 sets forth the general effective date of this act.

6 PART A

7 COLLECTIVE BARGAINING AGREEMENT BETWEEN
 8 THE STATE OF NEW YORK AND THE CIVIL SERVICE
 9 EMPLOYEES ASSOCIATION, INC. FOR 2011-2016

10 Section 1. Subparagraphs 1, 2, 3 and 4 of paragraph a of subdivision 1
 11 of section 130 of the civil service law are REPEALED and three new
 12 subparagraphs 1, 2 and 3 are added to read as follows:

13 (1) Effective April first, two thousand ten for officers and employees
 14 on the administrative payroll and effective March twenty-fifth, two
 15 thousand ten for officers and employees on the institutional payroll:

16	<u>SG</u>	<u>HR</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>JR</u>	<u>INCR</u>
17			<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>		
18	<u>1</u>	<u>22041</u>	<u>22785</u>	<u>23529</u>	<u>24273</u>	<u>25017</u>	<u>25761</u>	<u>26505</u>	<u>27249</u>	<u>744</u>
19	<u>2</u>	<u>22883</u>	<u>23663</u>	<u>24443</u>	<u>25223</u>	<u>26003</u>	<u>26783</u>	<u>27563</u>	<u>28343</u>	<u>780</u>
20	<u>3</u>	<u>24025</u>	<u>24840</u>	<u>25655</u>	<u>26470</u>	<u>27285</u>	<u>28100</u>	<u>28915</u>	<u>29730</u>	<u>815</u>
21	<u>4</u>	<u>25074</u>	<u>25937</u>	<u>26800</u>	<u>27663</u>	<u>28526</u>	<u>29389</u>	<u>30252</u>	<u>31115</u>	<u>863</u>
22	<u>5</u>	<u>26274</u>	<u>27178</u>	<u>28082</u>	<u>28986</u>	<u>29890</u>	<u>30794</u>	<u>31698</u>	<u>32602</u>	<u>904</u>
23	<u>6</u>	<u>27744</u>	<u>28683</u>	<u>29622</u>	<u>30561</u>	<u>31500</u>	<u>32439</u>	<u>33378</u>	<u>34317</u>	<u>939</u>
24	<u>7</u>	<u>29278</u>	<u>30263</u>	<u>31248</u>	<u>32233</u>	<u>33218</u>	<u>34203</u>	<u>35188</u>	<u>36173</u>	<u>985</u>
25	<u>8</u>	<u>30928</u>	<u>31951</u>	<u>32974</u>	<u>33997</u>	<u>35020</u>	<u>36043</u>	<u>37066</u>	<u>38089</u>	<u>1023</u>
26	<u>9</u>	<u>32653</u>	<u>33722</u>	<u>34791</u>	<u>35860</u>	<u>36929</u>	<u>37998</u>	<u>39067</u>	<u>40136</u>	<u>1069</u>
27	<u>10</u>	<u>34521</u>	<u>35642</u>	<u>36763</u>	<u>37884</u>	<u>39005</u>	<u>40126</u>	<u>41247</u>	<u>42368</u>	<u>1121</u>
28	<u>11</u>	<u>36523</u>	<u>37700</u>	<u>38877</u>	<u>40054</u>	<u>41231</u>	<u>42408</u>	<u>43585</u>	<u>44762</u>	<u>1177</u>
29	<u>12</u>	<u>38612</u>	<u>39830</u>	<u>41048</u>	<u>42266</u>	<u>43484</u>	<u>44702</u>	<u>45920</u>	<u>47138</u>	<u>1218</u>
30	<u>13</u>	<u>40903</u>	<u>42177</u>	<u>43451</u>	<u>44725</u>	<u>45999</u>	<u>47273</u>	<u>48547</u>	<u>49821</u>	<u>1274</u>
31	<u>14</u>	<u>43270</u>	<u>44596</u>	<u>45922</u>	<u>47248</u>	<u>48574</u>	<u>49900</u>	<u>51226</u>	<u>52552</u>	<u>1326</u>
32	<u>15</u>	<u>45781</u>	<u>47163</u>	<u>48545</u>	<u>49927</u>	<u>51309</u>	<u>52691</u>	<u>54073</u>	<u>55455</u>	<u>1382</u>
33	<u>16</u>	<u>48346</u>	<u>49792</u>	<u>51238</u>	<u>52684</u>	<u>54130</u>	<u>55576</u>	<u>57022</u>	<u>58468</u>	<u>1446</u>
34	<u>17</u>	<u>51067</u>	<u>52595</u>	<u>54123</u>	<u>55651</u>	<u>57179</u>	<u>58707</u>	<u>60235</u>	<u>61763</u>	<u>1528</u>
35	<u>18</u>	<u>54018</u>	<u>55614</u>	<u>57210</u>	<u>58806</u>	<u>60402</u>	<u>61998</u>	<u>63594</u>	<u>65190</u>	<u>1596</u>
36	<u>19</u>	<u>56912</u>	<u>58587</u>	<u>60262</u>	<u>61937</u>	<u>63612</u>	<u>65287</u>	<u>66962</u>	<u>68637</u>	<u>1675</u>
37	<u>20</u>	<u>59889</u>	<u>61630</u>	<u>63371</u>	<u>65112</u>	<u>66853</u>	<u>68594</u>	<u>70335</u>	<u>72076</u>	<u>1741</u>
38	<u>21</u>	<u>63101</u>	<u>64924</u>	<u>66747</u>	<u>68570</u>	<u>70393</u>	<u>72216</u>	<u>74039</u>	<u>75862</u>	<u>1823</u>
39	<u>22</u>	<u>66484</u>	<u>68389</u>	<u>70294</u>	<u>72199</u>	<u>74104</u>	<u>76009</u>	<u>77914</u>	<u>79819</u>	<u>1905</u>
40	<u>23</u>	<u>70038</u>	<u>72026</u>	<u>74014</u>	<u>76002</u>	<u>77990</u>	<u>79978</u>	<u>81966</u>	<u>83954</u>	<u>1988</u>
41	<u>24</u>	<u>73850</u>	<u>75908</u>	<u>77966</u>	<u>80024</u>	<u>82082</u>	<u>84140</u>	<u>86198</u>	<u>88256</u>	<u>2058</u>
42	<u>25</u>	<u>77931</u>	<u>80080</u>	<u>82229</u>	<u>84378</u>	<u>86527</u>	<u>88676</u>	<u>90825</u>	<u>92974</u>	<u>2149</u>

43 (2) Effective March twenty-seven, two thousand fourteen for officers
 44 and employees on the administrative payroll and effective April three,
 45 two thousand fourteen for officers and employees on the institutional
 46 payroll:

47	<u>SG</u>	<u>HR</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>JR</u>	<u>INCR</u>
48			<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>		
49	<u>1</u>	<u>22482</u>	<u>23241</u>	<u>24000</u>	<u>24759</u>	<u>25518</u>	<u>26277</u>	<u>27036</u>	<u>27795</u>	<u>759</u>
50	<u>2</u>	<u>23341</u>	<u>24137</u>	<u>24933</u>	<u>25729</u>	<u>26525</u>	<u>27321</u>	<u>28117</u>	<u>28913</u>	<u>796</u>
51	<u>3</u>	<u>24506</u>	<u>25337</u>	<u>26168</u>	<u>26999</u>	<u>27830</u>	<u>28661</u>	<u>29492</u>	<u>30323</u>	<u>831</u>
52	<u>4</u>	<u>25575</u>	<u>26455</u>	<u>27335</u>	<u>28215</u>	<u>29095</u>	<u>29975</u>	<u>30855</u>	<u>31735</u>	<u>880</u>
53	<u>5</u>	<u>26799</u>	<u>27721</u>	<u>28643</u>	<u>29565</u>	<u>30487</u>	<u>31409</u>	<u>32331</u>	<u>33253</u>	<u>922</u>
54	<u>6</u>	<u>28299</u>	<u>29257</u>	<u>30215</u>	<u>31173</u>	<u>32131</u>	<u>33089</u>	<u>34047</u>	<u>35005</u>	<u>958</u>

1	<u>7</u>	<u>29864</u>	<u>30869</u>	<u>31874</u>	<u>32879</u>	<u>33884</u>	<u>34889</u>	<u>35894</u>	<u>36899</u>	<u>1005</u>
2	<u>8</u>	<u>31547</u>	<u>32590</u>	<u>33633</u>	<u>34676</u>	<u>35719</u>	<u>36762</u>	<u>37805</u>	<u>38848</u>	<u>1043</u>
3	<u>9</u>	<u>33306</u>	<u>34396</u>	<u>35486</u>	<u>36576</u>	<u>37666</u>	<u>38756</u>	<u>39846</u>	<u>40936</u>	<u>1090</u>
4	<u>10</u>	<u>35211</u>	<u>36354</u>	<u>37497</u>	<u>38640</u>	<u>39783</u>	<u>40926</u>	<u>42069</u>	<u>43212</u>	<u>1143</u>
5	<u>11</u>	<u>37253</u>	<u>38454</u>	<u>39655</u>	<u>40856</u>	<u>42057</u>	<u>43258</u>	<u>44459</u>	<u>45660</u>	<u>1201</u>
6	<u>12</u>	<u>39384</u>	<u>40626</u>	<u>41868</u>	<u>43110</u>	<u>44352</u>	<u>45594</u>	<u>46836</u>	<u>48078</u>	<u>1242</u>
7	<u>13</u>	<u>41721</u>	<u>43020</u>	<u>44319</u>	<u>45618</u>	<u>46917</u>	<u>48216</u>	<u>49515</u>	<u>50814</u>	<u>1299</u>
8	<u>14</u>	<u>44135</u>	<u>45488</u>	<u>46841</u>	<u>48194</u>	<u>49547</u>	<u>50900</u>	<u>52253</u>	<u>53606</u>	<u>1353</u>
9	<u>15</u>	<u>46697</u>	<u>48107</u>	<u>49517</u>	<u>50927</u>	<u>52337</u>	<u>53747</u>	<u>55157</u>	<u>56567</u>	<u>1410</u>
10	<u>16</u>	<u>49313</u>	<u>50788</u>	<u>52263</u>	<u>53738</u>	<u>55213</u>	<u>56688</u>	<u>58163</u>	<u>59638</u>	<u>1475</u>
11	<u>17</u>	<u>52088</u>	<u>53647</u>	<u>55206</u>	<u>56765</u>	<u>58324</u>	<u>59883</u>	<u>61442</u>	<u>63001</u>	<u>1559</u>
12	<u>18</u>	<u>55098</u>	<u>56726</u>	<u>58354</u>	<u>59982</u>	<u>61610</u>	<u>63238</u>	<u>64866</u>	<u>66494</u>	<u>1628</u>
13	<u>19</u>	<u>58050</u>	<u>59759</u>	<u>61468</u>	<u>63177</u>	<u>64886</u>	<u>66595</u>	<u>68304</u>	<u>70013</u>	<u>1709</u>
14	<u>20</u>	<u>61087</u>	<u>62863</u>	<u>64639</u>	<u>66415</u>	<u>68191</u>	<u>69967</u>	<u>71743</u>	<u>73519</u>	<u>1776</u>
15	<u>21</u>	<u>64363</u>	<u>66222</u>	<u>68081</u>	<u>69940</u>	<u>71799</u>	<u>73658</u>	<u>75517</u>	<u>77376</u>	<u>1859</u>
16	<u>22</u>	<u>67814</u>	<u>69757</u>	<u>71700</u>	<u>73643</u>	<u>75586</u>	<u>77529</u>	<u>79472</u>	<u>81415</u>	<u>1943</u>
17	<u>23</u>	<u>71439</u>	<u>73467</u>	<u>75495</u>	<u>77523</u>	<u>79551</u>	<u>81579</u>	<u>83607</u>	<u>85635</u>	<u>2028</u>
18	<u>24</u>	<u>75327</u>	<u>77426</u>	<u>79525</u>	<u>81624</u>	<u>83723</u>	<u>85822</u>	<u>87921</u>	<u>90020</u>	<u>2099</u>
19	<u>25</u>	<u>79490</u>	<u>81682</u>	<u>83874</u>	<u>86066</u>	<u>88258</u>	<u>90450</u>	<u>92642</u>	<u>94834</u>	<u>2192</u>

(3) Effective March twenty-six, two thousand fifteen for officers and employees on the administrative payroll and effective April two, two thousand fifteen for officers and employees on the institutional payroll:

<u>SG</u>	<u>HR</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>Step</u>	<u>JR</u>	<u>INCR</u>	
		<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>			
25	<u>1</u>	<u>22932</u>	<u>23706</u>	<u>24480</u>	<u>25254</u>	<u>26028</u>	<u>26802</u>	<u>27576</u>	<u>28350</u>	<u>774</u>
26	<u>2</u>	<u>23808</u>	<u>24620</u>	<u>25432</u>	<u>26244</u>	<u>27056</u>	<u>27868</u>	<u>28680</u>	<u>29492</u>	<u>812</u>
27	<u>3</u>	<u>24996</u>	<u>25844</u>	<u>26692</u>	<u>27540</u>	<u>28388</u>	<u>29236</u>	<u>30084</u>	<u>30932</u>	<u>848</u>
28	<u>4</u>	<u>26087</u>	<u>26985</u>	<u>27883</u>	<u>28781</u>	<u>29679</u>	<u>30577</u>	<u>31475</u>	<u>32373</u>	<u>898</u>
29	<u>5</u>	<u>27335</u>	<u>28275</u>	<u>29215</u>	<u>30155</u>	<u>31095</u>	<u>32035</u>	<u>32975</u>	<u>33915</u>	<u>940</u>
30	<u>6</u>	<u>28865</u>	<u>29842</u>	<u>30819</u>	<u>31796</u>	<u>32773</u>	<u>33750</u>	<u>34727</u>	<u>35704</u>	<u>977</u>
31	<u>7</u>	<u>30461</u>	<u>31486</u>	<u>32511</u>	<u>33536</u>	<u>34561</u>	<u>35586</u>	<u>36611</u>	<u>37636</u>	<u>1025</u>
32	<u>8</u>	<u>32178</u>	<u>33242</u>	<u>34306</u>	<u>35370</u>	<u>36434</u>	<u>37498</u>	<u>38562</u>	<u>39626</u>	<u>1064</u>
33	<u>9</u>	<u>33972</u>	<u>35084</u>	<u>36196</u>	<u>37308</u>	<u>38420</u>	<u>39532</u>	<u>40644</u>	<u>41756</u>	<u>1112</u>
34	<u>10</u>	<u>35915</u>	<u>37081</u>	<u>38247</u>	<u>39413</u>	<u>40579</u>	<u>41745</u>	<u>42911</u>	<u>44077</u>	<u>1166</u>
35	<u>11</u>	<u>37998</u>	<u>39223</u>	<u>40448</u>	<u>41673</u>	<u>42898</u>	<u>44123</u>	<u>45348</u>	<u>46573</u>	<u>1225</u>
36	<u>12</u>	<u>40172</u>	<u>41439</u>	<u>42706</u>	<u>43973</u>	<u>45240</u>	<u>46507</u>	<u>47774</u>	<u>49041</u>	<u>1267</u>
37	<u>13</u>	<u>42555</u>	<u>43880</u>	<u>45205</u>	<u>46530</u>	<u>47855</u>	<u>49180</u>	<u>50505</u>	<u>51830</u>	<u>1325</u>
38	<u>14</u>	<u>45018</u>	<u>46398</u>	<u>47778</u>	<u>49158</u>	<u>50538</u>	<u>51918</u>	<u>53298</u>	<u>54678</u>	<u>1380</u>
39	<u>15</u>	<u>47631</u>	<u>49069</u>	<u>50507</u>	<u>51945</u>	<u>53383</u>	<u>54821</u>	<u>56259</u>	<u>57697</u>	<u>1438</u>
40	<u>16</u>	<u>50299</u>	<u>51804</u>	<u>53309</u>	<u>54814</u>	<u>56319</u>	<u>57824</u>	<u>59329</u>	<u>60834</u>	<u>1505</u>
41	<u>17</u>	<u>53130</u>	<u>54720</u>	<u>56310</u>	<u>57900</u>	<u>59490</u>	<u>61080</u>	<u>62670</u>	<u>64260</u>	<u>1590</u>
42	<u>18</u>	<u>56200</u>	<u>57861</u>	<u>59522</u>	<u>61183</u>	<u>62844</u>	<u>64505</u>	<u>66166</u>	<u>67827</u>	<u>1661</u>
43	<u>19</u>	<u>59211</u>	<u>60954</u>	<u>62697</u>	<u>64440</u>	<u>66183</u>	<u>67926</u>	<u>69669</u>	<u>71412</u>	<u>1743</u>
44	<u>20</u>	<u>62309</u>	<u>64120</u>	<u>65931</u>	<u>67742</u>	<u>69553</u>	<u>71364</u>	<u>73175</u>	<u>74986</u>	<u>1811</u>
45	<u>21</u>	<u>65650</u>	<u>67546</u>	<u>69442</u>	<u>71338</u>	<u>73234</u>	<u>75130</u>	<u>77026</u>	<u>78922</u>	<u>1896</u>
46	<u>22</u>	<u>69170</u>	<u>71152</u>	<u>73134</u>	<u>75116</u>	<u>77098</u>	<u>79080</u>	<u>81062</u>	<u>83044</u>	<u>1982</u>
47	<u>23</u>	<u>72868</u>	<u>74937</u>	<u>77006</u>	<u>79075</u>	<u>81144</u>	<u>83213</u>	<u>85282</u>	<u>87351</u>	<u>2069</u>
48	<u>24</u>	<u>76834</u>	<u>78975</u>	<u>81116</u>	<u>83257</u>	<u>85398</u>	<u>87539</u>	<u>89680</u>	<u>91821</u>	<u>2141</u>
49	<u>25</u>	<u>81080</u>	<u>83316</u>	<u>85552</u>	<u>87788</u>	<u>90024</u>	<u>92260</u>	<u>94496</u>	<u>96732</u>	<u>2236</u>

§ 2. Subdivision 8 of section 167 of the civil service law, as added by chapter 442 of the laws of 1999, is amended to read as follows:

8. Notwithstanding any inconsistent provision of law, where and to the extent that an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter so provides, the state cost of premium or subscription charges for eligible employees covered by such agreement may be [~~increased~~] modified pursuant to the

1 terms of such agreement [~~and for a duration provided by such agreement~~
 2 ~~and pursuant to rules and regulations as may be established by the presi-~~
 3 ~~dent. Such increase in state cost shall only apply during the period of~~
 4 ~~eligibility provided by such agreement and shall not be applied during~~
 5 ~~retirement]. The president, with the approval of the director of the
 6 budget, may extend the modified state cost of premium or subscription
 7 charges for employees or retirees not subject to an agreement referenced
 8 above and shall promulgate the necessary rules or regulations to imple-
 9 ment this provision.~~

10 § 3. Subdivision 2 of section 208 of the civil service law, as amended
 11 by section 3 of part A of chapter 10 of the laws of 2008, is amended to
 12 read as follows:

13 2. An employee organization certified or recognized pursuant to this
 14 article shall be entitled to unchallenged representation status until
 15 seven months prior to the expiration of a written agreement between the
 16 public employer and said employee organization determining terms and
 17 conditions of employment. For the purposes of this subdivision, (a) any
 18 such agreement for a term covering other than the fiscal year of the
 19 public employer shall be deemed to expire with the fiscal year ending
 20 immediately prior to the termination date of such agreement, (b) any such
 21 agreement having a term in excess of three years shall be treated as an
 22 agreement for a term of three years, provided, however, any such agree-
 23 ment between the state and an employee organization representing employ-
 24 ees in the executive or judicial branches which commences in the calendar
 25 year two thousand [~~seven~~] eleven having a term in excess of three years
 26 shall be treated as an agreement for a term certain specified in such
 27 agreement but in no event for a term greater than four years, and (c)
 28 extensions of any such agreement shall not extend the period of unchal-
 29 lenged representation status[, ~~and (d) notwithstanding any provision of~~
 30 ~~law to the contrary, the interest arbitration award issued pursuant to~~
 31 ~~the provisions of paragraph (e) of subdivision four of section two~~
 32 ~~hundred nine of this article binding the executive branch of the state of~~
 33 ~~New York and the employee organization which represents the collective~~
 34 ~~negotiating unit consisting of troopers and the unit consisting of~~
 35 ~~commissioned and non-commissioned officers in the division of state~~
 36 ~~police, covering a period commencing April first, nineteen hundred nine-~~
 37 ~~ty-nine, shall be treated as a written agreement for the term specified~~
 38 ~~in such award solely for the representation purposes of this section].~~

39 § 4. Paragraph (e) of subdivision 3 of section 130 of the civil service
 40 law, as amended by section 4 of part A of chapter 10 of the laws of 2008,
 41 is amended to read as follows:

42 (e) [~~(i) Prior to April first, two thousand ten, and notwithstanding~~
 43 ~~any inconsistent provision of law, officers and employees to whom para-~~
 44 ~~graph a of subdivision one of this section applies who, on or after April~~
 45 ~~first, nineteen hundred eighty seven, on their anniversary date have five~~
 46 ~~or more years of continuous service as defined by paragraph (c) of this~~
 47 ~~subdivision at a basic annual salary rate equal to or in excess of the~~
 48 ~~job rate or maximum salary of their salary grade, but below the first~~
 49 ~~longevity step and whose performance for the most recent rating period~~
 50 ~~was rated at least "satisfactory" or its equivalent, shall have their~~
 51 ~~basic annual salary increased to the first longevity step or shall have~~
 52 ~~their basic annual salary as otherwise effective increased by seven~~
 53 ~~hundred fifty dollars, or by eight hundred seventy five dollars on or~~
 54 ~~after April first, two thousand seven; or by one thousand dollars on or~~
 55 ~~after April first, two thousand eight; or by one thousand one hundred~~
 56 ~~twenty five dollars on or after April first, two thousand nine or as much~~

1 ~~of that amount as will not result in the new basic annual salary exceed-~~
2 ~~ing the step two longevity step. Notwithstanding any inconsistent~~
3 ~~provision of law, officers and employees to whom paragraph a of subdivi-~~
4 ~~sion one of this section apply who, on or after April first, nineteen~~
5 ~~hundred eighty seven, on their anniversary date have ten or more years of~~
6 ~~continuous service as defined by paragraph (c) of this subdivision at a~~
7 ~~basic annual salary rate equal to or in excess of the job rate or maximum~~
8 ~~salary of their salary grade, but below the second longevity step and~~
9 ~~whose performance for the most recent rating period was rated at least~~
10 ~~"satisfactory" or its equivalent, shall have their basic annual salary~~
11 ~~increased to the second longevity step as found in paragraph a of subdivi-~~
12 ~~sion one of this section. Such increases to longevity steps by eligible~~
13 ~~officers or employees shall become effective on the first day of the~~
14 ~~payroll period which next begins following the anniversary date which~~
15 ~~satisfies the prescribed service requirements. For the purposes of this~~
16 ~~paragraph the term continuous service as defined by paragraph (c) of this~~
17 ~~subdivision for employees in the division of military and naval affairs~~
18 ~~unit shall refer to uninterrupted service in the civilian service of the~~
19 ~~division of military and naval affairs.~~

20 (ii) Officers] Where, and to the extent that, an agreement between the
21 state and an employee organization entered into pursuant to article four-
22 teen of this chapter on behalf of officers and employees serving in posi-
23 tions in the administrative services unit, institutional services unit,
24 operational services unit or military and naval affairs unit so provides
25 officers and employees to whom paragraph a of subdivision one of this
26 section applies who, on or after April first, two thousand [~~ten~~] eleven,
27 on their anniversary date have five or more years, but less than ten
28 years, of continuous service as defined by paragraph (c) of this subdivi-
29 sion at a basic annual salary rate equal to or in excess of the job rate
30 or maximum salary of their salary grade, shall receive a lump sum payment
31 in the amount of one thousand two hundred fifty dollars. [~~Officers~~]
32 Where, and to the extent that, an agreement between the state and an
33 employee organization entered into pursuant to article fourteen of this
34 chapter on behalf of officers and employees serving in positions in the
35 administrative services unit, institutional services unit, operational
36 services unit or military and naval affairs unit so provides officers and
37 employees to whom paragraph a of subdivision one of this section applies
38 who, on or after April first, two thousand [~~ten~~] eleven, on their anni-
39 versary date have ten or more years of continuous service as defined by
40 paragraph (c) of this subdivision at a basic annual salary rate equal to
41 or in excess of the job rate or maximum salary of their salary grade
42 shall receive a lump sum payment in the amount of two thousand five
43 hundred dollars.

44 Such lump sum payment shall be in addition to and not part of the
45 employee's basic annual salary, provided however that any amount payable
46 by this paragraph shall be included as compensation for overtime and
47 retirement purposes.

48 Such lump sum payment shall be payable in April of each fiscal year, or
49 as soon as practicable thereafter, for those eligible employees who have
50 achieved five or more, or ten or more years of continuous service as
51 defined by paragraph (c) of this subdivision at a basic annual salary
52 rate equal to or in excess of the job rate or maximum salary of their
53 salary grade during the period October first through March thirty-first
54 of the previous fiscal year. Such payment shall be payable in October of
55 each fiscal year, or as soon as practicable thereafter, for those eligi-
56 ble employees who have achieved five or more, or ten or more years of

1 continuous service as defined by paragraph (c) of this subdivision at a
2 basic annual salary rate equal to or in excess of the job rate or maximum
3 salary of their salary grade during the period April first through
4 September thirtieth of that same fiscal year. [~~All compensation already
5 included in an employee's basic annual salary pursuant to subparagraph
6 (i) of this paragraph shall remain included in such basic annual salary.~~]

7 § 5. Subdivision 12-d of section 8 of the state finance law, as amended
8 by section 5 of part A of chapter 10 of the laws of 2008, is amended to
9 read as follows:

10 12-d. Notwithstanding any inconsistent provision of the court of claims
11 act, examine, audit and certify for payment any claim submitted and
12 approved by the head of a state department or agency, other than a
13 department or agency specified in subdivision twelve of this section, for
14 personal property of an employee damaged or destroyed in the course of
15 the performance of official duties without fault on his part by an
16 inmate, patient or client of such department or agency after March thir-
17 ty-first, two thousand [~~seven~~] eleven and prior to April first, two thou-
18 sand [~~eleven~~] sixteen, provided no such claim may be certified for
19 payment to an officer or employee who is in a collective negotiating unit
20 until the director of employee relations shall deliver to the comptroller
21 a [~~certificate~~] letter that there is in effect with respect to such nego-
22 tiating unit a written collectively negotiated agreement with the state
23 pursuant to article fourteen of the civil service law which provides
24 therefor. Payment of any such claim shall not exceed the sum of three
25 hundred dollars. No person submitting a claim under this subdivision
26 shall have any claim for damages to such personal property approved
27 pursuant to the provision of subdivision four of section five hundred
28 thirty of the labor law or any other applicable provision of law.

29 § 6. Subdivision 12-e of section 8 of the state finance law, as amended
30 by section 6 of part A of chapter 10 of the laws of 2008, is amended to
31 read as follows:

32 12-e. Notwithstanding any inconsistent provision of the court of claims
33 act, where, and to the extent that, an agreement between the state and an
34 employee organization entered into pursuant to article fourteen of the
35 civil service law on behalf of officers and employees serving in posi-
36 tions in the professional, scientific and technical services unit, admin-
37 istrative services unit, institutional services unit, operational
38 services unit or and military and naval affairs unit so provides, exam-
39 ine, audit and certify for payment any claim submitted and approved by
40 the head of a state department or agency for personal property of an
41 officer or employee damaged or destroyed in the actual performance of
42 official duties without fault or negligence of the officer or employee
43 other than a claim specified and covered by subdivision twelve or
44 twelve-d of this section after March thirty-first, two thousand [~~seven~~]
45 eleven and before April first, two thousand [~~eleven~~] sixteen. Payment of
46 such claim shall not exceed the sum of three hundred fifty dollars. Where
47 an agreement between the state and such employee organization entered
48 into pursuant to article fourteen of the civil service law provides for
49 payment to be made to officers and employees by a state department or
50 agency, such payments for claims not in excess of the amount specified in
51 subdivision three of section one hundred fifteen of this chapter may be
52 made from a petty cash account established pursuant to section one
53 hundred fifteen of this chapter and in the manner prescribed therein and
54 pursuant to regulations of the comptroller. No person submitting a claim
55 under this subdivision shall have any claim for damages to such personal
56 property approved pursuant to the provisions of subdivision four of

1 section five hundred thirty of the labor law or any other applicable
2 provision of law.

3 § 7. Section 200 of the state finance law is amended by adding a new
4 subdivision 5 to read as follows:

5 5. Notwithstanding any law to the contrary, by agreement between the
6 state and an employee organization entered into pursuant to article four-
7 teen of the civil service law, or by an interest arbitration award bind-
8 ing the state and an employee organization pursuant to article fourteen
9 of the civil service law, or by the director of budget for state officers
10 and employees in the executive branch who are in positions which are not
11 in collective negotiating units, plans may be established to reduce the
12 basic annual salary, hourly rate or per diem for any employee within the
13 purview of such agreement, interest arbitration award, or the budget
14 director's authority. Any plan or plans established under this section
15 will be implemented when the budget director notifies the director of the
16 governor's office of employee relations and delivers such plan or plans
17 to the comptroller, at which point the comptroller will take the neces-
18 sary actions to reduce, restore, or repay compensation, provided however,
19 that the comptroller must take such actions wholly within the fiscal year
20 that such plan requires. After the cessation of such plan, the comp-
21 troller shall restore such salary, hourly rate or per diem to the amount
22 in effect immediately before the commencement of such plan.

23 § 8. Subdivision 1 of section 135 of the civil service law is amended
24 adding a new paragraph (d) to read as follows:

25 (d) payments made pursuant to a collective bargaining agreement negoti-
26 ated pursuant to article fourteen of this chapter or regulations promul-
27 gated by the president pursuant to subdivision three of section one
28 hundred sixty-three of this chapter permitting payment to an employee or
29 officer in exchange for the employee's election to withdraw from the
30 health insurance plan established pursuant to article eleven of this
31 chapter. Such payments shall not be considered part of an employee's
32 basic annual salary and shall not be considered compensation for the
33 purposes of overtime calculation or retirement.

34 § 9. Compensation for certain state officers and employees in collec-
35 tive negotiating units. 1. The provisions of this section shall apply,
36 except as otherwise stated in this section, to all full-time officers and
37 employees in the collective negotiating units designated as the adminis-
38 trative services unit, the institutional services unit, the operational
39 services unit, or the division of military and naval affairs unit estab-
40 lished pursuant to article 14 of the civil service law.

41 2. (a) Effective March 28, 2013 for officers and employees on the
42 administrative payroll and effective April 4, 2013 for officers and
43 employees on the institutional payroll pursuant to article 14 of the
44 civil service law a lump sum payment of \$775 shall be made to each
45 employee in such units in full-time annual salaried employment status who
46 was (i) active on the date of ratification of the agreement between the
47 state and the negotiating unit covering such employee and (ii) in contin-
48 uous service, as defined by paragraph (c) of subdivision 3 of section 130
49 of the civil service law, from that date until March 28, 2013 for offi-
50 cers and employees on the administrative payroll and on April 4, 2013 for
51 officers and employees on the institutional payroll. Such lump sum shall
52 be considered salary for final average salary retirement purposes but
53 shall not become part of basic annual salary. Notwithstanding the forego-
54 ing provisions of this subdivision, officers and employees who would have
55 otherwise been eligible to receive such lump sum payment, but who were
56 not on the payroll on such date, shall be eligible for said payment if

1 they return to full-time employment status during the fiscal year
2 2013-2014 without a break in continuous service.

3 (b) Effective March 27, 2014 for officers and employees on the adminis-
4 trative payroll and effective April 3, 2014 for officers and employees on
5 the institutional payroll pursuant to article 14 of the civil service law
6 a lump sum payment of \$225 shall be made to each employee in such units
7 in full-time annual salaried employment status who was (i) active on the
8 date of ratification of the agreement between the state and the negotiat-
9 ing unit covering such employee and (ii) in continuous service, as
10 defined by paragraph (c) of subdivision 3 of section 130 of the civil
11 service law, from that date until March 28, 2013 for officers and employ-
12 ees on the administrative payroll and April 4, 2013 for officers and
13 employees on the institutional payroll. Such lump sum shall be considered
14 salary for final average salary retirement purposes but shall not become
15 part of basic annual salary.

16 3. Effective March 27, 2014 for officers and employees on the adminis-
17 trative payroll and effective April 3, 2014 for officers and employees on
18 the institutional payroll, the basic annual salary of officers and
19 employees in full-time annual salaried employment status on the day
20 before such payroll period shall be increased by two percent adjusted to
21 the nearest whole dollar amount.

22 4. Effective March 26, 2015 for officers and employees on the adminis-
23 trative payroll and effective April 2, 2015 for officers and employees on
24 the institutional payroll, the basic annual salary of officers and
25 employees in full-time annual salaried employment status on the day
26 before such payroll period shall be increased by two percent adjusted to
27 the nearest whole dollar amount.

28 5. Notwithstanding the provisions of subdivisions three and four of
29 this section, if the basic annual salary of an officer or employee to
30 whom the provisions of this section apply is identical with the hiring
31 rate, step one, two, three, four, five, six or job rate of the salary
32 grade of his or her position on the effective dates of the increases
33 provided in these subdivisions, such basic annual salary shall be
34 increased to the hiring rate, step one, two, three, four, five, six or
35 job rate, respectively, of such salary grade as contained in the appro-
36 priate salary schedules in subparagraphs 2 and 3 of paragraph a of subdi-
37 vision 1 of section 130 of the civil service law, as added by section one
38 of this act, to take effect on the dates provided in subparagraphs 2 and
39 3, respectively. The increases in basic annual salary provided by this
40 subdivision shall be in lieu of any increase in basic annual salary
41 provided for in subdivisions three and four of this section.

42 6. Payments pursuant to the provisions of subdivision 6 of section 131
43 of the civil service law for full-time annual salaried officers and
44 employees entitled to such payments to whom the provisions of this
45 section apply shall be payable in accordance with the terms of an agree-
46 ment reached pursuant to article 14 of the civil service law between the
47 state and an employee organization representing employees subject to the
48 provisions of this section.

49 7. If an unencumbered position is one which if encumbered, would be
50 subject to the provisions of this section, the salary of such position
51 shall be increased by the salary increase amounts specified in this
52 section. If a position is created, and filled by the appointment of an
53 officer or employee who is subject to the provisions of this section, the
54 salary otherwise provided for such position shall be increased in the
55 same manner as though such position had been in existence but unencum-
56 bered.

1 8. The increases in salary provided in subdivisions three and four of
2 this section, and also the payments provided in subdivision two of this
3 section, shall apply on a prorated basis to officers and employees,
4 otherwise eligible to receive an increase in salary, who are paid on an
5 hourly or per diem basis, employees serving on a part-time or seasonal
6 basis and employees paid on any basis other than at an annual salary
7 rate. Notwithstanding the foregoing, the provisions of subdivision six of
8 this section shall not apply to employees serving on an hourly, per diem,
9 or seasonal basis, except as determined by the director of the budget.

10 9. In order to provide for the officers and employees to whom this
11 section applies who are not allocated to salary grades, but are paid on
12 an annual basis, increases and payments pursuant to subdivision six of
13 this section in proportion to those provided to persons to whom this
14 section applies who are allocated to salary grades, the director of the
15 budget is authorized to add appropriate adjustments and/or payments to
16 the compensation which such officers and employees are otherwise entitled
17 to receive. The director of the budget shall issue certificates which
18 shall contain schedules of positions and the salaries and/or payments
19 thereof for which adjustments and/or payments are made pursuant to the
20 provisions of this subdivision, and a copy of each such certificate shall
21 be filed with the state comptroller, the state department of civil
22 service, the chairman of the senate finance committee and the chairman of
23 the assembly ways and means committee.

24 10. Notwithstanding any other provision of this section, the provisions
25 of this section shall not apply to officers or employees paid on a fee
26 schedule basis.

27 11. Notwithstanding any other provision of this section, any increase
28 in compensation for any officer or employee appointed to a lower graded
29 position from a redeployment list pursuant to subdivision 1 of section 79
30 of the civil service law who continues to receive his or her former sala-
31 ry pursuant to such subdivision shall be determined on the basis of such
32 lower graded position provided, however, that the increases in salary
33 provided in this section shall not cause such officer's or employee's
34 salary to exceed the job rate of such lower graded position.

35 12. Notwithstanding any of the foregoing provisions of this section or
36 of any law to the contrary, the director of the budget may reduce the
37 salary of any position which is vacant or which becomes vacant, so long
38 as the position, if encumbered, would be subject to the provisions of
39 this section. The director of the budget does not need to provide a
40 reason for such reduction.

41 13. Notwithstanding any of the foregoing provisions of this section or
42 of any law to the contrary, any increase in compensation may be withheld
43 in whole or in part from any employee to whom the provisions of this
44 section are applicable when, in the opinion of the director of the budget
45 and the director of employee relations, such increase is not warranted or
46 is not appropriate for any reason.

47 § 10. Compensation for certain employees of the contract colleges at
48 Cornell and Alfred universities. 1. During the period April 1, 2011 to
49 March 31, 2016, the basic annual salaries of positions in the nonprofes-
50 sional service, except those positions in the Cornell service and mainte-
51 nance unit which are subject to the terms of a collective bargaining
52 agreement between Cornell University and the employee organization
53 representing employees in such positions and except those positions in
54 the Alfred service and maintenance unit which are subject to the terms of
55 a collective bargaining agreement between Alfred University and the
56 employee organization representing employees in such positions, in insti-

1 tutions under the management and control of Cornell and Alfred universi-
2 ties as representatives of the board of trustees of the state university
3 may be increased pursuant to plans approved by the state university trus-
4 tees. Such plans may include new salary schedules which shall supersede
5 the salary schedules then in effect applicable to such employees. Such
6 increases in basic annual salary rates, exclusive of performance advance-
7 ment payments or merit recognition payments, shall not exceed in the
8 aggregate the payments provided in subdivisions two, three, and four of
9 section nine of this act, for incumbents of positions subject to this
10 subdivision. Such plans may provide, within the appropriations available
11 therefor, an amount for distribution in whole or in part for meritorious
12 service by Cornell and Alfred universities, in their discretion, with the
13 approval of the state university trustees to the incumbents of such posi-
14 tions.

15 2. For the purposes of this section, the basic annual salary of employ-
16 ees is that salary which is obtained through direct appropriation of
17 state moneys for the purpose of paying wages. Nothing in this section
18 shall prevent payment of additional amounts to incumbents of such posi-
19 tions in the nonprofessional service in addition to the basic annual
20 salary; provided, however, that the amounts required for such additional
21 payment, and the cost of fringe benefits attributable to such payment, as
22 determined by the comptroller, are made available to the state in accord-
23 ance with the procedures established by the state university for such
24 purposes.

25 3. Notwithstanding the foregoing provisions of this section, any
26 increase in compensation provided by this section may be withheld in
27 whole or in part from any officer or employee when, in the opinion of the
28 director of the budget, such withholding is necessary to reflect the job
29 performance of such officer or employee, or to maintain appropriate sala-
30 ry relationships among officers or employees of the state, or to reduce
31 state expenditures to acceptable levels, or when such increase is not
32 warranted or is not appropriate for any reason and the salary of such
33 officer or employee is set at the discretion of the appointing authority.

34 4. Notwithstanding the foregoing provisions of this subdivision or act
35 or any other provision of law, rule or regulation to the contrary, the
36 contract colleges at Cornell and Alfred universities are authorized to
37 provide for a procedure for the repayment of salaries withheld from
38 incumbents of positions subject to this subdivision as described in
39 subdivision one of this section, pursuant to subdivision 2-a of section
40 200 of the state finance law in lieu of the lump sum payment authorized
41 by subparagraph 3 of paragraph (a) of subdivision 2-a of section 200 of
42 the state finance law, subject to the approval of the state university
43 trustees. Further, Cornell and Alfred universities are authorized to
44 provide that the salary of employees newly hired on or after September 1,
45 1992 shall not be subject to the provisions of subdivision 2-a of section
46 200 of the state finance law.

47 § 11. Location compensation for certain state officers and employees in
48 collective negotiating units. Notwithstanding any inconsistent
49 provisions of law, full-time annual salaried officers and employees, as
50 well as non-annual salaried seasonal officers and employees who shall
51 receive the compensation provided for pursuant to this section on a pro-
52 rated basis, except non-annual salaried officers and employees who are
53 not seasonal, in the collective negotiating units designated as the
54 administrative services unit, the institutional services unit, the opera-
55 tional services unit, or the division of military and naval affairs unit
56 established pursuant to article 14 of the civil service law, whose prin-

1 cipal place of employment or, in the case of a field employee, whose
2 official station as determined in accordance with the regulations of the
3 comptroller is located (1) in the county of Monroe and who were eligible
4 to receive location pay on March 31, 1985, shall receive location pay at
5 the rate of \$200 per year provided they continue to be otherwise eligible
6 or (2) in the city of New York, or in the county of Rockland, Westches-
7 ter, Nassau or Suffolk shall, effective April 1, 2011, continue to
8 receive a downstate adjustment at the annual rate of \$3,026 (3) in the
9 county of Dutchess, Putnam or Orange shall, effective April 1, 2011,
10 continue to receive a mid-Hudson adjustment at the annual rate of \$1,513.
11 Such location payments shall be in addition to and shall not be a part of
12 an officer's or employee's basic annual salary, and shall not affect or
13 impair any performance advancements or other rights or benefits to which
14 an officer or employee may be entitled by law, provided, however, that
15 location payments shall be included as compensation for purposes of
16 computation of overtime pay and for retirement purposes. For the sole
17 purpose of continuing eligibility for location pay in Monroe county, an
18 officer or employee previously eligible to receive location pay on March
19 31, 1985 who is on an approved leave of absence or participates in an
20 employer program to reduce to part-time service during summer months
21 shall continue to be eligible for said location pay upon return to full-
22 time state service in Monroe county.

23 § 12. Continuation of location compensation for certain officers and
24 employees of the Hudson Valley developmental disabilities services
25 office. 1. Notwithstanding any law, rule or regulation to the contrary,
26 any officer or employee of the Hudson Valley developmental disabilities
27 services office represented in the collective negotiating units desig-
28 nated as the administrative services unit, the institutional services
29 unit or the operational services unit, who is receiving location pay
30 pursuant to section 5 of chapter 174 of the laws of 1993 shall continue
31 to receive such location pay under the conditions and at the rates speci-
32 fied by such section.

33 2. Notwithstanding any law, rule or regulation to the contrary, any
34 officer or employee of the Hudson Valley developmental disabilities
35 services office represented in the collective negotiating units desig-
36 nated as the administrative services unit, the institutional services
37 negotiating unit or the operational services negotiating unit, who is
38 receiving location pay pursuant to subdivision 2 of section 9 of chapter
39 315 of the laws of 1995 shall continue to receive such location pay under
40 the conditions and at the rates specified by such subdivision.

41 3. Notwithstanding section eleven of this act or any other law, rule or
42 regulation to the contrary, any officer or employee of the Hudson Valley
43 developmental disabilities services office represented in the collective
44 negotiating units designated as the administrative services unit, the
45 institutional services unit or the operational services unit, who is
46 receiving location pay pursuant to such section eleven shall continue to
47 be eligible for such location pay if such officer's or employee's princi-
48 pal place of employment is changed to a location outside of the county of
49 Rockland as the result of a reduction or redeployment of staff, provided,
50 however, that such officer or employee is reassigned to or otherwise
51 appointed or promoted to a different position at another work location
52 within the Hudson Valley developmental disabilities services office
53 located outside of the county of Rockland. The rate of such continued
54 location pay shall not exceed the rates such officer or employee is
55 receiving on the date of such reassignment, appointment or promotion.

1 § 13. Notwithstanding any law, rule or regulation to the contrary,
2 certain full-time employees of the office for people with developmental
3 disabilities in the collective negotiating unit designated as the insti-
4 tutional services unit who are required to sleep over at their work site
5 shall continue to receive inconvenience pay pursuant to section 17 of
6 chapter 333 of the laws of 1969 as amended, in accordance with and
7 subject to the conditions established by the terms of a negotiated agree-
8 ment between the state and an employee organization representing such
9 unit and the resolution of a contract grievance bearing identification
10 number 98-04-448.

11 § 14. Additional compensation for certain employees in recognition of
12 pre-shift briefing. 1. In recognition of the general requirement for
13 full-time employees of the state in the collective negotiating unit
14 designated as the division of military and naval affairs unit, estab-
15 lished pursuant to article 14 of the civil service law, to assemble for
16 briefing prior to the commencement of duties, each such employee shall
17 receive additional compensation at the rate of \$60 per biweekly payroll
18 period in accordance with the terms of a collectively negotiated agree-
19 ment between the state and an employee organization representing such
20 employees pursuant to article 14 of the civil service law. Such addi-
21 tional compensation shall be paid in addition to and shall not be a part
22 of the employee's basic annual salary. Notwithstanding the foregoing
23 provisions of this section, or of any other law, such additional compen-
24 sation as added by this section shall be in lieu of the continuation of
25 any other additional compensation for such employees paid prior to June
26 2, 1988, in recognition of pre-shift briefing.

27 2. Notwithstanding any inconsistent provisions of law, effective April
28 1, 2011, where and to the extent that, an agreement between the state and
29 an employee organization entered into pursuant to article 14 of the civil
30 service law so provides, in recognition of the general requirement that
31 certain full-time employees of the state in the collective negotiating
32 unit designated as the institutional services unit, established pursuant
33 to article 14 of the civil service law, in the employ of the office of
34 children and family services, to assemble for briefing prior to the
35 commencement of duties, each such employee shall receive additional
36 compensation in the amount of \$4.80, or one-quarter hour of their over-
37 time rate, whichever is higher, when they are required to and actually
38 assemble for such briefing. Such additional compensation shall be paid in
39 addition to and shall not be a part of the employee's basic annual sala-
40 ry.

41 § 15. Assignment to duty pay. Notwithstanding any inconsistent
42 provisions of law, effective April 1, 2011, where and to the extent that,
43 an agreement between the state and an employee organization entered into
44 pursuant to article 14 of the civil service law so provides, an assign-
45 ment to duty lump sum shall be paid each year to an employee who is serv-
46 ing in a particular assignment deemed qualified pursuant to such agree-
47 ment. Such payment shall be in an amount negotiated for those employees
48 assigned to qualifying work assignments and who work such assignments for
49 the minimum periods of time in a year provided in the negotiated agree-
50 ment. Assignment to duty pay shall not be paid in any year an employee
51 does not meet the minimum period of time in such qualifying assignment
52 required by the agreement or upon cessation of the assignment to duty
53 program on March 30, 2016 unless an extension is negotiated by the
54 parties. Such lump sum shall be considered salary only for final average
55 salary retirement purposes.

1 § 16. Long term seasonal employees. Notwithstanding any inconsistent
2 provisions of law, effective April 1, 2011, where and to the extent that,
3 an agreement between the state and an employee organization entered into
4 pursuant to article 14 of the civil service law so provides, a lump sum
5 shall be paid each year to an employee who is serving in a qualifying
6 long term seasonal position. Such payment shall be in an amount negoti-
7 ated and pursuant to negotiated qualifying criteria and shall be consid-
8 ered salary only for final average salary retirement purposes. Such bene-
9 fit shall be available until March 30, 2016.

10 § 17. In recognition of the specific requirements for winter mainte-
11 nance activity for full-time employees of the state department of trans-
12 portation in the collective negotiating unit designated as the opera-
13 tional services unit, established pursuant to article 14 of the civil
14 service law, and to the extent the terms of a negotiated agreement
15 between the state and an employee organization representing such unit
16 entered into pursuant to article 14 of the civil service law so provides,
17 such employees shall receive payments for winter maintenance shifts and
18 call-out responses if otherwise eligible and in accordance with such
19 negotiated agreement.

20 § 18. Subdivision 2 of section 17 of chapter 333 of the laws of 1969
21 amending the civil service law and other laws relating to salary
22 increases for certain state officers and employees, as amended by chapter
23 214 of the laws of 2009, is amended to read as follows:

24 2. Any employee subject to this section who is required to work a tour
25 of duty which includes four or more hours between the hours of six p.m.
26 and six a.m., exclusive of any hours for which he or she receives over-
27 time compensation, shall be entitled to inconvenience pay for such tour
28 of duty in an amount equal to the daily rate equivalent of four hundred
29 dollars per year, unless a higher daily rate is authorized under the
30 terms of a collective negotiated agreement between the state and an
31 employee organization pursuant to article 14 of the civil service law, or
32 is authorized by the director of the budget for employees excluded from
33 negotiating rights under article 14 of the civil service law, in which
34 case such daily rate may be up to five hundred seventy-five dollars per
35 year, shall continue effective April 2, [~~2007~~] 2011. The provisions of
36 this subdivision shall apply on a prorated basis to officers and employ-
37 ees serving on a seasonal basis in the collective negotiating units
38 designated as the administrative services unit, the institutional
39 services unit, the operational services unit, and the division of mili-
40 tary and naval affairs unit, and officers and employees excluded from
41 collective negotiating units established pursuant to article 14 of the
42 civil service law.

43 § 19. Notwithstanding any inconsistent provision of law, where and to
44 the extent that any agreement between the state and an employee organiza-
45 tion entered into pursuant to article 14 of the civil service law so
46 provides on behalf of employees in the collective negotiating units
47 designated as the administrative, institutional, operational services
48 negotiating units or the military and naval affairs negotiating unit
49 established pursuant to article 14 of the civil service law, the state
50 shall contribute an amount designated in such agreement and for the peri-
51 od covered by such agreement to the accounts of such employees enrolled
52 for dependent care deductions pursuant to subdivision 7 of section 201-a
53 of the state finance law. Such amounts shall be from funds appropriated
54 in this act and shall not be part of basic annual salary for overtime or
55 retirement purposes.

1 § 20. Notwithstanding any provision of law to the contrary, the appro-
2 priations contained in this act shall be available to the state for the
3 payment and publication of grievance and arbitration settlements and
4 awards pursuant to articles 33 and 34 of the collective negotiating
5 agreement between the state and the employee organization representing
6 the collective negotiating units designated as the administrative
7 services unit, the institutional services unit, the operational services
8 unit or the division of military and naval affairs unit established
9 pursuant to article 14 of the civil service law.

10 § 21. During the period April 2, 2011 through April 1, 2016, there
11 shall be a statewide labor-management committee continued and adminis-
12 tered pursuant to the terms of the agreement negotiated between the state
13 and an employee organization representing employees in the collective
14 negotiating units designated as the administrative services unit, the
15 institutional services unit, the operational services unit or the divi-
16 sion of military and naval affairs unit established pursuant to article
17 14 of the civil service law which shall, after April 2, 2011, have the
18 responsibility of studying and making recommendations concerning the
19 major issues of productivity, the quality of work life and implementing
20 the agreements reached.

21 § 22. The salary increases, salary deductions, salary reductions, bene-
22 fit modifications, and any other modifications to terms and conditions of
23 employment provided for by this act for state employees in the collective
24 negotiating units designated as the administrative services unit, the
25 institutional services unit, the operational services unit or the divi-
26 sion of military and naval affairs unit established pursuant to article
27 14 of the civil service law shall not be implemented until the director
28 of employee relations shall have delivered to the director of the budget
29 and the comptroller a letter certifying that there is in effect with
30 respect to such negotiating units collectively negotiated agreements,
31 ratified by the membership, which provide for such increases, deductions,
32 reductions and modifications.

33 § 23. Use of appropriations. The comptroller is authorized to pay any
34 amounts required during the fiscal years commencing April 1, 2011 by the
35 foregoing provisions of this act for any state department or agency from
36 any appropriation or other funds available to such state department or
37 agency for personal service or for other related employee benefits during
38 such fiscal year. To the extent that such appropriations in any fund are
39 insufficient to accomplish the purposes herein set forth, the director of
40 the budget is authorized to allocate to the various departments and agen-
41 cies, from any appropriations available in any fund, the amounts neces-
42 sary to pay such amounts.

43 § 24. Effect of participation in special annuity program. No officer or
44 employee participating in a special annuity program pursuant to the
45 provisions of article 8-C of the education law shall, by reason of an
46 increase in compensation pursuant to this act, suffer any reduction of
47 the salary adjustment to which he or she would otherwise be entitled by
48 reason of participation in such program, and such salary adjustment shall
49 be based upon the salary of such officer or employee without regard to
50 the reduction authorized by such article.

51 § 25. The several amounts as hereinafter set forth, or so much thereof
52 as may be necessary, are hereby appropriated from the fund so designated
53 for use by any state department or agency for the fiscal year beginning
54 April 1, 2011 to supplement appropriations from each respective fund
55 available for personal service, other than personal service and fringe
56 benefits, and to carry out the provisions of this act. No money shall be

1 available for expenditure from this appropriation until a certificate of
2 approval has been issued by the director of the budget and a copy of
3 such certificate or any amendment thereto has been filed with the state
4 comptroller, the chair of the senate finance committee and the chair of
5 the assembly ways and means committee.

6 ALL STATE DEPARTMENTS AND AGENCIES
7 SPECIAL PAY BILLS

8 General Fund / State Operations
9 State Purposes Account - 003

10 Nonpersonal Service

11	Joint committee on health benefits	1,331,000
12	Employee training and development	10,714,000
13	Safety and health maintenance committee	637,000
14	Employment security committee	525,000
15	Family Benefits Committee	2,582,000
16	Discipline	381,000
17	Employee assistance program	648,000
18	Statewide performance rating committee	41,000
19	Property damage	32,000
20	Work related clothing (operational services	
21	unit)	1,071,000
22	Tool allowance (operational services unit)	77,000
23	Tool insurance (operational services unit)	26,000
24	Uniform allowance (institutional services	
25	unit)	430,000
26	Work related clothing (institutional	
27	services unit)	80,000
28	Contract Administration	400,000

29 § 26. This act shall take effect immediately and shall be deemed to
30 have been in full force and effect on and after April 2, 2011. Appropri-
31 ations made by this act shall remain in full force and effect for
32 liabilities incurred through March 31, 2012.

33 -----
REPEAL NOTE.--Subparagraphs 1, 2, 3, and 4 of paragraph a of subdivi-
sion 1 of section 130 of the civil service law, repealed by section one
of this act, provided salary schedules for state employees in the admin-
istrative services unit, the operational services unit, the institu-
tional services unit and the division of military and naval affairs and
are replaced by revised salary schedules in new subparagraphs 1, 2, and
3.

34 PART B

35 SALARIES AND BENEFITS FOR CERTAIN STATE
36 OFFICERS AND EMPLOYEES EXCLUDED FROM
37 COLLECTIVE NEGOTIATING UNITS FOR 2011-2016

38 Section 1. Paragraph d of subdivision 1 of section 130 of the civil
39 service law is REPEALED and a new paragraph d is added to read as
40 follows:

41 d. Salary grades for positions in the competitive, non-competitive and
42 labor classes of the classified service of the state of New York desig-

1 nated managerial or confidential pursuant to article fourteen of this
 2 chapter, civilian state employees of the division of military and naval
 3 affairs of the executive department whose positions are not in, or are
 4 excluded from representation rights in, any recognized or certified
 5 negotiating unit, and those excluded from representation rights under
 6 article fourteen of this chapter pursuant to rules or regulations of the
 7 public employment relations board shall be as follows on the effective
 8 dates indicated:

9 (1) Effective April first, two thousand eleven:

10	<u>GRADE</u>	<u>HIRING RATE</u>	<u>JOB RATE</u>
11	<u>M/C 3</u>	<u>\$22,547</u>	<u>\$28,824</u>
12	<u>M/C 4</u>	<u>\$23,542</u>	<u>\$30,132</u>
13	<u>M/C 5</u>	<u>\$24,955</u>	<u>\$31,594</u>
14	<u>M/C 6</u>	<u>\$26,014</u>	<u>\$33,215</u>
15	<u>M/C 7</u>	<u>\$27,514</u>	<u>\$35,013</u>
16	<u>M/C 8</u>	<u>\$29,024</u>	<u>\$36,818</u>
17	<u>M/C 9</u>	<u>\$30,682</u>	<u>\$38,776</u>
18	<u>M/C 10</u>	<u>\$32,335</u>	<u>\$40,927</u>
19	<u>M/C 11</u>	<u>\$34,296</u>	<u>\$43,200</u>
20	<u>M/C 12</u>	<u>\$36,106</u>	<u>\$45,466</u>
21	<u>M/C 13</u>	<u>\$38,208</u>	<u>\$47,991</u>
22	<u>M/C 14</u>	<u>\$40,477</u>	<u>\$50,631</u>
23	<u>M/C 15</u>	<u>\$42,729</u>	<u>\$53,366</u>
24	<u>M/C 16</u>	<u>\$45,138</u>	<u>\$56,212</u>
25	<u>M/C 17</u>	<u>\$47,698</u>	<u>\$59,312</u>
26	<u>M/C 18</u>	<u>\$47,952</u>	<u>\$59,504</u>
27	<u>M/C 19</u>	<u>\$50,524</u>	<u>\$62,597</u>
28	<u>M/C 20</u>	<u>\$53,099</u>	<u>\$65,737</u>
29	<u>M/C 21</u>	<u>\$55,963</u>	<u>\$69,132</u>
30	<u>M/C 22</u>	<u>\$58,971</u>	<u>\$72,765</u>
31	<u>M/C 23</u>	<u>\$61,993</u>	<u>\$77,454</u>
32	<u>M 1</u>	<u>\$66,914</u>	<u>\$84,581</u>
33	<u>M 2</u>	<u>\$74,210</u>	<u>\$93,803</u>
34	<u>M 3</u>	<u>\$82,363</u>	<u>\$104,080</u>
35	<u>M 4</u>	<u>\$91,096</u>	<u>\$114,961</u>
36	<u>M 5</u>	<u>\$101,149</u>	<u>\$127,794</u>
37	<u>M 6</u>	<u>\$111,992</u>	<u>\$140,864</u>
38	<u>M 7</u>	<u>\$123,446</u>	<u>\$152,886</u>
39	<u>M 8</u>	<u>\$104,082+</u>	

40 (2) Effective April first, two thousand fourteen:

41	<u>GRADE</u>	<u>HIRING RATE</u>	<u>JOB RATE</u>
42	<u>M/C 3</u>	<u>\$22,998</u>	<u>\$29,400</u>
43	<u>M/C 4</u>	<u>\$24,013</u>	<u>\$30,735</u>
44	<u>M/C 5</u>	<u>\$25,454</u>	<u>\$32,226</u>
45	<u>M/C 6</u>	<u>\$26,534</u>	<u>\$33,879</u>
46	<u>M/C 7</u>	<u>\$28,064</u>	<u>\$35,713</u>
47	<u>M/C 8</u>	<u>\$29,604</u>	<u>\$37,554</u>
48	<u>M/C 9</u>	<u>\$31,296</u>	<u>\$39,552</u>
49	<u>M/C 10</u>	<u>\$32,982</u>	<u>\$41,746</u>
50	<u>M/C 11</u>	<u>\$34,982</u>	<u>\$44,064</u>
51	<u>M/C 12</u>	<u>\$36,828</u>	<u>\$46,375</u>
52	<u>M/C 13</u>	<u>\$38,972</u>	<u>\$48,951</u>
53	<u>M/C 14</u>	<u>\$41,287</u>	<u>\$51,644</u>
54	<u>M/C 15</u>	<u>\$43,584</u>	<u>\$54,433</u>
55	<u>M/C 16</u>	<u>\$46,041</u>	<u>\$57,336</u>
56	<u>M/C 17</u>	<u>\$48,652</u>	<u>\$60,498</u>

1	<u>M/C 18</u>	<u>\$48,911</u>	<u>\$60,694</u>
2	<u>M/C 19</u>	<u>\$51,534</u>	<u>\$63,849</u>
3	<u>M/C 20</u>	<u>\$54,161</u>	<u>\$67,052</u>
4	<u>M/C 21</u>	<u>\$57,082</u>	<u>\$70,515</u>
5	<u>M/C 22</u>	<u>\$60,150</u>	<u>\$74,220</u>
6	<u>M/C 23</u>	<u>\$63,233</u>	<u>\$79,003</u>
7	<u>M 1</u>	<u>\$68,252</u>	<u>\$86,273</u>
8	<u>M 2</u>	<u>\$75,694</u>	<u>\$95,679</u>
9	<u>M 3</u>	<u>\$84,010</u>	<u>\$106,162</u>
10	<u>M 4</u>	<u>\$92,918</u>	<u>\$117,260</u>
11	<u>M 5</u>	<u>\$103,172</u>	<u>\$130,350</u>
12	<u>M 6</u>	<u>\$114,232</u>	<u>\$143,681</u>
13	<u>M 7</u>	<u>\$125,915</u>	<u>\$155,944</u>
14	<u>M 8</u>	<u>\$106,164+</u>	

15 (3) Effective April first, two thousand fifteen:

16	<u>GRADE</u>	<u>HIRING RATE</u>	<u>JOB RATE</u>
17	<u>M/C 3</u>	<u>\$23,458</u>	<u>\$29,988</u>
18	<u>M/C 4</u>	<u>\$24,493</u>	<u>\$31,350</u>
19	<u>M/C 5</u>	<u>\$25,963</u>	<u>\$32,871</u>
20	<u>M/C 6</u>	<u>\$27,065</u>	<u>\$34,557</u>
21	<u>M/C 7</u>	<u>\$28,625</u>	<u>\$36,427</u>
22	<u>M/C 8</u>	<u>\$30,196</u>	<u>\$38,305</u>
23	<u>M/C 9</u>	<u>\$31,922</u>	<u>\$40,343</u>
24	<u>M/C 10</u>	<u>\$33,642</u>	<u>\$42,581</u>
25	<u>M/C 11</u>	<u>\$35,682</u>	<u>\$44,945</u>
26	<u>M/C 12</u>	<u>\$37,565</u>	<u>\$47,303</u>
27	<u>M/C 13</u>	<u>\$39,751</u>	<u>\$49,930</u>
28	<u>M/C 14</u>	<u>\$42,113</u>	<u>\$52,677</u>
29	<u>M/C 15</u>	<u>\$44,456</u>	<u>\$55,522</u>
30	<u>M/C 16</u>	<u>\$46,962</u>	<u>\$58,483</u>
31	<u>M/C 17</u>	<u>\$49,625</u>	<u>\$61,708</u>
32	<u>M/C 18</u>	<u>\$49,889</u>	<u>\$61,908</u>
33	<u>M/C 19</u>	<u>\$52,565</u>	<u>\$65,126</u>
34	<u>M/C 20</u>	<u>\$55,244</u>	<u>\$68,393</u>
35	<u>M/C 21</u>	<u>\$58,224</u>	<u>\$71,925</u>
36	<u>M/C 22</u>	<u>\$61,353</u>	<u>\$75,704</u>
37	<u>M/C 23</u>	<u>\$64,498</u>	<u>\$80,583</u>
38	<u>M 1</u>	<u>\$69,617</u>	<u>\$87,998</u>
39	<u>M 2</u>	<u>\$77,208</u>	<u>\$97,593</u>
40	<u>M 3</u>	<u>\$85,690</u>	<u>\$108,285</u>
41	<u>M 4</u>	<u>\$94,776</u>	<u>\$119,605</u>
42	<u>M 5</u>	<u>\$105,235</u>	<u>\$132,957</u>
43	<u>M 6</u>	<u>\$116,517</u>	<u>\$146,555</u>
44	<u>M 7</u>	<u>\$128,433</u>	<u>\$159,063</u>
45	<u>M 8</u>	<u>\$108,287+</u>	

46 § 2. Subdivision 1 of section 19 of the correction law is REPEALED and
47 a new subdivision 1 is added to read as follows:

48 1. This section shall apply to each superintendent of a correctional
49 facility appointed on or after August ninth, nineteen hundred seventy-
50 five and any superintendent heretofore appointed who elects to be
51 covered by the provisions thereof by filing such election with the
52 commissioner.

53 a. The salary schedule for superintendents of a correctional facility
54 with an inmate population capacity of four hundred or more inmates shall
55 be as follows:

56 Effective April first, two thousand eleven:

<u>Hiring Rate</u>	<u>Job Rate</u>
<u>\$105,913</u>	<u>\$144,535</u>

Effective April first, two thousand fourteen:

<u>Hiring Rate</u>	<u>Job Rate</u>
<u>\$108,031</u>	<u>\$147,426</u>

Effective April first, two thousand fifteen:

<u>Hiring Rate</u>	<u>Job Rate</u>
<u>\$110,192</u>	<u>\$150,375</u>

b. The salary schedule for superintendents of correctional facilities with an inmate population capacity of fewer than four hundred inmates shall be as follows:

Effective April first, two thousand eleven:

<u>Hiring Rate</u>	<u>Job Rate</u>
<u>\$82,363</u>	<u>\$104,081</u>

Effective April first, two thousand fourteen:

<u>Hiring Rate</u>	<u>Job Rate</u>
<u>\$84,010</u>	<u>\$106,163</u>

Effective April first, two thousand fifteen:

<u>Hiring Rate</u>	<u>Job Rate</u>
<u>\$85,690</u>	<u>\$108,286</u>

§ 3. Compensation for certain state officers and employees. 1. The provisions of this section shall apply to the following full-time state officers and employees:

(a) officers and employees whose positions are designated managerial or confidential pursuant to article 14 of the civil service law;

(b) civilian state employees of the division of military and naval affairs in the executive department whose positions are not in, or are excluded from representation rights in, any recognized or certified negotiating unit;

(c) officers and employees excluded from representation rights under article 14 of the civil service law pursuant to rules or regulations of the public employment relations board; and

(d) officers and employees whose salaries are prescribed by section 19 of the correction law.

2. For such officers and employees the following increases shall apply:

(a) Effective April 1, 2014, the basic annual salary of officers and employees to whom the provisions of this subdivision apply shall be increased by two percent adjusted to the nearest whole dollar amount.

(b) Effective April 1, 2015, the basic annual salary of officers and employees to whom the provisions of this subdivision apply shall be increased by two percent adjusted to the nearest whole dollar amount.

3. (a) Effective April 1, 2013, for officers and employees to whom the provisions of this subdivision apply, a lump sum payment of \$775 shall be made to each employee in such units in full-time employment status who was (i) active on the effective date of this act and (ii) in continuous service, as defined by paragraph (c) of subdivision 3 of section 130 of the civil service law, from that date until April 1, 2013. Such lump sum shall be considered salary for final average salary retirement purposes but shall not become part of basic annual salary. Notwithstanding the foregoing provisions of this subdivision, officers and employees who would have otherwise been eligible to receive such lump sum payment, but who were not on the payroll on said April 1, 2013, shall be eligible for said payment if they return to full-time employment status during the fiscal year 2013-2014 without a break in continuous service.

1 (b) Effective April 1, 2014, for officers and employees to whom the
2 provisions of this subdivision apply, a lump sum payment of \$225 shall
3 be made to each employee in such units in full-time employment status
4 who was (i) active on the effective date of this act and (ii) in contin-
5 uous service, as defined by paragraph (c) of subdivision 3 of section
6 130 of the civil service law, from that date until April 1, 2013. Such
7 lump sum shall be considered salary for final average salary retirement
8 purposes but shall not become part of basic annual salary.

9 4. If an unencumbered position is one that, if encumbered, would be
10 subject to the provisions of this section, the salary of such position
11 shall be increased by the salary increase amounts specified in this
12 section. If a position is created and is filled by the appointment of an
13 officer or employee who is subject to the provisions of this section,
14 the salary otherwise provided for such position shall be increased in
15 the same manner as though such position had been in existence but unen-
16 cumbered.

17 5. The increases in salary and the lump sum payment payable pursuant
18 to this section shall apply on a prorated basis in accordance with
19 guidelines issued by the director of the budget to officers and employ-
20 ees otherwise eligible to receive an increase in salary or the lump sum
21 payment pursuant to this act who are paid on an hourly or per diem
22 basis, employees serving on a part-time or seasonal basis, and employees
23 paid on any basis other than at an annual salary rate.

24 6. Notwithstanding any of the foregoing provisions of this section,
25 the provisions of this section shall not apply to the following except
26 as otherwise provided by law:

- 27 (a) officers or employees paid on a fee schedule basis;
- 28 (b) officers or employees whose salaries are prescribed by section 40,
29 60, or 169 of the executive law;
- 30 (c) officers or employees in collective negotiating units established
31 pursuant to article 14 of the civil service law.

32 7. Officers and employees to whom the provisions of this section apply
33 who are incumbents of positions that are not allocated to salary grades
34 specified in paragraph d of subdivision 1 of section 130 of the civil
35 service law and whose salary is not prescribed in any other statute
36 shall receive the salary increases and the lump sum payment specified in
37 subdivisions two and three of this section.

38 8. In order to provide for the officers and employees to whom this
39 section applies who are not allocated to salary grades performance
40 advancements, merit awards, longevity payments and in lieu payments, and
41 special achievement awards in proportion to those provided to persons to
42 whom this section applies who are allocated to salary grades, the direc-
43 tor of the budget is authorized to add appropriate adjustments to the
44 compensation that such officers and employees are otherwise entitled to
45 receive. The director of the budget shall issue certificates that shall
46 contain schedules of positions and the salaries or payments thereof for
47 which adjustments or payments are made pursuant to the provisions of
48 this subdivision, and a copy of each such certificate shall be filed
49 with the state comptroller, the department of civil service, the chair-
50 man of the senate finance committee and the chairman of the assembly
51 ways and means committee.

52 9. Notwithstanding any of the foregoing provisions of this section,
53 any increase in compensation for any officer or employee appointed to a
54 lower graded position from a redeployment list pursuant to subdivision 1
55 of section 79 of the civil service law who continues to receive his or
56 her former salary pursuant to such subdivision shall be determined on

1 the basis of such lower graded position provided, however, that the
2 increases in salary provided in subdivision two of this section shall
3 not cause such officer's or employee's salary to exceed the job rate of
4 any such lower graded position at salary grade.

5 10. Notwithstanding any of the foregoing provisions of this section or
6 of any law to the contrary, the director of the budget may reduce the
7 salary of any position which is vacant or which becomes vacant, so long
8 as the position, if encumbered, would be subject to the provisions of
9 this section. The director of the budget does not need to provide a
10 reason for such reduction.

11 § 4. Compensation for certain state officers and employees in the
12 division of state police. 1. The provisions of this section shall apply
13 to officers and employees whose salaries are provided for by paragraph
14 (a) of subdivision 1 of section 215 of the executive law.

15 2. (a) Effective April 1, 2014, the basic annual salary of officers
16 and employees to whom the provisions of this subdivision apply shall be
17 increased by two percent adjusted to the nearest whole dollar amount.

18 (b) Effective April 1, 2015, the basic annual salary of officers and
19 employees to whom the provisions of this subdivision apply shall be
20 increased by two percent adjusted to the nearest whole dollar amount.

21 3. (a) Effective April 1, 2013, for officers and employees to whom the
22 provisions of this subdivision apply, a lump sum payment of \$775 shall
23 be made to each employee in such units in full-time employment status
24 who was (i) active on the effective date of this act and (ii) in contin-
25 uous service, as defined by paragraph (c) of subdivision 3 of section
26 130 of the civil service law, from that date until April 1, 2013. Such
27 lump sum shall be considered salary for final average salary retirement
28 purposes. Notwithstanding the foregoing provisions of this subdivision,
29 officers and employees who would have otherwise been eligible to receive
30 such lump sum payment, but who were not on the payroll on said April 1,
31 2013, shall be eligible for said payment if they return to full-time
32 employment status during the fiscal year 2013-2014 without a break in
33 continuous service.

34 (b) Effective April 1, 2014, for officers and employees to whom the
35 provisions of this subdivision apply, a lump sum payment of \$225 shall
36 be made to each employee in such units in full-time employment status
37 who was (i) active on the effective date of this act and (ii) in contin-
38 uous service, as defined by paragraph (c) of subdivision 3 of section
39 130 of the civil service law, from that date until April 1, 2013. Such
40 lump sum shall be considered salary for final average salary retirement
41 purposes.

42 4. The increases in salary and the lump sum payments payable pursuant
43 to this section shall apply on a prorated basis in accordance with
44 guidelines issued by the director of the budget to officers and employ-
45 ees otherwise eligible to receive an increase in salary or the lump sum
46 payment pursuant to this act who are paid on an hourly or per diem
47 basis, employees serving on a part-time or seasonal basis, and employees
48 paid on any basis other than at an annual salary rate.

49 5. Notwithstanding any of the foregoing provisions of this section,
50 any increase in compensation for any officer or employee appointed to a
51 lower graded position from a redeployment list pursuant to subdivision 1
52 of section 79 of the civil service law who continues to receive his or
53 her former salary pursuant to such subdivision shall be determined on
54 the basis of such lower graded position provided, however, that the
55 increases in salary provided in subdivision two of this section shall

1 not cause such officer's or employee's salary to exceed the job rate of
2 any such lower graded position at salary grade.

3 § 5. Compensation for certain state employees in the state university
4 and certain employees of contract colleges at Cornell and Alfred univer-
5 sities.

6 1. Effective April 1, 2014 and April 1, 2015, the basic annual salary
7 of incumbents of positions in the professional service in the state
8 university that are designated, stipulated, or excluded from negotiating
9 units as managerial or confidential as defined pursuant to article 14 of
10 the civil service law, may be increased pursuant to plans approved by
11 the state university trustees. Such increases in basic annual salary
12 rates shall not exceed in the aggregate two percent of the total basic
13 annual salary rates in effect on March 31, 2014 and two percent of the
14 total basic annual salary rates in effect on March 31, 2015.

15 2. Effective April 1, 2014 and April 1, 2015, the basic annual salary
16 of incumbents of positions in the institutions under the management and
17 control of Cornell and Alfred universities as representatives of the
18 board of trustees of the state university that, in the opinion of the
19 director of employee relations, would be designated managerial or confi-
20 dential were they subject to article 14 of the civil service law may be
21 increased pursuant to plans approved by the state university trustees.
22 Such increases in basic annual salary rates shall not exceed in the
23 aggregate two percent of the total basic annual salary rates in effect
24 on March 31, 2014 and two percent of the total basic annual salary rates
25 in effect on March 31, 2015.

26 3. (a) (i) Effective April 1, 2013, the state university trustees, at
27 their discretion, may provide to incumbents of positions in the profes-
28 sional service in the state university that are designated, stipulated,
29 or excluded from negotiating units as managerial or confidential as
30 defined pursuant to article 14 of the civil service law, who was (I)
31 active on the effective date of this act and (II) in continuous service,
32 as defined by paragraph (c) of subdivision 3 of section 130 of the civil
33 service law, from that date until April 1, 2013, a non-recurring lump
34 sum payment in an amount not to exceed \$775.

35 (ii) Effective April 1, 2014, the state university trustees, at their
36 discretion, may provide to incumbents of positions in the professional
37 service in the state university that are designated, stipulated, or
38 excluded from negotiating units as managerial or confidential as defined
39 pursuant to article 14 of the civil service law, who was (I) active on
40 the effective date of this act and (II) in continuous service, as
41 defined by paragraph (c) of subdivision 3 of section 130 of the civil
42 service law, from that date until April 1, 2013, a non-recurring lump
43 sum payment in an amount not to exceed \$225.

44 (iii) Payments provided in this subdivision shall be in addition to
45 and shall not be a part of the employee's basic annual salary, provided,
46 however, that any amounts payable pursuant to this subdivision shall be
47 included as compensation for retirement purposes.

48 (b) (i) Effective April 1, 2013, Cornell and Alfred universities may
49 provide to incumbents of positions in the institutions under the manage-
50 ment and control of Cornell and Alfred universities as representatives
51 of the board of trustees of the state university that, in the opinion of
52 the director of employee relations, would be designated managerial or
53 confidential were they subject to article 14 of the civil service law,
54 who are (I) active on the effective date of this act and (II) in contin-
55 uous service, as defined by paragraph (c) of subdivision 3 of section
56 130 of the civil service law, from that date until April 1, 2013, a

1 non-recurring lump sum payment in an amount not to exceed \$775, for
2 distribution in whole or in part by Cornell and Alfred universities, in
3 their discretion, with the approval of the state university trustees.

4 (ii) Effective April 1, 2014, Cornell and Alfred universities may
5 provide to incumbents of positions in the institutions under the manage-
6 ment and control of Cornell and Alfred universities as representatives
7 of the board of trustees of the state university that, in the opinion of
8 the director of employee relations, would be designated managerial or
9 confidential were they subject to article 14 of the civil service law,
10 who are (I) active on the effective date of this act and (II) in contin-
11 uous service, as defined by paragraph (c) of subdivision 3 of section
12 130 of the civil service law, from that date until April 1, 2013, a
13 non-recurring lump sum payment in an amount not to exceed \$225, for
14 distribution in whole or in part by Cornell and Alfred universities, in
15 their discretion, with the approval of the state university trustees.

16 (iii) Payments provided in this subdivision shall be in addition to
17 and shall not be a part of the employee's basic annual salary, provided,
18 however, that any amounts payable pursuant to this subdivision shall be
19 included as compensation for retirement purposes.

20 4. During the period April 1, 2014 through March 31, 2016, the basic
21 annual salary of incumbents of positions in the non-professional service
22 that, in the opinion of the director of employee relations, would be
23 designated managerial or confidential were they subject to article 14 of
24 the civil service law, except those positions in the Cornell service and
25 maintenance unit that are subject to the terms of a collective bargain-
26 ing agreement between Cornell university and the employee organization
27 representing employees in such positions and except those positions in
28 the Alfred service and maintenance unit that are subject to the terms of
29 a collective bargaining agreement between Alfred university and the
30 employee organization representing employees in such positions, in
31 institutions under the management and control of Cornell and Alfred
32 universities as representatives of the board of trustees of the state
33 university may be increased pursuant to plans approved by the state
34 university trustees. Such plans may include new salary schedules which
35 shall supersede the salary schedules then in effect applicable to such
36 employees. Such plans shall provide for increases in basic annual sala-
37 ries, which, exclusive of performance advancement payments or merit
38 recognition payments, shall not exceed in the aggregate two percent of
39 the total basic annual salary rates in effect on March 31, 2014 and two
40 percent of the total basic annual salary rates in effect on March 31,
41 2015.

42 5. For the purposes of this section, the basic annual salary of an
43 employee is that salary that is obtained through direct appropriation of
44 state moneys for the purpose of paying wages. Nothing in this part shall
45 prevent increasing amounts paid to incumbents of such positions in the
46 professional service in addition to the basic annual salary, provided,
47 however, that the amounts required for such increase and the cost of
48 fringe benefits attributable to such increase, as determined by the
49 comptroller, are made available to the state in accordance with the
50 procedures established by the state university, with the approval of the
51 director of the budget, for such purposes.

52 § 6. Location compensation for certain state officers and employees.

53 1. This section shall apply to all full-time annual salaried state
54 officers and employees and non annual salaried seasonal state officers
55 and employees except the following:

1 (a) officers and employees of the legislature and the judiciary,
2 including officers and employees of boards, bodies and commissions that
3 are deemed to be part of the legislature or judiciary for the purposes
4 of section 49 of the state finance law;

5 (b) officers and employees whose salaries are prescribed by or deter-
6 mined in accordance with section 40, 60, 169, 215, or 216 of the execu-
7 tive law;

8 (c) incumbents of allocated or unallocated positions in the profes-
9 sional service in the state university and in institutions under the
10 management and control of Cornell and Alfred universities as represen-
11 tatives of the board of trustees of the state university;

12 (d) officers and employees who are in recognized or certified collec-
13 tive negotiating units pursuant to article 14 of the civil service law.

14 2. Notwithstanding the provisions of section 15 of chapter 333 of the
15 laws of 1969, as amended, officers and employees subject to this section
16 whose principal place of employment or, in the case of field employees,
17 whose official station as determined in accordance with the regulations
18 of the comptroller is located:

19 (a) in the county of Monroe and who were eligible to receive location
20 pay on March 31, 1985, shall receive location pay at the rate of two
21 hundred dollars per year provided they continue to be otherwise eligi-
22 ble.

23 (b) in the city of New York, or in the county of Rockland, Westches-
24 ter, Nassau, or Suffolk shall continue to receive a downstate adjustment
25 at the rate of three thousand twenty-six dollars effective October 1,
26 2008.

27 (c) in the county of Dutchess, Orange, or Putnam shall continue to
28 receive a mid-Hudson adjustment at the rate of one thousand five hundred
29 thirteen dollars effective October 1, 2008. Such location payments
30 shall be in addition to and shall not be a part of an employee's basic
31 annual salary, and shall not affect or impair any advancements or other
32 rights or benefits to which an employee may be entitled by law,
33 provided, however, that location payments shall be included as compen-
34 sation for purposes of computation of overtime pay and for retirement
35 purposes. For the sole purpose of continuing eligibility for location
36 pay in Monroe county, an employee previously eligible to receive
37 location pay on March 31, 1985 who is on an approved leave of absence or
38 participates in an employer program to reduce to part-time service
39 during summer months shall continue to be eligible for said location pay
40 upon return to full-time state service in Monroe county.

41 § 7. Continuation of location compensation for certain officers and
42 employees of the Hudson Valley developmental disabilities services
43 office. 1. Notwithstanding any law, rule or regulation to the contrary,
44 any officer or employee of the Hudson Valley developmental disabilities
45 services office not represented in collective negotiating units estab-
46 lished pursuant to article 14 of the civil service law who is receiving
47 location pay pursuant to section 5 of chapter 174 of the laws of 1993
48 shall continue to receive such location pay under the conditions and at
49 the rates specified by such section.

50 2. Notwithstanding section seven of this act or any other law, rule or
51 regulation to the contrary, any officer or employee of the Hudson Valley
52 developmental disabilities services office not represented in collective
53 negotiating units established pursuant to article 14 of the civil
54 service law who is receiving location pay pursuant to said section seven
55 of this act shall continue to be eligible for such location pay if such
56 officer's or employee's principal place of employment is changed to a

1 location outside of the county of Rockland as the result of a reduction
2 or redeployment of staff, provided, however, that such officer or
3 employee is reassigned to or otherwise appointed or promoted to a
4 different position at another work location within such Hudson Valley
5 developmental disabilities services office located outside of the county
6 of Rockland. The rate of such continued location pay shall not exceed
7 the rate such officer or employee is receiving on the date of such reas-
8 signment, appointment, or promotion.

9 § 8. Overtime meal allowance. Notwithstanding any other provision of
10 law to the contrary, individuals in positions in the classified service
11 of the state of New York designated managerial or confidential pursuant
12 to article 14 of the civil service law, shall continue to receive,
13 effective April 1, 2011, an overtime meal allowance in the amount of
14 \$5.50 pursuant to eligibility guidelines developed by the director of
15 employee relations.

16 § 9. Notwithstanding any provision of law to the contrary, the appro-
17 priations contained in this act shall be available to the state for the
18 payment of grievance settlements and awards pursuant to executive order
19 42, dated October 14, 1970, and title 9, part 560, official compilation
20 of codes, rules and regulations of the state of New York.

21 § 10. Use of appropriations. The comptroller is authorized to pay any
22 amounts required during the fiscal years commencing April 1, 2011 by the
23 foregoing provisions of this act for any state department or agency from
24 any appropriation or other funds available to such state department or
25 agency for personal service or for other related employee benefits
26 during such fiscal year. To the extent that such appropriations in any
27 fund are insufficient to accomplish the purposes herein set forth, the
28 director of the budget is authorized to allocate to the various depart-
29 ments and agencies, from any appropriations available in any fund, the
30 amounts necessary to pay such amounts.

31 § 11. Effect of participation in special annuity program. No officer
32 or employee participating in a special annuity program pursuant to the
33 provision of article 8-C of the education law shall, by reason of an
34 increase in compensation pursuant to this act, suffer any reduction of
35 the salary adjustment to which that employee would otherwise be entitled
36 by reason of participation in such program, and such salary adjustment
37 shall be based upon the salary of such officer or employee without
38 regard to the reduction authorized by such article.

39 § 12. Date of entitlement to salary increase. Notwithstanding the
40 provisions of this act or of any other law, the increase in salary or
41 compensation of any officer or employee provided by this act shall be
42 added to the salary or compensation of such officer or employee at the
43 beginning of that payroll period the first day of which is nearest to
44 the effective date of such increase as provided in this act, or at the
45 beginning of the earlier of two payroll periods the first days of which
46 are nearest but equally near to the effective date of such increase as
47 provided in this act, provided, however, that for the purposes of deter-
48 mining the salary of such officer or employee upon reclassification,
49 reallocation, appointment, promotion, transfer, demotion, reinstatement
50 or other change of status, such salary increase shall be deemed to be
51 effective on the date thereof as prescribed in this act, and the payment
52 thereof pursuant to this section on a date prior thereto, instead of on
53 such effective date, shall not operate to confer any additional salary
54 rights or benefits on such officer or employee.

55 § 13. 1. Notwithstanding the provisions of any other section of this
56 act or any other provision of law to the contrary, any increase in

1 compensation, including any lump sum payment, provided: (a) in this act,
2 or (b) as a result of a promotion, appointment, or advancement to a
3 position in a higher salary grade, or (c) pursuant to paragraph (c) of
4 subdivision 6 of section 131 of the civil service law, or (d) pursuant
5 to paragraph (b) of subdivision 8 of section 130 of the civil service
6 law, or (e) pursuant to paragraph (a) of subdivision 3 of section 13 of
7 chapter 732 of the laws of 1988, as amended, may be withheld in whole or
8 in part from any officer or employee when, in the opinion of the direc-
9 tor of the budget, such withholding is necessary to reflect the job
10 performance of such officer or employee, or to maintain appropriate
11 salary relationships among officers or employees of the state, or to
12 reduce state expenditures to acceptable levels or when, in the opinion
13 of the director of the budget, such increase is not warranted or is not
14 appropriate.

15 2. Notwithstanding the provisions of any other section of this act,
16 the salary increases and lump sum payments provided for in this act
17 shall not be implemented until the director of the budget delivers
18 notice to the comptroller that such amounts may be paid.

19 3. Notwithstanding the provisions of any other section of this act or
20 any other provisions of law, for state officers and employees in the
21 executive branch who are in positions which are not in collective nego-
22 tiating units, the director of the budget shall have the authority to
23 devise and implement a plan to reduce the basic annual salary, hourly
24 rate or per diem of any such employee for the time and by the rate
25 established by such plan for the time period specified in such plan.
26 Such plan shall contain salary schedules appropriate for the plan and
27 such other provisions necessary for the implementation and continued
28 execution of the plan for the period established by the plan. After the
29 cessation of such plan, the salary, rate or per diem shall be restored
30 to the amount in effect immediately before the commencement of such
31 plan.

32 § 14. The several amounts as hereinafter set forth, or so much thereof
33 as may be necessary, are hereby appropriated from the fund so designated
34 for use by any state department or agency for the fiscal year beginning
35 April 1, 2011 to supplement appropriations from each respective fund
36 available for personal service, other than personal service and fringe
37 benefits, and to carry out the provisions of this act. No money shall be
38 available for expenditure from this appropriation until a certificate of
39 approval has been issued by the director of the budget and a copy of
40 such certificate or any amendment thereto has been filed with the state
41 comptroller, the chairman of the senate finance committee and the chair-
42 man of the assembly ways and means committee.

43 ALL STATE DEPARTMENTS AND AGENCIES
44 SPECIAL PAY BILLS

45 General Fund / State Operations
46 State Purposes Account - 003

1 Nonpersonal Service

2	Family benefits	310,000
3	Medical flexible spending account	500,000
4	Pre-tax transportation benefit	550,000
5	Management training	1,018,000
6	Uniform allowance	245,000
7	Tuition reimbursement	250,000
8	M/C share of negotiated programs	570,000

9 § 15. This act shall take effect immediately and shall be deemed to
10 have been in full force and effect on and after April 1, 2011. Appropri-
11 ations made by this act shall remain in full force and effect for
12 liabilities incurred through March 31, 2012.

REPEAL NOTE.--Paragraph d of subdivision 1 of section 130 of the civil
service law, repealed by section one of this act, provided salary sched-
ules for state employees designated managerial and confidential pursuant
to article 14 of the civil service law and is replaced by revised salary
schedules in a new paragraph d.

13 Subdivision 1 of section 19 of the correction law, repealed by section
14 two of this act, provided salary schedules for superintendents of
15 correctional facilities and is replaced by revised salary schedules in a
16 new subdivision 1.

17 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
18 sion, section or part contained in any part of this act shall be
19 adjudged by any court of competent jurisdiction to be invalid, such
20 judgment shall not affect, impair, or invalidate the remainder thereof,
21 but shall be confined in its operation to the clause, sentence, para-
22 graph, subdivision, section or part contained in any part thereof
23 directly involved in the controversy which such judgment shall have been
24 rendered. It is hereby declared to be the intent of the legislature that
25 this act would have been enacted even if such invalid provisions had not
26 been included herein.

27 § 3. This act shall take effect immediately provided, however, that
28 the applicable effective date for Parts A through B of this act shall be
29 as specifically set forth in the last section of such Part.

STATE OF NEW YORK

5837

2011-2012 Regular Sessions

IN SENATE

June 21, 2011

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the retirement and social security law and the tax law, in relation to the treatment of member contributions in accordance with the provisions of the Internal Revenue Code

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

1 Section 1. The retirement and social security law is amended by adding
 2 a new section 1204-a to read as follows:
 3 **§ 1204-a. Pick up of member contributions by employer. a. Notwith-**
 4 **standing any other provision of law, each participating employer shall**
 5 **pick up the member contributions required to be made under section**
 6 **twelve hundred four of this article by its employees and shall do so by**
 7 **reducing the salary of each of its employees to which this section is**
 8 **applicable by that amount which each such employee is required to**
 9 **contribute under section twelve hundred four of this article. The**
 10 **contributions so picked up shall be paid by each participating employer**
 11 **in lieu of the member contributions to be paid by its employees under**
 12 **this section and shall be treated as employer contributions in determin-**
 13 **ing income tax treatment under section 414(h) of the Internal Revenue**
 14 **Code. With the exception of federal income tax treatment, the member**
 15 **contributions picked up pursuant to this subdivision shall for all other**
 16 **purposes, including computation of retirement benefits and contributions**
 17 **by employers and employees, be deemed employee salary.**
 18 **b. Any employee (subject to this article) of a participating employer**
 19 **who, in lieu of joining a public retirement system of the state, elected**
 20 **an optional retirement program to which their employers are thereby**
 21 **required to contribute shall, in order for the provisions of this subdivi-**
 22 **vision to apply, be required to execute a salary reduction agreement (in**
 23 **accordance with the regulations promulgated under section 403(b) of the**
 24 **Internal Revenue Code) in an amount equal to the employee contributions**

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD11421-04-1

1 which would otherwise be mandatory under the provisions of state law.
2 With the exception of federal income tax treatment, the employee
3 contributions picked up or paid pursuant to this subdivision shall for
4 all other purposes, including computation of retirement benefits and
5 contributions by employers and employees, be deemed employee salary.
6 Nothing contained in this subdivision shall be construed as superseding
7 any provision of law which limits the salary base for computing retire-
8 ment benefits payable by a public retirement system.

9 § 2. Paragraph 4 of subdivision f of section 517 of the retirement and
10 social security law, as amended by chapter 783 of the laws of 1988, is
11 amended to read as follows:

12 4. The provisions of this subdivision [~~§~~] shall not apply to a
13 police/fire member who is a member of either the New York city police
14 pension fund or the New York city fire department pension fund or a
15 member of the New York city employees' retirement system who is a member
16 of the uniformed correction force or of the uniformed force of the
17 department of sanitation, as defined in subdivisions thirty-nine and
18 sixty-two of section 13-101 of the administrative code of the city of
19 New York.

20 § 3. Paragraph 26 of subsection (b) of section 612 of the tax law, as
21 amended by chapter 681 of the laws of 1992, is amended to read as
22 follows:

23 (26) The amount of member or employee contributions to a retirement
24 system or pension fund picked up or paid by the employer pursuant to
25 subdivision f of section five hundred seventeen [~~or~~], subdivision d of
26 section six hundred thirteen or section twelve hundred four-a of the
27 retirement and social security law or section 13-225.1, 13-327.1,
28 13-125.1, 13-125.2 or 13-521.1 of the administrative code of the city of
29 New York or subdivision nineteen of section twenty-five hundred seven-
30 ty-five of the education law.

31 § 4. Subparagraph (B) of paragraph 2 of subsection (b) of section 671
32 of the tax law, as amended by chapter 312 of the laws of 1997, is
33 amended to read as follows:

34 (B) Any member or employee contributions to a retirement system or
35 pension fund picked up by the employer pursuant to subdivision f of
36 section five hundred seventeen [~~or~~], subdivision d of section six
37 hundred thirteen or section twelve hundred four-a of the retirement and
38 social security law or section 13-225.1, 13-327.1, 13-125.1, 13-125.2 or
39 13-521.1 of the administrative code of the city of New York or subdivi-
40 sion nineteen of section twenty-five hundred seventy-five of the educa-
41 tion law and any member or employee contributions to a retirement system
42 or pension fund picked up or paid by the employer for members of the
43 Manhattan and Bronx surface transportation authority pension plan and
44 treated as employer contributions in determining income tax treatment
45 under section 414(h) of the Internal Revenue Code.

46 § 5. Subsection (c) of section 1 of subsection (c) of section 1340 of
47 the tax law, as amended by chapter 312 of the laws of 1997, is amended
48 to read as follows:

49 (c) Wages. Wages shall mean wages as defined in subsection (a) of
50 section thirty-four hundred one of the internal revenue code, except
51 that (1) wages shall not include payments for active service as a member
52 of the armed forces of the United States and shall not include, in the
53 case of a nonresident individual or partner of a partnership doing an
54 insurance business as a member of the New York insurance exchange
55 described in section six thousand two hundred one of the insurance law,
56 any item of income, gain, loss or deduction of such business which is

1 such individual's distributive or pro rata share for federal income tax
2 purposes or which such individual is required to take into account sepa-
3 rately for federal income tax purposes and (2) wages shall include (i)
4 the amount of member or employee contributions to a retirement system or
5 pension fund picked up by the employer pursuant to subdivision f of
6 section five hundred seventeen ~~[ex]~~, subdivision d of section six
7 hundred thirteen or section twelve hundred four-a of the retirement and
8 social security law or section 13-225.1, 13-327.1, 13-125.1, 13-125.2 or
9 13-521.1 of the administrative code of the city of New York or subdivi-
10 sion nineteen of section twenty-five hundred seventy-five of the educa-
11 tion law, (ii) the amount deducted or deferred from an employee's salary
12 under a flexible benefits program established pursuant to section twen-
13 ty-three of the general municipal law or section one thousand two
14 hundred ten-a of the public authorities law, (iii) the amount by which
15 an employee's salary is reduced pursuant to the provisions of subdivi-
16 sion b of section 12-126.1 and subdivision b of section 12-126.2 of the
17 administrative code of the city of New York, and (iv) the amount of
18 member or employee contributions to a retirement system or pension fund
19 picked up or paid by the employer for members of the Manhattan and Bronx
20 surface transportation authority pension plan and treated as employer
21 contributions in determining income tax treatment under section 414(h)
22 of the Internal Revenue Code.

23 § 6. Nothing contained in this act shall be construed to create any
24 contractual right with respect to members and employees to which it
25 applies. The provisions of this act are intended to afford members and
26 employees the advantages of certain benefits contained in the Internal
27 Revenue Code, and the effectiveness and existence of this act and the
28 benefits it confers are completely contingent thereon.

29 § 7. This act shall take effect at the beginning of the first payroll
30 period following sixty days after the retirement system covered by this
31 act shall receive an Internal Revenue Service ruling stating that the
32 employee contributions covered by this act are not includible in the
33 gross income of the employee until distributed or made available to the
34 employee and shall remain in full force and effect only as long as such
35 treatment of such employee contributions is authorized pursuant to the
36 provisions of the Internal Revenue Code; provided that the state comp-
37 troller shall notify the legislative bill drafting commission upon the
38 occurrence of such ruling and upon any change in the provisions of the
39 Internal Revenue Code affecting the provisions of this act in order that
40 the commission may maintain an accurate and timely effective data base
41 of the official text of the laws of the state of New York in furtherance
42 of effecting the provisions of section 44 of the legislative law and
43 section 70-b of the public officers law; provided further, however, that
44 the amendments to subdivision f of section 517 of the retirement and
45 social security law, paragraph 26 of subsection (b) of section 612,
46 subparagraph (B) of paragraph 2 of subsection (b) of section 671 and
47 subsection (c) of section 1 of subsection (c) of section 1340 of the tax
48 law made by sections two, three, four and five of this act shall not
49 affect the expiration of such provisions and shall be deemed to expire
50 therewith.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would require participating employers to pick up, within the meaning of section 414(h) of the Internal Revenue Code, the 3% contributions required of Tier 5 members of the New York State and Local Police and Fire Retirement System. The pick up of contributions shall be made by a reduction in each affected member's salary by an amount equal to

the member's required contributions. The picked up contributions would not be includable in the gross income for income tax purposes but shall be deemed employee salary for all other purposes.

If this bill is enacted, we anticipate that there will be small administrative costs.

This estimate, dated April 6, 2011, and intended for use only during the 2011 Legislative Session, is Fiscal Note Number 2011-164 prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

STATE OF NEW YORK

S. 5668

A. 8270

2011-2012 Regular Sessions

SENATE - ASSEMBLY

June 9, 2011

IN SENATE -- Introduced by Sen. BALL -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

IN ASSEMBLY -- Introduced by M. of A. GALEF -- read once and referred to the Committee on Governmental Employees

AN ACT to authorize the Town of Kent, in the county of Putnam, to offer certain retirement options to police officer Jerry R. Raneri

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
2 the Town of Kent, in the county of Putnam, a participating employer in
3 the New York state and local police and fire retirement system, which
4 previously elected to offer the optional retirement plan established
5 pursuant to section 384-d of the retirement and social security law to
6 police officers employed by such Town, is hereby authorized to make
7 participation in such plan available to Jerry R. Raneri, a police
8 sergeant employed by the Town of Kent, who, on the effective date of
9 this act is covered under the provisions of section 375-i of the retire-
10 ment and social security law, and who, for reasons not ascribable to his
11 own negligence failed to make a timely application to participate in
12 such optional retirement plan. The Town of Kent may so elect by filing
13 with the state comptroller, on or before December 31, 2011, a resolution
14 of its legislative body together with certification that such police
15 officer did not bar himself from participation in such retirement plan
16 as a result of his own negligence. Thereafter, such police officer may
17 elect to be covered by the provisions of section 384-d of the retirement
18 and social security law, and shall be entitled to the full rights and
19 benefits associated with coverage under such section, by filing a
20 request to that effect with the state comptroller on or before June 30,
21 2012.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD11422-02-1

1 § 2. All past service costs associated with implementing the
2 provisions of this act shall be borne by the Town of Kent.

3 § 3. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill will allow the Town of Kent to reopen the provisions of Section 384-d of the Retirement and Social Security Law for Police Officer Jerry R. Raneri.

If this bill is enacted, we anticipate that there will be an increase of approximately \$6,300 in the annual contributions of the Town of Kent for the fiscal year ending March 31, 2012.

In addition to the annual contributions discussed above, there will be an immediate past service cost of approximately \$29,100 which will be borne by the Town of Kent as a one-time payment. This estimate assumes that payment will be made on February 1, 2012.

This estimate, dated June 7, 2011 and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-194, prepared by the Actuary for the New York State and Local Police and Fire Retirement System.

STATE OF NEW YORK

5558

2011-2012 Regular Sessions

IN SENATE

June 1, 2011

Introduced by Sen. BALL -- (at request of the State Comptroller) -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the retirement and social security law, the general municipal law, the education law, the administrative code of the city of New York and the civil service law, in relation to providing death benefits and health insurance coverage to eligible survivors of public employees who die while ordered to service in the uniformed services

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

1 Section 1. The closing paragraph of subdivision a of section 60 of the
2 retirement and social security law, as added by chapter 105 of the laws
3 of 2005, is amended to read as follows:
4 Notwithstanding the provisions of any other law to the contrary and
5 solely for the purpose of determining eligibility for an ordinary death
6 benefit and/or guaranteed ordinary death benefit, a member shall be
7 considered to have died while in service upon which his or her member-
8 ship was based provided such member was on the payroll in the service
9 upon which membership is based at the time he or she was ordered to
10 active duty[~~, other than for training purposes,~~] pursuant to Title 10 of
11 the United States Code, with the armed forces of the United States or to
12 service in the uniformed services pursuant to Chapter 43 of Title 38 of
13 the United States Code and died while on such active duty or service in
14 the uniformed services on or after [~~the effective date of the chapter of~~
15 ~~the laws of two thousand five which added this paragraph~~] June four-
16 teenth, two thousand five. Provided, further, that any such member
17 ordered to such active duty with the armed forces of the United States
18 or in service in the uniformed services who died prior to rendering the
19 minimum amount of service necessary to be eligible for this benefit
20 shall be considered to have satisfied the minimum service requirement.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD11146-04-1

1 § 2. Subparagraph (b) of paragraph 3 of subdivision f of section 60 of
 2 the retirement and social security law, as amended by chapter 105 of the
 3 laws of 2005, is amended to read as follows:

4 (b) the term "death in service" shall include the death of such a
 5 member who dies while off the payroll provided he or she (i) was on the
 6 payroll in such service and paid within a period of twelve months prior
 7 to his or her death, or was on the payroll in the service upon which
 8 membership is based at the time he or she was ordered to active duty[~~,
 9 other than for training purposes,~~] pursuant to Title 10 of the United
 10 States Code, with the armed forces of the United States or to service in
 11 the uniformed services pursuant to Chapter 43 of Title 38 of the United
 12 States Code and died while on such active duty or service in the
 13 uniformed services on or after [~~the effective date of the chapter of the~~
 14 ~~laws of two thousand five which amended this subparagraph~~] June four-
 15 teenth, two thousand five, (ii) had not been otherwise gainfully
 16 employed since he or she ceased to be on such payroll and (iii) had
 17 credit for one or more years of continuous service since he last entered
 18 or reentered the service of his or her employer. Provided, further,
 19 that any such member ordered to active duty[~~, other than for training~~
 20 ~~purposes,~~] pursuant to Title 10 of the United States Code, with the
 21 armed forces of the United States or to service in the uniformed
 22 services pursuant to Chapter 43 of Title 38 of the United States Code
 23 who died prior to rendering the minimum amount of service necessary to
 24 be eligible for this benefit shall be considered to have satisfied the
 25 minimum service requirement.

26 § 3. Subdivision c of section 60-a of the retirement and social secu-
 27 rity law, as amended by chapter 105 of the laws of 2005, is amended to
 28 read as follows:

29 c. For the purposes of this section an employee who dies while off the
 30 payroll shall be considered to be in service provided he or she (1) was
 31 on the payroll in such service and paid within a period of twelve months
 32 prior to his or her death, or was on the payroll in the service upon
 33 which membership is based at the time he or she was ordered to active
 34 duty[~~, other than for training purposes,~~] pursuant to Title 10 of the
 35 United States Code, with the armed forces of the United States or to
 36 service in the uniformed services pursuant to Chapter 43 of Title 38 of
 37 the United States Code and died while on such active duty or service in
 38 the uniformed services on or after [~~the effective date of the chapter of~~
 39 ~~the laws of two thousand five which amended this subdivision~~] June four-
 40 teenth, two thousand five, (2) had not been otherwise gainfully employed
 41 since he or she ceased to be on such payroll and (3) had credit for at
 42 least one year of continuous service since he or she last entered or
 43 reentered the service of his or her employer. Provided, further, that
 44 any such member ordered to active duty[~~, other than for training~~
 45 ~~purposes,~~] pursuant to Title 10 of the United States Code, with the
 46 armed forces of the United States or to service in the uniformed
 47 services pursuant to Chapter 43 of Title 38 of the United States Code
 48 who died prior to rendering the minimum amount of service necessary to
 49 be eligible for this benefit shall be considered to have satisfied the
 50 minimum service requirement.

51 § 4. Subdivision (a) of section 60-b of the retirement and social
 52 security law, as amended by chapter 105 of the laws of 2005, is amended
 53 to read as follows:

54 (a) Pursuant to the provisions of section thirty-three of this arti-
 55 cle, a participating employer may elect to provide a guaranteed ordinary
 56 death benefit upon the death in service of its employees who (i) meet

1 all the requirements of section sixty of this article except that
 2 contained in paragraph three of subdivision (a) thereof, and (ii) last
 3 entered or reentered the employ of a participating employer prior to
 4 April first, nineteen hundred eighty-five, and were in such employ on
 5 March thirty-first, nineteen hundred eighty-five, and (iii) last joined
 6 or rejoined a public retirement system of the state or a municipality
 7 thereof before July first, nineteen hundred seventy-three, and (iv) had
 8 not attained age sixty at the date of such entrance into such service,
 9 and (v) had rendered ninety or more days of continuous service in the
 10 service of such participating employer during the fifteen month period
 11 immediately preceding death. For the purposes of this section an employ-
 12 ee who dies while off the payroll shall be considered to be in service
 13 provided he or she (1) was on the payroll in such service and paid with-
 14 in a period of twelve months prior to his or her death, or was on the
 15 payroll in the service upon which membership is based at the time he or
 16 she was ordered to active duty[~~, other than for training purposes,~~]
 17 pursuant to Title 10 of the United States Code, with the armed forces of
 18 the United States or to service in the uniformed services pursuant to
 19 Chapter 43 of Title 38 of the United States Code and died while on such
 20 active duty or service in the uniformed services on or after [~~the effec-~~
 21 ~~tive date of the chapter of the laws of two thousand five which amended~~
 22 ~~this subdivision~~] June fourteenth, two thousand five, (2) had not been
 23 otherwise gainfully employed since he or she ceased to be on such
 24 payroll and (3) had credit for one or more years of continuous service
 25 since he or she last entered or reentered the service of his or her
 26 employer. Provided, further, that any such member ordered to active
 27 duty[~~, other than for training purposes,~~] pursuant to Title 10 of the
 28 United States Code, with the armed forces of the United States or to
 29 service in the uniformed services pursuant to Chapter 43 of Title 38 of
 30 the United States Code who died prior to rendering the minimum amount of
 31 service necessary to be eligible for this benefit shall be considered to
 32 have satisfied the minimum service requirement.

33 § 5. The closing paragraph of subdivision a of section 61 of the
 34 retirement and social security law, as added by chapter 105 of the laws
 35 of 2005, is amended to read as follows:

36 Notwithstanding the provisions of section two hundred forty-two, two
 37 hundred forty-three or two hundred forty-four of the military law or the
 38 provisions of any other law to the contrary and solely for the purpose
 39 of determining eligibility for an accidental death benefit, a member
 40 shall be considered to have died as the natural and proximate result of
 41 an accident sustained in the performance of duty provided such member
 42 was on the payroll in the service upon which membership is based at the
 43 time he or she was ordered to active duty[~~, other than for training~~
 44 ~~purposes,~~] pursuant to Title 10 of the United States Code, with the
 45 armed forces of the United States or to service in the uniformed
 46 services pursuant to Chapter 43 of Title 38 of the United States Code
 47 and died while on such active duty or in service in the uniformed
 48 services on or after [~~the effective date of the chapter of the laws of~~
 49 ~~two thousand five which added this paragraph~~] June fourteenth, two thou-
 50 sand five.

51 § 6. The closing paragraph of subdivision a of section 360 of the
 52 retirement and social security law, as added by chapter 105 of the laws
 53 of 2005, is amended to read as follows:

54 Notwithstanding the provisions of any other law to the contrary and
 55 solely for the purpose of determining eligibility for an ordinary death
 56 benefit and/or guaranteed ordinary death benefit, a member shall be

1 considered to have died while in service upon which his or her member-
2 ship was based provided such member was on the payroll in the service
3 upon which membership is based at the time he or she was ordered to
4 active duty[~~, other than for training purposes,~~] pursuant to Title 10 of
5 the United States Code, with the armed forces of the United States or to
6 service in the uniformed services pursuant to Chapter 43 of Title 38 of
7 the United States Code and died while on such active duty or service in
8 the uniformed services on or after [~~the effective date of the chapter of~~
9 ~~the laws of two thousand five which added this paragraph~~] June four-
10 teenth, two thousand five. Provided, further, that any such member
11 ordered to active duty with the armed forces of the United States or to
12 service in the uniformed services who died prior to rendering the mini-
13 mum amount of service necessary to be eligible for this benefit shall be
14 considered to have satisfied the minimum service requirement.

15 § 7. Subparagraph (b) of paragraph 3 of subdivision g of section 360
16 of the retirement and social security law, as amended by chapter 105 of
17 the laws of 2005, is amended to read as follows:

18 (b) the term "death in service" shall include the death of such a
19 member who dies while off the payroll provided he or she (i) was on the
20 payroll in such service and paid within a period of twelve months prior
21 to his or her death, or was on the payroll in the service upon which
22 membership is based at the time he or she was ordered to active duty[~~,~~
23 ~~other than for training purposes,~~] pursuant to Title 10 of the United
24 States Code, with the armed forces of the United States or to service in
25 the uniformed services pursuant to Chapter 43 of Title 38 of the United
26 States Code and died while on such active duty or service in the
27 uniformed services on or after [~~the effective date of the chapter of the~~
28 ~~laws of two thousand five which amended this subparagraph~~] June four-
29 teenth, two thousand five, (ii) had not been otherwise gainfully
30 employed since he or she ceased to be on such payroll and (iii) had
31 credit for one or more years of continuous service since he or she last
32 entered or reentered the service of his or her employer. Provided,
33 further, that any such member ordered to active duty[~~, other than for~~
34 ~~training purposes,~~] pursuant to Title 10 of the United States Code, with
35 the armed forces of the United States or to service in the uniformed
36 services pursuant to Chapter 43 of Title 38 of the United States Code
37 who died prior to rendering the minimum amount of service necessary to
38 be eligible for this benefit shall be considered to have satisfied the
39 minimum service requirement.

40 § 8. Subdivision c of section 360-a of the retirement and social secu-
41 rity law, as amended by chapter 105 of the laws of 2005, is amended to
42 read as follows:

43 c. For the purposes of this section an employee who dies while off the
44 payroll shall be considered to be in service provided he or she (1) was
45 on the payroll in such service and paid within a period of twelve months
46 prior to his or her death, or was on the payroll in the service upon
47 which membership is based at the time he or she was ordered to active
48 duty[~~, other than for training purposes,~~] pursuant to Title 10 of the
49 United States Code, with the armed forces of the United States or to
50 service in the uniformed services pursuant to Chapter 43 of Title 38 of
51 the United States Code and died while on such active duty or service in
52 the uniformed services on or after [~~the effective date of the chapter of~~
53 ~~the laws of two thousand five which amended this subdivision~~] June four-
54 teenth, two thousand five, (2) had not been otherwise gainfully employed
55 since he or she ceased to be on such payroll and (3) had credit for at
56 least one year of continuous service since he or she last entered or

1 reentered the service of his or her employer. Provided, further, that
2 any such member ordered to active duty[~~, other than for training~~
3 ~~purposes,~~] pursuant to Title 10 of the United States Code, with the
4 armed forces of the United States or to service in the uniformed
5 services pursuant to Chapter 43 of Title 38 of the United States Code
6 who died prior to rendering the minimum amount of service necessary to
7 be eligible for this benefit shall be considered to have satisfied the
8 minimum service requirement.

9 § 9. Subdivision (a) of section 360-b of the retirement and social
10 security law, as amended by chapter 105 of the laws of 2005, is amended
11 to read as follows:

12 (a) Pursuant to the provisions of section three hundred thirty-three
13 of this article, a participating employer may elect to provide a guaran-
14 teed ordinary death benefit upon the death in service of its employees
15 who (i) meet all of the requirements of section three hundred sixty of
16 this title except that contained in paragraph three of subdivision (a)
17 thereof, and (ii) last entered or reentered the employ of a participat-
18 ing employer prior to April first, nineteen hundred eighty-five, and
19 were in such employ on March thirty-first, nineteen hundred eighty-five,
20 and (iii) last joined or rejoined a public retirement system of the
21 state or a municipality thereof before July first, nineteen hundred
22 seventy-three, and (iv) had not attained age sixty at the date of such
23 entrance into such service, and (v) had rendered ninety or more days of
24 continuous service in the service of such participating employer during
25 the fifteen month period immediately preceding death. For the purposes
26 of this section an employee who dies while off the payroll shall be
27 considered to be in service provided he or she (1) was on the payroll in
28 such service and paid within a period of twelve months prior to his or
29 her death, or was on the payroll in the service upon which membership is
30 based at the time he or she was ordered to active duty[~~, other than for~~
31 ~~training purposes,~~] pursuant to Title 10 of the United States Code, with
32 the armed forces of the United States or to service in the uniformed
33 services pursuant to Chapter 43 of Title 38 of the United States Code
34 and died while on such active duty or service in the uniformed services
35 on or after [~~the effective date of the chapter of the laws of two thou-~~
36 ~~sand five which amended this subdivision]~~ June fourteenth, two thousand
37 five, (2) had not been otherwise gainfully employed since he or she
38 ceased to be on such payroll and (3) had credit for one or more years of
39 continuous service since he or she last entered or reentered the service
40 of his or her employer. Provided, further, that any such member ordered
41 to active duty[~~, other than for training purposes,~~] pursuant to Title 10
42 of the United States Code, with the armed forces of the United States or
43 to service in the uniformed services pursuant to Chapter 43 of Title 38
44 of the United States Code who died prior to rendering the minimum amount
45 of service necessary to be eligible for this benefit shall be considered
46 to have satisfied the minimum service requirement.

47 § 10. The closing paragraph of subdivision a of section 361 of the
48 retirement and social security law, as added by chapter 105 of the laws
49 of 2005, is amended to read as follows:

50 Notwithstanding the provisions of section two hundred forty-two, two
51 hundred forty-three or two hundred forty-four of the military law or the
52 provisions of any other law to the contrary and solely for the purpose
53 of determining eligibility for an accidental death benefit and/or
54 special accidental death benefit, a member shall be considered to have
55 died as the natural and proximate result of an accident sustained in the
56 performance of duty provided such member was on the payroll in the

1 service upon which membership is based at the time he or she was ordered
 2 to active duty[~~, other than for training purposes,~~] pursuant to Title 10
 3 of the United States Code, with the armed forces of the United States or
 4 to service in the uniformed services pursuant to Chapter 43 of Title 38
 5 of the United States Code and died while on such active duty or service
 6 in the uniformed services on or after [~~the effective date of the chapter~~
 7 ~~of the laws of two thousand five which added this paragraph]~~ June four-
 8 teenth, two thousand five.

9 § 11. Subdivisions e and f of section 448 of the retirement and social
 10 security law, subdivision e as amended and subdivision f as added by
 11 chapter 105 of the laws of 2005, are amended to read as follows:

12 e. For the purposes of this section:

13 1. A member who dies while off the payroll shall be considered to be
 14 in service provided he or she (a) was on the payroll in such service and
 15 paid within a period of twelve months prior to his or her death, or was
 16 on the payroll in the service upon which membership is based at the time
 17 he or she was ordered to active duty[~~, other than for training~~
 18 ~~purposes,~~] pursuant to Title 10 of the United States Code, with the
 19 armed forces of the United States or to service in the uniformed
 20 services pursuant to Chapter 43 of Title 38 of the United States Code
 21 and died while on such active duty or service in the uniformed services
 22 on or after [~~the effective date of the chapter of the laws of two thou-~~
 23 ~~sand five which amended this subdivision]~~ June fourteenth, two thousand
 24 five, (b) had not been otherwise gainfully employed since he or she
 25 ceased to be on such payroll and (c) had credit for one or more years of
 26 continuous service since he or she last entered or reentered the service
 27 of his or her employer; notwithstanding any other provision of law to
 28 the contrary, a member of the New York city employees' retirement system
 29 or the board of education retirement system of the city of New York
 30 shall be deemed to have died on the payroll for the purposes of this
 31 section in the event that death occurs while such member is on an
 32 authorized leave of absence without pay for medical reasons which has
 33 continuously been in effect since the member was last paid on the
 34 payroll in such service, provided, however, that such member was on the
 35 payroll in such service and paid within the four-year period prior to
 36 his or her death; and

37 2. The benefit payable shall be in addition to any payment made on
 38 account of a member's accumulated contributions.

39 3. Provided, further, that any such member ordered to active duty[~~,~~
 40 ~~other than for training purposes,~~] pursuant to Title 10 of the United
 41 States Code, with the armed forces of the United States or to service in
 42 the uniformed services pursuant to Chapter 43 of Title 38 of the United
 43 States Code who died prior to rendering the minimum amount of service
 44 necessary to be eligible for this benefit shall be considered to have
 45 satisfied the minimum service requirement.

46 f. Notwithstanding the provisions of any other law to the contrary and
 47 solely for the purpose of determining eligibility for the death benefit
 48 payable pursuant to this section, a person subject to this section shall
 49 be considered to have died while in teaching service provided such
 50 person was in such service at the time he or she was ordered to active
 51 duty[~~, other than for training purposes,~~] pursuant to Title 10 of the
 52 United States Code, with the armed forces of the United States or to
 53 service in the uniformed services pursuant to Chapter 43 of Title 38 of
 54 the United States Code and died while on such active duty or service in
 55 the uniformed services on or after [~~the effective date of the chapter of~~
 56 ~~the laws of two thousand five which added this subdivision]~~ June four-

1 teenth, two thousand five. Provided, further, that any such person
 2 ordered to active duty[~~, other than for training purposes,~~] pursuant to
 3 Title 10 of the United States Code, with the armed forces of the United
 4 States or to service in the uniformed services pursuant to Chapter 43 of
 5 Title 38 of the United States Code who died prior to rendering the mini-
 6 mum amount of service necessary to be eligible for this benefit shall be
 7 considered to have satisfied the minimum service requirements.

8 § 12. Subdivision e of section 508 of the retirement and social secu-
 9 rity law, as amended by chapter 105 of the laws of 2005, is amended to
 10 read as follows:

11 e. For the purposes of this section:

12 1. A member who dies while off the payroll shall be considered to be
 13 in service provided he or she (a) was on the payroll in such service and
 14 paid within a period of twelve months prior to his or her death, or was
 15 on the payroll in the service upon which membership is based at the time
 16 he or she was ordered to active duty[~~, other than for training~~
 17 ~~purposes,~~] pursuant to Title 10 of the United States Code, with the
 18 armed forces of the United States or to service in the uniformed
 19 services pursuant to Chapter 43 of Title 38 of the United States Code
 20 and died while on such active duty or service in the uniformed services
 21 on or after [~~the effective date of the chapter of the laws of two thou-~~
 22 ~~sand five which amended this subdivision]~~ June fourteenth, two thousand
 23 five, (b) had not been otherwise gainfully employed since he or she
 24 ceased to be on such payroll and (c) had credit for one or more years of
 25 continuous service since he or she last entered or reentered the service
 26 of his or her employer; and

27 2. The benefit payable shall be in addition to any payment made on
 28 account of a member's accumulated contributions.

29 3. Provided, further, that any such member ordered to active duty[~~,~~
 30 ~~other than for training purposes,~~] pursuant to Title 10 of the United
 31 States Code, with the armed forces of the United States or to service in
 32 the uniformed services pursuant to Chapter 43 of Title 38 of the United
 33 States Code who died prior to rendering the minimum amount of service
 34 necessary to be eligible for this benefit shall be considered to have
 35 satisfied the minimum service requirement.

36 § 13. The closing paragraph of subdivision a of section 509 of the
 37 retirement and social security law, as amended by chapter 489 of the
 38 laws of 2008, is amended to read as follows:

39 Notwithstanding the provisions of section two hundred forty-two, two
 40 hundred forty-three or two hundred forty-four of the military law or the
 41 provisions of any other law to the contrary and solely for the purpose
 42 of determining eligibility for an accidental death benefit, a member
 43 shall be considered to have died as the natural and proximate result of
 44 an accident sustained in the performance of duty provided such member
 45 was on the payroll in the service upon which membership is based at the
 46 time he or she was ordered to active duty[~~, other than for training~~
 47 ~~purposes,~~] pursuant to Title 10 of the United States Code, with the
 48 armed forces of the United States or to service in the uniformed
 49 services pursuant to Chapter 43 of Title 38 of the United States Code
 50 and died while on such active duty or service in the uniformed services
 51 on or after [~~the effective date of chapter one hundred five of the laws~~
 52 ~~of two thousand five which added this paragraph]~~ June fourteenth, two
 53 thousand five.

54 § 14. Subdivision e of section 606 of the retirement and social secu-
 55 rity law, as amended by chapter 105 of the laws of 2005, is amended to
 56 read as follows:

1 e. For the purposes of this section:

2 1. A member who dies while off the payroll shall be considered to be
3 in service provided he or she (a) was on the payroll in such service and
4 paid within a period of twelve months prior to his or her death, or was
5 on the payroll in the service upon which membership is based at the time
6 he or she was ordered to active duty[~~other than for training~~
7 ~~purposes,~~] pursuant to Title 10 of the United States Code, with the
8 armed forces of the United States or to service in the uniformed
9 services pursuant to Chapter 43 of Title 38 of the United States Code
10 and died while on such active duty or service in the uniformed services
11 on or after [~~the effective date of the chapter of the laws of two thou-~~
12 ~~sand five which amended this subdivision]~~ June fourteenth, two thousand
13 five, (b) had not been otherwise gainfully employed since he or she
14 ceased to be on such payroll and (c) had credit for one or more years of
15 continuous service since he or she last entered or reentered the service
16 of his or her employer; notwithstanding any other provision of law to
17 the contrary, a member of the New York city employees' retirement system
18 or the board of education retirement system of the city of New York
19 shall be deemed to have died on the payroll for the purposes of this
20 section in the event that death occurs while such member is on an
21 authorized leave of absence without pay for medical reasons which has
22 continuously been in effect since the member was last paid on the
23 payroll in such service, provided, however, that such member was on the
24 payroll in such service and paid within the four-year period prior to
25 his or her death; and

26 2. The benefit payable shall be in addition to any payment made on
27 account of a member's accumulated contributions.

28 3. Provided, further, that any such member ordered to active duty[~~7~~
29 ~~other than for training purposes,~~] pursuant to Title 10 of the United
30 States Code, with the armed forces of the United States or to service in
31 the uniformed services pursuant to Chapter 43 of Title 38 of the United
32 States Code who died prior to rendering the minimum amount of service
33 necessary to be eligible for this benefit shall be considered to have
34 satisfied the minimum service requirement.

35 § 15. Subdivision a of section 607 of the retirement and social secu-
36 rity law, as amended by chapter 489 of the laws of 2008, is amended to
37 read as follows:

38 a. The eligible beneficiary of a member in service, or of a vested
39 member who dies as a result of a qualifying World Trade Center condition
40 as defined in section two of this chapter, shall be entitled to an acci-
41 dental death benefit in the form of a pension equal to fifty percent of
42 such member's wages earned during his or her last year of actual service
43 or his or her annual wage rate if he or she was credited with less than
44 one year of service since last becoming a member, if, upon application
45 filed within sixty days after the death of the member, the head of the
46 retirement system determines that such member died before the effective
47 date of retirement, as the natural and proximate result of an accident
48 not caused by his or her own willful negligence sustained in the
49 performance of his or her duties in active service and while actually a
50 member of the retirement system.

51 Notwithstanding the provisions of section two hundred forty-two, two
52 hundred forty-three or two hundred forty-four of the military law or the
53 provisions of any other law to the contrary and solely for the purpose
54 of determining eligibility for an accidental death benefit, a member
55 shall be considered to have died as the natural and proximate result of
56 an accident sustained in the performance of duty provided such member

1 was on the payroll in the service upon which membership is based at the
2 time he or she was ordered to active duty[~~, other than for training~~
3 ~~purposes,~~] pursuant to Title 10 of the United States Code, with the
4 armed forces of the United States or to service in the uniformed
5 services pursuant to Chapter 43 of Title 38 of the United States Code
6 and died while on such active duty or service in the uniformed services
7 on or after [~~the effective date of chapter one hundred five of the laws~~
8 ~~of two thousand five which added this paragraph]~~ June fourteenth, two
9 thousand five.

10 Provided, however, the head of the retirement system in its sole
11 discretion may accept an application for an accidental death benefit
12 after the expiration of the sixty day filing period, where, but only
13 where, an ordinary death benefit has not been previously paid.

14 § 16. The second undesignated paragraph and the closing paragraph of
15 subdivision 2 of section 655 of the retirement and social security law,
16 as added by chapter 105 of the laws of 2005, are amended to read as
17 follows:

18 Notwithstanding the provisions of any other law to the contrary and
19 solely for the purpose of determining eligibility for a survivors bene-
20 fit, a member shall be considered to have died while on the state
21 payroll provided such member was on the payroll in the service upon
22 which membership is based at the time he or she was ordered to active
23 duty[~~, other than for training purposes,~~] pursuant to Title 10 of the
24 United States Code, with the armed forces of the United States or to
25 service in the uniformed services pursuant to Chapter 43 of Title 38 of
26 the United States Code and died while on such active duty or service in
27 the uniformed services on or after [~~the effective date of the chapter of~~
28 ~~the laws of two thousand five which added this paragraph]~~ June four-
29 teenth, two thousand five.

30 Provided, further, that any such member ordered to active duty[~~, other~~
31 ~~than for training purposes,~~] pursuant to Title 10 of the United States
32 Code, with the armed forces of the United States or to service in the
33 uniformed services pursuant to Chapter 43 of Title 38 of the United
34 States Code who died prior to rendering the minimum amount of service
35 necessary to be eligible for this benefit shall be considered to have
36 satisfied the minimum service requirement.

37 § 17. The second undesignated paragraph and the closing paragraph of
38 subdivision 2 of section 656 of the retirement and social security law,
39 as added by chapter 105 of the laws of 2005, are amended to read as
40 follows:

41 Notwithstanding the provisions of any other law to the contrary and
42 solely for the purpose of determining eligibility for a survivors bene-
43 fit, a member shall be considered to have died while on the state
44 payroll provided such member was on such payroll or was on the payroll
45 in the service upon which membership is based at the time he or she was
46 ordered to active duty[~~, other than for training purposes,~~] pursuant to
47 Title 10 of the United States Code, with the armed forces of the United
48 States or to service in the uniformed services pursuant to Chapter 43 of
49 Title 38 of the United States Code and died while on such active duty or
50 service in the uniformed services on or after [~~the effective date of the~~
51 ~~chapter of the laws of two thousand five which added this paragraph]~~
52 June fourteenth, two thousand five.

53 Provided, further, that any such member ordered to active duty[~~, other~~
54 ~~than for training purposes,~~] pursuant to Title 10 of the United States
55 Code, with the armed forces of the United States or to service in the
56 uniformed services pursuant to Chapter 43 of Title 38 of the United

1 States Code who died prior to rendering the minimum amount of service
2 necessary to be eligible for this benefit shall be considered to have
3 satisfied the minimum service requirement.

4 § 18. Subdivision g of section 208-f of the general municipal law, as
5 added by chapter 105 of the laws of 2005, is amended to read as follows:

6 g. Notwithstanding any other provision of law to the contrary, and
7 solely for the purposes of this section, a member otherwise covered by
8 this section shall be deemed to have died as the natural and proximate
9 result of an accident sustained in the performance of duty upon which
10 his or her membership is based, and not as a result of willful negli-
11 gence on his or her part, provided that such member was in active
12 service upon which his or her membership is based at the time that such
13 member was ordered to active duty[~~, other than for training purposes,~~]
14 pursuant to Title 10 of the United States Code, with the armed forces of
15 the United States or to service in the uniformed services pursuant to
16 Chapter 43 of Title 38 of the United States Code, and such member died
17 while on such active duty or service in the uniformed services on or
18 after [~~the effective date of the chapter of the laws of two thousand~~
19 ~~five which added this subdivision~~] June fourteenth, two thousand five
20 while serving on such active military duty or in the uniformed services.

21 § 19. Subdivision f of section 512 of the education law, as added by
22 chapter 105 of the laws of 2005, is amended to read as follows:

23 f. Notwithstanding the provisions of any other law to the contrary and
24 solely for the purpose of determining eligibility for the death benefit
25 payable pursuant to this section, a person subject to this section shall
26 be considered to have died while in teaching service provided such
27 person was in such service at the time he or she was ordered to active
28 duty[~~, other than for training purposes,~~] pursuant to Title 10 of the
29 United States Code, with the armed forces of the United States or to
30 service in the uniformed services pursuant to Chapter 43 of Title 38 of
31 the United States Code and died while on such active duty or service in
32 the uniformed services on or after [~~the effective date of the chapter of~~
33 ~~the laws of two thousand five which added this subdivision~~] June four-
34 teenth, two thousand five. Provided, further, that any such person
35 ordered to active duty[~~, other than for training purposes,~~] pursuant to
36 Title 10 of the United States Code, with the armed forces of the United
37 States or to service in the uniformed servicicers pursuant to Chapter 43
38 of Title 38 of the United States Code who died prior to rendering the
39 minimum amount of service necessary to be eligible for this benefit
40 shall be considered to have satisfied the minimum service requirement.

41 § 20. Paragraph (b) of subdivision 25 of section 2575 of the education
42 law, as added by chapter 105 of the laws of 2005, is amended to read as
43 follows:

44 (b) Notwithstanding any other provision of law to the contrary, the
45 rules and regulations adopted pursuant to this section shall be deemed
46 to be amended to provide that a member of the retirement system shall be
47 deemed to have died as the natural and proximate result of an accident
48 sustained in the performance of duty upon which his or her membership is
49 based, and not as a result of willful negligence on his or her part,
50 provided that such member was in active service upon which his or her
51 membership is based at the time that such member was ordered to active
52 duty[~~, other than for training purposes,~~] pursuant to Title 10 of the
53 United States Code, with the armed forces of the United States or to
54 service in the uniformed services pursuant to Chapter 43 of Title 38 of
55 the United States Code, and such member died while on such active duty
56 or service in the uniformed services on or after [~~the effective date of~~

1 ~~the chapter of the laws of two thousand five which added this subdivi-~~
2 ~~sion] June fourteenth, two thousand five while serving on such active~~
3 ~~military duty or in the uniformed services.~~

4 § 21. Subdivision 4 of section 13-244 of the administrative code of
5 the city of New York, as added by chapter 105 of the laws of 2005, is
6 amended to read as follows:

7 4. Notwithstanding any other provision of law to the contrary, and
8 solely for the purposes of this section, a member shall be deemed to
9 have died as the natural and proximate result of an accident sustained
10 in the performance of duty upon which his or her membership is based,
11 and not as a result of willful negligence on his or her part, provided
12 that such member was in active service upon which his or her membership
13 is based at the time that such member was ordered to active duty[~~, other~~
14 ~~than for training purposes,~~] pursuant to Title 10 of the United States
15 Code, with the armed forces of the United States or to service in the
16 uniformed services pursuant to Chapter 43 of Title 38 of the United
17 States Code, and such member died while on such active duty or service
18 in the uniformed services on or after [~~the effective date of the chapter~~
19 ~~of the laws of two thousand five which added this subdivision] June
20 fourteenth, two thousand five while serving on such active military duty
21 or in the uniformed services.~~

22 § 22. Subdivision c of section 13-149 of the administrative code of
23 the city of New York, as added by chapter 105 of the laws of 2005, is
24 amended to read as follows:

25 c. Notwithstanding any other provision of law to the contrary, and
26 solely for the purposes of this section, a member shall be deemed to
27 have died as the natural and proximate result of an accident sustained
28 in the performance of duty upon which his or her membership is based,
29 and not as a result of willful negligence on his or her part, provided
30 that such member was in active service upon which his or her membership
31 is based at the time that such member was ordered to active duty[~~, other~~
32 ~~than for training purposes,~~] pursuant to Title 10 of the United States
33 Code, with the armed forces of the United States or to service in the
34 uniformed services pursuant to Chapter 43 of Title 38 of the United
35 States Code, and such member died while on such active duty or service
36 in the uniformed services on or after [~~the effective date of the chapter~~
37 ~~of the laws of two thousand five which added this subdivision] June
38 fourteenth, two thousand five while serving on such active military duty
39 or in the uniformed services.~~

40 § 23. Subdivision f of section 13-347 of the administrative code of
41 the city of New York, as added by chapter 105 of the laws of 2005, is
42 amended to read as follows:

43 f. Notwithstanding any other provision of law to the contrary, and
44 solely for the purposes of this section, a member shall be deemed to
45 have died as the natural and proximate result of an accident sustained
46 in the performance of duty upon which his or her membership is based,
47 and not as a result of willful negligence on his or her part, provided
48 that such member was in active service upon which his or her membership
49 is based at the time that such member was ordered to active duty[~~, other~~
50 ~~than for training purposes,~~] pursuant to Title 10 of the United States
51 Code, with the armed forces of the United States or to service in the
52 uniformed services pursuant to Chapter 43 of Title 38 of the United
53 States Code, and such member died while on such active duty or service
54 in the uniformed services on or after [~~the effective date of the chapter~~
55 ~~of the laws of two thousand five which added this subdivision] June~~

1 fourteenth, two thousand five while serving on such active military duty
2 or in the uniformed services.

3 § 24. Subdivision d of section 13-544 of the administrative code of
4 the city of New York, as added by chapter 105 of the laws of 2005, is
5 amended to read as follows:

6 d. Notwithstanding any other provision of law to the contrary, and
7 solely for the purposes of this section, a member shall be deemed to
8 have died as the natural and proximate result of an accident sustained
9 in the performance of duty upon which his or her membership is based,
10 and not as a result of willful negligence on his or her part, provided
11 that such member was in active service upon which his or her membership
12 is based at the time that such member was ordered to active duty[~~, other~~
13 ~~than for training purposes,~~] pursuant to Title 10 of the United States
14 Code, with the armed forces of the United States or to service in the
15 uniformed services pursuant to Chapter 43 of Title 38 of the United
16 States Code, and such member died while on such active duty or service
17 in the uniformed services on or after [~~the effective date of the chapter~~
18 ~~of the laws of two thousand five which added this subdivision] June
19 fourteenth, two thousand five while serving on such active military duty
20 or in the uniformed services.~~

21 § 25. The closing paragraph of section 3-401 of the administrative
22 code of the city of New York, as added by chapter 105 of the laws of
23 2005, is amended to read as follows:

24 Notwithstanding any other provision of law to the contrary, and solely
25 for the purposes of this section, a member otherwise covered by this
26 section shall be deemed to have been killed while engaged in the
27 discharge of duty upon which his or her membership is based, provided
28 that such member was in active service upon which his or her membership
29 is based at the time that such member was ordered to active duty[~~, other~~
30 ~~than for training purposes,~~] pursuant to Title 10 of the United States
31 Code, with the armed forces of the United States or to service in the
32 uniformed services pursuant to Chapter 43 of Title 38 of the United
33 States Code, and such member died while on such active duty or service
34 in the uniformed services on or after [~~the effective date of the chapter~~
35 ~~of the laws of two thousand five which added this paragraph] June four-
36 teenth, two thousand five while serving on such active military duty or
37 in the uniformed services.~~

38 § 26. The closing paragraph of section 3-402 of the administrative
39 code of the city of New York, as added by chapter 105 of the laws of
40 2005, is amended to read as follows:

41 Notwithstanding any other provision of law to the contrary, and solely
42 for the purposes of this section, a member otherwise covered by this
43 section shall be deemed to have been killed while engaged in the
44 discharge of duty upon which his or her membership is based, provided
45 that such member was in active service upon which his or her membership
46 is based at the time that such member was ordered to active duty[~~, other~~
47 ~~than for training purposes,~~] pursuant to Title 10 of the United States
48 Code, with the armed forces of the United States or to service in the
49 uniformed services pursuant to Chapter 43 of Title 38 of the United
50 States Code, and such member died while on such active duty or service
51 in the uniformed services on or after [~~the effective date of the chapter~~
52 ~~of the laws of two thousand five which added this paragraph] June four-
53 teenth, two thousand five while serving on such active military duty or
54 in the uniformed services.~~

1 § 27. The closing paragraph of subdivision a of section 3-403 of the
2 administrative code of the city of New York, as added by chapter 105 of
3 the laws of 2005, is amended to read as follows:

4 Notwithstanding any other provision of law to the contrary, and solely
5 for the purposes of this subdivision, a member otherwise covered by this
6 subdivision shall be deemed to have been killed while engaged in the
7 discharge of duty upon which his or her membership is based, provided
8 that such member was in active service upon which his or her membership
9 is based at the time that such member was ordered to active duty[~~, other~~
10 ~~than for training purposes,~~] pursuant to Title 10 of the United States
11 Code, with the armed forces of the United States or to service in the
12 uniformed services pursuant to Chapter 43 of Title 38 of the United
13 States Code, and such member died while on such active duty or service
14 in the uniformed services on or after [~~the effective date of the chapter~~
15 ~~of the laws of two thousand five which added this paragraph~~] June four-
16 teenth, two thousand five while serving on such active military duty or
17 in the uniformed services.

18 § 28. Subparagraph (i) of paragraph 2 of subdivision b of section
19 12-126 of the administrative code of the city of New York, as amended by
20 chapter 430 of the laws of 2010, is amended to read as follows:

21 (i) Where the death of a member of the uniformed forces of the police
22 or fire departments is or was the natural and proximate result of an
23 accident or injury sustained while in the performance of duty, the
24 surviving spouse or domestic partner, until he or she dies, and the
25 children under the age of nineteen years and any such child who is
26 enrolled on a full-time basis in a program of undergraduate study in an
27 accredited degree-granting institution of higher education until such
28 child completes his or her educational program or reaches the age of
29 twenty-three years, whichever comes first, shall be afforded the right
30 to health insurance coverage, and health insurance coverage which is
31 predicated on the insured's enrollment in the hospital and medical
32 program for the aged and disabled under the social security act, as is
33 provided for city employees, city retirees and their dependents as set
34 forth in paragraph one of this subdivision. Where the death of a
35 uniformed member of the correction or sanitation departments has
36 occurred while such employee was in active service as the natural and
37 proximate result of an accident or injury sustained while in the
38 performance of duty, the surviving spouse or domestic partner, until he
39 or she dies, and the child of such employee who is under the age of
40 nineteen years and any such child who is enrolled on a full-time basis
41 in a program of undergraduate study in an accredited degree-granting
42 institution of higher education until such child completes his or her
43 educational program or reaches the age of twenty-three years, whichever
44 comes first, shall be afforded the right to health insurance coverage,
45 and health insurance coverage which is predicated on the insured's
46 enrollment in the hospital and medical program for the aged and disabled
47 under the social security act, as is provided for city employees, city
48 retirees and their dependents as set forth in paragraph one of this
49 subdivision. Where the death of an employee of the fire department of
50 the city of New York who was serving in a title whose duties are those
51 of an emergency medical technician or advanced emergency medical techni-
52 cian (as those terms are defined in section three thousand one of the
53 public health law), or whose duties required the direct supervision of
54 employees whose duties are those of an emergency medical technician or
55 advanced emergency medical technician (as those terms are defined in
56 section three thousand one of the public health law) is or was the

1 natural and proximate result of an accident or injury sustained while in
 2 the performance of duty on or after September eleventh, two thousand
 3 one, the surviving spouse or domestic partner, until he or she dies, and
 4 the children under the age of nineteen years and any such child who is
 5 enrolled on a full-time basis in a program of undergraduate study in an
 6 accredited degree-granting institution of higher education until such
 7 child completes his or her educational program or reaches the age of
 8 twenty-three years, whichever comes first, shall be afforded the right
 9 to health insurance coverage, and health insurance coverage which is
 10 predicated on the insured's enrollment in the hospital and medical
 11 program for the aged and disabled under the social security act, as is
 12 provided for city employees, city retirees and their dependents as set
 13 forth in paragraph one of this subdivision. The mayor may, in his or her
 14 discretion, authorize the provision of such health insurance coverage
 15 for the surviving spouses, domestic partners and children of employees
 16 of the fleet services division of the police department who died on or
 17 after October first, nineteen hundred ninety-eight and before April
 18 thirtieth, nineteen hundred ninety-nine, and the surviving spouses,
 19 domestic partners and children of employees of the roadway repair and
 20 maintenance division of the department of transportation who died on or
 21 after September first, two thousand five and before September twenty-
 22 eighth, two thousand five, and the surviving spouses, domestic partners
 23 and children of employees of the bureau of wastewater treatment of the
 24 department of environmental protection who died on or after January
 25 eighth, two thousand nine and before January tenth, two thousand nine as
 26 a natural and proximate result of an accident or injury sustained while
 27 in the performance of duty, subject to the same terms, conditions and
 28 limitations set forth in the section. Provided, however, and notwith-
 29 standing any other provision of law to the contrary, and solely for the
 30 purposes of this subparagraph, a member otherwise covered by this
 31 subparagraph shall be deemed to have died as the natural and proximate
 32 result of an accident or injury sustained while in the performance of
 33 duty upon which his or her membership is based, provided that such
 34 member was in active service upon which his or her membership is based
 35 at the time that such member was ordered to active duty [~~other than for~~
 36 ~~training purposes,~~] pursuant to Title 10 of the United States Code, with
 37 the armed forces of the United States or to service in the uniformed
 38 services pursuant to Chapter 43 of Title 38 of the United States Code,
 39 and such member died while on active duty or service in the uniformed
 40 services on or after [~~the effective date of local law number ninety six~~
 41 ~~of the city of New York for the year two thousand five] June fourteenth,
 42 two thousand five while serving on such active military duty or in the
 43 uniformed services.~~

44 § 29. The closing paragraph of section 165-a of the civil service law,
 45 as amended by section 6 of part T of chapter 56 of the laws of 2010, is
 46 amended to read as follows:

47 Notwithstanding any law to the contrary, the survivors of any employee
 48 subject to this section shall be entitled to the health benefits granted
 49 pursuant to this section, provided that such employee died while on
 50 active duty [~~other than for training purposes,~~] pursuant to Title 10 of
 51 the United States Code, with the armed forces of the United States or to
 52 service in the uniformed services pursuant to Chapter 43 of Title 38 of
 53 the United States Code, and such member died on such active duty or
 54 service in the uniformed services on or after [~~the effective date of~~
 55 ~~chapter one hundred five of the laws of two thousand five] June four-
 56 teenth, two thousand five as a result of injuries, disease or other~~

1 medical condition sustained or contracted in such active duty with the
2 armed forces of the United States or in the uniformed services.

3 § 30. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would require that public retirement systems comply with the federal Heroes Earnings Assistance and Relief Tax Act (HEART Act). This would expand the criteria in current law for receiving such accidental death benefits from dying in "active duty" to "uniformed services".

If this legislation is enacted, we anticipate that there would be few individuals affected, as most are already eligible under the "active duty" criteria.

Insofar as this legislation would affect the New York State and Local Employees' Retirement System (ERS) and the New York State and Local Police and Fire Retirement System (PFRS), it would lead to more deaths being classified as "accidental". For each death classified as accidental due to this bill, the cost would depend on the age, service, salary and plan of the affected member. It is estimated that there would be per person one-time costs of approximately three (3) times salary for members in the ERS, and twelve (12) times salary for members in the PFRS. These costs would be borne by the State of New York and all the participating employers in the ERS and the PFRS.

This estimate, dated April 7, 2011, and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-165 prepared by the Actuary for the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would amend the Education Law and the Retirement and Social Security Law to enable the New York State Teachers' Retirement System to provide death benefits in compliance with the Federal Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act). The criteria used in determining eligibility for death benefits under the current law would be expanded from dying in "active duty" with the Armed Forces of the United States to include dying while in "service in the uniformed services". The death benefit payable would be the accidental death benefit.

The annual cost to the employers of members of the New York State Teachers' Retirement System is estimated to be negligible if this bill is enacted.

The source of this estimate is Fiscal Note 2011-46 dated May 4, 2011 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2011 Legislative Session.

STATE OF NEW YORK

5719--A

2011-2012 Regular Sessions

IN SENATE

June 13, 2011

Introduced by Sen. LIBOUS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to authorize the county of Broome to offer an optional twenty year retirement plan to deputy sheriffs Richard Merrell and Frederick Akshar

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

1 Section 1. Notwithstanding any other provision of law to the contrary,
2 the county of Broome, a participating employer in the New York state and
3 local employees' retirement system, which previously elected to offer
4 the optional twenty year retirement plan, established pursuant to
5 section 552 of the retirement and social security law, to sheriffs,
6 under-sheriffs and deputy sheriffs employed by such county, is hereby
7 authorized to make participation in such plan and benefits available to
8 Richard Merrell and Frederick Akshar, deputy sheriffs employed by the
9 county of Broome, who, for reasons not ascribable to their own negli-
10 gence, failed to make a timely application to participate in such
11 optional twenty year retirement plan. The county of Broome may so elect
12 by filing with the state comptroller, on or before December 31, 2011, a
13 resolution of its local legislative body together with certification
14 that such deputy sheriffs did not bar themselves from participation in
15 such retirement plan as a result of their own negligence. Thereafter,
16 such deputy sheriffs may elect to be covered by the provisions of
17 section 552 of the retirement and social security law, and shall be
18 entitled to the full rights and benefits associated with coverage under
19 such section, by filing a request to that effect with the state comp-
20 troller on or before June 30, 2012.

21 § 2. All employer "past service" costs associated with implementing
22 the provisions of this act shall be borne by the county of Broome.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD13048-02-1

1 § 3. This act shall take effect immediately.

FISCAL NOTE.-- Pursuant to Legislative Law, Section 50:

This bill would allow Broome County to reopen the provisions of Section 552 of the Retirement and Social Security Law for deputy sheriffs Richard Merrell and Frederick Akshar.

If this legislation is enacted during the 2011 legislative session, we anticipate that there would be an increase of approximately \$13,400 in the annual contributions of Broome County for the fiscal year ending March 31, 2012.

In addition to the annual contributions discussed above, there would be an immediate past service cost of approximately \$23,300, which would be borne by Broome County as a one-time payment. This estimate is based on the assumption that payment would be made on February 1, 2012.

This estimate, dated June 14, 2011, and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-205, prepared by the Actuary for the New York State and Local Employees' Retirement System.

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Section II

Vetoed Legislation Affecting the
New York State and Local Retirement System

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STATE OF NEW YORK

5804

2011-2012 Regular Sessions

IN SENATE

June 17, 2011

Introduced by Sen. O'MARA -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the retirement and social security law, in relation to service retirement benefits for persons engaged in criminal law enforcement and employed in the office of district attorney of Tompkins county

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

1 Section 1. Section 603 of the retirement and social security law is
 2 amended by adding a new subdivision u to read as follows:
 3 u. If the county of Tompkins elects to provide a retirement benefit by
 4 adopting a resolution to such effect and filing a certified copy thereof
 5 with the comptroller, the service retirement benefit specified in
 6 section six hundred four of this article shall be payable to members
 7 with twenty years of creditable service, without regard to age, who are
 8 engaged directly in criminal law enforcement activities and who are
 9 employed in the office of the district attorney of Tompkins county as a
 10 chief criminal investigator/detective, deputy chief criminal investi-
 11 gator, criminal investigator, senior criminal investigator, confidential
 12 criminal investigator, assistant criminal investigator, criminal inves-
 13 tigator-electronics, criminal investigator-child abuse, confidential
 14 investigator or criminal investigator/arson if: (i) such members have
 15 met the minimum service requirements upon retirement, and (ii) in the
 16 case of a member subject to the provisions of article fourteen of this
 17 chapter, such member files an election therefor which provides that he
 18 or she will be subject to the provisions of this article and to none of
 19 the provisions of article fourteen of this chapter. Such election, which
 20 shall be irrevocable, shall be in writing, duly executed and shall be
 21 filed with the comptroller, within three years after entering employment
 22 in the office of the district attorney of Tompkins county in one of the
 23 titles aforementioned in this subdivision. For the purposes of this

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD13044-04-1

1 subdivision, the term: "creditable service" shall have the meaning as
 2 so defined in both sections eighty-nine-d and six hundred one of this
 3 chapter and such term shall be subject to the conditions in such
 4 sections eighty-nine-d and six hundred one, also include service as a
 5 sheriff, undersheriff, captain deputy sheriff, lieutenant deputy sher-
 6 iff, senior criminal investigator, chief investigator/detective, crimi-
 7 nal investigator, criminal investigator-electronics, criminal investiga-
 8 tor-child abuse, sergeant deputy sheriff, deputy sheriff, deputy sheriff
 9 trainee, police chief, police lieutenant, police sergeant, police offi-
 10 cer, or police captain.

11 § 2. Section 604 of the retirement and social security law is amended
 12 by adding a new subdivision u to read as follows:

13 u. If the county of Tompkins elects to provide the retirement benefit
 14 pursuant to this subdivision by adopting a resolution to such effect and
 15 filing a certified copy thereof with the comptroller, the early service
 16 retirement benefit for a member who is employed in the office of the
 17 district attorney of Tompkins county as a chief criminal
 18 investigator/detective, deputy chief criminal investigator, criminal
 19 investigator, senior criminal investigator, confidential criminal inves-
 20 tigator, assistant criminal investigator, criminal investigator-elec-
 21 tronics, criminal investigator-child abuse, confidential investigator or
 22 criminal investigator/arson or other investigative title shall be a
 23 pension equal to one-fortieth of final average salary times years of
 24 credited service for the first twenty years of service plus an addi-
 25 tional one-sixtieth of final average salary times years of credited
 26 service for each year beyond the first twenty years of service in such
 27 title, but not exceeding three-fourths of his or her final average sala-
 28 ry.

29 § 3. The county of Tompkins shall, by resolution, determine whether to
 30 extend the provisions of this act to those members in the office of the
 31 district attorney as a chief criminal investigator/detective, deputy
 32 chief criminal investigator, criminal investigator, senior criminal
 33 investigator, confidential criminal investigator, assistant criminal
 34 investigator, criminal investigator-electronics, criminal investigator-
 35 child abuse, confidential investigator or criminal investigator/arson or
 36 other investigative title provided, however, that such resolution must
 37 be adopted by April 1, 2012.

38 § 4. The costs attributable to the operation of this act shall be
 39 borne by the county of Tompkins and shall be paid over a ten year period
 40 in amounts determined by the retirement system actuary.

41 § 5. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill will allow Tompkins County to elect to provide a special
 twenty (20) year retirement plan to members who are engaged directly in
 criminal law enforcement activities and who are employed in the office
 of the district attorney of Tompkins County as a chief criminal
 investigator/detective, deputy chief criminal investigator, criminal
 investigator, senior criminal investigator, confidential criminal inves-
 tigator, assistant criminal investigator, criminal investigator-elec-
 tronics, criminal investigator-child abuse, confidential investigator,
 or criminal investigator/arson. Such plan will provide a benefit of
 one-half of final average salary upon retirement plus an additional
 benefit of one sixtieth of final average salary for each year of service
 in excess of twenty (20) years, not to exceed fifteen (15) such years.

Presently, there are no investigators employed by Tompkins County.
 However, this legislation will establish a series of job titles in their

district attorney's office to enable such future investigators to become covered under this special retirement plan.

If this bill is enacted, for the fiscal year ending March 31, 2012, the additional annual cost will be 6.2% of the salaries of affected Tiers 3 and 4 investigators, and 7.4% of the salaries of affected Tier 5 investigators.

In addition to the annual contributions discussed above, in future years when Tompkins County appoints any investigator with previous creditable service into one of these investigator titles, there will be an immediate past service cost which will depend on the salary, plan, age and length of past service of the investigators as of the date they become covered under such plan. These costs will be borne by Tompkins County and amortized over a period of ten (10) years.

This estimate, dated June 16, 2011, and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-204, prepared by the Actuary for the New York State and Local Employees' Retirement System.

VETO MESSAGE - No. 48

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 5804, entitled:

"AN ACT to amend the retirement and social security law, in relation to service retirement benefits for persons engaged in criminal law enforcement and employed in the office of district attorney of Tompkins county"

NOT APPROVED

This bill would allow certain employees of the Tompkins County District Attorney's Office to participate in a special retirement plan to receive a half-pay pension upon completing twenty-years of service, regardless of age, as well as an additional 1/60th of salary for each year of service in excess of 20 years.

This proposed legislation would create an enhanced pension benefit that would result in increased employer pension costs. In June of this year, I submitted pension reform legislation which would create a new pension tier to reduce costs to local governments. This bill, if signed into law, would create a new pension benefit for certain employees and would be inconsistent with the intent and reforms contained in the legislation I submitted.

My disapproval of this bill does not reflect on the hard work of the employees at the Tompkins County District Attorney's Office. However, we must reform the pension system in a manner that will generate necessary savings balanced with protecting our retirees, not enhance a system that is already unsustainable.

The bill is disapproved.

(signed) Andrew M. Cuomo

STATE OF NEW YORK

4489

2011-2012 Regular Sessions

IN SENATE

April 6, 2011

Introduced by COMMITTEE ON RULES -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the racing, pari-mutuel wagering and breeding law, in relation to provision of health insurance and supplemental benefits to retirees of the New York city off track betting corporation

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

1 Section 1. Legislative intent. The state of New York has an interest
 2 in the welfare of its citizens, and the general welfare of its senior
 3 citizens is a matter of great public concern to the state of New York.
 4 On December 7, 2010, the New York City Off Track Betting Corporation, a
 5 public benefits corporation created in 1973 pursuant to article VI of
 6 the racing, pari-mutual wagering and breeding law ceased operations. The
 7 legislature finds that, since its inception, New York City Off Track
 8 Betting provided the state of New York with significant revenues to
 9 support government operations. The legislature further finds that after
 10 the governor of the state of New York issued an executive order to allow
 11 the New York City Off Track Betting Corporation to file for bankruptcy
 12 pursuant to Chapter 9 of the United States Bankruptcy Code, the unions
 13 representing the employees of NYCOTB worked tirelessly to assist the
 14 corporation in its restructuring efforts, including two collective
 15 bargaining agreements wherein the employees made significant conces-
 16 sions, including voluntary separation from the corporation, in order to
 17 save the corporation and assist their fellow employees.

18 The legislature further finds that employees retired from the corpo-
 19 ration, after having received the assurance that they and their depen-
 20 dants would receive health insurance and supplemental benefit coverage
 21 under their collective bargaining representative's welfare benefit
 22 program. After the closure of New York City Off Track Betting, those
 23 benefits ceased.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD09353-01-1

1 The legislature further finds that cessation of these benefits to
 2 public employees who have devoted their working lives to service of a
 3 New York state public benefits corporation works a great injustice and a
 4 severe hardship to the retirees and their dependants, thereby putting
 5 their health and very lives in danger.

6 The legislature further finds that by honoring the commitment to
 7 provide health insurance and supplemental benefits to retirees of New
 8 York City Off Track Betting, the state reaffirms its commitment to amel-
 9 iorate the deleterious impact which the closure of New York City Off
 10 Track Betting has had upon the citizens of the state of New York.

11 § 2. Subdivision 4 of section 606 of the racing, pari-mutuel wagering
 12 and breeding law, as amended by chapter 115 of the laws of 2008, is
 13 amended to read as follows:

14 4. All [~~employees and officers~~] present and future retirees of the
 15 corporation in classes or positions whose incumbents, in equivalent
 16 classes or positions of the city, are eligible, as of the effective date
 17 hereof, to participate in, and receive benefits from any city authorized
 18 health insurance or welfare benefit program, shall be eligible to
 19 participate in, and receive benefits from any such health insurance or
 20 welfare benefit program; provided, however, that the [~~corporation~~] state
 21 shall reimburse the city or its designee for the actual cost of benefits
 22 under this subdivision.

23 § 3. This act shall take effect immediately.

VETO MESSAGE - No. 62

TO THE ASSEMBLY:

I am returning herewith, without my approval, the following bill:

Assembly Bill Number 5785, entitled:

"AN ACT to amend the racing, pari-mutuel wagering and breeding law,
 in relation to provision of health insurance and supplemental
 benefits to retirees of the New York city off track betting"

NOT APPROVED

This bill would require New York State to reimburse New York City for the actual cost of health insurance and welfare benefit programs to be provided to several hundred retirees of New York City's Off Track Betting Corporation ("OTB"). These employees received health insurance and welfare benefits through New York City's employee health insurance plan. As a result of OTB's bankruptcy, however, OTB's retirees, who had expected that these vital benefits would be provided to them upon retirement, were left out in the cold and unprotected. I understand that several hundred retirees may not have health insurance that they worked hard for and that time is of the essence.

However, this bill is flawed because it contains no appropriation authority for any sums to effectuate this program of reimbursement. Without such authority, the State cannot implement this legislation.

The bill is disapproved.

(signed) Andrew M. Cuomo

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Section III

Legislation Affecting Other
New York Public Retirement Systems

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STATE OF NEW YORK

5485

2011-2012 Regular Sessions

IN SENATE

May 25, 2011

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Cities

AN ACT to amend the administrative code of the city of New York, in relation to the rate of regular interest used in the actuarial valuation of liabilities for the purpose of calculating contributions to the New York city employees' retirement system, the New York city teachers' retirement system, the police pension fund, subchapter two, the fire department pension fund, subchapter two and the board of education retirement system of such city by public employers and other obligors required to make employer contributions to such retirement systems, the crediting of special interest and additional interest to members of such retirement systems, and the allowance of supplementary interest on the funds of such retirement systems

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

1 Section 1. Paragraph 2 of subdivision b of section 13-638.2 of the
2 administrative code of the city of New York, as amended by chapter 265
3 of the laws of 2010, is amended to read as follows:
4 (2) With respect to each retirement system, such rate of interest
5 shall be as hereinafter set forth in this paragraph:

6			First day and
7			last day of
8	Rate of interest		fiscal year or
9	per centum per		series of fiscal
10	Retirement	annum, compounded	years for which
11	System	annually	rate is effective
12			
13	NYCERS	8%	July 1, 2004 to
14			June 30, [2011] <u>2012</u>
15	NYCTRS	8%	July 1, 2004 to

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD11552-01-1

1			June 30, [2011]	<u>2012</u>
2	PPF	8%	July 1, 2004 to	
3			June 30, [2011]	<u>2012</u>
4	FPF	8%	July 1, 2004 to	
5			June 30, [2011]	<u>2012</u>
6	BERS	8%	July 1, 2004 to	
7			June 30, [2011]	<u>2012</u>

8 § 2. Paragraph 2 of subdivision f of section 13-638.2 of the adminis-
 9 trative code of the city of New York, as amended by chapter 265 of the
 10 laws of 2010, is amended to read as follows:

11 (2) Such special interest shall be allowed at the rates and for the
 12 periods set forth below in this paragraph:

13			First day and	
14			last day of	
15		Rate of interest	fiscal year or	
16		per centum per	series of fiscal	
17	Retirement	annum, compounded	years for which	
18	System	annually	rate is effective	
19	<hr/>			
20	NYCERS	1 1/4%	July 1, 2004 to	
21			June 30, [2011]	<u>2012</u>
22	NYCTRS	1 1/4%	July 1, 2004 to	
23			June 30, [2011]	<u>2012</u>
24	PPF	1 1/4%	July 1, 2004 to	
25			June 30, [2011]	<u>2012</u>
26	FPF	1 1/4%	July 1, 2004 to	
27			June 30, [2011]	<u>2012</u>
28	BERS	1 1/4%	July 1, 2004 to	
29			June 30, [2011]	<u>2012</u>

30 § 3. Paragraph 2 of subdivision g of section 13-638.2 of the adminis-
 31 trative code of the city of New York, as amended by chapter 265 of the
 32 laws of 2010, is amended to read as follows:

33 (2) Such additional interest shall be included at the rates and for
 34 the periods set forth below in this paragraph:

35			First day and	
36			last day of	
37		Rate of interest	fiscal year or	
38		per centum per	series of fiscal	
39	Retirement	annum, compounded	years for which	
40	System	annually	rate is effective	
41	<hr/>			
42	NYCERS	1 1/4%	July 1, 2004 to	
43			June 30, [2011]	<u>2012</u>
44	NYCTRS	1 1/4%	July 1, 2004 to	
45			June 30, [2011]	<u>2012</u>
46	PPF	1 1/4%	July 1, 2004 to	
47			June 30, [2011]	<u>2012</u>
48	FPF	1 1/4%	July 1, 2004 to	
49			June 30, [2011]	<u>2012</u>
50	BERS	1 1/4%	July 1, 2004 to	
51			June 30, [2011]	<u>2012</u>

1 § 4. Paragraph 2 of subdivision i of section 13-638.2 of the adminis-
 2 trative code of the city of New York, as amended by chapter 265 of the
 3 laws of 2010, is amended to read as follows:

4 (2) Such supplementary interest shall be allowed at the rates and for
 5 the periods set forth below in this paragraph:

6			First day and
7			last day of
8		Rate of interest	fiscal year or
9		per centum per	series of fiscal
10	Retirement	annum, compounded	years for which
11	System	annually	rate is effective
12			
13	NYCERS	1%	July 1, 2004 to
14			June 30, [2011] <u>2012</u>
15	NYCTRS	1%	July 1, 2004 to
16			June 30, [2011] <u>2012</u>
17	PPF	1%	July 1, 2004 to
18			June 30, [2011] <u>2012</u>
19	FPF	1%	July 1, 2004 to
20			June 30, [2011] <u>2012</u>
21	BERS	1%	July 1, 2004 to
22			June 30, [2011] <u>2012</u>

23 § 5. This act shall take effect July 1, 2011; provided, however, if
 24 this act shall become a law after such date, it shall take effect imme-
 25 diately and shall be deemed to have been in full force and effect on and
 26 after July 1, 2011.

STATE OF NEW YORK

5653

2011-2012 Regular Sessions

IN SENATE

June 9, 2011

Introduced by COMMITTEE ON RULES -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the administrative code of the city of New York, in relation to the effect of discharge or dismissal of a police officer or firefighter with twenty years of creditable retirement service

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

1 Section 1. The administrative code of the city of New York is amended
2 by adding a new section 13-256.1 to read as follows:

3 § 13-256.1 Discharge or dismissal. a. Notwithstanding any other
4 provision of law, when a member has attained at least twenty years of
5 creditable police service in the retirement system, the discharge or
6 dismissal from employment of such person shall not preclude such person
7 from receiving any rights or benefits to which he or she shall otherwise
8 be entitled as a member or retired member of the retirement system nor
9 upon retirement shall his or her benefits be in any way diminished as a
10 result of such discharge or dismissal. Such member shall be deemed to
11 be retired on the date of his or her discharge or dismissal from service
12 for purposes of determining his or her rights and benefits as a member
13 of the retirement system.

14 b. Notwithstanding anything to the contrary in subdivision a of this
15 section, a member, other than a member to which article fourteen of the
16 retirement and social security law is applicable, that has attained at
17 least twenty years of creditable service in the retirement system shall
18 forfeit the retirement benefits to which the member would otherwise be
19 entitled if the member is convicted under the laws of the state of New
20 York of a felony, or under the laws of another state or of the United
21 States of an offense or crime which, if committed in the state of New
22 York, would be a felony.

23 c. Nothing in this section shall be construed to in any way modify or
24 affect the rights or benefits of any member of the retirement system to

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD09543-03-1

1 which article fourteen of the retirement and social security law is
2 applicable.

3 § 2. The administrative code of the city of New York is amended by
4 adding a new section 13-361.1 to read as follows:

5 § 13-361.1 Discharge or dismissal. a. Notwithstanding any other
6 provision of law, when a member has attained at least twenty years of
7 creditable fire uniformed force service in the retirement system, the
8 discharge or dismissal from employment of such person shall not preclude
9 such person from receiving any rights or benefits to which he or she
10 shall otherwise be entitled as a member or retired member of the retire-
11 ment system nor upon retirement shall his or her benefits be in any way
12 diminished as a result of such discharge or dismissal. Such member
13 shall be deemed to be retired on the date of his or her discharge or
14 dismissal from service for purposes of determining his or her rights and
15 benefits as a member of the retirement system.

16 b. Notwithstanding anything to the contrary in subdivision a of this
17 section, a member, other than a member to which article fourteen of the
18 retirement and social security law is applicable, that has attained at
19 least twenty years of creditable service in the retirement system shall
20 forfeit the retirement benefits to which the member would otherwise be
21 entitled if the member is convicted under the laws of the state of New
22 York of a felony, or under the laws of another state or of the United
23 States of an offense or crime which, if committed in the state of New
24 York, would be a felony.

25 c. Nothing in this section shall be construed to in any way modify or
26 affect the rights or benefits of any member of the retirement system to
27 which article fourteen of the retirement and social security law is
28 applicable.

29 § 3. This act shall take effect immediately.

STATE OF NEW YORK

3401

2011-2012 Regular Sessions

IN SENATE

February 18, 2011

Introduced by Sen. GOLDEN -- (at request of the New York State Teachers' Retirement System) -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to the right of vested members to withdraw from the New York state teachers' retirement system

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

1 Section 1. Section 512 of the education law is amended by adding a new
2 subdivision g to read as follows:

3 g. Notwithstanding any other provision of law to the contrary, any
4 member of the retirement system subject to article fourteen or fifteen
5 of the retirement and social security law who has permanently ceased
6 teaching shall have the right to elect the return of his or her accumu-
7 lated contributions and thereby terminate his or her membership in the
8 retirement system without regard to the amount of service to his or her
9 credit, provided a public employee retirement system in another state
10 has certified in a manner satisfactory to the system that such member is
11 a member of such other retirement system, has at least five years of
12 retirement credit in such other system, and is eligible, upon the termi-
13 nation of his or her membership in the system, to obtain retirement
14 credit in such other retirement system for the service which has been
15 credited to his or her membership in the system. Upon refund of such
16 accumulated contributions, any and all obligations of the retirement
17 system to such member shall be totally discharged. The retirement board
18 is authorized to adopt such rules and regulations as may be necessary to
19 implement this subdivision.

20 § 2. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would amend Section 512 of the Education Law to allow any member of the New York State Teachers' Retirement System (NYSTRS)

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD08931-01-1

subject to Article 14 or 15 of the Retirement and Social Security Law who has permanently ceased teaching to elect to receive a refund of their accumulated member contributions and thereby terminate membership in the NYSTRS provided he or she is a member of another state's retirement system, has at least five years of service credit in such system and is eligible to obtain retirement credit for this service in the other retirement system. All rights to any future benefits from the NYSTRS would be forfeited. Currently, members who cease teaching and have greater than 10 years of service credit do not have the option of electing to receive their accumulated member contributions in lieu of a monthly benefit at retirement. In the vast majority of cases, the present value of the retirement benefit is much greater than the value of the accumulated member contributions.

The annual cost to the employers of members of the New York State Teachers' Retirement System is estimated to be negligible if this bill is enacted.

The source of this estimate is Fiscal Note 2011-3 dated September 24, 2010 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2011 Legislative Session.

STATE OF NEW YORK

3402

2011-2012 Regular Sessions

IN SENATE

February 18, 2011

Introduced by Sen. GOLDEN -- (at request of the New York State Teachers' Retirement System) -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the retirement and social security law, in relation to increasing to ten percent the amount of assets of the New York state teachers' retirement system which may be invested in real property

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

1 Section 1. Paragraph (e) of subdivision 6 of section 177 of the
2 retirement and social security law, as amended by chapter 560 of the
3 laws of 1997, is amended to read as follows:

4 (e) Such real property, other than property to be used primarily for
5 agricultural, horticultural, ranch, mining, recreational, amusement or
6 club purposes, as may be acquired, as an investment for the production
7 of income (**including capital appreciation**), or as may be acquired to be
8 improved or developed for such investment purpose pursuant to an exist-
9 ing program therefor, subject to the following limitations: (1) the cost
10 of each parcel of real property so acquired under the authority of this
11 subdivision, including the estimated cost to the fund of the improvement
12 or development thereof, when added to the value of all other real prop-
13 erty then held by it pursuant to this subdivision, shall not exceed
14 [~~five~~ **ten** per cent of its assets, and (2) the cost of each parcel of
15 real property acquired under the authority of this subdivision, includ-
16 ing the estimated cost to the fund of the improvement or development
17 thereof, shall not exceed two per cent of the fund's assets.

18 § 2. Subdivision 6 of section 177 of the retirement and social securi-
19 ty law is amended by adding a new paragraph (f) to read as follows:

20 (**(f) Notwithstanding any other provision of this article, for the**
21 **purposes of this subdivision, an investment in an entity that invests or**
22 **proposes to invest, directly or indirectly through one or more other**
23 **entities, at least a majority of its assets in (1) any interest in real**

EXPLANATION--Matter in **italics** (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 property of any kind or character as an investment for the production of
 2 income (including capital appreciation), or (2) debt instruments secured
 3 by any interest in real estate may be considered an investment in real
 4 estate pursuant to this subdivision and included in the assets subject
 5 to the ten percent limitation of paragraph (e) of this subdivision.
 6

§ 3. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would amend subdivision 6 of section 177 of the Retirement and Social Security Law to increase the percentage of assets of the New York State Teachers' Retirement System (NYSTRS) which may be invested in real estate from five to ten percent. Additionally, this bill would add a new paragraph f to subdivision 6 of section 177 to allow NYSTRS to classify, at the System's election, real estate oriented funds or partnerships as a real estate asset for investment purposes.

It is estimated that there will be no annual cost to the employers of members of the New York State Teachers' Retirement System if this bill is enacted.

The source of this estimate is Fiscal Note 2011-4 dated September 24, 2010 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2011 Legislative Session.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

PROVISIONS OF PROPOSED LEGISLATION: with respect to the New York City Retirement Systems ("NYCRS"), this proposed legislation would amend Retirement and Social Security Law ("RSSL") Section 177.6(e) and add Section 177.6(f) to permit an increase to 10% the maximum percentage of NYCRS assets that could be invested in real property investments and to define certain investments as investments in real estate subject to the Section 177.6(e) limitations.

The Effective Date of the proposed legislation would be the date of enactment.

IMPACT ON REAL PROPERTY INVESTMENTS: Currently, with certain exceptions and limitations, the investments of the NYCRS in real properties as defined in the law may not exceed 5% of Fund assets and such properties must be for production of investment income.

The proposed legislation, if enacted, would increase such real property investment limitation to 10% of Fund assets on and after the Effective Date.

In addition, the proposed legislation would include capital appreciation within the definition of production of income from real property investments.

Further, for purposes of categorizing those investments that are to be considered real property investments, the proposed legislation would permit the inclusion of:

1. Any investment in an entity that invests or proposes to invest directly or indirectly at least a majority of its assets in any interest in real property of any kind or character, or
2. Debt instruments secured by any interest in real estate.

FINANCIAL IMPACT - EMPLOYER CONTRIBUTIONS: With respect to the NYCRS, the enactment of this proposed legislation would not, in and of itself, result in any change in employer contributions.

The ultimate cost of a Retirement Program is the benefits it pays. The financing of that ultimate cost is provided by contributions and investment income.

Investment income depends upon the amount of assets of the respective NYCRS Fund and the rate of return received on those assets. The rate of

return depends to a large extent upon the asset allocation policy of the respective NYCERS Fund.

To the extent that the NYCERS increase their investments in the securities authorized by this proposed legislation and those securities produce greater (lesser) rates of return than the rates of return that the NYCERS would otherwise have achieved, then employer contributions to the NYCERS would be lesser (greater).

STATEMENT OF ACTUARIAL OPINION I, Robert C. North, Jr., am the Chief Actuary for the New York City Retirement Systems. I am a Fellow of the Society of Actuaries and a Member of the American Academy of Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

FISCAL NOTE IDENTIFICATION: This estimate is intended for use only during the 2011 Legislation Session. It is Fiscal Note 2011-01, dated August 16, 2010, prepared by the Chief Actuary for the New York City Retirement Systems.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would amend the Retirement and Social Security Law to increase the percentage of assets of the eight (8) public retirement systems of New York State which may be invested in real estate from 5 to 10 percent. It would also allow such Systems to elect to classify real estate oriented funds or partnerships as a real estate asset for investment purposes.

If this bill is enacted, insofar as this bill affects the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System, we assume that there would be small investment changes. Any increases or decreases in investment earnings will result in decreases or increases, respectively, in employer contributions. Annual changes in assets will be shared by all employers and will be spread over the future working lifetimes of active members.

This estimate, dated January 7, 2011, and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-83 prepared by the Actuary for the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.



Section IV

Vetoed Legislation Affecting Other
New York Public Retirement System

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STATE OF NEW YORK

4067--A

2011-2012 Regular Sessions

IN SENATE

March 16, 2011

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law and the the general municipal law, in relation to allowing school districts the option of amortizing future payments to the New York state teachers' retirement system

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

- 1 Section 1. Section 521 of the education law is amended by adding a new
 2 subdivision 3 to read as follows:
 3 **3. Notwithstanding any other provision of law to the contrary, the**
 4 **governing board of an employer may elect to provide for the financing of**
 5 **a certain portion of the contributions due from such employer pursuant**
 6 **to this section on account of pensionable compensation paid by such**
 7 **employer during the plan years July first, two thousand eleven through**
 8 **June thirtieth, two thousand twelve and July first, two thousand twelve**
 9 **through June thirtieth, two thousand thirteen in accordance with the**
 10 **following provisions.**
 11 **a. Such employer shall have the authority to adopt a bond resolution**
 12 **authorizing the financing of the payment of a portion of the contrib-**
 13 **utions due from such employer on account of pensionable compensation**
 14 **paid by such employer in such plan years by the issuance of bonds with-**
 15 **out conducting a vote on a tax to be collected in installments not**
 16 **extending beyond fifteen years, provided the issuance of such obli-**
 17 **gations otherwise complies with the requirements of the local finance**
 18 **law and this chapter and provided further the amount of bonds issued**
 19 **pursuant to this authority shall not in the aggregate exceed one hundred**
 20 **twenty-five per centum of the contributions due from such employer on**
 21 **account of pensionable compensation paid during the plan year July**
 22 **first, two thousand ten through June thirtieth, two thousand eleven.**

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets
 [-] is old law to be omitted.

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1 b. The proceeds of such bond issuance shall be deposited by such
2 employer in a retirement contribution reserve account established pursu-
3 ant to section six-r of the general municipal law and shall be applied
4 to offset those contributions due from such employer to the system on
5 account of pensionable compensation paid during the plan years July
6 first, two thousand eleven through June thirtieth, two thousand twelve
7 and July first, two thousand twelve through June thirtieth, two thousand
8 thirteen and paid to the system from the appropriation for the support
9 of common schools pursuant to this section as follows:

10 (i) so much of such proceeds shall be applied to offset the contrib-
11 utions due from such employer on account of pensionable compensation
12 paid by such employer during the plan year July first, two thousand
13 eleven through June thirtieth, two thousand twelve and paid to the
14 system from the appropriation for the support of common schools pursuant
15 to this section, but in no event shall the offset exceed the amount by
16 which the contribution obligation of such employer exceeds eight and
17 sixty-two one hundredths per centum of such pensionable compensation;
18 and

19 (ii) the remainder of such proceeds, if any shall be applied to offset
20 the contributions due from such employer on account of pensionable
21 compensation paid by such employer during the plan year July first, two
22 thousand twelve through June thirtieth, two thousand thirteen and paid
23 to the system from the appropriation for the support of common schools
24 pursuant to this section, but in no event shall the offset exceed the
25 amount by which the contribution obligation of the employer exceeds
26 eight and sixty-two one hundredths per centum of such pensionable
27 compensation; and

28 (iii) any balance of such proceeds, if any remaining after the actions
29 prescribed in subparagraphs (i) and (ii) of this paragraph shall be
30 applied to offset the contributions due from such employer on account of
31 pensionable compensation paid by such employer during the plan year July
32 first, two thousand thirteen through June thirtieth, two thousand four-
33 teen, used to offset debt resulting from this bond issuance or pay
34 future employer pension contributions.

35 § 2. Paragraphs b and c of subdivision 1 of section 6-r of the general
36 municipal law, as added by chapter 260 of the laws of 2004, are amended
37 to read as follows:

38 b. "Participating employer" means a participating employer as defined
39 in subdivision twenty of section two of the retirement and social secu-
40 rity law or in subdivision twenty of section three hundred two of such
41 law or an employer as defined in subdivision three of section five
42 hundred one of the education law.

43 c. "Retirement contribution" shall mean all or any portion of the
44 amount payable by a municipal corporation to either the New York state
45 and local employees' retirement system or the New York state and local
46 police and fire retirement system pursuant to section seventeen or three
47 hundred seventeen of the retirement and social security law or to the
48 New York state teachers' retirement system pursuant to sections five
49 hundred seventeen and five hundred twenty-one of the education law.

50 § 3. Section 6-r of the general municipal law is amended by adding a
51 new subdivision 11 to read as follows:

52 11. A participating employer which has deposited the proceeds of a
53 bond issuance authorized pursuant to subdivision three of section five
54 hundred twenty-one of the education law is authorized to withdraw such
55 proceeds when but only to the extent such proceeds have been offset

1 against the contribution obligation of such employer to the New York
2 state teachers' retirement system as provided in such subdivision.

3 § 4. This act shall take effect immediately.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would amend Section 521 of the Education Law to allow the governing board of a participating employer of the New York State Teachers' Retirement System to finance a certain portion of the contributions due from such employer on account of pensionable compensation paid by such employer during the two plan years July 1, 2011 through June 30, 2012 and July 1, 2012 through June 30, 2013. An employer will have the authority to adopt a bond resolution authorizing the financing of these contributions over a period not to extend beyond fifteen years. The amount of such bonds shall not exceed 125% of the contributions due from such employer on account of pensionable compensation paid during the plan year July 1, 2010 through June 30, 2011. The proceeds of such bond issuance shall be deposited by an employer in a retirement contribution reserve account and shall be applied to offset contributions due from such employer to the System on account of pensionable compensation paid during the plan years July 1, 2011 through June 30, 2012 and July 1, 2012 through June 30, 2013. In no event shall the offset exceed the amount by which the contribution obligation of such employer exceeds 8.62% of such pensionable compensation paid during the applicable plan years. Any remaining balance of such proceeds shall be applied to offset the contributions due from such employer on account of pensionable compensation paid by such employer during the plan year July 1, 2013 through June 30, 2014, used to offset debt resulting from the bond issuance or pay future employer pension contributions.

It is estimated that there will be no annual cost to the employers of members of the New York State Teachers' Retirement System, with respect to additional employer contributions to the System, if this bill is enacted. The annual actuarially required employer contributions will continue to be paid in full and on time to the Retirement System as provided under current law. However, there will be bond-related expenses to employers who elect to finance a portion of employer contributions through the issuance of bonds.

The source of this estimate is Fiscal Note 2011-08 dated February 8, 2011 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2011 Legislative Session.

VETO MESSAGE - No. 23

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 4067-A, entitled:

"AN ACT to amend the education law and the general municipal law, in relation to allowing school districts the option of amortizing future payments to the New York state teachers' retirement system"

NOT APPROVED

This bill would allow school districts to borrow by selling bonds to pay for employer pension costs to the New York State Teachers' Retirement System without voter approval. In particular, the bill would authorize the governing boards of school districts located outside New York City to elect to finance a portion of their current pension contributions for plan years 2011-12, 2012-13, 2013-14 and potentially thereafter. Under the bill, the amount of such borrowing could not exceed 125% of the aggregate contribution due from each district for the 2010-11 plan year.

When I took office earlier this year, I made a firm commitment to the people of this State that the days of irresponsible fiscal practices are over. I pledged to put an end to the unsustainable spending and rampant borrowing that has burdened New Yorkers with some of the highest property and school taxes in the nation. To that end, this year, with the help of the Legislature, we enacted historic and landmark legislation to cap local property and school taxes and reduce unfunded mandates on local governments.

This bill, if signed into law, would not only undermine the historic reforms we have achieved this session, but would also breach the trust placed in me by the people of this State. Indeed, this legislation would burden local property taxpayers and businesses -- both current and future -- with up to 15 years of long-term debt without their approval. Instead of cutting spending, this bill would enable school districts to borrow to meet current expenses, forcing taxpayers in the future to repay amounts significantly higher than what was originally borrowed. New York taxpayers and businesses can ill afford these imprudent fiscal practices which will unquestionably result in several more years of unsustainable tax increases.

While I am disapproving this bill today, I am cognizant of the challenges facing local governments and pledge to work closely with localities, including school districts, to reduce costs, relieve the burden on property taxpayers and maintain the highest possible quality of services for all New Yorkers.

The bill is disapproved.

(signed) Andrew M. Cuomo

STATE OF NEW YORK

5756

2011-2012 Regular Sessions

IN SENATE

June 14, 2011

Introduced by COMMITTEE ON RULES -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the retirement and social security law, in relation to permitting Triborough bridge and tunnel members of the twenty-year/age fifty retirement program who have incurred contribution deficiencies to defer full repayment until 2015

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

1 Section 1. Paragraph 7-a of subdivision e of section 604-c of the
2 retirement and social security law, as amended by chapter 693 of the
3 laws of 2003, is amended to read as follows:

4 7-a. Notwithstanding paragraph six or seven of this subdivision, where
5 a deficiency chargeable to a participant pursuant to paragraph three of
6 this subdivision has not been paid in full while the participant is a
7 Triborough bridge and tunnel member and such participant retires prior
8 to July first, two thousand [~~eleven~~ **fifteen**, such participant may elect
9 to be covered by this paragraph. Such participant shall be entitled to
10 the benefits provided in subdivision c of this section provided that
11 participant authorizes the retirement system to deduct from such bene-
12 fits an amount which will result in the deficiency, plus associated
13 interest to date of final payment, being paid in full no later than July
14 first, two thousand [~~eleven~~ **fifteen** or such earlier date as agreed to
15 by the participant. Such amount will be deducted in equal installments
16 on a monthly basis. Nothing in this paragraph shall prevent the partic-
17 ipant from making a partial payment of the amount of the deficiency at
18 the time of retirement so as to reduce the monthly payment nor to make a
19 lump sum payment equal to the amount of the total unpaid balance at any
20 time during the period of repayment.

21 § 2. This act shall take effect immediately.

FISCAL NOTE.--PROVISIONS OF PROPOSED LEGISLATION: This proposed legis-
lation would amend Retirement and Social Security Law ("RSSL") Section

EXPLANATION--Matter in ***italics*** (underscored) is new; matter in brackets
[-] is old law to be omitted.

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604-c.e.7(a) to extend from June 30, 2011 to June 30, 2015 the right for the Triborough Bridge and Tunnel Authority ("TBTA") employee participating in the TBTA Age 50/20 Years of Service Plan ("TBTA 50/20 Plan") to retire with an Additional Member Contribution ("AMC") deficiency.

The Effective Date of the proposed legislation would be the date of enactment.

MEMBERS IMPACTED BY THE PROPOSED LEGISLATION: The proposed legislation would cover active members of NYCERS ("Covered Members") who are participating in the TBTA 50/20 Plan and who elect to retire between July 1, 2011 and June 30, 2015.

IMPACT ON BENEFITS PAYABLE: Under current law, Covered Members who retire prior to July 1, 2011 are permitted to retire with an AMC deficiency and repay that deficiency during retirement no later than July 1, 2011.

The proposed legislation would extend the July 1, 2011 date of this provision to July 1, 2015.

FINANCIAL IMPACT - OVERVIEW: The ultimate cost of this proposed legislation depends on how many active TBTA 50/20 Plan participants choose to retire between July 1, 2011 and June 30, 2015 and, if so, whether they have, and choose not to pay off, any AMC deficiencies.

FINANCIAL IMPACT - ANNUAL EMPLOYER CONTRIBUTIONS: Under current practice actuarial gains or losses attributable to TBTA 50/20 Plan participants who retire with an AMC deficiency are not determined until after retirement.

Following retirement, if a TBTA 50/20 Plan participant retires with an AMC deficiency, the actuarial gain or loss is represented by the difference between the amount earned by the lesser amount of Plan assets (due to paying the full benefit amounts without accounting for the AMC deficiency) versus the interest amounts paid on the AMC deficiency.

Overall, this impact is expected to be modest and the impact on annual employer contributions is expected to be minor.

If enacted on or before June 30, 2011, this proposed legislation would be expected to change employer contributions to NYCERS beginning Fiscal Year 2014 after Covered Members retire during Fiscal Year 2012.

If enacted during the 2011 Legislative Session after June 30, 2011 but on or before December 31, 2011, this proposed legislation would also first impact employer contributions to NYCERS beginning Fiscal Year 2014.

FINANCIAL IMPACT - POTENTIAL CHANGES IN ACTUARIAL ASSUMPTIONS AND METHODS: The impact of enactment of the proposed legislation provided in this Fiscal Note has been based on the continued use of certain current actuarial assumptions and methods.

However, this set of actuarial assumptions and methods do not represent the only possible approach for funding NYCERS.

Historically, actuarial assumptions and methods have been reviewed on average every five years in connection with an actuarial experience study mandated by New York City Charter Section 96.

Following this review, the Actuary generally proposes changes in actuarial assumptions and methods that he believes are appropriate and reasonably related to such experience period and future expectations.

The next such review is anticipated during Fiscal Year 2012 at which time the Actuary is likely to propose new packages of actuarial assumptions and methods to be effective for use in determining employer contributions beginning Fiscal Year 2012.

It is anticipated that whatever new actuarial assumptions are recommended by the Actuary are likely to result in increased APVB and employer

costs as the current actuarial assumptions no longer represent the Actuary's best estimates.

Note: The Actuary has not yet committed to any particular actuarial assumptions or methodology for determining employer costs and employer contributions in connection with the upcoming, experience review of actuarial assumptions and methods.

OTHER COSTS: The enactment of this proposed legislation would also be expected to result in minor increases in administrative expenses of NYCERS, the employer and certain New York City agencies.

CENSUS DATA: As of June 30, 2010, census data consisted of 891 TBTA 50/20 Plan participants of NYCERS with annual salaries of approximately \$62.3 million.

The subset of Covered Members who are potentially affected by the proposed legislation (i.e., eligible to retire on or before June 30, 2015) consisted of 121 Tier IV members with salaries of approximately \$10.4 million whose average age and average service as of June 30, 2010 were 50.8 years and 22.5 years, respectively.

ACTUARIAL ASSUMPTIONS AND METHODS: Additional APVB, employer costs and employer contributions have been estimated based on the actuarial assumptions and methods in effect for the June 30, 2010 (Lag) actuarial valuation of NYCERS for use in determining the Fiscal Year 2012 employer contributions.

Additional annual employer costs and employer contributions have been estimated assuming any additional APVB would be financed through future normal contributions.

As stated earlier, the Actuary is likely to propose new packages of actuarial assumptions and methods to be effective for use in determining employer contributions beginning Fiscal Year 2012. As such, not all assumptions employed in determining the results contained in this Fiscal Note for Fiscal Years 2012 and later represent the Actuary's current best estimate of future experience. However, most of the assumptions and methods used to determine the results contained herein are generally those adopted by the NYCERS Board of Trustees and enacted by the State Legislature and Governor, and provide consistency with the employer contributions currently being presented.

Finally, the actuarial assumptions currently employed for determining employer contributions do not represent risk-adjusted, economic evaluations. As risk-adjusted, economic evaluations could, for certain components of the proposed legislation, produce results that differ significantly from the results shown herein.

STATEMENT OF ACTUARIAL OPINION: I, Robert C. North, Jr., am the Chief Actuary for the New York City Retirement Systems. I am a Fellow of the Society of Actuaries and a Member of the American Academy of Actuaries. I meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

FISCAL NOTE IDENTIFICATION: This estimate is intended for use only during the 2011 Legislative Session. It is Fiscal Note 2011-21, dated June 13, 2011, prepared by the Chief Actuary for the New York City Employees' Retirement System.

VETO MESSAGE - No. 26

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 5756, entitled:

"AN ACT to amend the retirement and social security law, in relation to permitting Triborough bridge and tunnel members of the twenty-year/age fifty retirement program who have incurred contribution deficiencies to defer full repayment until 2015"

NOT APPROVED

This bill would allow certain employees of the Metropolitan Transportation Authority to participate in a special retirement plan to receive a half-pay pension upon reaching fifty years of age and completing twenty years of service. This retirement plan was first authorized in 1995 and subsequently provisions allowing time to repay contribution deficiencies have been enacted because of delays in the original implementation of the bill by the New York City Employees' Retirement System.

Contrary to the stated purpose of this legislation, this bill does not simply extend the provisions for repayment and provide discretion to the retirement system "to approve hardship extensions when and if deficiencies occur." The proposed legislation would instead provide an enhanced pension benefit, commonly called a "sweetener", to all plan enrollees who are eligible to retire prior to July 1, 2015, as well as additional time for repayment of deficiencies.

Last month I submitted pension reform legislation which would create a new pension tier to reduce costs to local governments. This bill, if signed into law, would grant a generous pension benefit to certain existing employees that is inconsistent with the intent and reforms contained in that legislation.

While I am disapproving this bill today, it is not a reflection on the employees of the Triborough Bridge and Tunnel Authority and the hard work and challenges they face every day ensuring that the transportation systems under their care stay safe and run efficiently. However, we must go in the direction of reforming the system in a manner that will generate the necessary savings balanced with protecting our retirees, not enhancing a system that is already unsustainable.

The bill is disapproved.

(signed) Andrew M. Cuomo

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