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,

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 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 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**]

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]**

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Section I

Legislation Affecting the
New York State and Local Retirement System

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Chapter 62 **Signed March 31, 2011**

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.

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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

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

CHAPTER 18-A OF THE CONSOLIDATED LAWS
FINANCIAL SERVICES LAW
ARTICLE 1
GENERAL PROVISIONS

Section 101. Short title.
101-a. Legislative findings and determinations.
102. Department of financial services.
103. Explanation of order of provisions.
104. Definitions.

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

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

The legislature also finds and determines that responsive, effective, innovative, state banking and insurance regulation is necessary to operate in a global, evolving and competitive market place.

The legislature additionally finds and determines that this legislation is necessary to modernize and transform the present state banking department and state insurance department into a new integrated department of financial services.

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

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

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

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

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

(e) To promote and provide for the continued, effective state regulation of the insurance industry;

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

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

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

(i) To ensure the continued safety and soundness of New York's banking, insurance and financial services industries, as well as the prudent conduct of the providers of financial products and services, through responsible regulation and supervision;

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

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

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

§ 103. Explanation of order of provisions. In this financial services law, the provisions have been divided in descending order of application, with illustrations, as follows:

Article 1
  Section 101
    Subsection (a)
      Paragraph (1)
        Subparagraph (A)
          Item (i)
            Clause (I)
              Subitem (aa)
                Subclause (aaa)

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

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

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

(B) "Financial product or service" shall also not include the following, when offered or provided by a provider of consumer goods or services: (i) the extension of credit directly to a consumer exclusively for the purpose of enabling that consumer to purchase such consumer good or service directly from the seller, (ii) the collection of debt arising from such credit, or (iii) the sale or conveyance of such debt that is delinquent or otherwise in default.

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

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

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

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

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

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

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

ARTICLE 2

ORGANIZATION OF THE DEPARTMENT OF FINANCIAL SERVICES

Section 201. Declaration of policy.
202. Superintendent.
203. Deputies; employees.
204. Offices of the department.
205. Bureaus.
205-a. Report.
205-b. State charter advisory board.
206. Assessments to defray operating expenses of the department.

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

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

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

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

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

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

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

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

(7) educate and protect users of financial products and services and ensure that users are provided with timely and understandable information to make responsible decisions about financial products and services.

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

(b) The superintendent may, in the superintendent's discretion, designate one of the superintendent's deputies to act as superintendent during the superintendent's absence or inability to act. If the office of superintendent is vacant, or if the superintendent's absence or

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

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

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

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

(c) Any action that the superintendent is required or authorized hereinafter by this chapter, the banking law, the insurance law or other laws to take may be taken by a deputy or authorized employee to whom the duty of taking such action has been delegated or assigned by the superintendent.

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

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

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

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

§ 205-b. State charter advisory board. There shall be within the department a state charter advisory board to work with the superintendent in retaining state chartered banking institutions, encouraging federally chartered institutions to convert to a state charter and promoting the state banking system. There shall be nine members of the advisory board who shall be appointed by the superintendent. The membership shall consist of: (a) one representative of credit unions, (b) one representative of consumers, (c) one representative of foreign banks; and (d) representatives of banks which, to the extent practicable, reflect a range of size and geographical location, provided, however, that at least one shall represent institutions of more than three billion dollars in assets; at least two shall represent institutions of less than five hundred million dollars in assets. The superintendent shall make rules to govern the method by which state chartered institutions may nominate persons to the board and the process for selecting such members, provided that the representative of consumers shall be selected by the superintendent. The term of each member of such advisory board shall be three years, or until a successor is appointed and vacancies shall be filled for the unexpired term only. The board shall meet at least three times annually pursuant to the call of the superintendent. Such meetings may be held by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. The members of the advisory board shall receive no compensation nor reimbursement for expenses. The advisory board may:

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

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

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

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

(5) report within thirty days after receipt, on any proposed regulations, amendments thereto, or repeal thereof, prior to final action thereon by the superintendent.

The advisory board shall have no executive, administrative or appointive powers or duties.

§ 206. Assessments to defray operating expenses of the department. (a) For each fiscal year commencing on or after April first, two thousand twelve, assessments to defray operating expenses, including all

direct and indirect costs, of the department, except expenses incurred in the liquidation of banking organizations, shall be assessed by the superintendent in accordance with this subsection. Persons regulated under the insurance law shall be assessed by the superintendent for the operating expenses of the department that are solely attributable to regulating persons under the insurance law, which shall include any expenses that were permissible to be assessed in fiscal year two thousand nine-two thousand ten, with the assessments allocated pro rata upon all domestic insurers and all licensed United States branches of alien insurers domiciled in this state within the meaning of paragraph four of subsection (b) of section seven thousand four hundred eight of the insurance law, in proportion to the gross direct premiums and other considerations, written or received by them in this state during the calendar year ending December thirty-first immediately preceding the end of the fiscal year for which the assessment is made (less return premiums and considerations thereon) for policies or contracts of insurance covering property or risks resident or located in this state the issuance of which policies or contracts requires a license from the superintendent. Persons regulated under the banking law shall be assessed by the superintendent for the operating expenses of the department that are solely attributable to regulating persons under the banking law in such proportions as the superintendent shall deem just and reasonable. Operating expenses of the department not covered by the assessments set forth above shall be assessed by the superintendent in such proportions as the superintendent shall deem just and reasonable upon all domestic insurers and all licensed United States branches of alien insurers domiciled in this state within the meaning of paragraph four of subsection (b) of section seven thousand four hundred eight of the insurance law, and upon any regulated person under the banking law, other than mortgage loan originators, except as otherwise provided by sections one hundred fifty-one and two hundred twenty-eight of the workers' compensation law and by section sixty of the volunteer firefighters' benefit law. The provisions of this subsection shall not be applicable to a bank holding company, as that term is defined in article three-A of the banking law. Persons regulated under the banking law will not be assessed for expenses that the superintendent deems to benefit solely persons regulated under the insurance law, and persons regulated under the insurance law will not be assessed for expenses that the superintendent deems to benefit solely persons regulated under the banking law.

(b) For each fiscal year commencing on or after April first, two thousand twelve, a partial payment shall be made by each entity subject to this section in a sum equal to twenty-five per centum, or such other per centum or per centums as the superintendent may prescribe, of the annual expenses assessed upon it for the fiscal year as estimated by the superintendent. Such payment shall be made on March tenth of the preceding fiscal year and on June tenth, September tenth and December tenth of each year, or at such other dates as the superintendent may prescribe. The balance of assessments for the fiscal year shall be paid upon determination of the actual amount due in accordance with the provisions of this section. Any overpayment of annual assessment resulting from complying with the requirements of this subsection shall be applied against the next estimated quarterly assessment, if less than or equal to such amount, with any excess refunded to the assessed. As an alternative, if the estimated annual assessment for the fiscal year is equal to or less than the annual minimum assessment set by the superintendent, the superintendent may require full payment to be made on or before

September thirtieth or such other date of the fiscal year as the superintendent may determine.

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

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

(e) The superintendent may, in the superintendent's sole discretion, upon notice, suspend the license, registration, certificate or authority (for purposes of this section, a license) granted to any person pursuant to this chapter, the banking law or insurance law, upon the failure of such person to make any payment required by this section within thirty days after the due date. If the superintendent has suspended any such license, such license may be reinstated if the superintendent determines that such person has made any such payments within ninety days after the date of such notice of suspension. Otherwise, unless the superintendent, in the superintendent's sole discretion, has extended such suspension, the license of such person shall be deemed to be automatically terminated by operation of law at the close of business on such nineteth day.

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

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

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

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

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

ARTICLE 3

ADMINISTRATIVE AND PROCEDURAL PROVISIONS

Section 301. Powers of the superintendent.
302. Regulations by superintendent.
303. Orders of superintendent; when writing required.
304. Notice; how given.
304-a. Actions of the department subject to the state administrative procedure act.
305. Hearings; conduct; findings and report.
306. Attendance of witnesses; production of documents and records.
307. Intentionally omitted.
308. Judicial review of orders, regulations and decisions of superintendent.
309. Injunction to restrain violation of this chapter.
310. Certificates as evidence; affirmation of documents and testimony.

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

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

(c) The superintendent shall have the power to protect users of financial products and services, including:

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

(2) receiving complaints of consumers of financial products and services, and where appropriate (A) providing assistance to consumers; (B) mediating the resolution of such complaints with providers of financial products and services; or (C) referring such complaints to the appropriate federal, state or local agency authorized by law for appropriate action on such complaints;

(3) studying the operation of laws and advising and making recommendations to the governor on matters affecting consumers of and investors in financial products and services and promoting and encouraging the protection of the legitimate interests of users of such financial products and services;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) notice of the time and the place at which an opportunity for hearing will be afforded, and

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

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

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

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

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

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

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

(c) Every such hearing, except for hearings under the banking law, shall be open to the public unless the superintendent or the person authorized by the superintendent to conduct such hearing, shall determine that a private hearing would be in the public interest, in which case the hearing shall be private. Hearings under the banking law shall be as provided for in the banking law.

(d) Every person affected shall be allowed to be present during the giving of all the testimony, and shall be allowed a reasonable opportunity to inspect all adverse documentary proof, to examine and cross-examine witnesses, and to present proof in support of the person's interest.

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

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

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

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

(d) Every regulated person under this chapter, the insurance law or the banking law who is given a notice of hearing pursuant to this chapter shall upon the service of a notice to produce books and records, when attached to the notice of hearing or mailed subsequently thereto in the same manner as the notice of hearing, pursuant to such notice, produce at the hearing the books, records and documents enumerated therein.

§ 307. Intentionally omitted.

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

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

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

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

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

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

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

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

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

ARTICLE 4

FINANCIAL FRAUDS PREVENTION

Section 401. Intentionally omitted.
402. Legislative declaration.
403. Financial frauds and consumer protection unit.
404. Powers of the financial frauds and consumer protection unit.
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

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

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

(C) nothing in this section shall affect the construction or interpretation of the term "fraud" as it is used in any other provision of the consolidated or unconsolidated law.

(b) Civil penalties received by the superintendent pursuant to this section shall be applied on an annual basis as follows: funds shall be applied first to reduce the assessments charged on persons regulated under the insurance law and the banking law pursuant to section two hundred six of this chapter up to the full amount paid by persons regulated under the insurance law and banking law for the operating expenses of the financial frauds and consumer protection unit not attributable to regulation under the insurance or banking law for the fiscal year in which such penalties are received, such amount shall be applied to any assessment in the following year, and any remaining funds shall be paid to the general fund. The superintendent shall have discretion to determine how operating expenses which are not solely attributable to regulating persons under either the insurance law or the banking law shall be allocated.

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

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

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

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

ARTICLE 5

RESTRICTIONS ON OFFICERS AND EMPLOYEES OF THE DEPARTMENT

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

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

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

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

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

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

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

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

ARTICLE II-B
FINANCIAL FRAUDS [~~PREVENTION ACT~~]

Section [~~76. Short title.~~
~~77. Criminal investigations bureau.~~]
78. Powers [~~of the bureau~~] **with respect to certain crimes and frauds**.
[~~79. Immunity.~~
~~80. Other law enforcement authority, powers and duties not affected or impaired.~~

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

~~§ 77. Criminal investigations bureau. The superintendent shall establish a criminal investigations bureau in the department.~~]

§ 78. Powers [~~of the bureau~~] **with respect to certain crimes and frauds**. If the [~~criminal investigations bureau~~] **superintendent** has a reasonable suspicion that a person or entity [~~subject to the jurisdiction of the department has, in connection with activities authorized by this chapter, engaged in, or is engaging in an activity which is a misdemeanor or felony under this chapter or under~~] **is engaging in or has engaged in fraud (as interpreted under this chapter, the insurance law or the financial services law) or a misdemeanor or felony under this chapter or one of the articles of the penal law enumerated in this section in connection with activities regulated by the superintendent pursuant to this chapter or involving a product regulated pursuant to this chapter, the superintendent may undertake such investigation as is deemed necessary, and in the enforcement of this chapter, determine whether any such person or entity has violated or is about to violate this chapter or any such enumerated articles. The applicable articles of the penal law are** article one hundred fifty-five, one hundred seventy, one hundred seventy-five, one hundred seventy-six, one hundred eighty, one hundred eighty-five, one hundred eighty-seven, one hundred ninety, two hundred, two hundred ten or four hundred seventy [~~of the penal law, the superintendent may undertake such investigation as is deemed necessary, and in the enforcement of this chapter, determine whether any such person or entity has violated or is about to violate any of the above referenced laws or articles. Provided, however, that~~]**. Notwithstanding the above-referenced laws or articles,** the scope of authority set forth in this section shall not be deemed to otherwise limit or impair the ability of the department to assist any other entity in an investigation involving a violation of law.

[~~§ 79. Immunity. In the absence of fraud or bad faith, no person or entity subject to the provisions of this chapter shall be subject to civil liability, and no civil cause of action of any nature shall arise against such person or entity, for providing information to law enforcement officials, including persons assigned to the criminal investigations bureau, relating to suspected criminal violations of this chapter or the affecting entities or persons subject to the jurisdiction of the department.~~

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

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

~~2. Prevent or prohibit a person from voluntarily disclosing any information concerning violations of this article to any law enforcement agency.~~

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

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

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

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

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

~~(c)~~] Arson for insurance fraud is a particularly damaging crime against society, destroying lives, property and neighborhoods. Insurance losses resulting from arson are reflected in higher premiums charged to residents of this state.

[~~(d)~~] **(c)** This article establishes a framework within which the superintendent and the department can more effectively assist in the elimination of arson for insurance fraud. That increased capacity, together with a more effective monitoring of fire loss claims and payments by the insurance industry through centralized reporting and oversight, is intended to make it more difficult to perpetrate the crime of insurance fraud by arson.

§ 4. Intentionally omitted.

§ 5. Intentionally omitted.

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

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

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

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

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

(b) The [~~insurance frauds bureau~~] **superintendent** shall review each report and undertake such further investigation as [~~it~~] **the superintendent** deems necessary and proper to determine the validity of the allegations.

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

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

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

~~(2) the number of reports received from any person or persons engaged in the business of insurance or life settlements, the number of investigations undertaken by the bureau pursuant to any reports received, the number of investigations undertaken not as a result of reports received, the number of investigations that resulted in a referral to a licensing agency, a local prosecutor or the attorney general, the number of such referrals pursued by a licensing agency, a local prosecutor or the attorney general, and the disposition of such cases;~~

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

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

~~(5) the total number of employees assigned to the frauds bureau delineated by title and location of bureau assigned;~~

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

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

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

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

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

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

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

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

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

(1) interface of special investigation unit personnel with law enforcement and prosecutorial agencies[~~, including~~] **and with** the [~~insurance frauds bureau~~] **financial frauds and consumer protection unit** of the [~~state insurance department~~] **department of financial services**;

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

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

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

§ 11. [~~Banking department; official~~] **Department of financial services; official** documents; destruction of documents; official communications. 1. The [~~banking~~] department shall be charged with the execution of the laws relating to the individuals, partnerships, corporations and other entities to which this chapter is applicable and shall exercise such powers and perform such duties as are conferred and imposed upon it by this chapter**,** or by any law of this state. [~~The principal office of the department shall be in the city of Albany.~~

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

~~3.~~] **2.** (a) Except as specified in paragraph (b) or (c) of this subdivision, any report expressly required to be rendered to the superintendent under any provision of this chapter, any report of an examination made in accordance with any provision of this chapter, and any oath or

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

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

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

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

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

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

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

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

(41) "Superintendent" means the superintendent of [~~insurance~~] **financial services** of this state.

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

(28) Department. The term "department" means the department of financial services of this state.

(29) Superintendent. The term "superintendent" means the superintendent of financial services of this state.

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

(b) commissioner of labor, chairman of public service commission, commissioner of taxation and finance, superintendent of [~~banks~~] **financial services**, commissioner of criminal justice services, [~~superintendent of insurance,~~] and commissioner of parks, recreation and historic preservation;

(e) chairman of state athletic commission, [~~chairman and executive director of consumer protection board,~~] director of the office of victim services, chairman of human rights appeal board, chairman of the industrial board of appeals, chairman of the state commission of correction, members of the board of parole, members of the state racing and wagering board, member-chairman of unemployment insurance appeal board, director of veterans' affairs, and vice-chairman of the workers' compensation board;

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) coordinate the activities of all state agencies performing consumer protection functions;

(3) initiate and encourage consumer education programs;

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

(5) cooperate with and assist the attorney general and the department of financial services in the carrying out of legal enforcement responsibilities for the protection of consumers;

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

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

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

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

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

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

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

(10) undertake activities to encourage business and industry to maintain high standards of honesty, fair business practices, and public responsibility in the production, promotion and sale of consumer goods and services;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. An advisory council for registered business and licensed trade schools is hereby created for the purpose of advising the board of regents and the commissioner as provided herein. The council shall be composed of eleven members appointed by the governor, two of whom shall be upon the recommendation of the temporary president of the senate, two of whom shall be upon the recommendation of the speaker of the assembly, one of whom shall be upon the recommendation of the minority leader of the senate and one of whom shall be upon the recommendation of the minority leader of the assembly. Of the five remaining members, one shall be an owner or director of a school regulated pursuant to this article, one shall be a currently enrolled student at the time of appointment or a graduate of such a school who graduated within three years of appointment and one shall be a student advocate. The governor shall designate a chairperson from such members. The commissioner of education, the president of the higher education services corporation, the [~~**chair of the consumer protection board**~~] **secretary of state**, the comptroller, the director of the division of the budget, and the executive director of the job training partnership council, or their designees, shall serve as ex-officio, non-voting members of the council.

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

1. There shall be established a state energy planning board, hereinafter referred to as the "board", which shall consist of the chair of the public service commission, the commissioner of environmental conservation, the commissioner of economic development, the commissioner of transportation, the commissioner of labor, the director of the state emergency management office, [~~**the chair of the consumer protection board,**~~] the commissioner of health, the president of the New York state urban development corporation, the secretary of state and the president of the New York state energy research and development authority. The governor, the speaker of the assembly and the temporary president of the senate shall each appoint one representative to serve on the board. The presiding officer of the federally designated electric bulk system operator (BSO) shall serve as a non-voting member of the board. Any decision or action by the board shall be by majority vote. The president of the

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

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

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

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

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

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

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

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

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

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

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

1. "Department" means the department of state.

4. "Secretary" means the secretary of state.

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

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

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

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

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

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

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

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

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

4. If any person refuses to comply with a subpoena issued under this section, the [~~board~~] **department** may petition a court of competent jurisdiction to enforce the subpoena and such sanctions as the court may direct.

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

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

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

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

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

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

with the [~~state consumer protection board~~] **department of state,** to enhance distribution of fliers to consumers. The flier shall also be made available on the department and the [~~state consumer protection board's~~] **department of state's** internet site, and shall contain information including, but not limited to, the following:

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

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

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

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

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

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

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

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

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

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

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

2. The [~~consumer protection board~~] **department of state**, in consultation with the office of parks, recreation and historic preservation, shall promulgate rules and regulations for the design, installation, inspection and maintenance of playgrounds and playground equipment. Those regulations shall substantially comply with the guidelines and criteria which are contained in the handbook for public playground safety produced by the United States consumer products safety commission or any successor. The rules and regulations shall include special provisions for playgrounds appropriate for children within the range of ages in day care settings.

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

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

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

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

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

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

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

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

b. Any company that provides local telephone directories to customers in this state shall inform its customers of the provisions of this section by means of publishing a notice in such local telephone directories.

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

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

b. Any proceeding conducted pursuant to paragraph a of this subdivision shall be subject to the state administrative procedure act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Notwithstanding any inconsistent general, special or local law or rule or regulation to the contrary, the commission shall to the extent the [~~board~~] **department** shall so request in any cases or class of cases, give notice to the [~~board~~] **department** of any filed statement proposing to modify or increase rates, services, schedule of rates or any other rating rule or to adopt or amend any rate or service rules or regulations within five days after the commission shall have received such statement from any utility subject to its jurisdiction; provided, however, that in lieu of giving such notice, the commission may direct that the utility give such notice to the [~~board~~] **department**.

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

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

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

§ 71. Complaints as to quality and price of gas and electricity; investigation by commission; forms of complaints. Upon the complaint in writing of the mayor of a city, the trustees of a village, the town board of a town or the chief executive officer or the legislative body of a county in which a person or corporation is authorized to manufacture, convey, transport, sell or supply gas or electricity for heat, light or power, or upon the complaint in writing of not less than twenty-five customers or purchasers of such gas or electricity, or upon the complaint in writing of the [~~state consumer protection board~~] **department of state**, or upon a complaint of a gas corporation or electrical corporation supplying or transmitting said gas or electricity, as to the illuminating or heating power, purity or pressure or the rates, charges or classifications of service of gas, the efficiency of the electric incandescent lamp supply, the voltage of the current supplied for light, heat or power, or the rates charged or classification of service of electricity sold and delivered in such municipality, the commission shall investigate as to the cause for such complaint. When such complaint is made, the commission may, by its agents, examiners and inspectors, inspect the works, system, plant, devices, appliances and methods used by such person or corporation in manufacturing, transmitting and supplying such gas or electricity, and may examine or cause to be examined the books and papers of such person, or corporation pertaining to the manufacture, sale, transmitting and supplying of such gas or electricity. The form and contents of complaints made as provided in this section shall be prescribed by the commission. Such complaints shall be signed by the officers, or by the customers, purchasers or subscribers making them, who must add to their signatures their places of residence, by street and number, if any.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 54. Intentionally omitted.

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

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

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

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

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

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

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

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

§ 214. Report on insurance agent licensing examinations. The superintendent shall perform a study of the insurance agent licensure examinations required pursuant to section two thousand one hundred three of this chapter. The study shall, at a minimum, include the total number of examinees, the passing rate of all examinees, and the mean scores on the examination. Additionally, the study shall examine the correlation between these statistics and the applicants' native language, level of education, gender, race and ethnicity. The study shall be completed by [~~January first~~] **March fifteenth**, two thousand [~~nine~~] **twelve**, and annually thereafter.

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

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

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

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

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

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

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

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

(5) [~~representative information on the availability and costs of automobile insurance from insurers for rating territories in the state, for classes of drivers, including information on premium credit and surcharge practices;~~

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

[~~(7)~~] **(6)** an explanation of prohibited discriminatory practices applying to insurance companies, agents and brokers; and

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

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

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

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

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

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

§ 68. Intentionally omitted.

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

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

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

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

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

(b) "Defined violation" means the commission by a person of an act prohibited by: **subsection (a) of section one thousand one hundred two,** section one thousand two hundred fourteen, one thousand two hundred seventeen, one thousand two hundred twenty, one thousand three hundred thirteen, subparagraph (B) of paragraph two of subsection (i) of section one thousand three hundred twenty-two, subparagraph (B) of paragraph two of subsection (i) of section one thousand three hundred twenty-four, **two thousand one hundred two, two thousand one hundred seventeen,** two thousand one hundred twenty-two, two thousand one hundred twenty-three, subsection (p) of section two thousand three hundred thirteen, section two thousand three hundred twenty-four, two thousand five hundred two, two thousand five hundred three, two thousand five hundred four, two thousand six hundred one, two thousand six hundred two, two thousand six hundred three, two thousand six hundred four, two thousand six hundred six, two thousand seven hundred three, three thousand one hundred nine, three thousand two hundred twenty-four-a, three thousand four hundred twenty-nine, three thousand four hundred thirty-three, paragraph seven of subsection (e) of section three thousand four hundred twenty-six, four thousand two hundred twenty-four, four thousand two hundred twenty-five, four thousand two hundred twenty-six, seven thousand eight hundred nine, seven thousand eight hundred ten, seven thousand eight hundred eleven, seven thousand eight hundred thirteen, seven thousand eight hundred fourteen and seven thousand eight hundred fifteen of this chapter; or section 135.60, 135.65, 175.05, 175.45, or 190.20, or article one hundred five of the penal law.

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

§ 73. Intentionally omitted.

§ 74. Intentionally omitted.

§ 75. Intentionally omitted.

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

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

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

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

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

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

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

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

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

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

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

The continuing care retirement community council is hereby established, to consist of the following, or their designees: the attorney general; the commissioner; [~~the superintendent of insurance;~~] the director of the office for the aging; and eight public members appointed by the governor with the advice and consent of the senate. Such public members shall be representative of the public, and have a demonstrated expertise or interest in continuing care retirement communities;

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

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

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

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

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

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

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

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

§ 86. Section 4 of chapter 610 of the laws of 1995 amending the insurance law, relating to investments is REPEALED.

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

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

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

cation individually or with one or more state chartered banking institutions to the superintendent indicating that such institution or institutions intend to exercise such federally permitted power and the basis on which such institution or institutions believe such power is a federally permitted power. [~~The~~] **If such application meets the requirements of this section, the** superintendent shall post such application upon the bulletin board of the department pursuant to section forty-two of this article. After promptly reviewing such application, the superintendent shall determine, consistent with the standards set forth in subdivision five of this section, whether to [~~recommend to the banking board approval of~~] **approve** such application subject to such terms and conditions as [~~he or she~~] **the superintendent** may deem appropriate, in [~~his or her~~] **the superintendent's** sole discretion. Such determination, [~~and any recommendation to the banking board to approve an application,~~] shall be made by the superintendent within forty-five days after the posting of such application by the superintendent, provided however that the superintendent may notify the applicant or applicants that the review of the application shall be extended for an additional period of time not exceeding one hundred twenty days after the posting of such application, and provided further that such period of time may be extended for an additional period of time with the written consent of the applicant or applicants. The [~~banking board~~] **superintendent** shall not act upon the [~~superintendent's recommendation~~] **application** prior to thirty days after such application has been posted. If the superintendent shall determine not to [~~recommend approval~~] **approve** of such application, the superintendent shall notify the applicant or applicants in writing that the applicant or applicants may not exercise such federally permitted power. If the superintendent [~~determines to recommend approval of such application, and the banking board approves such application by adoption of a resolution,~~] **approves such application, the superintendent shall notify the applicant or applicants in writing thereof, and** the applicant or applicants may exercise such federally permitted power subject to such terms and conditions as the [~~banking board~~] **superintendent** may have approved. [~~If the banking board declines to approve such application, the superintendent shall notify the applicant or applicants in writing thereof.~~] Notwithstanding any other law, the [~~banking board, upon the recommendation of the~~] superintendent[~~,~~] may[~~, by resolution,~~] make the approval of an application under this section applicable to one or more additional state chartered banking institutions that are qualified to exercise the same federally permitted powers as the applicant or applicants pursuant to subdivision two of this section, subject to such terms and conditions as the superintendent shall find necessary and appropriate [~~and as approved by the banking board~~].

4. Notwithstanding any other law, the superintendent, in [~~his or her sole~~] **the superintendent's** discretion, may, when [~~he or she~~] **the superintendent** deems it necessary and appropriate after considering the standards set forth in subdivision five of this section, [~~recommend to the banking board that it adopt a resolution authorizing~~] **by order, authorize** one or more state chartered banking institutions to exercise a federally permitted power, subject to such terms and conditions as the superintendent shall find necessary and appropriate [~~and as approved by the banking board~~]. Prior to [~~making any such recommendation to the banking board~~] **issuing such order**, the superintendent shall post [~~such recommendation~~] **notice of the superintendent's intention to issue such order** upon the bulletin board of the department pursuant to section forty-two of this article, and [~~the banking board~~] shall not act upon

such [~~recommendation~~] **intention** prior to thirty days after such [~~recommendation~~] **notice** has been posted.

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

(i) consistent with the policy of the state of New York as declared in section ten of this article and thereby protects the public interest, including the interests of depositors, creditors, shareholders, stockholders and consumers; and

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

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

(b) In those instances where a federally permitted power authorized pursuant to this section is subject to regulation by an agency, as defined in subdivision one of section one hundred two of the state administrative procedure act, other than the superintendent, [~~banking board or superintendent of insurance,~~] then when a state chartered banking institution exercises such federally permitted power, unless it is so authorized by other New York state law, or a rule, regulation or policy adopted pursuant to such other New York state law, or by a judicial decision, it shall do so subject to such regulation to the same extent and in the same manner as such agency regulates entities other than state chartered banking institutions, except to the extent that federally chartered banking institutions are not subject to such regulation.

[~~(c) Except with respect to a credit unemployment insurance policy, group credit life insurance policy, a group credit health, group credit accident or group credit health and accident policy, or similar group credit insurance covering the person of the insured, state chartered banking institutions, federally chartered banking institutions, and any person soliciting the purchase of or selling insurance on the premises thereof, must disclose or cause to be disclosed in writing, where practicable, in clear and concise language, to their customers and prospective customers who are solicited therefor that any insurance offered or sold:~~

~~(i) is not a deposit;~~

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

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

~~(d) Except with respect to a flood insurance policy, or a credit unemployment insurance policy, group credit life insurance policy, a group credit health, group credit accident or group credit health and accident~~

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

~~(e) State chartered banking institutions and federally chartered banking institutions shall not extend credit, lease or sell property of any kind, or furnish any services, or fix or vary the consideration for any of the foregoing, on the condition or requirement that the customer obtain insurance from the state chartered banking institution or federally chartered banking institution, its affiliate or subsidiary, or a particular insurer, agent or broker; provided, however, that this prohibition shall not prevent any state chartered banking institution or federally chartered banking institution from engaging in any activity described in this subdivision that would not violate section 106 of the Bank Holding Company Act Amendments of 1970 (12 USCA §1971 et seq.), as interpreted by the Board of Governors of the Federal Reserve System. This prohibition shall not prevent a state chartered banking institution or federally chartered banking institution from informing a customer that insurance is required in order to obtain a loan or credit, that loan or credit approval is contingent upon the customer's procurement of acceptable insurance, or that insurance is available from the state chartered banking institution or federally chartered banking institution; provided, however, that the state chartered banking institution or federally chartered banking institution shall also inform the customer in writing that his or her choice of insurance provider shall not affect the state chartered banking institution's or federally chartered banking institution's credit decision or credit terms in any way. Such disclosure shall be given prior to or at the time that a state chartered banking institution or federally chartered banking institution or person selling insurance on the premises thereof solicits the purchase of any insurance from a customer who has applied for a loan or extension of credit.~~

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

[~~(g)~~] **(c)** Any state chartered banking institution or federally chartered banking institution and any subsidiary or affiliate thereof which is licensed to sell insurance in this state shall maintain separate and distinct books and records relating to its insurance transactions, including all files relating to and reflecting consumer complaints, and such insurance books and records shall be made available to the superintendent [~~of insurance~~] for inspection upon reasonable notice.

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

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

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

9. Any rules or regulations promulgated by the banking board pursuant to former sections fourteen-g and fourteen-h of this chapter prior to September first, two thousand seven, **and any resolutions adopted by the banking board pursuant to this section after September first, two thousand seven and before the effective date of the chapter of the laws of two thousand eleven which amended this subdivision,** including any such rules [~~and~~]**,** regulations **and resolutions** which in whole or in part impose conditions, qualifications or restrictions on any federally permitted powers authorized thereby which exceed the conditions, qualifications or restrictions imposed on the same when exercised by a federally chartered banking institution, shall remain in full force and effect on or after such date, unless any such rule [~~or~~]**,** regulation **or resolution** is thereafter superseded, modified, or revoked by the [~~banking board~~] **superintendent** pursuant to the provisions of subdivisions three and four of this section.

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

§ 90. Section 14 of the banking law, as amended by chapter 684 of the laws of 1938, the opening paragraph, paragraphs (a), (d), (e), and (f) of subdivision 1 as amended by chapter 315 of the laws of 2008, paragraphs (b) and (c) of subdivision 1 as amended by chapter 652 of the laws of 1988, paragraph (cc) of subdivision 1 as amended by chapter 115 of the laws of 1981, paragraph (g) of subdivision 1 as amended and paragraphs (h), (i), (ii), (k), (m), (n), (o), (p), (q), and (qq) of subdivision 1 as relettered by chapter 360 of the laws of 1984, paragraph (i) of subdivision 1 as amended by chapter 766 of the laws of 1975, paragraph (ii) of subdivision 1 as added by chapter 226 of the laws of 1943, paragraphs (j) and (l) of subdivision 1 as amended by chapter 154 of the laws of 2007, paragraph (s) of subdivision 1 as amended by chapter 613 of the laws of 1993, paragraph (t) of subdivision 1 as separately relettered by chapters 360 and 789 of the laws of 1984 and paragraph (qq) of subdivision 1, as added by chapter 15 of the laws of 1980, is amended to read as follows:

§ 14. [~~Powers of the banking board~~] **Additional powers of the superintendent**. 1. For the purpose of effectuating the policy declared in section ten of this article, **without limiting any other powers that the superintendent is permitted by law to exercise,** the [~~banking board~~] **superintendent** shall have **the** power[~~, by a three-fifths vote of all its members,~~] to make, alter and amend [~~resolutions,~~] **orders,** rules and regulations not inconsistent with law. Such **orders,** rules[~~,~~] **and** regulations [~~and resolutions~~] shall be brought to the attention of those affected thereby in a manner [~~to be~~] prescribed by [~~the board~~] **law**. Without limiting the foregoing power, [~~resolutions~~] **orders** or rules or regulations may be so adopted for the following specific purposes:

(a) To approve organization certificates and articles of association, private bankers' certificates and applications of foreign corporations for licenses to do business in this state, [~~submitted to it by the superintendent~~] as provided in this article.

(b) To determine the purposes for which and the extent to which capital notes or debentures shall be considered and treated as capital stock of corporate banking organizations; but capital notes or debentures shall not be considered or treated as capital stock for the purposes of sections one hundred ten and one hundred eleven of this chapter.

(c) To grant permission to a trust company, including a national bank, to establish one or more common trust funds upon application and after inquiry concerning the qualifications of such trust company to maintain and manage the same, and to regulate the conduct and management of any common trust fund and for such purpose, but not by way of limitation of the foregoing power, to prescribe (1) the records and accounts to be kept of such common trust funds; (2) the procedure to be followed in adding moneys to or withdrawing moneys or investments from any such common trust fund; (3) the methods and standards to be employed in determining the value of such common trust funds and of the assets and investments thereof; (4) the maximum amount of moneys of any estate, trust or fund which may be invested in any common trust fund; and (5) the maximum proportionate share of any such common trust fund which may be apportioned to any estate, trust or fund; and in connection with such powers to classify the corporations maintaining such common trust funds according to the population of the city, town or village in which the principal offices of such corporations are respectively located and to prescribe the minimum total of any such common trust fund and the permissible limits of investment therein in accordance with such classification.

(cc) To approve the incorporation by or on behalf of trust companies and national banks with trust powers of a mutual trust investment company to form a medium for the common investment of funds held by trust companies, including national banks, acting as executors, administrators, guardians, inter-vivos or testamentary trustees or committees or conservators either alone or with individual co-fiduciaries, and any amendments of the certificate of incorporation of such mutual trust investment company, and to regulate the conduct and management of such mutual trust investment company and for such purpose, but not by way of limitation of the foregoing power, to prescribe (1) the records and accounts to be kept by such mutual trust investment company; (2) the procedure to be followed in the sale or redemption of stocks or shares therein; (3) the methods and standards to be employed in determining the value of such shares in the mutual trust investment company and the assets and investments thereof; and (4) the maximum proportionate shares

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

(d) To authorize a bank or a trust company to invest in the capital stock of, or any other equity interest in, any corporation, partnership, unincorporated association, limited liability company, or other entity not included among the corporations or other entities for which investment in the capital stock or other equity interest is expressly authorized by this chapter.

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

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

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

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

(i) To prescribe from time to time reserves against deposits to be maintained by banks and trust companies pursuant to article three of this chapter; provided that no reserve requirement imposed [~~**by the board**~~] against either time or demand deposits shall require any bank or trust company to maintain total reserves in an amount greater than it would be required to maintain if it were at the time a member of the federal reserve system; and provided further, however, that a bank or trust company not a member of the federal reserve system may be authorized [~~**by the board**~~] to maintain total reserves against deposits in an amount lower than the reserves required by article three of this chapter to be maintained, either in individual cases or by general regulations [~~**of the board**~~] on such basis as the [~~**board**~~] **superintendent** may deem reasonable or appropriate in view of the character of the business transacted by such bank or trust company.

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

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

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

(l) To prescribe the form and contents of periodical reports of condition to be rendered to the superintendent by banks, trust companies,

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

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

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

(o) To define what is a safe or unsafe condition of a banking organization.

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

(q) To establish safe and sound methods of banking and safeguard the interests of depositors, creditors, shareholders and stockholders generally in times of emergency.

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

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

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

~~2. The board shall consider and make recommendations upon any matter which the superintendent may submit to it for recommendations, and pass upon and determine any matter which he shall submit to it for determination.~~

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

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

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

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

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

§ 95. Section 6 of 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, as amended by chapter 122 of the laws of 2009, is amended to read as follows:

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

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

§ 95-a. Section 7 of 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 banks, as amended by chapter 122 of the laws of 2009, is amended to read as follows:

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

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

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

b. [~~**Every recommendation to be made to the banking board pursuant to subdivision four of section twelve-a of this article, which shall include a description of the recommended federally permitted power, a reference to the state chartered banking institutions which shall be permitted to exercise such power, and the date of the meeting of the banking board at which such recommendation is expected to be considered**~~] **The intention of the superintendent to issue an order pursuant to subdivision four of section twelve-a of this article, which shall include a description of the proposed federally permitted power and a reference to the state-chartered banking institutions which shall be permitted to exercise such power**.

§ 98. Transfer of powers of the banking and insurance departments. The functions and powers possessed by and all of the obligations and duties of the banking and insurance departments, as established pursuant to the insurance law, the banking law and other laws, shall be transferred and assigned to, and assumed by and devolved upon, the department of financial services.

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

§ 100. Continuity of authority of the banking and insurance departments. Except as herein otherwise provided, upon the transfer pursuant to this act of the functions and powers possessed by, and all of the obligations and duties of, the banking and insurance departments as established pursuant to the banking law, the insurance law and other laws, to the department of financial services as prescribed by this act, for the purpose of succession, all functions, powers, duties and obligations of the department of financial services shall be deemed and be held to constitute the continuation of such functions, powers, duties and obligations and not a different agency.

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

act of the functions and powers possessed by and all of the obligations and duties of the banking and insurance departments and the consumer protection board as established pursuant to the banking law, the insurance law and other laws, to the department of financial services and the department of state, as appropriate, as prescribed by this act, all books, papers, records and property pertaining to the banking and insurance departments and the consumer protection board shall be transferred to and maintained by the department of financial services and the department of state, as appropriate.

§ 102. Completion of unfinished business of the banking and insurance departments and the consumer protection board. Upon the transfer pursuant to this act of the functions and powers possessed by and all of the obligations and duties of the banking and insurance departments and the consumer protection board as established pursuant to the banking law, the insurance law and other laws, to the department of financial services and the department of state, as appropriate, as prescribed by this act, any business or other matter undertaken or commenced by the banking and insurance departments and the consumer protection board pertaining to or connected with the functions, powers, obligations and duties so transferred and assigned to the department of financial services and the department of state, as appropriate, may be conducted or completed by the department of financial services and the department of state, as appropriate.

§ 103. Terms occurring in laws, contracts or other documents of or pertaining to the banking and insurance departments and the consumer protection board. Upon the transfer pursuant to this act of the functions and powers possessed by and all of the obligations and duties of the banking and insurance departments and the consumer protection board as established pursuant to the banking law, the insurance law and other laws, as prescribed by this act, whenever the banking and insurance departments and the superintendents thereof or the consumer protection board and the chairperson and executive director thereof, the functions, powers, obligations and duties of which are transferred to the department of financial services and the department of state, as appropriate, are referred to or designated in any law, regulation, contract or document pertaining to the functions, powers, obligations and duties transferred and assigned pursuant to this act, such reference or designation shall be deemed to refer to the department of financial services and its superintendent or, as the case may be, the department of state and its secretary. In the case of any boards or other organizations where the superintendents of both the banking department and the insurance department both sit, the references or designations shall be deemed to refer solely to the superintendent of the department of financial services.

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

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

(c) Wherever the terms "insurance department", "department of insurance", "banking department" or "department of banking" appears in the consolidated or unconsolidated laws of this state other than the banking law or the insurance law, such terms are hereby changed to "department of financial services".

(d) Wherever the term "superintendent of insurance" appears in the insurance law, such term is hereby changed to "superintendent of financial services".

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

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

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

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

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

§ 106. Pending actions and proceedings of or pertaining to the banking or insurance departments or the consumer protection board. Upon the transfer pursuant to this act of the functions and powers possessed by and all of the obligations and duties of the banking and insurance departments and the consumer protection board as established pursuant to the banking law, the insurance law and other laws, to the department of financial services and the department of state, as appropriate, as prescribed by this act, no action or proceeding pending on the effective date of this act, brought by or against the banking or insurance departments or the superintendents thereof or the consumer protection board and the chairperson and executive director thereof shall be affected by any provision of this act, but the same may be prosecuted or defended in the name of the New York state department of financial services and the department of state, as appropriate. In all such actions and proceedings, the New York state department of financial services and the department of state, as appropriate, upon application to the court, shall be substituted as a party.

§ 107. Continuation of rules and regulations of or pertaining to the banking and insurance departments and the consumer protection board. Upon the transfer pursuant to this act of the functions and powers possessed by and all the obligations and duties of the banking and insurance departments and the consumer protection board as established pursuant to the banking law, the insurance law and other laws, to the department of financial services and the department of state, as appropriate, 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

incurred for regulation and supervision of the insurance industry, and the department's level of general expenses that are allocable to both the insurance and banking industries. The superintendent shall subsequently employ the provisions of section seventeen of the banking law and section three hundred thirty-two of the insurance law to assess the department's incurred costs in order to appropriately charge persons or entities that are licensed, registered, organized, authorized, incorporated or otherwise formed pursuant to the provisions of the banking law or insurance law.

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

§ 112. Provision for nomination of superintendent. Upon or prior to the effective date of section one of this act, the governor shall nominate an individual to serve as superintendent of financial services. If such individual is confirmed by the senate prior to such effective date, he or she shall become the superintendent of financial services as of the effective date of section one of this act. Any individual nominated by the governor to become the first superintendent of financial services may serve as acting superintendent beginning on such effective date, until such time as a vote for confirmation is taken by the senate. No individual nominated to serve as superintendent of financial services shall serve as superintendent, or continue to serve as acting superintendent, if the senate has voted not to confirm such individual's nomination.

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

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

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

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

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

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

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

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

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

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

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

PART B

Intentionally omitted.

PART C

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

SUBPART A

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

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

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

However, it is not the intent of the legislature in enacting this merger, to diminish in any way the significant roles corrections officers and parole officers serve in the criminal justice system, and it is not to imply that they are interchangeable. The purpose of this legislation is to recognize where the mission of both entities is similar and that by combining the administrations of each, not only can fiscal efficiencies be achieved but also that services can be provided on a continuum rather than an abrupt transfer of responsibility.

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

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

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

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

18. "Alcohol and substance abuse treatment correctional annex." A medium security correctional facility consisting of one or more residential dormitories**,** which provide intensive alcohol and substance abuse treatment services to inmates who: (i) are otherwise eligible for temporary release, or (ii) stand convicted of a felony defined in article two hundred twenty or two hundred twenty-one of the penal law, and are within six months of being an eligible inmate as that term is defined in subdivision two of section eight hundred fifty-one of this chapter including such inmates who are participating in such program pursuant to subdivision six of section 60.04 of the penal law. Notwithstanding the foregoing provisions of this subdivision, any inmate to be enrolled in this program pursuant to subdivision six of section 60.04 of the penal law shall be governed by the same rules and regulations promulgated by the department, including without limitation those rules and regulations establishing requirements for completion and those rules and regulations governing discipline and removal from the program. No such period of court ordered corrections based drug abuse treatment pursuant to this subdivision shall be required to extend beyond the defendant's conditional release date. Such treatment services may be provided by one or more outside service providers pursuant to contractual agreements with [~~both~~] the department [~~and the division of parole~~], provided, however, that any such provider shall be required to continue to provide, either directly or through formal or informal agreement with other providers, alcohol and substance abuse treatment services to inmates who have successfully participated in such provider's incarcerative treatment

services and who have been **presumptively released,** paroled [~~or~~]**,** conditionally released **or released to post release supervision** under the supervision of the [~~division of parole~~] **department** and who are, as a condition of [~~their parole or conditional~~] **such** release, required to participate in alcohol or substance abuse treatment. Such incarcerative services shall be provided in the facility in accordance with minimum standards promulgated by the department after consultation with the office of alcoholism and substance abuse services. Such services to parolees shall be provided in accordance with standards promulgated by the [~~division of parole~~] **department** after consultation with the office of alcoholism and substance abuse services. Notwithstanding any other provision of law, any person who has successfully completed no less than six months of intensive alcohol and substance abuse treatment services in one of the department's eight designated alcohol and substance abuse treatment correctional annexes having a combined total capacity of two thousand five hundred fifty beds may be transferred to a program operated by or at a residential treatment facility, provided however, that a person under a determinate sentence as a second felony drug offender for a class B felony offense defined in article two hundred twenty of the penal law, who was sentenced pursuant to section 70.70 of such law, shall not be eligible to be transferred to a program operated at a residential treatment facility until the time served under imprisonment for his or her determinate sentence, including any jail time credited pursuant to subdivision three of section 70.30 of the penal law, shall be at least nine months. The commissioner shall report annually to the temporary president of the senate and the speaker of the assembly commencing January first, [~~nineteen hundred ninety-two as to the efficacy of such programs including but not limited to a comparative analysis of state-operated and private sector provision of treatment services and recidivism. Such report shall also include~~] **two thousand twelve** the number of inmates received by the department during the reporting period who are subject to a sentence which includes enrollment in substance abuse treatment in accordance with subdivision six of section 60.04 of the penal law, the number of such inmates who are not placed in such treatment program and the reasons for such occurrences.

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

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

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

court ordered corrections based drug abuse treatment pursuant to this subdivision shall be required to extend beyond the defendant's conditional release date. Such treatment services may be provided by one or more outside service providers pursuant to contractual agreements with [~~both~~] the department [~~and the division of parole~~], provided, however, that any such provider shall be required to continue to provide, either directly or through formal or informal agreement with other providers, alcohol and substance abuse treatment services to inmates who have successfully participated in such provider's incarceritive treatment services and who have been **presumptively released,** paroled [~~or~~]**,** conditionally released **or released to post release supervision** under the supervision of the [~~division of parole~~] **department** and who are, as a condition of [~~their parole or conditional~~] **such** release, required to participate in alcohol or substance abuse treatment. Such incarcerative services shall be provided in the facility in accordance with minimum standards promulgated by the department after consultation with the office of alcoholism and substance abuse services. Such services to parolees shall be provided in accordance with standards promulgated by the [~~division of parole~~] **department** after consultation with the office of alcoholism and substance abuse services. The commissioner shall report annually to the majority leader of the senate and the speaker of the assembly commencing January first, [~~nineteen hundred ninety-two as to the efficacy of such programs including but not limited to a comparative analysis of state-operated and private sector provision of treatment services and recidivism. Such report shall also include~~] **two thousand twelve** the number of inmates received by the department during the reporting period who are subject to a sentence which includes enrollment in substance abuse treatment in accordance with subdivision six of section 60.04 of the penal law, the number of such inmates who are not placed in such treatment program and the reasons for such occurrences.

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

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

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

§ 5. Department of [~~correctional services~~] **corrections and community supervision**; commissioner. 1. There shall be in the state government a department of [~~correctional services~~] **corrections and community supervision**. The head of the department shall be the commissioner of [~~correctional services~~] **corrections and community supervision**, who shall be appointed by the governor, by and with the advice and consent of the senate, and hold office at the pleasure of the governor by whom he was appointed and until his successor is appointed and has qualified.

2. The commissioner of [~~correctional services~~] **corrections and community supervision** shall be the chief executive officer of the department.

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

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

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

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

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

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

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

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

3. The commissioner may by order filed in the department of [~~correctional services~~] **corrections and community supervision** delegate any of his **or her** powers to or direct any of his **or her** duties to be performed by a deputy commissioner or a head of a division or bureau of such department.

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

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

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

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

this state as suffering from psychotic disorders, serious character disorders, or other disorders which could hinder performance on the job may be deemed ineligible for appointment; provided, however, that other components of the employee selection process may be taken into consideration in reaching the determination as to whether a candidate is deemed eligible or ineligible for certification to a list of eligible candidates. The department's testing program shall include a component consisting of criteria related validity studies or other validity studies acceptable under relevant federal law governing equal employment.

3. The commissioner or his **or her** designee shall advise those candidates who have been deemed ineligible for appointment through psychological screening and shall notify such persons of their right to appeal their disqualification. A person so deemed may apply to the commissioner for a review of the findings within thirty days of the date of notification. The commissioner shall refer the matter to an independent advisory board to review any recommendation. A copy of the advisory board's recommendations shall be promptly forwarded to the parties and to the commissioner. If the advisory board's recommendation is rejected by the commissioner, wholly or in part, the commissioner shall state his **or her** reasons for such rejection in writing.

4. The advisory board shall consist of three members who shall be selected by the president of the civil service commission. The membership of the board shall consist of: A psychologist[~~,~~] and a psychiatrist, both of whom shall be licensed under the laws of this state, and a third member who shall be a representative of the department of civil service. The department of civil service shall maintain a list of alternate board members comprised of psychologists and psychiatrists, licensed under the laws of this state, and representatives nominated by the president of the civil service commission, who shall sit on the advisory board in the event a designated member is unable to serve, provided**,** however**, that** at all times the advisory board must be comprised of a psychiatrist, a psychologist and a representative of the department of civil service. Each of the members of the advisory board and their alternates so selected shall serve at the pleasure of the president of the civil service commission. Each of the members and alternates so selected shall be reimbursed for services and actual costs at a per diem rate not to exceed nine hundred dollars for the psychiatrist, seven hundred dollars for the psychologist and six hundred dollars for the representative of the civil service department; provided, however, that if any member of or alternate to the advisory board is an employee of the state of New York, then such representative shall only receive reimbursement for actual costs incurred.

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

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

7. Prior to March first of each year, the commissioner of the department of [~~correctional services~~] **corrections and community supervision** will report to the governor, president of the senate and speaker of the assembly on the conduct of the psychological testing program and the results of such program in improving the quality of correction officer candidates.

§ 7. Intentionally omitted.

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

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

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

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

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

§ 9. Intentionally omitted.

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

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

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

2. Subject to the rules and statutory powers of the commissioner [~~of correctional services~~], or rules approved by him **or her**, the superintendent of a correctional facility shall have the supervision and management thereof.

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

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

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

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

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

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

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

3. The commissioner [~~of correctional services~~] shall have access to records and criminal statistics collected by the division of criminal justice services and the commissioner of criminal justice services shall have access to records and criminal statistics collected by the department of [~~correctional services~~] **corrections and community supervision**, as the [~~commissioners~~] **commissioner** of [~~correctional services~~] **corrections and community supervision** and **the commissioner of** criminal justice services shall mutually determine.

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

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

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

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

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

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

4. Establish procedures to assure effective investigation of grievances of, and conditions affecting, inmates of local correctional facilities. Such procedures shall include but not be limited to receipt of written complaints, interviews of persons, and on-site monitoring of conditions. In addition, the commission shall establish procedures for

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

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

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

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

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

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

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

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

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

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

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

of [~~correction~~] **corrections and community supervision** shall have the superintendence, management and control of the correctional facilities in the department and of the inmates confined therein, and of all matters relating to the government, discipline, policing, contracts and fiscal concerns thereof. He **or she** shall have the power and it shall be his **or her** duty to inquire into all matters connected with said correctional facilities. He **or she** shall make such rules and regulations, not in conflict with the statutes of this state, for the government of the officers and other employees of the department assigned to said facilities, and in regard to the duties to be performed by them, and for the government and discipline of each correctional facility, as he **or she** may deem proper, and shall cause such rules and regulations to be recorded by the superintendent of the facility, and a copy thereof to be furnished to each employee assigned to the facility. He **or she** shall also prescribe a system of accounts and records to be kept at each correctional facility, which system shall be uniform at all of said facilities, and he **or she** shall also make rules and regulations for a record of photographs and other means of identifying each inmate received into said facilities. He **or she** shall appoint and remove, subject to the civil service law and rules, subordinate officers and other employees of the department who are assigned to correctional facilities.

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

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

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

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

§ 113. Absence of inmate for funeral and deathbed visits [~~or to report at an induction center for preinduction examination~~] authorized. The commissioner [~~of correctional services~~] may permit any inmate confined by the department except one awaiting the sentence of death to attend the funeral of his or her father, mother, guardian or former guardian, child, brother, sister, husband, wife, grandparent, grandchild, ancestral uncle or ancestral aunt within the state, or to visit such individual during his or her illness if death be imminent [~~or to report to an induction center for the purpose of being examined for possible induction into the armed forces of the United States~~]; but the exercise of such power shall be subject to such rules and regulations as the commissioner [~~of correctional services~~] shall prescribe, respecting the granting of such permission, duration of absence from the institution, custody, transportation and care of the inmate, and guarding against escape. Any expense incurred under the provisions of this section, with respect to any inmate permitted to attend a funeral or visit a relative during last illness, shall be deemed an expense of maintenance of the institution and be paid from moneys available therefor; but the superintendent, if the rules and regulations of the commissioner [~~of correctional services~~] shall so provide, may allow the inmate or anyone in his behalf to reimburse the state for such expense. [~~Any expense of custodial officers incurred in delivering and returning inmates to and from an induction center shall be deemed an expense of the institution and be paid from moneys available therefor but expenses of such inmates shall not be defrayed by the institution or department or the state.~~]

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

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

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

6. All rules and regulations pertaining to inmates established by the department of [~~correctional services~~] **corrections and community supervision** and all rules and regulations pertaining to inmates established by any institutional staff at any state correctional facility shall be

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

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

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

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

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

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

3. However, for the purpose of distributing, marketing or sale of the whole or any part of the product of any correctional facility in the state, other than by said state correctional facilities, to the state or to any political subdivisions thereof or to any public institutions owned or managed and controlled by the state, or by any political subdivisions thereof, or to any public corporation, authority, or eleemosynary association funded in whole or in part by any federal, state or local funds, the sheriff of any such local correctional facility and the commissioner of [~~correctional services~~] **corrections and community supervision** may enter into a contract or contracts which may determine the kinds and qualities of articles to be produced by such institution and the method of distribution and sale thereof by the commissioner of [~~correctional services~~] **corrections and community supervision** or under his **or her** direction, either in separate lots or in combination with the products of other such institutions and with the products produced by inmates in state correctional facilities. Such contracts may fix and determine any and all terms and conditions for the disposition of such products and the disposition of proceeds of sale thereof and any and all other terms and conditions as may be agreed upon, not inconsistent with the constitution. However, no such contract shall be for a period of more than one year and any prices fixed by such contract shall be the prices established pursuant to section one hundred eighty-six of this article for like articles or shall be approved by the department of [~~correctional services~~] **corrections and community supervision** and the director of the budget on presentation to them of a copy of such contract or proposed contract, and provided further that any distribution or diversification of industries provided for by such contract

shall be in accordance with the rules and regulations established by the department of [~~correctional services~~] **corrections and community supervision** or shall be approved by such department on presentation to it of a copy of such contract or proposed contract.

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

1. It shall be the duty of the commissioner [~~of correctional services~~] to distribute, among the correctional institutions under his jurisdiction, the labor and industries assigned to said institutions, due regard being had to the location and convenience of the prisons, and of the other institutions to be supplied, the machinery now therein and the number of prisoners, in order to secure the best service and distribution of the labor, and to employ the prisoners, so far as practicable, in occupations in which they will be most likely to obtain employment after their discharge from imprisonment. The commissioner [~~of correctional services~~] shall change or dispose of the present plants and machinery in said institutions now used in industries which shall be discontinued, and which can not be used in the industries hereafter to be carried on in said prisons, due effort to be made by full notice to probable purchasers, in case of sales of industries or machinery, to obtain the best price possible for the property sold, and good will of the business to be discontinued.

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

2. All such articles manufactured or prepared in the state correctional facilities, or by inmates, and not required for use therein, shall be of the styles, patterns, designs and qualities fixed by the department of [~~correctional services~~] **corrections and community supervision**, except where the same have been or may be fixed by the office of general services in the executive department. Such articles may be furnished to the state, or to any political subdivision thereof, or for or to any public institution owned or managed and controlled by the state, or any political subdivision thereof, government of the United States or to any state of the United States or subdivision thereof or to any public corporation, authority, or eleemosynary association funded in whole or in part by any federal, state or local funds, at and for such prices as shall be fixed and determined as hereinafter provided, upon the requisitions of the proper officials thereof. No article so manufactured or prepared shall be purchased from any other source, for the state or public institutions of the state, or the political subdivisions thereof, or public benefit corporations, authorities or commissions, unless the commissioner of [~~correctional services~~] **corrections and community supervision** shall certify that the same can not be furnished upon such requisition, and no claim therefor shall be audited or paid without such certificate.

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

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

regulations for said reports, to provide for the manner in which requisitions shall be made for supplies, and to provide for the proper diversification of the industries in the correctional facilities.

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

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

First instance appropriations to the department of [~~correctional services~~] **corrections and community supervision** for correctional industries shall be reimbursed pursuant to an agreement with the director of the budget. In the absence of a first instance appropriation, costs shall be determined in accordance with an agreement between the commissioner of [~~correctional services~~] **corrections and community supervision** and the director of the budget. Any such agreement shall include, among other provisions deemed necessary by the budget director for the purposes of enabling programmatic overview and fiscal controls, one or more methodologies for the determination of costs attributable to correctional industries or to any product manufactured in the institutions of the department or distributed, marketed or sold by the commissioner pursuant to this section, section one hundred seventy-seven of this article or section one hundred seventy-five of the state finance law.

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

§ 187. Earnings of inmates. 1. Every inmate confined in a state correctional facility, subject to the rules and regulations of the department of [~~correctional services~~] **corrections and community supervision**, and every inmate confined in a local correctional facility, in the discretion of the sheriff thereof, may receive compensation for work performed during his or her imprisonment. Such compensation shall be graded by the department of [~~correctional services~~] **corrections and community supervision** with regard to inmates employed in prison industries, based upon the work performed by such prisoners for prisoners confined in state correctional facilities, and by the sheriffs in all local correctional facilities for inmates confined therein.

2. The department of [~~correctional services~~] **corrections and community supervision** shall adopt rules, subject to the approval of the director of the budget, for establishing in all of the state correctional facilities a system of compensation for the inmates confined therein. Such rules shall provide for the payment of compensation to each inmate, who shall meet the requirements established by the department of [~~correctional services~~] **corrections and community supervision**, based upon the work performed by such inmates.

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

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

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

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

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

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

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

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

ARTICLE 8

COMMUNITY SUPERVISION

Section 201. Authority and responsibility for community supervision.
203. Regulations for release of certain sex offenders.
205. Merit termination of sentence and discharge from presumptive release, parole, conditional release and release to post-release supervision.
206. Applications for presumptive release or conditional release.
207. Cooperation.
208. Deputization of out-of-state officers.

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

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

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

3. To facilitate the supervision of all inmates released to community supervision, the commissioner shall consider the implementation of a program of graduated sanctions, including but not limited to the utilization of a risk and needs assessment instrument that would be administered to all inmates eligible for community supervision. Such a program would include various components including approaches that concentrate supervision on new releases, alternatives to incarceration for technical parole violators and the use of enhanced technologies.

4. The department shall conduct such investigations as may be necessary in connection with alleged violations of community supervision.

5. The department shall assist inmates eligible for community supervision and inmates who are on community supervision to secure employment, educational or vocational training, and housing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) the location of other sex offenders required to register under the sex offender registration act, specifically whether there is a concentration of registered sex offenders in a certain residential area or municipality;

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

(c) the proximity of entities with vulnerable populations;

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

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

2. The department shall have the duty, prior to the release to community supervision of an inmate designated a level two or three sex offender pursuant to the sex offender registration act, to provide notification to the local social services district in the county in which the inmate expects to reside, when information available or any other prerelease procedures indicates that such inmate is likely to seek to access local social services for homeless persons. The department shall provide such notice, when practicable, thirty days or more before such inmate's release, but in any event, in advance of such inmate's arrival in the jurisdiction of such local social services district.

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

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

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

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

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

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

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

(g) incest;

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

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

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

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

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

4. The department must grant termination of sentence after three years of unrevoked presumptive release or parole to a person serving an indeterminate sentence for a class A felony offense defined in article two hundred twenty of the penal law, and must grant termination of sentence after two years of unrevoked presumptive release or parole to a person serving an indeterminate sentence for any other felony offense defined in article two hundred twenty or two hundred twenty-one of the penal law.

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

§ 206. Applications for presumptive release or conditional release. 1. All requests for presumptive release or conditional release shall be made in writing on forms prescribed and furnished by the department. Within one month from the date any such application is received, if it appears that the applicant is eligible for presumptive release or conditional release or will be eligible for such release during such month, the conditions of release shall be fixed in accordance with rules prescribed by the board of parole. Such conditions shall be substantially the same as conditions imposed upon parolees.

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

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

hampered in any way, including but not limited to: a restriction of resources including staff assistance; limited access to vital information; and presentation of inmate information in a manner that may inappropriately influence the board in its decision making.

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

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

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

§ 33. Intentionally omitted.

§ 34. Intentionally omitted.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 259-b. State board of parole; organization. 1. There shall be in the [~~state division of parole~~] **department** a state board of parole which shall possess the powers and duties hereinafter specified. **The board shall function independently of the department regarding all of its decision-making functions, as well as any other powers and duties specified in this article, provided, however, that administrative matters of general applicability within the department shall be applicable to the board.** Such board shall consist of not more than nineteen members appointed by the governor with the advice and consent of the senate. The term of office of each member of such board shall be for six years; provided, however, that any member chosen to fill a vacancy occurring otherwise than by expiration of term shall be appointed for the remainder of the unexpired term of the member whom he is to succeed. In the event of the inability to act of any member, the governor may appoint some competent informed person to act in his stead during the continuance of such disability.

2. Each member of the board shall have been awarded a degree from an accredited four-year college or university or a graduate degree from such college or university or accredited graduate school and shall have had at least five years of experience in one or more of the fields of criminology, administration of criminal justice, law enforcement, sociology, law, social work, corrections, psychology, psychiatry or medicine.

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

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

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

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

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

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

§ 259-c. State board of parole; functions, powers and duties. The state board of parole shall: 1. have the power and duty of determining which inmates serving an indeterminate or determinate sentence of imprisonment may be released on parole, or on medical parole pursuant to section two hundred fifty-nine-r or section two hundred fifty-nine-s of this article, and when and under what conditions;

2. have the power and duty of determining the conditions of release of the person who may be presumptively released, conditionally released or subject to a period of post-release supervision under an indeterminate or determinate sentence of imprisonment;

3. determine, as each inmate is received by the department [~~of correctional services~~], the need for further investigation of the background of such inmate [~~and~~]**. Upon such determination, the department shall** cause such investigation as may be necessary to be made as soon as practicable, the results of such investigation together with all other information compiled by the [~~division pursuant to subdivision one of section two hundred fifty-nine-a~~] **department** and the complete criminal record and family court record of such inmate to be filed so as to be readily available when the parole of such inmate is being considered;

4. establish written [~~guidelines~~] **procedures** for its use in making parole decisions as required by law[~~, including the fixing of minimum periods of imprisonment or ranges thereof for different categories of offenders~~]. Such written [~~guidelines may consider the use of a~~] **procedures shall incorporate** risk and needs [~~assessment instrument~~] **principles** to **measure the rehabilitation of persons appearing before the board, the likelihood of success of such persons upon release, and** assist members of the state board of parole in determining which inmates may be released to parole supervision;

5. through its members, officers and employees, study or cause to be studied the inmates confined in institutions over which the board has jurisdiction, so as to determine their ultimate fitness to be paroled;

6. have the power to revoke the [~~presumptive release, parole, conditional release or post-release~~] **community** supervision status of any person and to authorize the issuance of a warrant for the re-taking of such persons;

[~~7. have the power to grant and revoke certificates of relief from disabilities and certificates of good conduct as provided for by law;~~]

8. have the power and perform the duty, when requested by the governor, of reporting to the governor the facts, circumstances, criminal records and social, physical, mental and psychiatric conditions and histories of inmates under consideration by the governor for pardon or commutation of sentence and of applicants for restoration of the rights of citizenship;

9. for the purpose of any investigation in the performance of duties made by it or any member thereof, have the power to issue subpoenas, to compel the attendance of witnesses and the production of books, papers, and other documents pertinent to the subject of its inquiry;

10. have the power to authorize any members thereof and hearing officers to administer oaths and take the testimony of persons under oath;

11. make rules for the conduct of its work, a copy of such rules and of any amendments thereto to be filed by the chairman with the secretary of state;

12. [~~in any case where a person is entitled to jail time credit under the provisions of paragraph (c) of subdivision three of section 70.40 of the penal law, to certify to the person in charge of the institution in which such person's sentence is being served the amount of such credit~~]

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

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

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

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

a "commercial social networking website" shall mean any business, organization or other entity operating a website that permits persons under eighteen years of age to be registered users for the purpose of establishing personal relationships with other users, where such persons under eighteen years of age may: (i) create web pages or profiles that provide information about themselves where such web pages or profiles are available to the public or to other users; (ii) engage in direct or real time communication with other users, such as a chat room or instant messenger; and (iii) communicate with persons over eighteen years of age; provided, however, that, for purposes of this subdivision, a commercial social networking website shall not include a website that permits users to engage in such other activities as are not enumerated herein.

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

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

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

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

§ 38-b-1. Intentionally omitted.

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

§ 259-d. Hearing officers. 1. The [~~chairman of the~~] state board of parole shall appoint **and shall have the power to remove, in accordance with the provisions of the civil service law,** hearing officers who shall be authorized to conduct parole revocation proceedings. **Hearing officers shall function independently of the department regarding all of their decision-making functions, and shall report directly to the board, provided, however, that administrative matters of general applicability within the department shall be applicable to all hearing officers.** A hearing officer conducting such proceedings shall, when delegated such authority by the board in rules adopted by the board, be required to make a written decision in accordance with standards and rules adopted by the board. Nothing in this article shall be deemed to preclude a member of the state board of parole from exercising all of the functions, powers and duties of a hearing officer upon request of the chairman.

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

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

§ 259-e. Institutional parole services. The [~~division~~] **department** shall provide institutional parole services. [~~Subject to the authority of the chairman, these~~] **Such services** shall include preparation of reports and other data required by the state board of parole in the exercise of its functions with respect to release on presumptive release, parole, conditional release or post-release supervision of inmates. Employees of the [~~division~~] **department** who collect data, interview inmates and prepare reports for the state board of parole in institutions under the jurisdiction of the department [~~of correctional services~~] shall [~~not~~] work under the direct [~~or indirect~~] supervision of the [~~head of the institution~~] **deputy commissioner of the department in charge of program services. Data and reports submitted to the board shall address the statutory factors to be considered by the board pursuant to the relevant provisions of section two hundred fifty-nine-i of this article**.

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

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

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

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

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

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

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

(b) Persons presumptively released, paroled, conditionally released or released to post-release supervision from an institution under the jurisdiction of the department [~~of correctional services or~~]**,** the department of mental hygiene **or the office of children and family services** shall, while on presumptive release, parole, conditional release or post-release supervision, be in the legal custody of the [~~division of parole~~] **department** until expiration of the maximum term or period of sentence, or expiration of the period of supervision, including any period of post-release supervision, or return to **imprisonment in** the custody of the department [~~of correctional services~~], as the case may be.

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

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

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

the penal law or a violent felony offense as defined in section 70.02 of the penal law, if the inmate is subject to deportation by the United States **Bureau of** Immigration and [~~**Naturalization Service**~~] **Customs Enforcement**, in addition to the criteria set forth in paragraph (c) of this subdivision, the board may consider, as a factor warranting earlier release, the fact that such inmate will be deported, and may grant parole from an indeterminate sentence or release for deportation from a determinate sentence to such inmate conditioned specifically on his prompt deportation. The board may make such conditional grant of early parole from an indeterminate sentence or release for deportation from a determinate sentence only where it has received from the United States **Bureau of** Immigration and [~~**Naturalization Service**~~] **Customs Enforcement** assurance (A) that an order of deportation will be executed or that proceedings will promptly be commenced for the purpose of deportation upon release of the inmate from the custody of the department of correctional services, and (B) that the inmate, if granted parole or release for deportation pursuant to this paragraph, will not be released from the custody of the United States **Bureau of** Immigration and [~~**Naturalization Service**~~] **Customs Enforcement**, unless such release be as a result of deportation without providing the board a reasonable opportunity to arrange for execution of its warrant for the retaking of such person.

(ii) An inmate who has been granted parole from an indeterminate sentence or release for deportation from a determinate sentence pursuant to this paragraph shall be delivered to the custody of the United States **Bureau of** Immigration and [~~**Naturalization Service**~~] **Customs Enforcement** along with the board's warrant for his retaking to be executed in the event of his release from such custody other than by deportation. In the event that such person is not deported, the board shall execute the warrant, effect his return to **imprisonment in** the custody of the department [~~**of correctional services**~~] and within sixty days after such return, provided that the person is serving an indeterminate sentence and the minimum period of imprisonment has been served, personally interview him to determine whether he should be paroled in accordance with the provisions of paragraphs (a), (b) and (c) of this subdivision. The return of a person granted parole from an indeterminate sentence or release for deportation from a determinate sentence pursuant to this paragraph for the reason set forth herein shall not be deemed to be a parole delinquency and the interruptions specified in subdivision three of section 70.40 of the penal law shall not apply, but the time spent in the custody of the United States **Bureau of** Immigration and [~~**Naturalization Service**~~] **Customs Enforcement** shall be credited against the term of the sentence in accordance with the rules specified in paragraph (c) of that subdivision. Notwithstanding any other provision of law, any inmate granted parole from an indeterminate sentence or release for deportation from a determinate sentence pursuant to this paragraph who is subsequently committed to **imprisonment in** the custody of the department [~~**of correctional services**~~] for a felony offense committed after release pursuant to this paragraph shall have his parole eligibility date on the indeterminate sentence for the new felony offense, or his conditional release date on the determinate sentence for the new felony offense, as the case may be, extended by the amount of time between the date on which such inmate was released from **imprisonment in** the custody of the department [~~**of correctional services**~~] pursuant to this paragraph and the date on which such inmate would otherwise have completed service of the minimum period of imprisonment on the prior felony offense.

(i) If the parole officer having charge of a presumptively released, paroled or conditionally released person or a person released to post-release supervision or a person received under the uniform act for out-of-state parolee supervision shall have reasonable cause to believe that such person has lapsed into criminal ways or company, or has violated one or more conditions of his presumptive release, parole, conditional release or post-release supervision, such parole officer shall report such fact to a member of the board [~~of parole~~], or to any officer of the [~~division~~] **department** designated by the board, and thereupon a warrant may be issued for the retaking of such person and for his temporary detention in accordance with the rules of the board. The retaking and detention of any such person may be further regulated by rules and regulations of the [~~division~~] **department** not inconsistent with this article. A warrant issued pursuant to this section shall constitute sufficient authority to the superintendent or other person in charge of any jail, penitentiary, lockup or detention pen to whom it is delivered to hold in temporary detention the person named therein; except that a warrant issued with respect to a person who has been released on medical parole pursuant to section two hundred fifty-nine-r of this article and whose parole is being revoked pursuant to paragraph (h) of subdivision four of such section shall constitute authority for the immediate placement of the parolee only into **imprisonment in** the custody of the department [~~of correctional services~~] to hold in temporary detention. A warrant issued pursuant to this section shall also constitute sufficient authority to the person in charge of a drug treatment campus, as defined in subdivision twenty of section two of the correction law, to hold the person named therein, in accordance with the procedural requirements of this section, for a period of at least ninety days to complete an intensive drug treatment program mandated by the board [~~of parole~~] as an alternative to presumptive release or parole or conditional release revocation, or the revocation of post-release supervision, and shall also constitute sufficient authority for return of the person named therein to local custody to hold in temporary detention for further revocation proceedings in the event said person does not successfully complete the intensive drug treatment program. The board's rules shall provide for cancellation of delinquency and restoration to supervision upon the successful completion of the program.

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

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

alternative to reincarceration, direct the presumptive releasee, parolee, conditional releasee or person serving a period of post-release supervision be placed in a parole transition facility for a period not to exceed one hundred eighty days and subsequent restoration to supervision; (C) in the case of presumptive releasees, parolees or conditional releasees, direct the violator's reincarceration and fix a date for consideration by the board for re-release on presumptive release, or parole or conditional release, as the case may be; or (D) in the case of persons released to a period of post-release supervision, direct the violator's reincarceration up to the balance of the remaining period of post-release supervision, not to exceed five years; provided, however, that a defendant serving a term of post-release supervision for a conviction of a felony sex offense defined in section 70.80 of the penal law may be subject to a further period of imprisonment up to the balance of the remaining period of post-release supervision. [~~**Where a date has been fixed for the violator's re-release on presumptive release, parole or conditional release, as the case may be, the board or board member may waive the personal interview between a member or members of the board and the violator to determine the suitability for re-release; provided, however, that the board shall retain the authority to suspend the date fixed for re-release and to require a personal interview based on the violator's institutional record or on such other basis as is authorized by the rules and regulations of the board. If an interview is required, the board shall notify the violator of the time of such interview in accordance with the rules and regulations of the board. If the violator is placed in a parole transition facility or restored to supervision, the presiding officer may impose such other conditions of presumptive release, parole, conditional release, or post-release supervision as he or she may deem appropriate, as authorized by rules of the board**~~] **For the violator serving an indeterminate sentence who while re-incarcerated has not been found by the department to have committed a serious disciplinary infraction, such violator shall be re-released on the date fixed at the revocation hearing. For the violator serving an indeterminate sentence who has been found by the department to have committed a serious disciplinary infraction while re-incarcerated, the department shall refer the violator to the board for consideration for re-release to community supervision. Upon such referral the board may waive the personal interview between a member or members of the board and the violator to determine the suitability for re-release when the board directs that the violator be re-released upon expiration of the time assessment. The board shall retain the authority to suspend the date fixed for re-release based on the violator's commission of a serious disciplinary infraction and shall in such case require a personal interview be conducted within a reasonable time between a panel of members of the board and the violator to determine suitability for re-release. If an interview is required, the board shall notify the violator in advance of the date and time of such interview in accordance with the rules and regulations of the board**.

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

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

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

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

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

§ 259-j. [~~**Merit termination of sentence and discharge from presumptive release, parole, conditional release and release to post-release supervision. 1. The division of parole may grant to any person a merit termination of sentence from presumptive release, parole, conditional release or release to post-release supervision prior to the expiration of the full term or maximum term, provided it is determined by the division of parole that such merit termination is in the best interests of society, such person is not required to register as a sex offender pursuant to article six-C of the correction law, and such person is not on presumptive release, parole, conditional release or release to post-release supervision from a term of imprisonment imposed for any of the following offenses, or for an attempt to commit any of the following offenses:**~~

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

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

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

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

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

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

~~(g) incest;~~

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

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

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

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

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

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

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

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

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

years has been imposed on a person convicted of a crime defined in article one hundred thirty of the penal law, including a sexually motivated felony, the [~~division~~] **board** of parole may grant a discharge from post-release supervision prior to the expiration of the maximum term of post-release supervision. Such a discharge may be granted only after the person has served at least five years of post-release supervision, and only to a person who has been on unrevoked post-release supervision for at least three consecutive years. No such discharge shall be granted unless the [~~division~~] **board** of parole[~~: (a)~~] **or the department acting pursuant to its responsibility under subdivision one of section two hundred one of the correction law** consults with any licensed psychologist, qualified psychiatrist, or other mental health professional who is providing care or treatment to the supervisee; [~~(b)~~] **and the board: (a)** determines that a discharge from post-release supervision is in the best interests of society; and [~~(c)~~] **(b)** is satisfied that the supervisee, otherwise financially able to comply with an order of restitution and the payment of any mandatory surcharge, sex offender registration fee, or DNA data bank fee previously imposed by a court of competent jurisdiction, has made a good faith effort to comply therewith. Before making a determination to discharge a person from a period of post-release supervision, the [~~division~~] **board** of parole may request that the commissioner of the office of mental health arrange a psychiatric evaluation of the supervisee. A discharge granted under this section shall constitute a termination of the sentence with respect to which it was granted.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. The benefits of subdivision three hereof shall inure only to officers and employees of the [~~division~~] **board of parole or former division of parole** and shall not enlarge or diminish the rights of any other party.

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

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

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

(b) Such release shall be granted only after the board considers whether, in light of the inmate's medical condition, there is a reasonable probability that the inmate, if released, will live and remain at liberty without violating the law, and that such release is not incompatible with the welfare of society and will not so deprecate the seriousness of the crime as to undermine respect for the law, and shall be subject to the limits and conditions specified in subdivision four of this section. Except as set forth in paragraph (a) of this subdivision, such release may be granted at any time during the term of an inmate's sentence, notwithstanding any other provision of law.

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

2. (a) The commissioner [~~of correctional services~~], on the commissioner's own initiative or at the request of an inmate, or an inmate's spouse, relative or attorney, may, in the exercise of the commissioner's discretion, direct that an investigation be undertaken to determine whether a diagnosis should be made of an inmate who appears to be suffering from a terminal condition, disease or syndrome. Any such medical diagnosis shall be made by a physician licensed to practice medicine in this state pursuant to section sixty-five hundred twenty-four of the education law. Such physician shall either be employed by the department [~~of correctional services~~], shall render professional services at the request of the department [~~of correctional services~~], or shall be employed by a hospital or medical facility used by the department [~~of correctional services~~] for the medical treatment of inmates. The diagnosis shall be reported to the commissioner [~~of correctional services~~] and shall include but shall not be limited to a description of the terminal condition, disease or syndrome suffered by the inmate, a prognosis concerning the likelihood that the inmate will not recover from such terminal condition, disease or syndrome, a description of the inmate's physical or cognitive incapacity which shall include a prediction respecting the likely duration of the incapacity, and a statement by the physician of whether the inmate is so debilitated or incapacitated as to be severely restricted in his or her ability to self-ambulate or to perform significant normal activities of daily living. This report also shall include a recommendation of the type and level of services and treatment the inmate would require if granted medical parole and a recommendation for the types of settings in which the services and treatment should be given.

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

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

(c) When the commissioner refers an inmate to the board, the commissioner shall provide an appropriate medical discharge plan [~~jointly~~] established by the department [~~of correctional services and the division of parole~~]. The department [~~of correctional services and the division of parole are~~] **is** authorized to request assistance from the department of health and from the county in which the inmate resided and committed his or her crime, which shall provide assistance with respect to the development and implementation of a discharge plan, including potential placements of a releasee. The department [~~of correctional services, the division of parole~~] and the department of health shall jointly develop standards for the medical discharge plan that are appropriately adapted to the criminal justice setting, based on standards established by the department of health for hospital medical discharge planning. The board may postpone its decision pending completion of an adequate discharge plan, or may deny release based on inadequacy of the discharge plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

7. The commissioner [~~of correctional services~~] and the chairman of the board [~~of parole~~] shall be authorized to promulgate rules and regulations for their respective agencies to implement the provisions of this section.

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

9. The chairman shall report annually to the governor, the temporary president of the senate and the speaker of the assembly, the chairpersons of the assembly and senate codes committees, the chairperson of the senate crime and corrections committee, and the chairperson of the assembly corrections committee the number of inmates who have applied for medical parole; the number who have been granted medical parole; the nature of the illness of the applicants, the counties to which they have been released and the nature of the placement pursuant to the medical discharge plan; the categories of reasons for denial for those who have been denied; the number of releasees who have been granted an additional period or periods of medical parole and the number of such grants; the number of releasees on medical parole who have been returned to **imprisonment in** the custody of the department [~~of correctional services~~] and the reasons for return.

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

(a) The board shall have the power to release on medical parole any inmate serving an indeterminate or determinate sentence of imprisonment who, pursuant to subdivision two of this section, has been certified to be suffering from a terminal condition, disease or syndrome and to be so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society, provided, however, that no inmate serving a sentence imposed upon a conviction for murder in the first degree or an attempt or conspiracy to commit murder in the first degree shall be eligible for such release, and provided further that no inmate serving a sentence imposed upon a conviction for any of the following offenses shall be eligible for such release unless in the case of an indeterminate sentence he or she has served at least one-half of the minimum period of the sentence and in the case of a determinate sentence he or she has served at least one-half of the term of his or her determinate sentence: murder in the second degree, manslaughter in the first degree, any offense defined in article one hundred thirty of the penal law or an attempt to commit any of these offenses. Solely for the purpose of determining medical parole eligibility pursuant to this section, such one-half of the minimum period of the indeterminate sentence and one-half of the term of the determinate sentence shall not be credited with any time served under the jurisdiction of the [~~state~~] department [~~of correctional services~~] prior to the commencement of such sentence pursuant to the opening paragraph of subdivision one of section 70.30 of the penal law or subdivision two-a of section 70.30 of the penal law, except to the extent authorized by subdivision three of section 70.30 of the penal law.

§ 38-m. Section 259-s of the executive law, as added by section 6 of part J of chapter 56 of the laws of 2009, paragraph (a) of subdivision 1 as amended by chapter 495 of the laws of 2009, is amended to read as follows:

§ 259-s. Release on medical parole for inmates suffering significant debilitating illnesses. 1. (a) The board shall have the power to release on medical parole any inmate serving an indeterminate or determinate sentence of imprisonment who, pursuant to subdivision two of this section, has been certified to be suffering from a significant and permanent non-terminal condition, disease or syndrome that has rendered the inmate so physically or cognitively debilitated or incapacitated as to create a reasonable probability that he or she does not present any danger to society, provided, however, that no inmate serving a sentence imposed upon a conviction for murder in the first degree or an attempt or conspiracy to commit murder in the first degree shall be eligible for such release, and provided further that no inmate serving a sentence imposed upon a conviction for any of the following offenses shall be eligible for such release unless in the case of an indeterminate sentence he or she has served at least one-half of the minimum period of the sentence and in the case of a determinate sentence he or she has served at least one-half of the term of his or her determinate sentence: murder in the second degree, manslaughter in the first degree, any offense defined in article one hundred thirty of the penal law or an attempt to commit any of these offenses. Solely for the purpose of determining medical parole eligibility pursuant to this section, such one-half of the minimum period of the indeterminate sentence and one-half of the term of the determinate sentence shall not be credited with any time served under the jurisdiction of the [~~state~~] department [~~of correctional services~~] prior to the commencement of such sentence pursuant to the opening paragraph of subdivision one of section 70.30 of the penal law or subdivision two-a of section 70.30 of the penal law, except to the extent authorized by subdivision three of section 70.30 of the penal law.

(b) Such release shall be granted only after the board considers whether, in light of the inmate's medical condition, there is a reasonable probability that the inmate, if released, will live and remain at liberty without violating the law, and that such release is not incompatible with the welfare of society and will not so deprecate the seriousness of the crime as to undermine respect for the law, and shall be subject to the limits and conditions specified in subdivision four of this section. In making this determination, the board shall consider: (i) the nature and seriousness of the inmate's crime; (ii) the inmate's prior criminal record; (iii) the inmate's disciplinary, behavioral and rehabilitative record during the term of his or her incarceration; (iv) the amount of time the inmate must serve before becoming eligible for release pursuant to section two hundred fifty-nine-i of this article; (v) the current age of the inmate and his or her age at the time of the crime; (vi) the recommendations of the sentencing court, the district attorney and the victim or the victim's representative; (vii) the nature of the inmate's medical condition, disease or syndrome and the extent of medical treatment or care that the inmate will require as a result of that condition, disease or syndrome; and (viii) any other relevant factor. Except as set forth in paragraph (a) of this subdivision, such release may be granted at any time during the term of an inmate's sentence, notwithstanding any other provision of law.

(c) The board shall afford notice to the sentencing court, the district attorney, the attorney for the inmate and, where necessary pursuant to subdivision two of section two hundred fifty-nine-i of this article, the crime victim, that the inmate is being considered for release pursuant to this section and the parties receiving notice shall

have thirty days to comment on the release of the inmate. Release on medical parole shall not be granted until the expiration of the comment period provided for in this paragraph.

2. (a) The commissioner [~~of correctional services~~], on the commissioner's own initiative or at the request of an inmate, or an inmate's spouse, relative or attorney, may, in the exercise of the commissioner's discretion, direct that an investigation be undertaken to determine whether a diagnosis should be made of an inmate who appears to be suffering from a significant and permanent non-terminal and incapacitating condition, disease or syndrome. Any such medical diagnosis shall be made by a physician licensed to practice medicine in this state pursuant to section sixty-five hundred twenty-four of the education law. Such physician shall either be employed by the department [~~of correctional services~~], shall render professional services at the request of the department [~~of correctional services~~], or shall be employed by a hospital or medical facility used by the department [~~of correctional services~~] for the medical treatment of inmates. The diagnosis shall be reported to the commissioner [~~of correctional services~~] and shall include but shall not be limited to a description of the condition, disease or syndrome suffered by the inmate, a prognosis concerning the likelihood that the inmate will not recover from such condition, disease or syndrome, a description of the inmate's physical or cognitive incapacity which shall include a prediction respecting the likely duration of the incapacity, and a statement by the physician of whether the inmate is so debilitated or incapacitated as to be severely restricted in his or her ability to self-ambulate or to perform significant normal activities of daily living. This report also shall include a recommendation of the type and level of services and treatment the inmate would require if granted medical parole and a recommendation for the types of settings in which the services and treatment should be given.

(b) The commissioner, or the commissioner's designee, shall review the diagnosis and may certify that the inmate is suffering from such condition, disease or syndrome and that the inmate is so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society. If the commissioner does not so certify then the inmate shall not be referred to the board [~~of parole~~] for consideration for release on medical parole. If the commissioner does so certify, then the commissioner shall, within seven working days of receipt of such diagnosis, refer the inmate to the board [~~of parole~~] for consideration for release on medical parole. However, no such referral of an inmate to the board of parole shall be made unless the inmate has been examined by a physician and diagnosed as having a condition, disease or syndrome as previously described herein at some time subsequent to such inmate's admission to a facility operated by the department [~~of correctional services~~].

(c) When the commissioner refers an inmate to the board, the commissioner shall provide an appropriate medical discharge plan [~~jointly~~] established by the department [~~of correctional services and the division of parole~~]. The department [~~of correctional services and the division of parole are~~] **is** authorized to request assistance from the department of health and from the county in which the inmate resided and committed his or her crime, which shall provide assistance with respect to the development and implementation of a discharge plan, including potential placements of a releasee. The department [~~of correctional services, the division of parole~~] and the department of health shall jointly develop

standards for the medical discharge plan that are appropriately adapted to the criminal justice setting, based on standards established by the department of health for hospital medical discharge planning. The board may postpone its decision pending completion of an adequate discharge plan, or may deny release based on inadequacy of the discharge plan.

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

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

(b) The board shall require as a condition of release on medical parole that the releasee agree to remain under the care of a physician while on medical parole and in a hospital established pursuant to article twenty-eight of the public health law, a hospice established pursuant to article forty of the public health law or any other placement, including a residence with family or others, that can provide appropriate medical care as specified in the medical discharge plan required by subdivision two of this section. The medical discharge plan shall state that the availability of the placement has been confirmed, and by whom. Notwithstanding any other provision of law, when an inmate who qualifies for release under this section is cognitively incapable of signing the requisite documentation to effectuate the medical discharge plan and, after a diligent search no person has been identified who could otherwise be appointed as the inmate's guardian by a court of competent jurisdiction, then, solely for the purpose of implementing the medical discharge plan, the facility health services director at the facility where the inmate is currently incarcerated shall be lawfully empowered to act as the inmate's guardian for the purpose of effectuating the medical discharge.

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

(d) The board shall require as a condition of release on medical parole that the releasee undergo periodic medical examinations and a medical examination at least one month prior to the expiration of the period of medical parole and, for the purposes of making a decision pursuant to paragraph (e) of this subdivision, that the releasee provide the board with a report, prepared by the treating physician, of the results of such examination. Such report shall specifically state whether or not the parolee continues to suffer from a significant and permanent non-terminal and debilitating condition, disease, or syndrome, and to be so debilitated or incapacitated as to be severely restricted in his or her ability to self-ambulate or to perform significant normal activities of daily living.

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

(f) If the updated medical report presented to the board states that a parolee released pursuant to this section is no longer so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society or if the releasee fails to submit the updated medical report then the board may not make a new grant of medical parole pursuant to paragraph (e) of this subdivision. Where the board has not granted medical parole

pursuant to such paragraph (e) the board shall promptly conduct through one of its members, or cause to be conducted by a hearing officer designated by the board, a hearing to determine whether the releasee is suffering from a significant and permanent non-terminal and incapacitating condition, disease or syndrome and is so debilitated or incapacitated as to create a reasonable probability that he or she is physically or cognitively incapable of presenting any danger to society and does not present a danger to society. If the board makes such a determination then it may make a new grant of medical parole pursuant to the standards of paragraph (b) of subdivision one of this section. At the hearing, the releasee shall have the right to representation by counsel, including the right, if the releasee is financially unable to retain counsel, to have the appropriate court assign counsel in accordance with the county or city plan for representation placed in operation pursuant to article eighteen-B of the county law.

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

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

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

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

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

7. The commissioner [~~of correctional services~~] and the chair of the board [~~of parole~~] shall be authorized to promulgate rules and regulations for their respective agencies to implement the provisions of this section.

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

9. The chair of the board shall report annually to the governor, the temporary president of the senate and the speaker of the assembly, the chairpersons of the assembly and senate codes committees, the chairperson of the senate crime and corrections committee, and the chairperson of the assembly corrections committee the number of inmates who have applied for medical parole under this section; the number who have been granted medical parole; the nature of the illness of the appli-

cants, the counties to which they have been released and the nature of the placement pursuant to the medical discharge plan; the categories of reasons for denial for those who have been denied; the number of releasees who have been granted an additional period or periods of medical parole and the number of such grants; the number of releasees on medical parole who have been returned to **imprisonment in** the custody of the department [~~**of correctional services**~~] and the reasons for return.

§ 39. Transfer of employees. Notwithstanding any other provision of law, rule, or regulation to the contrary, upon the transfer of functions from the department of correctional services, the division of parole and the state board of parole pursuant to this act, all employees of the department of correctional services, the division of parole and the state board of parole shall be transferred to the department of corrections and community supervision. Employees transferred pursuant to this section shall be transferred without further examination or qualification and shall retain their respective civil service classifications, status and collective bargaining unit designations and collective bargaining agreements.

§ 40. Transfer of records. All books, papers, and property of the department of correctional services, the division of parole and the state board of parole shall be deemed to be in the possession of the commissioner of the department of corrections and community supervision. All books, papers, and property of the department of correctional services, the division of parole and the state board of parole shall continue to be maintained by the department of corrections and community supervision.

§ 41. Continuity of authority. For the purpose of succession of all functions, powers, duties and obligations transferred and assigned to, devolved upon and assumed by it pursuant to this act, the department of corrections and community supervision shall be deemed and held to constitute the continuation of the department of correctional services, the division of parole and the state board of parole.

§ 42. Completion of unfinished business. Any business or other matter undertaken or commenced by the department of correctional services, the division of parole or the state board of parole pertaining to or connected with the functions, powers, obligations and duties hereby transferred and assigned to the department of corrections and community supervision and pending on the effective date of this act, may be conducted and completed by the department of corrections and community supervision or the board of parole in the same manner and under the same terms and conditions and with the same effect as if conducted and completed by the department of corrections, the division of parole or the state board of parole.

§ 43. Continuation of rules and regulations. All rules, regulations, acts, orders, determinations, and decisions of the department of correctional services, the division of parole and the state board of parole pertaining to the functions and powers transferred and assigned pursuant to this act, in force at the time of such transfer and assumption, shall continue in full force and effect as rules, regulations, acts, orders, determinations and decisions of the department of corrections and community supervision or the board of parole until duly modified or abrogated by the commissioner of the department of corrections and community supervision or the chairman of the board of parole, as appropriate.

§ 44. Terms occurring in laws, contracts and other documents. Whenever the department of correctional services, the division of parole or the board of parole, or the chairman or commissioner thereof, is referred to

or designated in any law, contract or document pertaining to the functions, powers, obligations and duties hereby transferred to and assigned to the department of corrections and community supervision or the commissioner of the department of corrections and community supervision, such reference or designation shall be deemed to refer to the department of corrections and community supervision or the commissioner of the department of corrections and community supervision, as applicable.

§ 45. Existing rights and remedies preserved. No existing right or remedy of any character shall be lost, impaired or affected by any provisions of this act.

§ 46. Pending actions and proceedings. No action or proceeding pending at the time when this act shall take effect, brought by or against the department of correctional services, the division of parole or the state board of parole, or the chairman or commissioner thereof, shall be affected by any provision of this act, but the same may be prosecuted or defended in the name of the commissioner of the department of corrections and community supervision or the department of corrections and community supervision. In all such actions and proceedings, the commissioner of the department of corrections and community supervision, upon application of the court, shall be substituted as a party.

§ 47. Transfer of appropriations heretofore made. All appropriations or reappropriations heretofore made to the department of correctional services, the division of parole or the state board of parole to the extent of remaining unexpended or unencumbered balance thereof, whether allocated or unallocated and whether obligated or unobligated, are hereby transferred to and made available for use and expenditure by the department of corrections and community supervision subject to the approval of the director of the budget for the same purposes for which originally appropriated or reappropriated and shall be payable on vouchers certified or approved by the commissioner of the department of corrections and community supervision on audit and warrant of the comptroller.

§ 48. Transfer of assets and liabilities. All assets and liabilities of the department of correctional services, the division of parole and the state board of parole are hereby transferred to and assumed by the department of corrections and community supervision.

§ 49. This act shall take effect immediately, provided, however:

(a) that the amendments to subdivision 18 of section 2 of the correction law made by section one-a of this act shall be subject to the expiration and reversion of such subdivision pursuant to chapter 55 of the laws of 1992, as amended, when upon such date the provisions of section two of this act shall take effect;

(b) that the amendments to section 8 of the correction law made by section six of this act shall not affect the expiration of such section and shall be deemed to expire therewith;

(c) that the amendments to subdivision 9 of section 201 of the correction law as added by section thirty-two of this act shall remain in effect until September 1, 2013, when it shall expire and be deemed repealed;

(d) that the amendments to paragraph c of subdivision 7 of section 500-b of the correction law made by section thirty-six of this act shall not affect the repeal of such section and shall be deemed repealed therewith;

(e) the amendments to subdivision 1 of section 259-c of the executive law made by section thirty-eight-b of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith;

(f) the amendments to subdivision 4 of section 259-c of the executive law made by section thirty-eight-b of this act shall take effect six months after it shall have become a law;

(g) the amendments to paragraph (a) of subdivision 1 of section 259-r of the executive law made by section thirty-eight-1 of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section thirty-eight-1-1 shall take effect;

(h) section sixteen-a of this act shall take effect six months after it shall have become a law; and

(i) any employee covered by section two hundred fifty-nine-q of the executive law prior to the effective date of section thirty-eight-k-1 of this act shall be entitled to any benefits or rights provided by such section of the executive law arising out of any act or failure to act occurring before such effective date.

SUBPART B

Section 1. Section 15-b of the correction law, as added by chapter 670 of the laws of 1935, is amended to read as follows:

§ 15-b. Education. The present director of vocational education shall be the director of education with the powers and duties of the director of education and hereafter shall be appointed by the commissioner. The director of education, at any time appointed, shall be a person whose education, training and experience shall cover fields of penology and of professional education. The educational qualifications shall include the satisfactory completion of three years of graduate work in education, penology, and allied fields. The head of the division of education shall have the direct supervision of all educational work in the department of [~~correction~~] **corrections and community supervision** and shall have full authority to visit and inspect all institutions of the department to observe, study, organize, and develop the educational activities of such institutions in harmony with the general educational program of the department. He **or she** shall be responsible to the commissioner and deputy commissioner [~~of correction~~] **designated by the commissioner**.

§ 2. Intentionally omitted.

§ 3. Intentionally omitted.

§ 4. Section 20 of the correction law is amended to read as follows:

§ 20. Library. A library shall be provided in the department [~~of correction~~] containing the leading books on parole, probation and other correctional activities, together with reports and other documents on correlated topics of criminology and social work.

§ 5. Section 23 of the correction law, as amended by chapter 476 of the laws of 1970 and as renumbered by chapter 475 of the laws of 1970, is amended to read as follows:

§ 23. Transfer of inmates from one correctional facility to another; treatment in outside hospitals. 1. The commissioner [~~of correction~~] shall have the power to transfer inmates from one correctional facility to another. Whenever the transfer of inmates from one correctional facility to another shall be ordered by the commissioner [~~of correction~~], the superintendent of the facility from which the inmates are transferred shall take immediate steps to make the transfer. The transfer shall be in accordance with rules and regulations promulgated by the department for the safe delivery of such inmates to the designated facility.

2. The commissioner [~~of correction~~], in his **or her** discretion, may by written order permit inmates to receive medical diagnosis and treatment in outside hospitals, upon the recommendation of the superintendent or director that such outside treatment or diagnosis is necessary by reason of inadequate facilities within the institution. Such inmates shall remain under the jurisdiction and in the custody of the department while in said outside hospital and said superintendent or director shall enforce proper measures in each case to safely maintain such jurisdiction and custody.

3. The cost of transporting inmates between facilities and to outside hospitals shall be paid from funds appropriated to the department [~~of correction~~] for such purpose.

§ 6. Paragraph (b) of subdivision 3 and subdivisions 7 and 8 of section 70 of the correction law, paragraph (b) of subdivision 3 as amended by chapter 261 of the laws of 1987, subdivisions 7 and 8 as added by chapter 476 of the laws of 1970, are amended to read as follows:

(b) A correctional camp or a shock incarceration correctional facility may be established by the department (i) upon land controlled and designated by the commissioner [~~of correctional services~~], or (ii) on land controlled and designated by the commissioner of parks, recreation and historic preservation or, in the sixth park region, by the commissioner of environmental conservation.

7. The commissioner [~~of correction~~] shall have the authority to enter into leases within the amount appropriated therefor, for the purpose of maintaining or establishing any correctional facility or any adjunct thereto.

8. The commissioner [~~of correction~~] is authorized to enter into contracts, within the amount appropriated therefor, with any university, social agency or qualified person to render professional services to any correctional facility.

§ 7. Section 72-a of the correction law, as added by chapter 554 of the laws of 1986, is amended to read as follows:

§ 72-a. Community treatment facilities. 1. Transfer of eligible inmate. Notwithstanding the provisions of section seventy-two of this chapter, any inmate confined in a correctional facility who is an "eligible inmate" as defined by subdivision two of section eight hundred fifty-one of this chapter and has been certified by the division of substance abuse services as being in need of substance abuse treatment and rehabilitation may be transferred by the commissioner to a community treatment facility.

2. Designation of facilities. A community treatment facility shall be designated by the director of the division of substance abuse services and the commissioner. Such facility shall be operated by a provider or sponsoring agency that has provided approved residential substance abuse treatment services for at least two years duration.

3. Operating standards. The commissioner, after consultation with the director of the division of substance abuse services, shall promulgate rules and regulations which provide for minimum standards of operation, including but not limited to the following:

(a) provision for adequate security and protection of the surrounding community;

(b) adequate physical plant standards;

(c) provisions for adequate program services, staffing, and record keeping; and

(d) provision for the general welfare of the inmates.

4. [~~Parole~~] **Community** supervision. The department shall [~~contract with the division of parole~~] **provide** for the provision of [~~parole~~] **community** supervision services. [~~Pursuant to such contract, all~~] **All** inmates residing in a community treatment facility shall be assigned to parole officers for supervision. Such parole officers shall be responsible [~~to the division of parole~~] for [~~the purpose of~~] providing such supervision. [~~As part of its supervisory functions the division shall be required to provide reports to the department every two months on each inmate under its supervision. Such reports shall include, but not be limited to:~~

~~(a) an evaluation of the inmate's participation in such program; and~~

~~(b) a statement of any problems relative to an inmate's participation in such program and the manner in which such problems were resolved; and~~

~~(c) a recommendation with respect to the inmate's continued participation in the program.~~]

5. Reports. The department and the division of substance abuse services shall jointly issue quarterly reports including a description of those facilities [~~which~~] **that** have been designated as community treatment facilities, the number of inmates confined in each facility, a description of the programs within each facility, and the number of absconders, if any, as well as the nature and number of re-arrests, if any, during the [~~individuals' parole~~] **individual's** period **of community supervision**. Copies of such reports, as well as copies of any inspection report issued by the department or the commission [~~on~~] **of** correction shall be sent to the director of the budget, the chairman of the senate finance [~~comittee~~] **committee**, the chairman of the senate crime and correction committee, the chairman of the assembly ways and means [~~comittee~~] **committee** and the chairman of the assembly committee on codes.

6. Reimbursement. (a) The commissioner, in consultation with the director of the division of substance abuse services, shall enter into an agreement with the division of substance abuse services whereby the division of substance abuse services will contract with community treatment facilities for provision of services pursuant to this section within amounts made available by the department. Each contract shall provide for frequent visitation, inspection of the facility, and enforcement of the minimum standards and shall authorize the supervision of inmates residing in a community treatment facility by parole officers.

(b) The commissioner shall promulgate rules and regulations specifying those costs related to the general operation of community treatment facilities [~~which~~] **that** shall be eligible for reimbursement. Such eligible costs shall not include debt service, whether principal or interest, or costs for which state or federal aid or reimbursement is otherwise available. Such rules and regulations shall be subject to the approval of the director of the budget.

(c) The [~~division~~] **department** shall not contract for [~~provisions~~] **provision** of services to more than fifty inmates at any one facility.

(d) At least thirty days prior to final approval of any such contract, a copy of the proposed contract shall be sent to the director of the budget, the chairman of the senate finance committee, the chairman of the senate crime and correction committee, the chairman of the assembly ways and means committee, and the chairman of the assembly committee on codes.

§ 8. Section 73 of the correction law, as added by chapter 476 of the laws of 1970, subdivision 6 as amended by chapter 843 of the laws of 1980, is amended to read as follows:

§ 73. Residential treatment facilities. 1. The commissioner may transfer any inmate of a correctional facility who is eligible for [~~parole~~] **community supervision** or who will become eligible for [~~parole~~] **community supervision** within six months after the date of transfer or who has one year or less remaining to be served under his **or her** sentence to a residential treatment facility and such person may be allowed to go outside the facility during reasonable and necessary hours to engage in any activity reasonably related to his **or her** rehabilitation and in accordance with the program established for him **or her**. While outside the facility he **or she** shall be at all times in the custody of the department [~~of correction~~] and under [~~the~~] **its** supervision [~~of the state division of parole~~].

2. The [~~division of parole~~] **department** shall be responsible for securing appropriate education, on-the-job training and employment for inmates transferred to residential treatment facilities. The [~~division~~] **department** also shall supervise such inmates during their participation in activities outside any such facility and at all times while they are outside any such facility.

3. Programs directed toward the rehabilitation and total reintegration into the community of persons transferred to a residential treatment facility shall be established [~~jointly by the department of correction and the division of parole~~]. Each inmate shall be assigned a specific program by the superintendent of the facility and a written memorandum of such program shall be delivered to him **or her**.

4. If at any time the superintendent of a residential treatment facility is of the opinion that any aspect of the program assigned to an individual is inconsistent with the welfare or safety of the community or of the facility or its inmates, the superintendent may suspend such program or any part thereof and restrict the inmate's activities in any manner that is necessary and appropriate. Upon taking such action the superintendent shall promptly notify the commissioner [~~of correction~~] and pending decision by the commissioner**,** the superintendent may keep such inmate under such security as may be necessary.

5. The commissioner may at any time and for any reason transfer an inmate from a residential treatment facility to another correctional facility. [~~The chairman of the state board of parole may request the commissioner of correction to transfer a person out of a residential treatment facility if at any time the chairman is of the opinion that such person should no longer be allowed to follow a program that permits him to engage in activities in the community. Upon receipt of any such request, the commissioner shall forthwith transfer the inmate to a correctional facility other than a residential treatment facility.~~]

6. Where a person who is an inmate of a residential treatment facility absconds, or fails to return thereto as specified in the program approved for him **or her**, he **or she** may be arrested and returned by an officer or employee of the department [~~of correction or the division of parole~~] or by any peace officer, acting pursuant to his **or her** special duties, or police officer without a warrant; or a member of the board of parole or an officer [~~of the division of parole~~] designated by such board may issue a warrant for the retaking of such person. A warrant issued pursuant to this subdivision shall have the same force and effect, and shall be executed in the same manner, as a warrant issued for violation of [~~parole~~] **community supervision**.

7. The provisions of this chapter relating to good behavior allowances and conditional release shall apply to behavior of inmates while assigned to a residential treatment facility for behavior on the prem-

ises and outside the premises of such facility and good behavior allowances may be granted, withheld, forfeited or cancelled in whole or in part for behavior outside the premises of the facility to the same extent and in the same manner as is provided for inmates within the premises of any facility.

8. The **state** board of parole may grant parole to any inmate of a residential treatment facility at any time after he **or she** becomes eligible therefor. Such parole shall be in accordance with provisions of law that would apply if the person were still confined in the facility from which he **or she** was transferred, except that any personal appearance before the board may be at any place designated by the board.

9. The earnings of any inmate of a residential treatment facility shall be dealt with in accordance with the procedure set forth in section eight hundred [~~fifty-seven~~] **sixty** of this chapter.

10. The commissioner [~~of correction and the chairman of the board of parole are~~] **is** authorized to [~~enter into an agreement for the~~] use [~~of~~] any residential treatment facility as a residence for persons who are on [~~parole or conditional release, and persons under supervision of the board of parole~~] **community supervision. Persons** who reside in such **a** facility shall be subject to conditions of [~~parole or release~~] **community supervision** imposed by the board.

§ 9. Subdivision 3 of section 90 of the correction law, as added by chapter 478 of the laws of 1970, is amended to read as follows:

3. To expand the use of programs designed to bridge the gap between incarceration and activities in the community, through the use of institutions operated by local government as facilities for residential treatment of persons in the custody of the state department of [~~correction~~] **corrections and community supervision**.

§ 10. Section 91 of the correction law, as added by chapter 478 of the laws of 1970, is amended to read as follows:

§ 91. Agreements for custody of definite sentence inmates. 1. The state commissioner of [~~correction~~] **corrections and community supervision** may enter into an agreement with any county or with the city of New York to provide for custody by the state department of [~~correction~~] **corrections and community supervision** of persons who receive definite sentences of imprisonment with terms in excess of ninety days who otherwise would serve such sentences in the jail, workhouse, penitentiary or other local correctional institution maintained by such locality.

2. Any such agreement, except one that is made with the city of New York, may be made with the sheriff, warden, superintendent, local commissioner of correction or other person in charge of such county institution and shall be subject to the approval of the chief executive officer of the county. An agreement made with the city of New York may be made with the commissioner of correction of that city and shall be subject to the approval of the mayor.

3. An agreement made under this section shall not require the locality to pay the cost of treatment, maintenance and custody furnished by the state department of [~~correction~~] **corrections and community supervision** and shall contain at least the following provisions:

(a) A provision specifying the minimum length of the term of imprisonment of persons who may be received by the state department of [~~correction~~] **corrections and community supervision** under the agreement, which may be any term in excess of ninety days agreed to by the parties and which need not be the same in each agreement;

(b) A provision that no charge will be made to the state or to the state department of [~~correction~~] **corrections and community supervision**

or to any of its institutions during the pendency of such agreement for delivery of inmates to the state department of [~~correction~~] **corrections and community supervision** by officers of the locality, and that the provisions of section six hundred two of this chapter or of any similar law shall not apply for delivery of inmates during such time;

(c) A provision that no charge shall be made to or shall be payable by the state during the pendency of such agreement for the expense of maintaining parole violators pursuant to section two hundred sixteen of this chapter, for the expense of maintaining coram nobis prisoners pursuant to section six hundred one-b of this chapter, for the expense of maintaining felony prisoners pursuant to section six hundred one-c of this chapter, or for the expense of maintaining alternative local reformatory inmates pursuant to section eight hundred thirty-five in institutions maintained by the locality;

(d) A provision, approved by the state comptroller, for reimbursement of the state department of [~~correction~~] **corrections and community supervision** by the locality for expenses incurred under subdivision two or three of section one hundred twenty-five of this chapter relating to clothing, money and transportation furnished upon release or discharge of inmates delivered to the state department of [~~correction~~] **corrections and community supervision** pursuant to the agreement;

(e) Designation of the correctional facility or facilities to which persons under sentences covered by the agreement are to be delivered;

(f) Any other provision the state commissioner of [~~correction~~] **corrections and community supervision** may deem necessary or appropriate; and

(g) A provision giving either party the right to cancel the agreement by giving the other party notice in writing, with cancellation to become effective on such date as may be specified in such notice.

4. A copy of such agreement shall be filed with the secretary of state and with the clerk of each court having jurisdiction to impose sentences covered by the agreement in the county or city to which it applies.

§ 11. Section 92 of the correction law, as added by chapter 478 of the laws of 1970, is amended to read as follows:

§ 92. Effect of agreement for custody of definite sentence inmates. 1. After a copy of an agreement made under section ninety-one of this article is filed with the secretary of state, all commitments under sentences covered by the agreement by courts in the county or city to which it applies shall be deemed to be to the custody of the state department of [~~correction~~] **corrections and community supervision** and shall be so construed and interpreted irrespective of the institution or agency to which the commitments are made.

2. Any inmate who is serving a term of imprisonment covered by the agreement imposed prior to the filing of such agreement, and any inmate who is under consecutive definite sentences of imprisonment with an aggregate term of the length covered by the agreement, irrespective of whether one or more of such sentences was imposed prior to the filing of the agreement, may be transferred to the care of the state department of [~~correction~~] **corrections and community supervision** upon request of the head of the county or city institution and approval of the state commissioner of [~~correction~~] **corrections and community supervision**.

3. Inmates who are deemed committed to the custody of the state department of [~~correction~~] **corrections and community supervision** under subdivision one of this section, or who may be transferred to the care of the state department of [~~correction~~] **corrections and community supervision** under subdivision two of this section, shall be dealt with in all

respects in the same manner as inmates committed to the custody of the state department of [~~correction~~] **corrections and community supervision**.

4. In the event any such agreement is cancelled, inmates delivered to the state department of [~~correction~~] **corrections and community supervision** prior to the date of cancellation shall continue to serve their sentences in the custody of such department and the provisions of such agreement shall continue to apply with respect to such inmates. A copy of the notice of cancellation shall be filed with the secretary of state and with the clerks of courts in the manner provided in subdivision four of section ninety-one of this article, and no inmates shall be delivered to the custody of the state department of [~~correction~~] **corrections and community supervision** under such agreement after the date on which such cancellation becomes effective.

§ 12. Section 93 of the correction law, as added by chapter 478 of the laws of 1970, is amended to read as follows:

§ 93. Temporary custody of sentenced inmates in emergencies. 1. Whenever a state of emergency shall be declared by the chief executive officer of a local government pursuant to section two hundred nine-m of the general municipal law, the chief executive officer of the county in which such state of emergency is declared, or where a county or counties are wholly within a city the mayor of such city, may request the governor to remove all or any number of sentenced inmates from institutions maintained by such county or city. Upon receipt of such request, if the governor is satisfied that the public interest so requires, the governor may, in his discretion, authorize and direct the state commissioner of [~~correction~~] **corrections and community supervision** to remove such inmates.

2. Upon receipt of any such direction the state commissioner of [~~correction~~] **corrections and community supervision** shall transport such inmates to any correctional facility in the department and such inmates shall be retained in the custody of the department, subject to all laws and rules and regulations pertaining to inmates in the custody of the department, until returned to the institution from which they were removed or discharged or released in accordance with the law.

3. In the event that the state department of [~~correction~~] **corrections and community supervision** does not have space in its correctional facilities to accommodate all or any number of the inmates so removed from a local institution, the commissioner [~~of correction~~] shall have the power to lodge any number of such inmates in any county jail, workhouse or penitentiary within the state that has room to receive them and such institution shall be required to receive such inmates. Inmates so lodged shall be subject to all rules and regulations pertaining to inmates committed to such institution until returned to the institution from which they were removed, or removed to a state correctional facility, or discharged or released in accordance with the law; provided, however, that inmates discharged or released from any such local institution shall be entitled to receive clothing, money and transportation from the state department of [~~correction~~] **corrections and community supervision** to the same extent as inmates discharged or released from a state correctional facility.

4. When sentenced inmates have been removed from a penitentiary pursuant to this section, such penitentiary may be used for the purpose of detention of prisoners awaiting trial or for any other purpose to which a county jail may be put.

5. The original order of commitment and any other case record pertaining to inmates removed pursuant to this section shall be delivered to

the head of any institution in which he **or she** may be lodged and shall be returned to the institution from which he **or she** was removed at the time of his return to such institution or upon his **or her** release or discharge in accordance with the law.

6. Inmates removed from a local institution pursuant to a request made under subdivision one of this section may be returned to such institution by the state commissioner of [~~correction~~] **corrections and community supervision**, subject to the approval of the governor, at any time such commissioner is satisfied that the return of such inmates is not inconsistent with the public interest.

7. The county or city maintaining the institution from which inmates are removed pursuant to subdivision one of this section shall be liable for all damages arising out of any act performed pursuant to this section and for reimbursement for the following items:

(a) The cost of clothing, money and transportation furnished to any inmate who is released or discharged prior to the return of such inmate to the institution from which he **or she** is removed shall be paid to the state department of [~~correction~~] **corrections and community supervision**; and

(b) The cost of maintaining any inmate in a county jail, workhouse or penitentiary shall be paid to the local government that maintains such institution. Such cost shall be the actual per capita daily cost, as certified to the state commissioner of [~~correction~~] **corrections and community supervision**.

§ 13. Section 94 of the correction law, as added by chapter 478 of the laws of 1970, is amended to read as follows:

§ 94. Use of local government institutions for residential treatment of persons under the custody of the state department of [~~correction~~] **corrections and community supervision**. 1. The state commissioner of [~~correction~~] **corrections and community supervision** is hereby authorized to transfer any inmate under the care or custody of the department who is eligible to be transferred to a residential treatment facility under section seventy-three of this chapter to any county jail, workhouse or penitentiary for the purpose of having such inmate engage in a residential treatment facility program; provided, however, that:

(a) Such inmate has resided or was employed or has dependents or parents who reside in the county, or in a county that is contiguous to the county, in which the institution to which he would be transferred is located;

(b) Arrangements have been made for the education, on-the-job training, employment or for some other rehabilitative treatment of such inmate in the county, or in a county that is contiguous to the county, in which the institution to which he would be transferred is located; and

(c) The sheriff, warden, superintendent, local commissioner of correction or other person in charge of the institution to which the inmate would be transferred consents to such transfer.

2. An inmate so transferred shall continue to be in the custody of the state department of [~~correction~~] **corrections and community supervision** but shall, during the period of such transfer, be in the care of the head of the institution to which he **or she** is transferred. The provisions of section seventy-three of this chapter shall apply in the case of any such transfer as fully and completely as if the inmate were transferred to a residential treatment facility, and the head of the institution to which the inmate is transferred and the officers and employees thereof shall have and may exercise all of the powers of the

superintendent of a residential treatment facility with respect to the care or custody of such inmate.

In any case where an inmate is employed, however, the provisions of subdivision nine of such section seventy-three shall not apply and the wages or salary of such inmate shall be dealt with under the provisions applicable to a work release program in the type of institution to which he is transferred as provided in sections one hundred fifty-four, eight hundred seventy-two or eight hundred ninety-three as the case may be; and in the event such inmate is returned to a state correctional facility, any balance remaining in the trust fund account shall be paid over to the superintendent of such facility and shall be deposited by him **or her** as inmates' funds pursuant to section one hundred sixteen of this chapter.

3. If at any time the head of a local institution to which an inmate is transferred under this section is of the opinion that continued care of such inmate in such institution is inconsistent with the welfare or safety of the community or of the institution or its inmates, he **or she** may request the state commissioner to return such inmate to a state correctional facility and, upon the receipt of any such request, the commissioner shall cause such inmate to be so returned promptly and at the expense of the state department of [~~correction~~] **corrections and community supervision**.

4. The expenses of any such transfer shall be paid by the state department of [~~correction~~] **corrections and community supervision** and the commissioner is hereby authorized to reimburse the local institution for a sum determined by the head of such institution and agreed to in advance by the [~~state~~] commissioner [~~of correction~~] to be the cost of food, lodging and clothing within the institution, and the actual and necessary food, travel and other expenses required for a program outside the institution, incurred or advanced by the institution; provided, however, that:

(a) In any case where the [~~state~~] commissioner [~~of correction~~] has a pending agreement with a locality under section ninety-one of this article, the [~~commmissioner of correction~~] **commissioner** shall not reimburse the local institution for any cost incurred for food, lodging and clothing within the institution; and

(b) The wages or salary, if any, of such inmate shall be used for such reimbursement and shall be applied to defray any costs authorized to be paid under this section before any amount shall be paid by the commissioner [~~of correction~~] hereunder, and any such wages or salary may be so applied irrespective of the provisions of paragraph (a) of this subdivision.

§ 14. Section 116 of the correction law, as amended by section 42 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

§ 116. Inmates' funds. The warden or superintendent of each of the institutions within the jurisdiction of the department of [~~correction~~] **corrections and community supervision** shall deposit at least once in each week to his **or her** credit as such warden, or superintendent, in such bank or banks as may be designated by the comptroller, all the moneys received by him **or her** as such warden, or superintendent, as inmates' funds, and send to the comptroller and also to the commissioner [~~of correction~~] monthly, a statement showing the amount so received and deposited. Such statement of deposits shall be certified by the proper officer of the bank receiving such deposit or deposits. The warden, or superintendent, shall also verify by his **or her** affidavit that the sum

so deposited is all the money received by him **or her** as inmates' funds during the month. Any bank in which such deposits shall be made shall, before receiving any such deposits, file a bond with the comptroller of the state, subject to his **or her** approval, for such sum as he **or she** shall deem necessary. Upon a certificate of approval issued by the director of the budget, pursuant to the provisions of section fifty-three of the state finance law, the amount of interest, if any, heretofore accrued and hereafter to accrue on moneys so deposited, heretofore and hereafter credited to the warden, or superintendent, by the bank from time to time, shall be available for expenditure by the warden, or superintendent, subject to the direction of the commissioner, for welfare work among the inmates in his custody. The withdrawal of moneys so deposited by such warden, or superintendent, as inmates' funds, including any interest so credited, shall be subject to his **or her** check. Each warden, or superintendent, shall each month provide the comptroller and also the commissioner with a record of all withdrawals from inmates' funds. As used in this section, the term "inmates' funds" means the funds in the possession of the inmate at the time of his **or her** admission into the institution, funds earned by him **or her** as provided in section one hundred eighty-seven of this chapter and any other funds received by him **or her** or on his **or her** behalf and deposited with such warden or superintendent in accordance with the rules and regulations of the commissioner. Whenever the total unencumbered value of funds in an inmate's account exceeds ten thousand dollars, the superintendent shall give written notice to the office of victim services.

§ 15. Subdivision 2 of section 120 of the correction law, as added by chapter 202 of the laws of 2007, is amended to read as follows:

2. Nothing in this section shall limit in any way the authority of the commissioner, or any county or the city of New York, to enter into any contract authorized by subdivision eighteen of section two, section seventy-two-a, section seventy-three, section ninety-five, article five-A or article twenty-six of this chapter, or to limit the responsibility of the [~~state division of parole~~] **department of corrections and community supervision** to supervise inmates or [~~parolees~~] **persons released to community supervision** while away from an institution pursuant to section seventy-two-a, section seventy-three or article twenty-six of this chapter or while confined at a drug treatment campus as defined in subdivision twenty of section two of this chapter.

§ 16. Section 140-a of the correction law, as added by section 2 of part UU of chapter 56 of the laws of 2009, is amended to read as follows:

§ 140-a. Pilot project for filing medical assistance applications for inmates prior to their release. 1. Subject to the availability of an appropriation of no less than two hundred thousand dollars, the commissioner, after consultation with the chairman of the [~~division~~] **state board** of parole, the commissioner of the department of health, and the commissioner of the office of temporary and disability assistance, shall establish a pilot program at a designated correctional facility for the purpose of filing applications for enrollment in the medical assistance program established under title eleven of article five of the social services law for eligible inmates prior to their release to the community; provided, however, that the commissioner shall not establish such pilot program at the Orleans correctional facility. For purposes of this pilot program, eligible inmates shall not include any inmates who were receiving such medical assistance immediately prior to their commitment to the department and whose medical assistance was thereafter suspended

pursuant to the provisions of subdivision one-a of section three hundred sixty-six of the social services law.

2. In determining the facility where the pilot program shall be established, the commissioner shall give due consideration to the following factors, which shall include, but not be limited to: (i) the degree to which pre-release services and re-entry services are either already available at such facility or can be made readily available at such facility; (ii) the proximity of the facility to the communities to which the eligible inmates will be released; (iii) the availability of community linkages which would facilitate the preparation and submission of such medical assistance applications for eligible inmates; and (iv) the recommendations of the commissioner of the office of temporary and disability assistance, the commissioner of the department of health and the chairman of the [~~division~~] **state board** of parole.

3. The commissioner may use the appropriation for this pilot program to establish one or more department positions to perform any responsibilities [~~which~~] **that** may arise in connection with the preparation and submission of such medical assistance applications. The commissioner may also use the appropriation to enter into any contract with one or more outside individuals or entities to provide any services that may be needed in connection with this pilot program. Further, all or a portion of the funds appropriated for the pilot program may be transferred to another state agency in order to establish positions to perform any responsibilities which may be necessary to operate the pilot program.

4. Applications for medical assistance shall be submitted to the statewide enrollment center established by contract with the department of health pursuant to subdivision twenty-four of section two hundred six of the public health law in sufficient time before the anticipated release, conditional release or discharge of the eligible inmate to permit the enrollment center to process the application prior to such inmate's release from the custody; provided, however, that where the eligible inmate will be released to the same county where the pilot program is established, the application for medical assistance may be filed with the local county department of social services.

5. Upon receipt of an application filed pursuant to this section, the centralized statewide enrollment center shall determine the eligibility of such inmate for enrollment in the medical assistance program established under title eleven of article five of the social services law. Such determination shall be based on whether the inmate, except for his or her status as an inmate, would be eligible to receive medical assistance. Notwithstanding any inconsistent provision of law, enrollment in the medical assistance program shall be effective on the date an eligible inmate is released, conditionally released or discharged from custody in a department facility to the community. The commissioner, the commissioner of the state department of health and the chairman of the state [~~division~~] **board** of parole shall determine the process for issuing the medical assistance identification card so that the applicant will receive appropriate documentation of [~~his/her~~] **his or her** eligibility of medical assistance either upon release or as soon thereafter as practicable.

6. After the pilot program becomes operational, the commissioner shall periodically monitor all indicators related to the preparation and processing of inmate applications which shall include, but not be limited to: (i) the degree to which all of the requisite information for an application can be obtained while the inmate is incarcerated by the department; (ii) the average processing times to prepare and complete

applications; (iii) the most effective manner for the transmittal of a completed application for an eligibility determination; (iv) the average amount of time required before an eligibility determination can be completed and the necessary medical assistance eligibility card is provided to the eligible individual; and (v) the identification of issues and factors which may prevent, impede, or delay the preparation and submission of applications, which could be ameliorated by modifications to existing laws, rules and regulations, or policies and procedures.

7. After the pilot program has been operational for a period of twelve months, or sooner if determined to be appropriate by the commissioner, a report shall be prepared by the commissioner and submitted to the governor, the temporary president of the senate and the speaker of the assembly on the factors listed in subdivision six of this section. Such report shall also include any recommendations for additional legislative enactments that may be needed, or new appropriations that may be required, to improve, enhance and subsequently expand the program to other correctional facilities as determined to be appropriate by the commissioner, with the ultimate goal to assist as many inmates as feasible to submit applications for medical assistance prior to their release to the community.

8. The [~~**division**~~] **state board** of parole shall assist the department in any manner necessary to assure that the purposes and objective of this section are effectively accomplished.

9. The commissioner and the commissioner of the department of health may promulgate rules and regulations necessary for the uniform and timely preparation, submission, acceptance and processing of applications by eligible inmates prior to their release from custody.

§ 17. Section 148 of the correction law, as amended by chapter 81 of the laws of 1964, is amended to read as follows:

§ 148. Psychiatric and diagnostic clinics. The commissioner of [~~**correction and the chairman of the board of parole are**~~] **corrections and community supervision is** hereby authorized and directed to assist and cooperate with the commissioner of mental [~~**hygiene**~~] **health** in the establishment and conduct of such psychiatric and diagnostic clinics in the institutions and facilities under their jurisdiction as such commissioners [~~**and chairman**~~] may deem necessary within the amount appropriated therefor. The persons conducting the work of such clinics shall determine the physical and mental condition of all inmates serving an indeterminate term, having a minimum of one day and a maximum of natural life, and of such other inmates whose criminal record, behavior or other factors indicate to those in charge of such clinics the need of study and treatment. The work of the clinics shall include scientific study and psychiatric evaluation of each such inmate, including his **or her** career and life history, investigation of the cause of the crime and recommendations for the care, training and employment of such inmates with a view to their reformation and to the protection of society. Each of the different phases of the work of the clinics shall be so coordinated with all the other phases of clinic work as to be a part of a unified and comprehensive scheme in the study and treatment of such inmates. After classification in the clinics the inmate sentenced to state prison shall be certified to the warden and recommendation made to the commissioner of [~~**correction**~~] **corrections and community supervision** as to their disposition.

§ 18. Section 168-g of the correction law, as added by chapter 192 of the laws of 1995, is amended to read as follows:

§ 168-g. Prior convictions; duty to inform and register. 1. The [~~division of parole~~] **department** or [~~department~~] **office** of probation and correctional alternatives in accordance with risk factors pursuant to section one hundred sixty-eight-l of this article shall determine the duration of registration and notification for every sex offender who on the effective date of this article is then on [~~parole~~] **community supervision** or probation for an offense provided for in subdivision two or three of section one hundred sixty-eight-a of this article.

2. Every sex offender who on the effective date of this article is then on [~~parole~~] **community supervision** or probation for an offense provided for in subdivision two or three of section one hundred sixty-eight-a of this article shall within ten calendar days of such determination register with his parole or probation officer. On each anniversary of the sex offender's initial registration date thereafter, the provisions of section one hundred sixty-eight-f of this article shall apply. Any sex offender who fails or refuses to so comply shall be subject to the same penalties as otherwise provided for in this article which would be imposed upon a sex offender who fails or refuses to so comply with the provisions of this article on or after such effective date.

3. It shall be the duty of the parole or probation officer to inform and register such sex offender according to the requirements imposed by this article. A parole or probation officer shall give one copy of the form to the sex offender and shall, within three calendar days, send two copies electronically or otherwise to the [~~division~~] **department** which shall forward one copy electronically or otherwise to the law enforcement agency having jurisdiction where the sex offender resides upon his [~~parole~~] **or her community supervision**, probation, or [~~upon any form of state or~~] local conditional release.

4. A petition for relief from this section is permitted to any sex offender required to register while released [~~on parole~~] **to community supervision** or probation pursuant to section one hundred sixty-eight-o of this article.

§ 19. Subdivision 1 of section 168-1 of the correction law, as added by chapter 192 of the laws of 1995, is amended to read as follows:

1. There shall be a board of examiners of sex offenders which shall possess the powers and duties hereinafter specified. Such board shall consist of five members appointed by the governor. [~~Three members who~~] **All members shall be employees of the department and** shall be experts in the field of the behavior and treatment of sex offenders [~~shall be employees of the division of parole and the remaining two members shall be from the department~~]. The term of office of each member of such board shall be for six years; provided, however, that any member chosen to fill a vacancy occurring otherwise than by expiration of term shall be appointed for the remainder of the unexpired term of the member whom he **or she** is to succeed. In the event of the inability to act of any member, the governor may appoint some competent informed person to act in his **or her** stead during the continuance of such disability.

§ 20. Section 168-m of the correction law, as amended by chapter 453 of the laws of 1999, is amended to read as follows:

§ 168-m. Review. Notwithstanding any other provision of law to the contrary, any state or local correctional facility, hospital or institution, district attorney, law enforcement agency, probation department, [~~division~~] **state board** of parole, court or child protective agency shall forward relevant information pertaining to a sex offender to be discharged, paroled, released to post-release supervision or released to

the board for review no later than one hundred twenty days prior to the release or discharge and the board shall make recommendations as provided in subdivision six of section one hundred sixty-eight-l of this article within sixty days of receipt of the information. Information may include, but may not be limited to all or a portion of the arrest file, prosecutor's file, probation or parole file, child protective file, court file, commitment file, medical file and treatment file pertaining to such person. Such person shall be permitted to submit to the board any information relevant to the review. Upon application of the sex offender or the district attorney, the court shall seal any portion of the board's file pertaining to the sex offender [~~which~~] **that** contains material that is confidential under any state or federal law; provided, however, that in any subsequent proceedings in which the sex offender who is the subject of the sealed record is a party and which requires the board to provide a recommendation to the court pursuant to this article, such sealed record shall be available to the sex offender, the district attorney, the court and the attorney general where the attorney general is a party, or represents a party, in the proceeding.

§ 21. Subdivision 1 of section 184 of the correction law, as amended by chapter 166 of the laws of 1991, is amended to read as follows:

1. The commissioner [~~of correctional services~~] is authorized and directed to cause to be manufactured or prepared by the inmates in the state correctional facilities, such articles as are needed and used therein, and also, such articles as are required by the state or political subdivisions thereof, and in the buildings, offices and public institutions owned or managed and controlled by the state, including articles and materials to be used in the erection of the buildings, and including material for the construction, improvement or repair of highways, streets and roads.

§ 22. Subdivisions 1 and 3 of section 186 of the correction law, subdivision 1 as amended by chapter 166 of the laws of 1991 and subdivision 3 as amended by chapter 83 of the laws of 1995, are amended to read as follows:

1. The commissioner [~~of correctional services~~] shall establish the prices at which all services performed, and all articles manufactured in the correctional facilities in this state, and furnished to the state, or the political subdivisions thereof, or to the public institutions thereof, or to public benefit corporations, authorities or commissions. However, prices for goods or services furnished by the local correctional facilities to or for the county in which they are located, or the political subdivisions thereof, shall be fixed by the board of supervisors of such counties, except the counties located within New York city, in which the prices shall be fixed by the commissioner [~~of correction~~]. It shall also be the duty of such boards, respectively, to classify the buildings, offices and institutions owned or managed and controlled by the state, and the political subdivisions thereof, and to fix and determine the styles, patterns, designs and qualities of the articles to be manufactured for such buildings, offices and public institutions, except where the same have been fixed or their specifications approved by the office of general services in the executive department. So far as practicable, all supplies used in such buildings, offices and public institutions shall be uniform for each class, and of the styles, patterns, designs and qualities that can be manufactured in the correctional facilities in this state.

3. A purchaser of any such product or services may, at any time prior to or within thirty days of the time of sale, appeal the purchase price

on the basis that it unreasonably exceeds fair market price. Such appeal shall be raised in a form to be provided for by the commissioner pursuant to rule and shall include a verified statement setting forth the basis of an alternative fair market price determined according to the standards for establishing prices set forth in subdivision two of this section.

An appeal brought by such a purchaser as to the reasonableness of the fair market price established pursuant to subdivision two of this section shall be decided by majority vote of a three-member price review board consisting of the director of the budget, the commissioner [~~of correctional services~~] and the commissioner of the office of general services or their representatives.

All hearings before such price review board shall be governed by the rules to be adopted and prescribed by such board. The hearings of such board may, in the discretion of a majority of its members, be open to the public, but shall not be bound by the technical rules of evidence. The price review board shall permit the parties to such an appeal to present such evidence, in person or through their attorneys, as the board may deem necessary for its determination. A stenographic record shall be kept of any proceeding before such board and the decision of the board shall be in writing and state the reasons for such decision.

The decision of such board as to the reasonableness of the price established by the commissioner shall be conclusive on all parties. If the board finds that a price unreasonably exceeds the fair market price, it may adjust the sales price with respect to such purchaser. Prices so adjusted shall otherwise apply prospectively to purchases made subsequent to such adjustment until such time as new prices are established pursuant to subdivision two of this section. In the event that payment has been made, upon such adjustment of price, any excess paid to the state shall be refunded to such purchaser on a voucher signed by the commissioner within amounts available therefor or at the option of the purchaser, the commissioner may credit such excess amount toward any future purchase.

§ 23. Section 190 of the correction law is amended to read as follows:

§ 190. Monthly statement of receipts and expenditures for industries. The warden of each of the state prisons shall, on the first of each month, make a full detailed statement of all materials, machinery or other property procured, and of the cost thereof, and of the expenditures made during the last preceding month for manufacturing purposes, together with a statement of all materials then on hand to be manufactured, or in process of manufacture, or manufactured, and of machinery, fixtures or other appurtenances for the purpose of carrying on the labor of the prisoners, and the amount and kinds of work done, and the earnings realized, and the total amount of moneys coming into his **or her** hands as such warden during such last preceding month as the proceeds of the labor of the prisoners at such prison, which statement shall be verified by the oath of such warden to be just and true, and shall be by him **or her** forwarded to the department [~~of correction~~].

§ 24. Subdivisions 1 and 2 of section 275 of the correction law, as added by section 1 of part SS of chapter 56 of the laws of 2009, are amended to read as follows:

1. If a person who has been granted conditional release pursuant to this article resides or desires to reside in a place other than the one located within the jurisdiction of the commission which has legal custody of such person, such commission, or any member thereof, may designate any other commission established pursuant to this article, or the

[~~parole board~~] **department**, to assume custody of such person and may so transfer custody upon the consent of such other commission or the [~~parole board~~] **department**.

2. Where custody of a person who has been granted conditional release pursuant to this article is transferred pursuant to subdivision one of this section, upon designation and prior to transfer, the commission making the designation shall notify the commission which has been designated to receive custody of such transfer or the [~~parole board~~] **department**. The commission making the designation shall immediately forward its entire case record regarding such person to the receiving commission or the [~~parole board~~] **department**. The commission to which legal custody has been transferred, or the [~~parole board~~] **department**, shall assume the same powers and duties exercised by the designating commission and shall have the sole custody of such person.

§ 25. Section 315 of the correction law is REPEALED.

§ 26. Article 17 of the correction law is REPEALED.

§ 27. Article 18 of the correction law is REPEALED.

§ 28. Subdivisions 2 and 3 of section 504 of the correction law, subdivision 2 as amended by section 8 of part Q of chapter 56 of the laws of 2009 and subdivision 3 as amended by chapter 799 of the laws of 1974, are amended to read as follows:

2. Where the jail in a county becomes unfit or unsafe for the confinement of some or all of the inmates due to an inmate disturbance or other extraordinary circumstances, including but not limited to a natural disaster, unanticipated deficiencies in the structural integrity of a facility or the inability to provide one or more inmates with essential services such as medical care, upon the request of the municipal official as defined in subdivision four of section forty of this chapter and no other suitable place within the county nor the jail of any other county is immediately available to house some or all of the inmates, the commissioner of [~~correctional services~~] **corrections and community supervision** may, in his or her sole discretion, make available, upon such terms and conditions as he **or she** may deem appropriate, all or any part of a state correctional institution for the confinement of some or all of such inmates as an adjunct to the county jail for a period not to exceed thirty days. However, if the county jail remains unfit or unsafe for the confinement of some or all of such inmates beyond thirty days, the state commission of correction, with the consent of the commissioner of [~~correctional services~~] **corrections and community supervision**, may extend the availability of a state correctional institution for one or more additional thirty day periods. The state commission of correction shall promulgate rules and regulations governing the temporary transfer of inmates to state correctional institutions from county jails**,** including but not limited to provisions for confinement of such inmates in the nearest correctional facility, to the maximum extent practicable, taking into account necessary security. The commissioner of [~~correctional services~~] **corrections and community supervision** may, in his or her sole discretion, based on standards promulgated by the department, determine whether a county shall reimburse the state for any or all of the actual costs of confinement as approved by the director of the division of the budget. On or before the expiration of each thirty day period, the state commission of correction must make an appropriate designation pursuant to subdivision one if the county jail remains unfit or unsafe for the confinement of some or all of the inmates and consent to the continued availability of a state correctional institution as required for herein. The superintendence, management and control of a state correctional

institution or part thereof made available pursuant hereto and the inmates housed therein shall be as directed by the commissioner of [~~correctional services~~] **corrections and community supervision**.

3. The county clerk must serve a copy of the designation, duly certified by him **or her**, under his **or her** official seal, on the sheriff and keeper of the jail of the county designated. The sheriff of that county must, upon the delivery of the sheriff of the county for which the designation is made, receive into his **or her** jail, and there safely keep, all persons who may be lawfully confined therein, pursuant to this article; and he **or she** is responsible for their safekeeping, as if he **or she** was sheriff of the county for which the designation is made.

§ 29. The opening paragraph, subdivisions 2, 3, 4 and 6 of section 601-d of the correction law, as added by chapter 141 of the laws of 2008, are amended to read as follows:

This section shall apply only to inmates in the custody of the commissioner, and releasees under the supervision of the [~~division of parole~~] **department**, upon whom a determinate sentence was imposed between September first, nineteen hundred ninety-eight, and the effective date of this section, which was required by law to include a term of post-release supervision:

2. Whenever it shall appear to the satisfaction of the department that an inmate in its custody[~~,~~] or [~~to the satisfaction of the division of parole~~] that a releasee under its supervision, is a designated person, [~~such agency~~] **the department** shall make notification of that fact to the court that sentenced such person, and to the inmate or releasee.

3. If a sentencing court that has received such notice, after reviewing the sentencing minutes, if available, is or becomes aware that a term of post-release supervision was in fact pronounced at the prior sentencing of such person, it shall issue a superseding commitment order reflecting that fact, accompanied by a written explanation of the basis for that conclusion, and send such order and explanation to the [~~agency that provided the notice~~] **department**, to the defendant, and to the attorney who appeared for the defendant in connection with the judgment or sentence or, if the defendant is currently represented concerning his or her conviction or sentence or with respect to an appeal from his or her sentence, such present counsel.

4. (a) If the sentencing court shall not have issued a superseding commitment order, reflecting imposition of a term of post-release supervision, within ten days after receiving notice pursuant to subdivision two of this section, then the sentencing court shall appoint counsel pursuant to section seven hundred twenty-two of the county law, provide a copy of the notice pursuant to subdivision two of this section to such counsel, and calendar such person for a court appearance which shall occur no later than twenty days after receipt of said notice. At such court appearance, the court shall furnish a copy of such notice and the proceeding date pursuant to paragraph (c) of this subdivision to the district attorney, the designated person, assigned counsel and the department [~~or the division of parole~~].

(b) The court shall promptly seek to obtain sentencing minutes, plea minutes and any other records and shall provide copies to the parties and conduct any reconstruction proceedings that may be necessary to determine whether to resentence such person.

(c) The court shall commence a proceeding to consider resentence no later than thirty days after receiving notice pursuant to subdivision two of this section.

(d) The court shall, no later than forty days after receipt of such notice, issue and enter a written determination and order, copies of which shall be immediately provided to the district attorney, the designated person, his or her counsel and the department [~~or the division of parole~~] along with any sentencing minutes pursuant to section 380.70 of the criminal procedure law.

(e) The designated person may, with counsel, knowingly consent to extend the time periods specified in paragraphs (c) and (d) of this subdivision. The people may apply to the court for an extension of ten days on the basis of extraordinary circumstances that preclude final resolution within such period of the question of whether the defendant will be resentenced. The department [~~or the division of parole~~] shall be notified by the court of any such extension.

6. In any case in which the department [~~or division of parole~~] notifies the court of a designated person, and has not been informed that the court has made a determination in accordance with paragraph (d) of subdivision four of this section (unless extended pursuant to paragraph (e) of such subdivision), [~~then such agency~~] **the department** may notify the court that it has not received a determination and, in any event, shall adjust its records with respect to post-release supervision noting that the court has not, in accordance with subdivision four of this section, imposed a sentence of post-release supervision.

§ 30. Section 605-a of the correction law, as added by chapter 476 of the laws of 1970, is amended to read as follows:

§ 605-a. Transportation of female inmates. Whenever any female inmate is conveyed to an institution [~~in~~] **under the jurisdiction of** the state department of [~~correction~~] **corrections and community supervision** pursuant to sentence or commitment, such female inmate shall be accompanied by at least one female officer.

§ 31. Section 619 of the correction law, as added by chapter 911 of the laws of 1983, is amended to read as follows:

§ 619. Cooperation with authorized agencies of the department of social services. It shall be the duty of an official of any institution under the jurisdiction of the commissioner of [~~correctional services~~] **corrections and community supervision** to cooperate with an authorized agency of the department of social services in making suitable arrangements for an inmate confined therein to visit with his or her child pursuant to subdivision seven of section three hundred eighty-four-b of the social services law.

§ 32. Subdivisions 1, 4 and 6 of section 702 of the correction law, subdivisions 1 and 4 as amended by chapter 342 of the laws of 1972 and subdivision 6 as amended by chapter 720 of the laws of 2006, are amended to read as follows:

1. Any court of this state may, in its discretion, issue a certificate of relief from disabilities to an eligible offender for a conviction that occurred in such court, if the court either (a) imposed a [~~revokable~~] **revocable** sentence or (b) imposed a sentence other than one executed by commitment to an institution under the jurisdiction of the state department of [~~correctional services~~] **corrections and community supervision**. Such certificate may be issued (i) at the time sentence is pronounced, in which case it may grant relief from forfeitures, as well as from disabilities, or (ii) at any time thereafter, in which case it shall apply only to disabilities.

4. Where the court has imposed a [~~revokable~~] **revocable** sentence and the certificate of relief from disabilities is issued prior to the expiration or termination of the time which the court may revoke such

sentence, the certificate shall be deemed to be a temporary certificate until such time as the court's authority to revoke the sentence has expired or is terminated. While temporary, such certificate (a) may be revoked by the court for violation of the conditions of the sentence, and (b) shall be revoked by the court if it revokes the sentence and commits the person to an institution under the jurisdiction of the state department of [~~correctional services~~] **corrections and community supervision**. Any such revocation shall be upon notice and after an opportunity to be heard. If the certificate is not so revoked, it shall become a permanent certificate upon expiration or termination of the court's authority to revoke the sentence.

6. Any written report submitted to the court pursuant to this section is confidential and may not be made available to any person or public or private agency except where specifically required or permitted by statute or upon specific authorization of the court. However, upon the court's receipt of such report, the court shall provide a copy of such report, or direct that such report be provided to the applicant's attorney, or the applicant himself, if he **or she** has no attorney. In its discretion, the court may except from disclosure a part or parts of the report which are not relevant to the granting of a certificate, or sources of information which have been obtained on a promise of confidentiality, or any other portion thereof, disclosure of which would not be in the interest of justice. The action of the court excepting information from disclosure shall be subject to appellate review. The court, in its discretion, may hold a conference in open court or in chambers to afford an applicant an opportunity to controvert or to comment upon any portions of the report. The court may also conduct a summary hearing at the conference on any matter relevant to the granting of the application and may take testimony under oath.

§ 33. Intentionally omitted.

§ 34. Section 703 of the correction law, as amended by chapter 342 of the laws of 1972, the section heading as amended by chapter 931 of the laws of 1976, subdivision 1 as amended by chapter 475 of the laws of 1974, subdivision 6 as added by chapter 378 of the laws of 1988 and subdivision 7 as added by section 3 of part OO of chapter 56 of the laws of 2010, is amended to read as follows:

§ 703. Certificates of relief from disabilities issued by the [~~board of parole~~] **department of corrections and community supervision**. 1. The [~~state board of parole~~] **department of corrections and community supervision** shall have the power to issue a certificate of relief from disabilities to:

(a) any eligible offender who has been committed to an institution under the jurisdiction of the state department of [~~correctional services~~] **corrections and community supervision**. Such certificate may be issued by the [~~board~~] **department** at the time the offender is released from such institution under the [~~board's~~] **department's** supervision or otherwise or at any time thereafter;

(b) any eligible offender who resides within this state and whose judgment of conviction was rendered by a court in any other jurisdiction.

2. Where the [~~board of parole~~] **department** has issued a certificate of relief from disabilities, the [~~board~~] **department** may at any time issue a new certificate enlarging the relief previously granted.

3. The [~~board of parole~~] **department** shall not issue any certificate of relief from disabilities pursuant to subdivisions one or two, unless the [~~board~~] **department** is satisfied that:

(a) The person to whom it is to be granted is an eligible offender, as defined in section seven hundred;

(b) The relief to be granted by the certificate is consistent with the rehabilitation of the eligible offender; and

(c) The relief to be granted by the certificate is consistent with the public interest.

4. Any certificate of relief from disabilities issued by the [~~board of parole~~] **department** to an eligible offender who at time of the issuance of the certificate is under the [~~board's~~] **department's** supervision, shall be deemed to be a temporary certificate until such time as the eligible offender is discharged from the [~~board's~~] **department's** supervision, and, while temporary, such certificate may be revoked by the [~~board~~] **department** for violation of the conditions of [~~parole or release~~] **community supervision**. Revocation shall be upon notice to the [~~parolee~~] **releasee**, who shall be accorded an opportunity to explain the violation prior to decision thereon. If the certificate is not so revoked, it shall become a permanent certificate upon expiration or termination of the [~~board's~~] **department's** jurisdiction over the [~~offender~~] **individual**.

5. In granting or revoking a certificate of relief from disabilities the action of the [~~board of parole shall be by unanimous vote of the members authorized to grant or revoke parole. Such action~~] **department** shall be deemed a judicial function and shall not be reviewable if done according to law.

6. For the purpose of determining whether such certificate shall be issued, the [~~board~~] **department** may conduct an investigation of the applicant.

7. Presumption based on federal recommendation. Where a certificate of relief from disabilities is sought pursuant to paragraph (b) of subdivision one of this section on a judgment of conviction rendered by a federal district court in this state and the [~~board of parole~~] **department** is in receipt of a written recommendation in favor of the issuance of such certificate from the chief probation officer of the district, the [~~board~~] **department** shall issue the requested certificate**,** unless it finds that the requirements of paragraphs (a), (b) and (c) of subdivision three of this section have not been satisfied; or that the interests of justice would not be advanced by the issuance of the certificate.

§ 35. Section 703-b of the correction law, as added by chapter 931 of the laws of 1976, subdivisions 1 and 3 as amended by, subdivision 2 as added by and subdivisions 4 and 5 as renumbered by chapter 386 of the laws of 1985, is amended to read as follows:

§ 703-b. Issuance of certificate of good conduct. 1. The [~~state board of parole, or any three members thereof by unanimous vote,~~] **department of corrections and community supervision** shall have the power to issue a certificate of good conduct to any person previously convicted of a crime in this state, when the [~~board~~] **department** is satisfied that:

(a) The applicant has conducted himself **or herself** in a manner warranting such issuance for a minimum period in accordance with the provisions of subdivision three of this section;

(b) The relief to be granted by the certificate is consistent with the rehabilitation of the applicant; and

(c) The relief to be granted is consistent with the public interest.

2. The [~~state board of parole, or any three members thereof by unanimous vote,~~] **department** shall have the power to issue a certificate of

good conduct to any person previously convicted of a crime in any other jurisdiction, when the [~~board~~] **department** is satisfied that:

(a) The applicant has demonstrated that there exist specific facts and circumstances, and specific sections of New York state law that have an adverse impact on the applicant and warrant the application for relief to be made in New York; and

(b) The provisions of paragraphs (a), (b) and (c) of subdivision one of this section have been met.

3. The minimum period of good conduct by the individual referred to in paragraph (a) of subdivision one of this section, shall be as follows: where the most serious crime of which the individual was convicted is a misdemeanor, the minimum period of good conduct shall be one year; where the most serious crime of which the individual was convicted is a class C, D or E felony, the minimum period of good conduct shall be three years; and, where the most serious crime of which the individual was convicted is a class B or A felony, the minimum period of good conduct shall be five years. Criminal acts committed outside the state shall be classified as acts committed within the state based on the maximum sentence that could have been imposed based upon such conviction pursuant to the laws of such foreign jurisdiction. Such minimum period of good conduct by the individual shall be measured either from the date of the payment of any fine imposed upon him **or her** or the suspension of sentence, or from the date of his **or her** unrevoked release from custody by parole, commutation or termination of his **or her** sentence. The [~~board~~] **department** shall have power and it shall be its duty to investigate all persons when such application is made and to grant or deny the same within a reasonable time after the making of the application.

4. Where the [~~board of parole~~] **department** has issued a certificate of good conduct, the [~~board~~] **department** may at any time issue a new certificate enlarging the relief previously granted.

5. Any certificate of good conduct by the [~~board of parole~~] **department** to an individual who at time of the issuance of the certificate is under the [~~board's~~] **department's** supervision, shall be deemed to be a temporary certificate until such time as the individual is discharged from the [~~board's~~] **department's** supervision, and, while temporary, such certificate may be revoked by the [~~board~~] **department** for violation of the conditions of [~~parole or release~~] **community supervision**. Revocation shall be upon notice to the [~~parolee~~] **releasee**, who shall be accorded an opportunity to explain the violation prior to decision thereon. If the certificate is not so revoked, it shall become a permanent certificate upon expiration or termination of the [~~board's~~] **department's** jurisdiction over the individual.

§ 36. Section 705 of the correction law, as added by chapter 654 of the laws of 1966, subdivision 1 as amended by section 49 of part A of chapter 56 of the laws of 2010, is amended to read as follows:

§ 705. Forms and filing. 1. All applications, certificates and orders of revocation necessary for the purposes of this article shall be upon forms prescribed pursuant to agreement among the state commissioner of [~~correctional services~~] **corrections and community supervision**, the chairman of the state board of parole and the administrator of the state judicial conference. Such forms relating to certificates of relief from disabilities shall be distributed by the office of probation and correctional alternatives and forms relating to certificates of good conduct shall be distributed by the [~~chairman of the board of parole~~] **commissioner of the department of corrections and community supervision**.

2. Any court or [~~board~~] **department** issuing or revoking any certificate pursuant to this article shall immediately file a copy of the certificate, or of the order of revocation, with the New York state identification and intelligence system.

§ 37. Paragraphs (a), (b) and (c) of subdivision 1 and subdivisions 3, 4 and 5 of section 803 of the correction law, paragraph (a) of subdivision 1, subdivisions 3, 4 and 5 as amended and paragraphs (b) and (c) of subdivision 1 as added by chapter 3 of the laws of 1995, are amended to read as follows:

(a) Every person confined in an institution of the department or a facility in the department of mental hygiene serving an indeterminate or determinate sentence of imprisonment, except a person serving a sentence with a maximum term of life imprisonment, may receive time allowance against the term or maximum term of his **or her** sentence imposed by the court. Such allowances may be granted for good behavior and efficient and willing performance of duties assigned or progress and achievement in an assigned treatment program, and may be withheld, forfeited or canceled in whole or in part for bad behavior, violation of institutional rules or failure to perform properly in the duties or program assigned.

(b) A person serving an indeterminate sentence of imprisonment may receive time allowance against the maximum term of his **or her** sentence not to exceed one-third of the maximum term imposed by the court.

(c) A person serving a determinate sentence of imprisonment may receive time allowance against the term of his **or her** sentence not to exceed one-seventh of the term imposed by the court.

3. The commissioner of [~~correctional services~~] **corrections and community supervision** shall promulgate rules and regulations for the granting, withholding, forfeiture, cancellation and restoration of allowances authorized by this section in accordance with the criteria herein specified. Such rules and regulations shall include provisions designating the person or committee in each correctional institution delegated to make discretionary determinations with respect to the allowances, the books and records to be kept, and a procedure for review of the institutional determinations by the commissioner.

4. No person shall have the right to demand or require the allowances authorized by this section. The decision of the commissioner of [~~correctional services~~] **corrections and community supervision** as to the granting, withholding, forfeiture, cancellation or restoration of such allowances shall be final and shall not be reviewable if made in accordance with law.

5. Time allowances granted prior to any release [~~on parole or prior to any conditional release~~] **to community supervision** shall be forfeited and shall not be restored if the [~~paroled or conditionally~~] released person is returned to an institution under the jurisdiction of the state department of [~~correctional services~~] **corrections and community supervision** for violation of [~~parole, violation of the conditions of release~~] **community supervision** or by reason of a conviction for a crime committed while on [~~parole or conditional release~~] **community supervision**. A person who is so returned may, however, subsequently receive time allowances against the remaining portion of his **or her** term, maximum term or aggregate maximum term pursuant to this section and provided such remaining portion of his **or her** term, maximum term, or aggregate maximum term is more than one year.

§ 38. Subdivisions 3, 4 and 5 of section 803 of the correction law, as amended by chapter 126 of the laws of 1987, are amended to read as follows:

3. The commissioner of [~~correctional services~~] **corrections and community supervision** shall promulgate rules and regulations for the granting, withholding, forfeiture, cancellation and restoration of allowances authorized by this section in accordance with the criteria herein specified. Such rules and regulations shall include provisions designating the person or committee in each correctional institution delegated to make discretionary determinations with respect to the allowances, the books and records to be kept, and a procedure for review of the institutional determinations by the commissioner.

4. No person shall have the right to demand or require the allowances authorized by this section. The decision of the commissioner of [~~correctional services~~] **corrections and community supervision** as to the granting, withholding, forfeiture, cancellation or restoration of such allowances shall be final and shall not be reviewable if made in accordance with law.

5. Time allowances granted prior to any release [~~on parole or prior to any conditional release~~] **to community supervision** shall be forfeited and shall not be restored if the [~~paroled or conditionally~~] released person is returned to an institution under the jurisdiction of the state department of [~~correctional services~~] **corrections and community supervision** for violation of [~~parole, violation of the conditions of release~~] **community supervision** or by reason of a conviction for a crime committed while on [~~parole or conditional release~~] **community supervision**. A person who is so returned may, however, subsequently receive time allowances against the remaining portion of his maximum or aggregate maximum term or period not to exceed in the aggregate one-third of such portion provided such remaining portion of his **or her** maximum or aggregate maximum term or period is more than one year.

§ 39. Subdivision 6 of section 804 of the correction law, as added by chapter 680 of the laws of 1967, is amended to read as follows:

6. Notwithstanding anything to the contrary in this section, in any case where a person is serving a definite sentence in an institution under the jurisdiction of the state department of [~~correction~~] **corrections and community supervision**, subdivisions three and four of section eight hundred three of this chapter shall apply.

§ 40. Subdivisions 3 and 6 of section 806 of the correction law, as added by section 5 of part E of chapter 62 of the laws of 2003, are amended to read as follows:

3. Any inmate eligible for presumptive release pursuant to this section shall be required to apply for such release pursuant to section [~~two hundred fifty-nine-g of the executive law. Upon release from the department of correctional services, such person shall be in the legal custody of the division of parole as provided in subdivisions two, three, four, five, six and seven of section two hundred fifty-nine-i of the executive law~~] **two hundred six of this chapter**.

6. Any eligible inmate who is not released pursuant to subdivision one or two of this section shall be considered for discretionary release on parole pursuant to the provisions of section eight hundred five of this article or section two hundred [~~fifty-nine-i~~] **fifty-nine-b** of the executive law, whichever is applicable.

§ 41. Subdivision 1 of section 851 of the correction law, as amended by chapter 554 of the laws of 1986, is amended to read as follows:

1. "Institution" means any institution under the jurisdiction of the state department of [~~correctional services~~] **corrections and community supervision** or an institution designated by the commissioner pursuant to section seventy-two-a of this chapter.

§ 41-a. Subdivision 1 of section 851 of the correction law, as amended by chapter 691 of the laws of 1977, is amended to read as follows:

1. "Institution" means any institution under the jurisdiction of the state department of [~~correctional services~~] **corrections and community supervision**.

§ 41-b. Subdivision 1 of section 851 of the correction law, as added by chapter 472 of the laws of 1969, is amended to read as follows:

1. "Institution" means any institution under the jurisdiction of the state department of [~~correction~~] **corrections and community supervision**.

§ 42. The closing paragraph of subdivision 2 of section 851 of the correction law, as added by chapter 3 of the laws of 1995, is amended to read as follows:

The governor, by executive order, may exclude or limit the participation of any class of otherwise eligible inmates from participation in a temporary release program. Nothing in this paragraph shall be construed to affect either the validity of any executive order previously issued limiting the participation of otherwise eligible inmates in such program or the authority of the commissioner [~~of the department of correctional services~~] to impose appropriate regulations limiting such participation.

§ 43. The closing paragraph of subdivision 2 of section 851 of the correction law, as added by chapter 3 of the laws of 1995, is amended to read as follows:

The governor, by executive order, may exclude or limit the participation of any class of otherwise eligible inmates from participation in a temporary release program. Nothing in this paragraph shall be construed to affect either the validity of any executive order previously issued limiting the participation of otherwise eligible inmates in such program or the authority of the commissioner [~~of the department of correctional services~~] to impose appropriate regulations limiting such participation.

§ 43-a. Subdivision 5 of section 851 of the correction law, as added by chapter 472 of the laws of 1969, is amended to read as follows:

5. "Work release committee" means the body of persons, which may include members of the public, appointed pursuant to regulations promulgated by the commissioner [~~of correction~~] for the purpose of formulating, modifying and revoking work release programs at an institution.

§ 44. Subdivision 5 of section 852 of the correction law, as amended by chapter 495 of the laws of 1981, is amended to read as follows:

5. All inmates participating in temporary release programs shall be assigned to parole officers for supervision. [~~Such parole officers shall be responsible to the division of parole for the purpose of providing such supervision. The division shall provide to the department supervision in accordance with the contract required by subdivision six of this section.~~] As part of [~~its~~] **the parole officer's** supervisory functions [~~the division~~] **he or she** shall be required to provide reports [~~to the department~~] every two months on each inmate under [~~its~~] **his or her** supervision. Such reports shall include but not be limited to:

(a) an evaluation of the individual's participation in such program;

(b) a statement of any problems and the manner in which such problems were resolved relative to an individual's participation in such programs; and

(c) a recommendation with respect to the individual's continued participation in the program.

§ 44-a. Subdivision 6 of section 852 of the correction law is REPEALED.

§ 45. Subdivision 2 of section 852 of the correction law, as added by chapter 472 of the laws of 1969, is amended to read as follows:

2. The [~~division of parole~~] **department** shall be responsible for securing appropriate education, on-the-job training and employment opportunities for [~~eligbile~~] **eligible** inmates[~~. The division also~~] **and** shall supervise inmates during their participation in work release programs outside the premises of institutions.

§ 46. Subdivision 2 of section 856 of the correction law, as added by chapter 472 of the laws of 1969, is amended to read as follows:

2. If the inmate violates any provision of the program, or any rule or regulation promulgated by the commissioner of [~~correction~~] **corrections and community supervision** for conduct of inmates participating in work release programs, he **or she** shall be subject to disciplinary measures to the same extent as if he **or she** violated a rule or regulation of the commissioner for conduct of inmates within the premises of the institution.

§ 47. Subdivision 6 of section 855 of the correction law, as amended by chapter 843 of the laws of 1980, is amended to read as follows:

6. In order for an applicant to accept a program of temporary release, such inmate shall agree to be bound by all the terms and conditions thereof and shall indicate such agreement by signing the memorandum of the program immediately below a statement reading as follows: "I accept the foregoing program and agree to be bound by the terms and conditions thereof. I understand that I will be under the supervision of the state department of [~~correctional services~~] **corrections and community supervision** while I am away from the premises of the institution and I agree to comply with the instructions of any parole officer or other employee of the department assigned to supervise me. I understand that my participation in the program is a privilege which may be revoked at any time, and that if I violate any provision of the program I may be taken into custody by any peace officer or police officer and I will be subject to disciplinary procedures. I further understand that if I intentionally fail to return to the institution at or before the time specified in the memorandum I may be found guilty of a felony." Such agreement shall be placed on file at the institution from which such temporary release is granted.

§ 48. Subdivisions 2, 3 and 4 of section 855 of the correction law, as added by chapter 472 of the laws of 1969, are amended to read as follows:

2. If the work release committee determines that a work release program for the applicant is consistent with the safety of the community, is in the best interests of rehabilitation of the applicant, and is consistent with rules and regulations of the commissioner [~~of correction~~], the committee[~~, with the assistance of the division of parole,~~] shall develop a suitable program of work release for the applicant.

3. The committee shall then prepare a memorandum setting forth the details of the work release program**,** including the extended bounds of confinement and any other matter required by rules or regulations of the commissioner [~~of correction~~]. Such memorandum shall be transmitted to the warden who may approve or reject the program. If the warden approves the program, he **or she** shall indicate such approval in writing by sign-

ing the memorandum. If the warden rejects the program, such decision shall be reviewed by the commissioner [~~of correction~~].

4. In order for an applicant to accept a program of work release, he **or she** shall agree to be bound by all the terms and conditions thereof and shall indicate such agreement by signing the memorandum of the program immediately below a statement reading as follows: "I accept the foregoing program and agree to be bound by the terms and conditions thereof. I understand that I will be under the supervision of the [~~State Division of Parole~~] **department of corrections and community supervision** while I am away from the premises of the institution and I agree to comply with the instructions of any parole officer assigned to supervise me. I will carry a copy of this memorandum on my person at all times while I am away from the premises of the institution and I will exhibit it to any peace officer upon his **or her** request. I understand that my participation in the program is a privilege which may be revoked at any time, and that if I violate any provision of the program I may be taken into custody by any peace officer and I will be subject to disciplinary procedures. I further understand that if I intentionally fail to return to the institution at or before the time specified in the memorandum I may be found guilty of a felony."

§ 49. The opening paragraph of subdivision 1 of section 1304 of the abandoned property law, as amended by chapter 471 of the laws of 1980, is amended to read as follows:

The following unclaimed property belonging or credited to a discharged, deceased or escaped person in an institution under the jurisdiction of the department of social services, the department of health, the department of mental hygiene, the executive department, or the department of [~~correctional services~~] **corrections and community supervision** shall be deemed abandoned property:

§ 50. Subdivisions 1, 1-a and 4 of section 126 of the alcoholic beverage control law, subdivisions 1 and 4 as amended by chapter 366 of the laws of 1992 and subdivision 1-a as amended by chapter 367 of the laws of 1992, are amended to read as follows:

1. Except as provided in subdivision one-a of this section, a person who has been convicted of a felony or any of the misdemeanors mentioned in section eleven hundred forty-six of the former penal law as in force and effect immediately prior to September first, nineteen hundred sixty-seven, or of an offense defined in section 230.20 or 230.40 of the penal law, unless subsequent to such conviction such person shall have received an executive pardon therefor removing this disability, a certificate of good conduct granted by the [~~board of parole~~] **department of corrections and community supervision**, or a certificate of relief from disabilities granted by the [~~board of parole~~] **department of corrections and community supervision** or a court of this state pursuant to the provisions of article twenty-three of the correction law to remove the disability under this section because of such conviction.

1-a. Notwithstanding the provision of subdivision one of this section, a corporation holding a license to traffic in alcoholic beverages shall not, upon conviction of a felony or any of the misdemeanors or offenses described in subdivision one of this section, be automatically forbidden to traffic in alcoholic beverages, but the application for a license by such a corporation shall be subject to denial, and the license of such a corporation shall be subject to revocation or suspension by the authority pursuant to section one hundred eighteen of this chapter, consistent with the provisions of article twenty-three-A of the correction law. For any felony conviction by a court other than a court of this state, the

authority may request the [~~board of parole~~] **department of corrections and community supervision** to investigate and review the facts and circumstances concerning such a conviction, and [~~the board of parole~~] **such department** shall, if so requested, submit its findings to the authority as to whether the corporation has conducted itself in a manner such that discretionary review by the authority would not be inconsistent with the public interest. The [~~division of parole~~] **department of corrections and community supervision** may charge the licensee or applicant a fee equivalent to the expenses of an appropriate investigation under this subdivision. For any conviction rendered by a court of this state, the authority may request the corporation, if the corporation is eligible for a certificate of relief from disabilities, to seek such a certificate from the court which rendered the conviction and to submit such a certificate as part of the authority's discretionary review process.

4. A copartnership or a corporation, unless each member of the partnership, or each of the principal officers and directors of the corporation, is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States, not less than twenty-one years of age, and has not been convicted of any felony or any of the misdemeanors, specified in section eleven hundred forty-six of the former penal law as in force and effect immediately prior to September first, nineteen hundred sixty-seven, or of an offense defined in section 230.20 or 230.40 of the penal law, or if so convicted has received, subsequent to such conviction, an executive pardon therefor removing this disability a certificate of good conduct granted by the [~~board of parole~~] **department of corrections and community supervision**, or a certificate of relief from disabilities granted by the [~~board of parole~~] **department of corrections and community supervision** or a court of this state pursuant to the provisions of article twenty-three of the correction law to remove the disability under this section because of such conviction; provided however that a corporation which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and more than one-half of its directors are citizens of the United States or aliens lawfully admitted for permanent residence in the United States; and provided further that a corporation organized under the not-for-profit corporation law or the education law which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and more than one-half of its directors are not less than twenty-one years of age and none of its directors are less than eighteen years of age; and provided further that a corporation organized under the not-for-profit corporation law or the education law and located on the premises of a college as defined by section two of the education law which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and each of its directors are not less than eighteen years of age.

§ 51. Subparagraph (i) of paragraph 1 and paragraph 3 of subdivision (f) of section 1101 of the civil practice law and rules, as added by section 1 of part D of chapter 412 of the laws of 1999, are amended to read as follows:

(i) in the case of a state inmate who has been transferred from another state correctional facility, the court shall obtain a trust fund account statement for the six month period from the central office of the department of [~~correctional services~~] **corrections and community supervision** in Albany; or

3. The institution at which an inmate is confined, or the central office for the department of [~~correctional services~~] **corrections and community supervision**, whichever is applicable, shall promptly provide the trust fund account statement to the inmate as required by this subdivision.

§ 52. Section 5011 of the civil practice law and rules, as amended by section 50 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

§ 5011. Definition and content of judgment. A judgment is the determination of the rights of the parties in an action or special proceeding and may be either interlocutory or final. A judgment shall refer to, and state the result of, the verdict or decision, or recite the default upon which it is based. A judgment may direct that property be paid into court when the party would not have the benefit or use or control of such property or where special circumstances make it desirable that payment or delivery to the party entitled to it should be withheld. In any case where damages are awarded to an inmate serving a sentence of imprisonment with the state department of [~~correctional services~~] **corrections and community supervision** or to a prisoner confined at a local correctional facility, the court shall give prompt written notice to the office of victim services, and at the same time shall direct that no payment be made to such inmate or prisoner for a period of thirty days following the date of entry of the order containing such direction.

§ 53. Subdivision 1 of section 50-a of the civil rights law, as amended by chapter 137 of the laws of 2002, is amended to read as follows:

1. All personnel records[~~,~~] used to evaluate performance toward continued employment or promotion, under the control of any police agency or department of the state or any political subdivision thereof including authorities or agencies maintaining police forces of individuals defined as police officers in section 1.20 of the criminal procedure law and such personnel records under the control of a sheriff's department or a department of correction of individuals employed as correction officers and such personnel records under the control of a paid fire department or force of individuals employed as firefighters or firefighter/paramedics and such personnel records under the control of the [~~division of parole~~] **department of corrections and community supervision** for individuals defined as peace officers pursuant to subdivisions twenty-three and twenty-three-a of section 2.10 of the criminal procedure law shall be considered confidential and not subject to inspection or review without the express written consent of such police officer, firefighter, firefighter/paramedic, correction officer or peace officer within the [~~division of parole~~] **department of corrections and community supervision** except as may be mandated by lawful court order.

§ 54. Subdivision 2 of section 61 of the civil rights law, as amended by chapter 320 of the laws of 2006, is amended to read as follows:

2. If the petitioner stands convicted of a violent felony offense as defined in section 70.02 of the penal law or a felony defined in article one hundred twenty-five of such law or any of the following provisions of such law sections 130.25, 130.30, 130.40, 130.45, 255.25, 255.26, 255.27, article two hundred sixty-three, 135.10, 135.25, 230.05, 230.06, subdivision two of section 230.30 or 230.32, and is currently confined as an inmate in any correctional facility or currently under the supervision of the [~~state division of parole~~] **department of corrections and community supervision** or a county probation department as a result of such conviction, the petition shall for each such conviction specify

such felony conviction, the date of such conviction or convictions, and the court in which such conviction or convictions were entered.

§ 55. Subdivision 2 of section 62 of the civil rights law, as amended by chapter 320 of the laws of 2006, is amended to read as follows:

2. If the petition be to change the name of a person currently confined as an inmate in any correctional facility or currently under the supervision of the [~~state division of parole~~] **department of corrections and community supervision** or a county probation department as a result of a conviction for a violent felony offense as defined in section 70.02 of the penal law or a felony defined in article one hundred twenty-five of such law or any of the following provisions of such law sections 130.25, 130.30, 130.40, 130.45, 255.25, 255.26, 255.27, article two hundred sixty-three, 135.10, 135.25, 230.05, 230.06, subdivision two of section 230.30 or 230.32, notice of the time and place when and where the petition will be presented shall be served, in like manner as a notice of a motion upon an attorney in an action, upon the district attorney of every county in which such person has been convicted of such felony and upon the court or courts in which the sentence for such felony was entered. Unless a shorter period of time is ordered by the court, said notice shall be served upon each such district attorney and court or courts not less than sixty days prior to the date on which such petition is noticed to be heard.

§ 56. Subdivision 2 and paragraph (a) of subdivision 3 of section 79 of the civil rights law, as amended by chapter 687 of the laws of 1973, are amended to read as follows:

2. A sentence of imprisonment in a state correctional institution for any term less than for life or a sentence of imprisonment in a state correctional institution for an indeterminate term, having a minimum of one day and a maximum of natural life shall not be deemed to suspend the right or capacity of any person so sentenced to commence and prosecute an action or proceeding in any court within this state or before a body or officer exercising judicial, quasi-judicial or administrative functions within this state; provided, however, that where at the time of the commencement and during the prosecution of such action or proceeding such person is an inmate of a state correctional institution, he shall not appear at any place other than within the institution for any purpose related to such action or proceeding unless upon a subpoena issued by the court before whom such action or proceeding is pending or, where such action or proceeding is pending before a body or officer, before a judge to whom a petition for habeas corpus could be made under subdivision (b) of section seven thousand two of the civil practice law and rules upon motion of any party and upon a determination that such person's appearance is essential to the proper and just disposition of the action or proceeding. Unless the court orders otherwise, a motion for such subpoena shall be made on at least two days' notice to the commissioner of [~~correctional services~~] **corrections and community supervision**.

(a) Except as provided in paragraph (b), the state shall not be liable for any expense of or related to any such action or proceeding, including but not limited to the expense of or related to transporting the inmate to, or lodging or guarding him at any place other than in a state correctional institution. The [~~Department~~] **department** of [~~Correctional Services~~] **corrections and community supervision** shall not be required to perform any services related to such action or proceeding, including but not limited to transporting the inmate to or lodging or guarding him at

any place other than a state correctional institution unless and until the [~~Department~~] **department** has received payment for such services.

§ 57. Subdivisions 1 and 2 and paragraph (a) of subdivision 3 of section 79-a of the civil rights law, subdivision 1 as amended by chapter 118 of the laws of 1981 and subdivision 2 and paragraph (a) of subdivision 3 as added by chapter 687 of the laws of 1973, are amended to read as follows:

1. Except as provided in subdivisions two and three, a person sentenced to imprisonment for life is thereafter deemed civilly dead; provided, that such a person may marry while on [~~parole~~] **community supervision**, or after he **or she** has been discharged from [~~parole~~] **community supervision**, if otherwise capable of contracting a valid marriage. A marriage contracted pursuant to this section by a person while he **or she** is on [~~parole~~] **community supervision**, without prior written approval of the [~~board of parole~~] **commissioner of corrections and community supervision**, shall be ground for revocation of the [~~parole~~] **community supervision**. This section shall not be deemed to impair the validity of a marriage between a person sentenced to imprisonment for life and his **or her** spouse.

2. A sentence to imprisonment for life shall not be deemed to suspend the right or capacity of any person so sentenced to commence, prosecute or defend an action or proceeding in any court within this state or before a body or officer exercising judicial, quasi-judicial or administrative functions within this state; provided, however, that where at the time of the commencement and during the prosecution or defense of such action or proceeding such person is an inmate of a state correctional institution, he **or she** shall not appear at any place other than within the institution for any purpose related to such action or proceeding unless upon a subpoena issued by the court before whom such action or proceeding is pending or, where such action or proceeding is pending before a body or officer, before a judge to whom a petition for habeas corpus could be made under subdivision (b) of section seven thousand two of the civil practice law and rules upon motion of any party and upon a determination that such person's appearance is essential to the proper and just disposition of the action or proceeding. Unless the court orders otherwise, a motion for such subpoena shall be made on at least two days' notice to the commissioner of [~~correctional services~~] **corrections and community supervision**.

(a) Except as provided in paragraph (b), the state shall not be liable for any expense of or related to any such action or proceeding, including but not limited to the expense of or related to transporting the inmate to, or lodging or guarding him **or her** at any place other than in a state correctional institution. The [~~Department~~] **department** of [~~Correctional Services~~] **corrections and community supervision** shall not be required to perform any services related to such action or proceeding, including but not limited to transporting the inmate to or lodging or guarding him **or her** at any place other than a state correctional institution unless and until the [~~Department~~] **department** has received payment for such services.

§ 58. Subparagraphs (ii) and (iv) of paragraph (c) of subdivision 4 of section 58 of the civil service law, as amended by chapter 190 of the laws of 2008, are amended to read as follows:

(ii) Notwithstanding any other provision of law, in any jurisdiction, other than a city with a population of one million or more or the state department of [~~correctional services~~] **corrections and community supervision**, which does not administer examinations for designation to detec-

tive or investigator, any person who has received permanent appointment to the position of police officer, correction officer of any rank or deputy sheriff and is temporarily assigned to perform the duties of detective or investigator shall, whenever such assignment to the duties of a detective or investigator exceeds eighteen months, be permanently designated as a detective or investigator and receive the compensation ordinarily paid to persons in such designation.

(iv) Detectives and investigators designated since September twenty-third, nineteen hundred ninety and prior to February twenty-fourth, nineteen hundred ninety-five by any state, county, town, village or city (other than a city with a population of one million or more or the state department of [~~correctional services~~] **corrections and community supervision**) police, correction or sheriffs department, pursuant to the provisions of this paragraph in effect during such period, who continue to serve in such positions, shall retain their detective or investigator status without any right to retroactive financial entitlement.

§ 59. Subdivision 2 of section 59-a of the civil service law, as amended by chapter 190 of the laws of 2008, is amended to read as follows:

2. Notwithstanding the provisions of this chapter or any provisions to the contrary contained in any general, special, or local laws, any person holding a permanent competitive class appointment as a police officer, correction officer of any rank or deputy sheriff in a police force, police department or sheriffs department in a jurisdiction other than a city with a population of one million or more or the state department of [~~correctional services~~] **corrections and community supervision**, who was serving in a detective or investigator capacity, as designated by such police force, police department or sheriffs department, on the date such position was classified by the local civil service commission having jurisdiction and for at least eighteen months immediately preceding such date, shall receive a permanent appointment to a detective or investigator position, in such title as may be properly classified by the local civil service commission having jurisdiction, without further examination or qualifications and shall have all the rights and privileges of the jurisdictional class to which such position may be allocated.

§ 60. Subparagraph 6 of paragraph b and the opening paragraphs of paragraphs g and j of subdivision 1 of section 130 of the civil service law, subparagraph 6 of paragraph b as added by chapter 4 of the laws of 2007, the opening paragraph of paragraph g as added by chapter 214 of the laws of 2009 and the opening paragraph of paragraph j as added by chapter 152 of the laws of 2010, are amended to read as follows:

(6) Effective on the dates indicated in paragraph i of this subdivision, salary grades for positions in the competitive, non-competitive and labor classes of the classified service of the state of New York in the collective negotiating unit designated as the security supervisors unit established pursuant to article fourteen of this chapter who are police officers pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law, except those members designated as police officers pursuant to chapter six hundred ninety-three of the laws of two thousand six, shall be as prescribed in paragraph i of this subdivision. Effective on the dates indicated in paragraph j of this subdivision, salary grades for positions in the competitive, non-competitive and labor classes of the classified service of the state of New York in the collective negotiating unit designated as the security supervisors unit established pursuant to article fourteen of this chapter who are

employed by the state department of [~~correctional services~~] **corrections and community supervision** and are designated as peace officers pursuant to subdivision twenty-five of section 2.10 of the criminal procedure law shall be as prescribed in paragraph j of this subdivision.

Pursuant to the terms of an interest arbitration award issued pursuant to subdivision four of section two hundred nine of this chapter covering members of the security services collective negotiating unit who are employed within the state department of [~~correctional services~~] **corrections and community supervision** and who are designated as peace officers pursuant to section 2.10 of the criminal procedure law, effective on the dates indicated, salary grades for such unit members shall be as follows:

Pursuant to the terms of an agreement between the state and an employee organization entered into pursuant to article fourteen of [~~the civil service law~~] **this chapter** covering members of the collective negotiating unit designated as security supervisors who are employed by the state department of [~~correctional services~~] **corrections and community supervision** and are designated as peace officers pursuant to subdivision twenty-five of section 2.10 of the criminal procedure law, effective on the dates indicated, salary grades for such unit members shall be as follows:

§ 61. Subdivision 2 of section 134 of the civil service law, as amended by chapter 373 of the laws of 1958, is amended to read as follows:

2. Any person employed by the state in any institution under the jurisdiction of the department of mental hygiene, the department of [~~correction~~] **corrections and community supervision**, the department of health or the department of social welfare, or in the state barge canal system, or in the New York state school for the blind, Batavia, or in the New York state veterans' rest camp, Mt. McGregor, whose hours of labor are limited to forty hours per week, or six days per week, by law or administrative regulation, who is not allowed time off by the appointing officer, during any fiscal year commencing on or after April first, nineteen hundred forty-six, for any holiday, pass day or vacation period which he was eligible to receive by law or by administrative regulation, shall, upon the approval of the superintendent or other head of such institution or department and the director of the budget, be entitled to compensation therefor at the hourly rate of pay received by such employee, or shall be allowed an equivalent amount of time off in lieu of such compensation.

§ 62. Subdivisions 1, 2 and 3 of section 136 of the civil service law, subdivisions 1 and 3 as separately amended by chapters 471 and 474 of the laws of 1980, and subdivision 2 as amended by chapter 74 of the laws of 2000, are amended to read as follows:

1. The term "teacher", for purposes of this section, means any employee of a state facility or institution in the [~~division for youth~~] **office of children and family services** in the executive department and in the departments of [~~correctional services~~] **corrections and community supervision**, health, mental hygiene and social services holding a position the principal duty of which is the teaching or instruction of patients or inmates, or the direct supervision of such teaching or instruction, including an institution education director, as determined by the department of civil service subject to approval of the director of the budget.

2. The annual salary of a teacher shall be determined in accordance with the provisions of this article. Commencing July first, two thou-

sand, the total salary which a teacher would otherwise be entitled to receive for any year beginning on July first shall be paid over either (a) a period of consecutive months beginning with the first day of the facility's or institution's academic year, as determined by the employer, and ending with the last day of the facility's or institution's academic year, as determined by the employer or, in the case of a teacher in the department of [~~correctional services~~] **corrections and community supervision**, over a period of ten consecutive months designated by the commissioner of [~~correctional services~~] **corrections and community supervision** or (b) a period of twelve months from September first to August thirty-first. Any such teacher who is required to work in his position or in any other position allocated to a salary grade in section one hundred thirty of this chapter in the period of time that is outside the facility's or institution's academic year, as determined by the employer or, in the case of a teacher in the department of [~~correctional services~~] **corrections and community supervision** in the two month period outside of the ten consecutive months designated by the commissioner of [~~correctional services~~] **corrections and community supervision** shall receive additional compensation therefor. If such work is performed in his regular position or title or in a position the title of which is allocated to the same salary grade as his regular position, he shall receive additional compensation therefor at the hourly rate of pay received by him in his regular position. If such work is performed in a position having a title allocated to a lower salary grade than the salary grade to which the title of his regular position is allocated, he shall receive additional compensation therefor at the hourly rate of pay of the job rate of the grade of the position in which such work is performed, or at such job rate plus the additional increment or increments of such grade if he would be entitled to such additional increment or increments were he then appointed to such position; provided, however, that when such hourly rate exceeds the hourly rate of pay received by him in his regular position, his additional compensation shall be at the hourly rate of pay of his regular position. When such work is performed in a position allocated to a salary grade higher than the salary grade to which his regular position is allocated, he shall receive additional compensation therefor at the hourly rate of pay of the rate of compensation to which he would be entitled if he were permanently promoted to the position in which such work is performed.

3. Teachers shall not be subject to the rules governing sick leaves, vacations, time allowances and other conditions of employment in the classified service of the state established pursuant to **paragraph (c) of** subdivision one [~~(c)~~] of section six of the civil service law. The director of the [~~division for youth~~] **office of children and family services**, the commissioner of [~~correctional services~~] **corrections and community supervision**, the commissioner of health, the commissioner of mental [~~hygiene~~] **health** and the commissioner of social services, respectively, shall adopt regulations for sick leaves, vacations, time allowances and other conditions of employment which shall be applicable to teachers under its or his jurisdiction and, notwithstanding any other provision of law, such rules may provide for cash payment of the monetary value of accumulated and unused vacation and time allowances granted in lieu of overtime compensation standing to the credit of an employee at the time of his separation from service or his entrance into the armed forces of the United States for active duty (other than for training) as defined in title ten of the United States code, whether or not such entrance constitutes a separation from service, and for the payment

of the monetary value of his accumulated and unused time allowances granted in lieu of overtime compensation standing to the credit of an employee at the time of his appointment, promotion or transfer to another department or agency of the state. Such rules shall be subject to approval of the state civil service commission.

§ 63. Paragraph (a) of subdivision 1 of section 178 of the civil service law, as added by chapter 390 of the laws of 2005, is amended to read as follows:

(a) "Assailant" means a person arrested and charged with a crime, as defined in section 10.00 of the penal law, or a person committed to, certified to, or placed in the custody of the department of [~~corrections~~] **corrections and community supervision** or any other correctional facility or county jail.

§ 64. Subdivision 2, the opening paragraph and paragraph (f) of subdivision 4 of section 209 of the civil service law, subdivision 2 and the opening paragraph of subdivision 4 as amended by chapter 234 of the laws of 2008, paragraph (f) of subdivision 4 as amended by chapter 179 of the laws of 2008, are amended to read as follows:

2. Public employers are hereby empowered to enter into written agreements with recognized or certified employee organizations setting forth procedures to be invoked in the event of disputes which reach an impasse in the course of collective negotiations. Such agreements may include the undertaking by each party to submit unresolved issues to impartial arbitration. In the absence or upon the failure of such procedures, public employers and employee organizations may request the board to render assistance as provided in this section, or the board may render such assistance on its own motion, as provided in subdivision three of this section, or, in regard to officers or members of any organized fire department, or any unit of the public employer which previously was a part of an organized fire department whose primary mission includes the prevention and control of aircraft fires, police force or police department of any county, city, town, village or fire or police district, or detective-investigators, or rackets investigators employed in the office of a district attorney of a county, or in regard to any organized unit of troopers, commissioned or noncommissioned officers of the division of state police, or in regard to investigators, senior investigators and investigator specialists of the division of state police, or in regard to members of collective negotiating units designated as security services and security supervisors who are police officers, who are forest ranger captains or who are employed by the state department of [~~correctional services~~] **corrections and community supervision** and are designated as peace officers pursuant to subdivision twenty-five of section 2.10 of the criminal procedure law, or in regard to members of the collective negotiating unit designated as the agency law enforcement services unit who are police officers pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law or who are forest rangers, or in regard to organized units of deputy sheriffs who are engaged directly in criminal law enforcement activities that aggregate more than fifty per centum of their service as certified by the county sheriff and are police officers pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law as certified by the municipal police training council or Suffolk county correction officers or Suffolk county park police, as provided in subdivision four of this section.

On request of either party or upon its own motion, as provided in subdivision two of this section, and in the event the board determines that an impasse exists in collective negotiations between such employee

organization and a public employer as to the conditions of employment of officers or members of any organized fire department, or any other unit of the public employer which previously was a part of an organized fire department whose primary mission includes the prevention and control of aircraft fires, police force or police department of any county, city, town, village or fire or police district, and detective-investigators, criminal investigators or rackets investigators employed in the office of a district attorney, or as to the conditions of employment of members of any organized unit of troopers, commissioned or noncommissioned officers of the division of state police or as to the conditions of employment of members of any organized unit of investigators, senior investigators and investigator specialists of the division of state police, or as to the terms and conditions of employment of members of collective negotiating units designated as security services and security supervisors, who are police officers, who are forest ranger captains or who are employed by the state department of [~~correctional services~~] **corrections and community supervision** and are designated as peace officers pursuant to subdivision twenty-five of section 2.10 of the criminal procedure law, or in regard to members of the collective negotiating unit designated as the agency law enforcement services unit who are police officers pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law or who are forest rangers, or as to the conditions of employment of any organized unit of deputy sheriffs who are engaged directly in criminal law enforcement activities that aggregate more than fifty per centum of their service as certified by the county sheriff and are police officers pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law as certified by the municipal police training council or Suffolk county correction officers or Suffolk county park police, the board shall render assistance as follows:

(f) With regard to any members of collective negotiating units designated as security services or security supervisors, who are police officers, who are forest ranger captains or who are employed by the state department of [~~correctional services~~] **corrections and community supervision** and are designated as peace officers pursuant to subdivision twenty-five of section 2.10 of the criminal procedure law, or in regard to members of the collective negotiating unit designated as the agency law enforcement services unit who are police officers pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law or who are forest rangers, or in regard to detective-investigators, criminal investigators or rackets investigators employed in the office of a district attorney of a county contained within a city with a population of one million or more, the provisions of this section shall only apply to the terms of collective bargaining agreements directly relating to compensation, including, but not limited to, salary, stipends, location pay, insurance, medical and hospitalization benefits; and shall not apply to non-compensatory issues including, but not limited to, job security, disciplinary procedures and actions, deployment or scheduling, or issues relating to eligibility for overtime compensation which shall be governed by other provisions proscribed by law.

§ 65. Section 217-a of the county law, as added by chapter 134 of the laws of 1984, is amended to read as follows:

§ 217-a. Qualification for employment as a county correction officer. A county may adopt the provisions contained in section twenty-two-a of the correction law relating to qualifications of its officials who may thereafter be appointed in a law enforcement capacity in any of its penal correctional institutions. Any determination that would otherwise

be made by the commissioner or his **or her** designee of the department of [~~correctional services~~] **corrections and community supervision** under the provisions of section twenty-two-a of the correction law, shall, if such provisions are so adopted, be made by the appointing authority for such officials.

§ 66. Subdivision 4 of section 652 of the county law is amended to read as follows:

4. Before the appointment by a sheriff of any person as an undersheriff or a deputy, other than a person deputed to do particular acts, the sheriff shall require such person to, and such person shall, submit to the sheriff fingerprints of [~~the two hands of~~] such person, **in the form and manner prescribed by the division of criminal justice services,** and it shall thereupon be the duty of the sheriff to compare, or cause to be compared such fingerprints with fingerprints filed with the division of criminal [~~identification of the state department of correction~~] **justice services**; provided, however, that in any case where the fingerprints of any such person shall once have been submitted pursuant to this section and are on file in the office of the sheriff, no new submission thereof shall be required, nor shall the sheriff be required to make or cause to be made such comparison if such comparison shall have been made previously and certification thereof by such department is on file in his office.

§ 67. Subdivision 9 of section 10 of the court of claims act, as added by section 2 of part D of chapter 412 of the laws of 1999, is amended to read as follows:

9. A claim of any inmate in the custody of the department of [~~correctional services~~] **corrections and community supervision** for recovery of damages for injury to or loss of personal property may not be filed unless and until the inmate has exhausted the personal property claims administrative remedy, established for inmates by the department. Such claim must be filed and served within one hundred twenty days after the date on which the inmate has exhausted such remedy.

§ 68. Subdivision 6-a of section 20 of the court of claims act, as amended by section 46 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

6-a. Notwithstanding the provisions of subdivisions five, five-a and six of this section, in any case where a judgment or any part thereof is to be paid to an inmate serving a sentence of imprisonment with the state department of [~~correctional services~~] **corrections and community supervision** or to a prisoner confined at a local correctional facility, the comptroller shall give written notice, if required pursuant to subdivision two of section six hundred thirty-two-a of the executive law, to the office of victim services that such judgment shall be paid thirty days after the date of such notice.

§ 69. Section 20-a of the court of claims act, as amended by chapter 62 of the laws of 2001, is amended to read as follows:

§ 20-a. Settlement of claims. Notwithstanding any inconsistent provision of this act or of the state finance law, the comptroller shall examine, audit, and certify for payment the settlement of any claim filed in the court of claims for injuries to personal property, real property, or for personal injuries caused by the tort of an officer or employee of the state while acting as such officer or employee, provided that a stipulation of settlement executed by the parties shall have been approved by order of the court. No such stipulation shall be executed on behalf of the state without, after consultation with the director of the budget, the approval of the head of the department or agency having

supervision of the officer or employee alleged to have caused the injuries and of the attorney general. The attorney general shall cause a review to be made within the department of law of all cases filed in the court of claims to determine which cases are appropriate for possible settlement. Payment of any claim made pursuant to the approval of a settlement by the court shall be made from the funds appropriated for the purpose of payment of judgments against the state pursuant to section twenty of this act. In any case where payment is to be made to an inmate serving a sentence of imprisonment with the state department of [~~correctional services~~] **corrections and community supervision** or to a prisoner confined at a local correctional facility, the procedures set forth in subdivision six-a of section twenty of this article shall be followed. On or before January fifteenth the comptroller, in consultation with the department of law and other agencies as may be appropriate, shall submit to the governor and the legislature an annual accounting of settlements paid pursuant to this section during the preceding and current fiscal years. Such accounting shall include, but not be limited to the number, type and amount of claims so paid, as well as an estimate of claims to be paid during the remainder of the current fiscal year and during the following fiscal year.

§ 70. Subdivisions 23, 23-a and 25 of section 2.10 of the criminal procedure law, subdivisions 23 and 25 as added by chapter 843 of the laws of 1980, and subdivision 23-a as added by chapter 404 of the laws of 2000, are amended to read as follows:

23. Parole officers or warrant officers in the [~~division of parole~~] **department of corrections and community supervision**.

23-a. Parole revocation specialists in the [~~division of parole~~] **department of corrections and community supervision**; provided, however, that nothing in this subdivision shall be deemed to authorize such employee to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to section 400.00 of the penal law.

25. Officials, as designated by the commissioner of the department of [~~correctional services~~] **corrections and community supervision** pursuant to rules of the department, and correction officers of any state correctional facility or of any penal correctional institution.

§ 71. Section 120.55 of the criminal procedure law, as amended by chapter 456 of the laws of 1981, is amended to read as follows:

§ 120.55 [~~Warant~~] **Warrant** of arrest; [~~defendent~~] **defendant** under parole or probation supervision.

If the defendant named within a warrant of arrest issued by a local criminal court pursuant to the provisions of this article, or by a superior court issued pursuant to subdivision three of section 210.10 of [~~such~~] **this** chapter, is under the supervision of the state [~~division of parole~~] **department of corrections and community supervision** or a local or state probation department, then a warrant for his **or her** arrest may be executed by a parole officer or probation officer, when authorized by his **or her** probation director, within his **or her** geographical area of employment. The execution of the warrant by a parole officer or probation officer shall be upon the same conditions and conducted in the same manner as provided for execution of a warrant by a police officer.

§ 72. Subdivisions 1, 2, 3 and 5 of section 140.10 of the criminal procedure law, subdivisions 1, 2 and 3 as amended by chapter 997 of the laws of 1970, paragraph (a) of subdivision 2 as amended by chapter 300 of the laws of 2003, and subdivision 5 as amended by chapter 476 of the laws of 2009, are amended to read as follows:

§ 140.10 Arrest without a warrant; by police officer; when and where authorized.

1. Subject to the provisions of subdivision two, a police officer may arrest a person for:

(a) Any offense when he **or she** has reasonable cause to believe that such person has committed such offense in his **or her** presence; and

(b) A crime when he **or she** has reasonable cause to believe that such person has committed such crime, whether in his **or her** presence or otherwise.

2. A police officer may arrest a person for a petty offense, pursuant to subdivision one, only when:

(a) Such offense was committed or believed by him or her to have been committed within the geographical area of such police officer's employment or within one hundred yards of such geographical area; and

(b) Such arrest is made in the county in which such offense was committed or believed to have been committed or in an adjoining county; except that the police officer may follow such person in continuous close pursuit, commencing either in the county in which the offense was or is believed to have been committed or in an adjoining county, in and through any county of the state, and may arrest him **or her** in any county in which he **or she** apprehends him **or her**.

3. A police officer may arrest a person for a crime, pursuant to subdivision one, whether or not such crime was committed within the geographical area of such police officer's employment, and he **or she** may make such arrest within the state, regardless of the situs of the commission of the crime. In addition, he **or she** may, if necessary, pursue such person outside the state and may arrest him **or her** in any state the laws of which contain provisions equivalent to those of section 140.55.

5. Upon investigating a report of a crime or offense between members of the same family or household as such terms are defined in section 530.11 of this chapter and section eight hundred twelve of the family court act, a law enforcement officer shall prepare and file a written report of the incident, on a form promulgated pursuant to section eight hundred thirty-seven of the executive law, including statements made by the victim and by any witnesses, and make any additional reports required by local law enforcement policy or regulations. Such report shall be prepared and filed, whether or not an arrest is made as a result of the officers' investigation, and shall be retained by the law enforcement agency for a period of not less than four years. Where the reported incident involved an offense committed against a person who is sixty-five years of age or older a copy of the report required by this subdivision shall be sent to the New York state committee for the coordination of police services to elderly persons established pursuant to section eight hundred forty-four-b of the executive law. Where the reported incident involved an offense committed by an individual known by the law enforcement officer to be under probation or parole supervision, he or she shall transmit a copy of the report as soon as practicable to the supervising probation department or the [~~**division of parole**~~] **department of corrections and community supervision**.

§ 73. Paragraph (d) of subdivision 1 of section 160.50 of the criminal procedure law, as amended by chapter 169 of the laws of 1994, is amended to read as follows:

(d) such records shall be made available to the person accused or to such person's designated agent, and shall be made available to (i) a prosecutor in any proceeding in which the accused has moved for an order

pursuant to section 170.56 or 210.46 of this chapter, or (ii) a law enforcement agency upon ex parte motion in any superior court, if such agency demonstrates to the satisfaction of the court that justice requires that such records be made available to it, or (iii) any state or local officer or agency with responsibility for the issuance of licenses to possess guns, when the accused has made application for such a license, or (iv) the New York state [~~division of parole~~] **department of corrections and community supervision** when the accused is on parole supervision as a result of conditional release or a parole release granted by the New York state board of parole, and the arrest which is the subject of the inquiry is one which occurred while the accused was under such supervision or (v) any prospective employer of a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of this chapter, in relation to an application for employment as a police officer or peace officer; provided, however, that every person who is an applicant for the position of police officer or peace officer shall be furnished with a copy of all records obtained under this paragraph and afforded an opportunity to make an explanation thereto, or (vi) the probation department responsible for supervision of the accused when the arrest which is the subject of the inquiry is one which occurred while the accused was under such supervision; and

§ 74. Paragraph (d) of subdivision 1 of section 160.55 of the criminal procedure law, as amended by chapter 476 of the laws of 2009, is amended to read as follows:

(d) the records referred to in paragraph (c) of this subdivision shall be made available to the person accused or to such person's designated agent, and shall be made available to (i) a prosecutor in any proceeding in which the accused has moved for an order pursuant to section 170.56 or 210.46 of this chapter, or (ii) a law enforcement agency upon ex parte motion in any superior court, if such agency demonstrates to the satisfaction of the court that justice requires that such records be made available to it, or (iii) any state or local officer or agency with responsibility for the issuance of licenses to possess guns, when the accused has made application for such a license, or (iv) the New York state [~~division of parole~~] **department of corrections and community supervision** when the accused is under parole supervision as a result of conditional release or parole release granted by the New York state board of parole and the arrest which is the subject of the inquiry is one which occurred while the accused was under such supervision, or (v) the probation department responsible for supervision of the accused when the arrest which is the subject of the inquiry is one which occurred while the accused was under such supervision, or (vi) a police agency, probation department, sheriff's office, district attorney's office, department of correction of any municipality and parole department, for law enforcement purposes, upon arrest in instances in which the individual stands convicted of harassment in the second degree, as defined in section 240.26 of the penal law, committed against a member of the same family or household as the defendant, as defined in subdivision one of section 530.11 of this chapter, and determined pursuant to subdivision eight-a of section 170.10 of this title; and

§ 75. Subdivisions 4 and 5 of section 380.50 of the criminal procedure law, as amended by chapter 7 of the laws of 2007, are amended to read as follows:

4. Regardless of whether the victim requests to make a statement with regard to the defendant's sentence, where the defendant is committed to

the custody of the department of [~~correctional services~~] **corrections and community supervision** upon a sentence of imprisonment for conviction of a violent felony offense as defined in section 70.02 of the penal law or a felony defined in article one hundred twenty-five of such law, or a sex offense as defined in subdivision (p) of section 10.03 of the mental hygiene law, within sixty days of the imposition of sentence the prosecutor shall provide the victim with a form, prepared and distributed by the commissioner of the department of [~~correctional services~~] **corrections and community supervision**, on which the victim may indicate a demand to be informed of the escape, absconding, discharge, parole, conditional release, release to post-release supervision, transfer to the custody of the office of mental health pursuant to article ten of the mental hygiene law, or release from confinement under article ten of the mental hygiene law of the person so imprisoned. If the victim submits a completed form to the prosecutor, it shall be the duty of the prosecutor to mail promptly such form to the department of [~~correctional services~~] **corrections and community supervision**.

5. Following the receipt of such form from the prosecutor, it shall be the duty of the department of [~~correctional services~~] **corrections and community supervision** or, where the person is committed to the custody of the office of mental health, at the time such person is discharged, paroled, conditionally released, released to post-release supervision, or released from confinement under article ten of the mental hygiene law, to notify the victim of such occurrence by certified mail directed to the address provided by the victim. In the event such person escapes or absconds from a facility under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision**, it shall be the duty of such department to notify immediately the victim of such occurrence at the most current address or telephone number provided by the victim in the most reasonable and expedient possible manner. In the event such escapee or absconder is subsequently taken into custody by the department of [~~correctional services~~] **corrections and community supervision**, it shall be the duty of such department to notify the victim of such occurrence by certified mail directed to the address provided by the victim within forty-eight hours of regaining such custody. In the case of a person who escapes or absconds from confinement under article ten of the mental hygiene law, the office of mental health shall notify the victim or victims in accordance with the procedures set forth in subdivision (g) of section 10.10 of the mental hygiene law. In no case shall the state be held liable for failure to provide any notice required by this subdivision.

§ 76. Subdivisions 1, 6 and 8 of section 410.91 of the criminal procedure law, subdivision 1 as amended by chapter 121 of the laws of 2010 and subdivisions 6 and 8 as added by chapter 3 of the laws of 1995, are amended to read as follows:

1. A sentence of parole supervision is an indeterminate sentence of imprisonment, or a determinate sentence of imprisonment imposed pursuant to paragraphs (b) and (d) of subdivision three of section 70.70 of the penal law, which may be imposed upon an eligible defendant, as defined in subdivision two of this section. If an indeterminate sentence, such sentence shall have a minimum term and a maximum term within the ranges specified by subdivisions three and four of section 70.06 of the penal law. If a determinate sentence, such sentence shall have a term within the ranges specified by subparagraphs (iii) and (iv) of paragraph (b) of subdivision three of section 70.70 of the penal law. Provided, however, if the court directs that the sentence be executed as a sentence of

parole supervision, it shall remand the defendant for immediate delivery to a reception center operated by the state department of [~~correctional services~~] **corrections and community supervision**, in accordance with section 430.20 of this chapter and section six hundred one of the correction law, for a period not to exceed ten days. An individual who receives such a sentence shall be placed under the immediate supervision of the [~~state division of parole~~] **department of corrections and community supervision** and must comply with the conditions of parole, which shall include an initial placement in a drug treatment campus for a period of ninety days at which time the defendant shall be released therefrom.

6. Upon delivery of the defendant to the reception center, he or she shall be given a copy of the conditions of parole by a representative of the [~~division of parole~~] **department of corrections and community supervision** and shall acknowledge receipt of a copy of the conditions in writing. The conditions shall be established in accordance with article twelve-B of the executive law and the rules and regulations of the [~~division~~] **board** of parole. Thereafter and while the parolee is participating in the intensive drug treatment program provided at the drug treatment campus, the [~~division of parole~~] **department of corrections and community supervision** shall assess the parolee's special needs and shall develop an intensive program of parole supervision that will address the parolee's substance abuse history and which shall include periodic urinalysis testing. Unless inappropriate, such program shall include the provision of treatment services by a community-based substance abuse service provider which has a contract with the [~~division of parole~~] **department of corrections and community supervision**.

8. If the parole officer having charge of a person sentenced to parole supervision pursuant to this section has reasonable cause to believe that such person has violated the conditions of his or her parole, the procedures of subdivision three of section two hundred fifty-nine-i of the executive law shall apply to the issuance of a warrant and the conduct of further proceedings; provided, however, that a parole violation warrant issued for a violation committed while the parolee is being supervised at a drug treatment campus shall constitute authority for the immediate placement of the parolee into a correctional facility operated by the department of [~~correctional services~~] **corrections and community supervision**, which to the extent practicable shall be reasonably proximate to the place at which the violation occurred, to hold in temporary detention pending completion of the procedures required by subdivision three of section two hundred fifty-nine-i of the executive law.

§ 77. Subdivisions 2 and 4 of section 430.20 of the criminal procedure law, as amended by chapter 3 of the laws of 1995, are amended to read as follows:

2. Indeterminate and determinate sentences. In the case of an indeterminate or determinate sentence of imprisonment, commitment must be to the custody of the state department of [~~correctional services~~] **corrections and community supervision** as provided in subdivision one of section 70.20 of the penal law. The order of commitment must direct that the defendant be delivered to an institution designated by the commissioner of [~~correctional services~~] **corrections and community supervision** in accordance with the provisions of the correction law.

4. Certain resentences. When a sentence of imprisonment that has been imposed on a defendant is vacated and a new sentence is imposed on such defendant for the same offense, or for an offense based upon the same

act, if the term of the new definite or determinate sentence or the maximum term of the new indeterminate sentence so imposed is less than or equal to that of the vacated sentence:

(a) where the time served by the defendant on the vacated sentence is equal to or greater than the term or maximum term of the new sentence, the new sentence shall be deemed to be served in its entirety and the defendant shall not be committed to a correctional facility pursuant to said sentence; and

(b) where the defendant was under the supervision of a local conditional release commission or the [~~division of parole~~] **department of corrections and community supervision** at the time the sentence was vacated, then the commitment shall direct that said conditional release or parole be recommenced, and the defendant shall not be committed to a correctional facility pursuant to said sentence, except as a result of revocation of parole or of conditional release; and

(c) where the defendant was not under the supervision of the [~~division of parole~~] **department of corrections and community supervision** at the time the indeterminate or determinate sentence was vacated, but would immediately be eligible for conditional release from the new indeterminate or determinate sentence, the court shall ascertain from the department of [~~correctional services~~] **corrections and community supervision** whether the defendant has earned a sufficient amount of good time under the vacated sentence so as to require the conditional release of the defendant under the new sentence; in the event the defendant has earned a sufficient amount of good time, the court shall stay execution of sentence until the defendant surrenders at a correctional facility pursuant to the direction of the department of [~~correctional services~~] **corrections and community supervision**, which shall occur no later than sixty days after imposition of sentence; upon said stay of execution, the court clerk shall immediately mail to the commissioner of [~~correctional services~~] **corrections and community supervision** a certified copy of the commitment reflecting said stay of execution and the name, mailing address and telephone number of the defendant's legal representative; in the event the defendant fails to surrender as directed by the department of [~~correctional services~~] **corrections and community supervision**, the department shall notify the court which shall thereafter remand the defendant to custody pursuant to section 430.30 of this article; and

(d) upon the resentence of a defendant as described in this subdivision, the court clerk shall immediately mail a certified copy of the commitment to the commissioner of [~~correctional services~~] **corrections and community supervision** if the vacated sentence or the new sentence is an indeterminate or determinate sentence and no mailing is required by paragraph (c) of this subdivision; additionally, the court clerk shall immediately mail a certified copy of the new commitment to the head of the appropriate local correctional facility if the vacated sentence or the new sentence is a definite sentence.

§ 78. Subdivisions 2 and 4 of section 430.20 of the criminal procedure law, subdivision 2 as amended by chapter 788 of the laws of 1971 and subdivision 4 as amended by chapter 370 of the laws of 1994, are amended to read as follows:

2. Indeterminate [~~and reformatory~~] sentences. In the case of an indeterminate [~~or reformatory~~] sentence of imprisonment, commitment must be to the custody of the state department of [~~correctional services~~] **corrections and community supervision** as provided in subdivision one of section 70.20 [~~and section 75.05~~] of the penal law. The order of commit-

ment must direct that the defendant be delivered to an institution designated by the commissioner of [~~correctional services~~] **corrections and community supervision** in accordance with the provisions of the correction law.

4. Certain resentences. When a sentence of imprisonment that has been imposed on a defendant is vacated and a new sentence is imposed on such defendant for the same offense, or for an offense based upon the same act, if the term of the new definite sentence or the maximum term of the new indeterminate sentence so imposed is less than or equal to that of the vacated sentence:

(a) where the time served by the defendant on the vacated sentence is equal to or greater than the term or maximum term of the new sentence, the new sentence shall be deemed to be served in its entirety and the defendant shall not be committed to a correctional facility pursuant to said sentence; and

(b) where the defendant was under the supervision of a local conditional release commission or the [~~division of parole~~] **department of corrections and community supervision** at the time the sentence was vacated, then the commitment shall direct that said conditional release or parole be recommenced, and the defendant shall not be committed to a correctional facility pursuant to said sentence, except as a result of revocation of parole or of conditional release; and

(c) where the defendant was not under the supervision of the [~~division of parole~~] **department of corrections and community supervision** at the time the indeterminate sentence was vacated, but would immediately be eligible for conditional release from the new indeterminate sentence, the court shall ascertain from the department of [~~correctional services~~] **corrections and community supervision** whether the defendant has earned a sufficient amount of good time under the vacated sentence so as to require the conditional release of the defendant under the new sentence; in the event the defendant has earned a sufficient amount of good time, the court shall stay execution of sentence until the defendant surrenders at a correctional facility pursuant to the direction of the department of [~~correctional services~~] **corrections and community supervision**, which shall occur no later than sixty days after imposition of sentence; upon said stay of execution, the court clerk shall immediately mail to the commissioner of [~~correctional services~~] **corrections and community supervision** a certified copy of the commitment reflecting said stay of execution and the name, mailing address and telephone number of the defendant's legal representative; in the event the defendant fails to surrender as directed by the department of [~~correctional services~~] **corrections and community supervision**, the department shall notify the court which shall thereafter remand the defendant to custody pursuant to section 430.30 of this article; and

(d) upon the resentence of a defendant as described in this subdivision, the court clerk shall immediately mail a certified copy of the commitment to the commissioner of [~~correctional services~~] **corrections and community supervision** if the vacated sentence or the new sentence is an indeterminate sentence and no mailing is required by paragraph (c) of this subdivision; additionally, the court clerk shall immediately mail a certified copy of the new commitment to the head of the appropriate local correctional facility if the vacated sentence or the new sentence is a definite sentence.

§ 79. Subdivision 1 of section 440.46 of the criminal procedure law, as added by section 9 of part AAA of chapter 56 of the laws of 2009, is amended to read as follows:

1. Any person in the custody of the department of [~~correctional services~~] **corrections and community supervision** convicted of a class B felony offense defined in article two hundred twenty of the penal law which was committed prior to January thirteenth, two thousand five, who is serving an indeterminate sentence with a maximum term of more than three years, may, except as provided in subdivision five of this section, upon notice to the appropriate district attorney, apply to be resentenced to a determinate sentence in accordance with sections 60.04 and 70.70 of the penal law in the court which imposed the sentence.

§ 80. Subdivision 1 of section 440.50 of the criminal procedure law, as amended by chapter 186 of the laws of 2005, is amended to read as follows:

1. Upon the request of a victim of a crime, or in any event in all cases in which the final disposition includes a conviction of a violent felony offense as defined in section 70.02 of the penal law or a felony defined in article one hundred twenty-five of such law, the district attorney shall, within sixty days of the final disposition of the case, inform the victim by letter of such final disposition. If such final disposition results in the commitment of the defendant to the custody of the department of [~~correctional services~~] **corrections and community supervision** for an indeterminate sentence, the notice provided to the crime victim shall also inform the victim of his or her right to submit a written, audiotaped, or videotaped victim impact statement to the [~~state division of parole~~] **department of corrections and community supervision** or to meet personally with a member of the state board of parole at a time and place separate from the personal interview between a member or members of the board and the inmate and make such a statement, subject to procedures and limitations contained in rules of the board, both pursuant to subdivision two of section two hundred fifty-nine-i of the executive law. The right of the victim under this subdivision to submit a written victim impact statement or to meet personally with a member of the state board of parole applies to each personal interview between a member or members of the board and the inmate.

§ 81. Subdivisions 8 and 9 of section 530.12 of the criminal procedure law, subdivision 8 as amended by section 5 of part D of chapter 56 of the laws of 2008, and subdivision 9 as amended by chapter 530 of the laws of 1980, are amended to read as follows:

8. In any proceeding in which an order of protection or temporary order of protection or a warrant has been issued under this section, the clerk of the court shall issue to the complainant and defendant and defense counsel and to any other person affected by the order a copy of the order of protection or temporary order of protection and ensure that a copy of the order of protection or temporary order of protection be transmitted to the local correctional facility where the individual is or will be detained, the state or local correctional facility where the individual is or will be imprisoned, and the supervising probation department or [~~division of parole~~] **department of corrections and community supervision** where the individual is under probation or parole supervision. The presentation of a copy of such order or a warrant to any peace officer acting pursuant to his **or her** special duties or police officer shall constitute authority for him **or her** to arrest a person who has violated the terms of such order and bring such person before the court and, otherwise, so far as lies within his **or her** power, to aid in securing the protection such order was intended to afford.

9. If no warrant, order or temporary order of protection has been issued by the court, and an act alleged to be a family offense as

defined in section 530.11 of this chapter is the basis of the arrest, the magistrate shall permit the complainant to file a petition, information or accusatory instrument and for reasonable cause shown, shall thereupon hold such respondent or defendant, admit to, fix or accept bail, or parole him **or her** for hearing before the family court or appropriate criminal court as the complainant shall choose in accordance with the provisions of section 530.11 of this chapter.

§ 82. Subdivision 6 of section 530.13 of the criminal procedure law, as amended by section 6 of part D of chapter 56 of the laws of 2008, is amended to read as follows:

6. In any proceeding in which an order of protection or temporary order of protection or a warrant has been issued under this section, the clerk of the court shall issue to the victim and the defendant and defense counsel and to any other person affected by the order, a copy of the order of protection or temporary order of protection and ensure that a copy of the order of protection or temporary order of protection be transmitted to the local correctional facility where the individual is or will be detained, the state or local correctional facility where the individual is or will be imprisoned, and the supervising probation department or [~~division of parole~~] **department of corrections and community supervision** where the individual is under probation or parole supervision. The presentation of a copy of such order or a warrant to any police officer or peace officer acting pursuant to his **or her** special duties shall constitute authority for him **or her** to arrest a person who has violated the terms of such order and bring such person before the court and, otherwise, so far as lies within his **or her** power, to aid in securing the protection such order was intended to afford.

§ 83. Subdivisions 4, 5 and 6 of section 530.70 of the criminal procedure law, subdivisions 4 and 5 as added and subdivision 6 as renumbered by chapter 565 of the laws of 1988 and subdivision 6 as amended by chapter 456 of the laws of 1981, are amended to read as follows:

4. The issuing court may authorize the delegation of such warrant. Where the issuing court has so authorized, a police officer to whom a bench warrant is addressed may delegate another police officer to whom it is not addressed to execute such warrant as his **or her** agent when:

(a) He **or she** has reasonable cause to believe that the defendant is in a particular county other than the one in which the warrant is returnable; and

(b) The geographical area of employment of the delegated police officer embraces the locality where the arrest is to be made.

5. Under circumstances specified in subdivision four, the police officer to whom the bench warrant is addressed may inform the delegated officer, by telecommunication, mail or any other means, of the issuance of the warrant, of the offense charged in the underlying accusatory instrument and of all other pertinent details, and may request him **or her** to act as his **or her** agent in arresting the defendant pursuant to such bench warrant. Upon such request, the delegated police officer is to the same extent as the delegating officer, authorized to make such arrest pursuant to the bench warrant within the geographical area of such delegated officer's employment. Upon so arresting the defendant, he **or she** must without unnecessary delay deliver the defendant or cause him **or her** to be delivered to the custody of the police officer by whom he **or she** was so delegated, and the latter must then without unnecessary delay bring the defendant before the court in which such bench warrant is returnable.

6. A bench warrant may be executed by an officer of the state [~~division of parole~~] **department of corrections and community supervision** or a probation officer when the person named within the warrant is under the supervision of the [~~division of parole~~] **department of corrections and community supervision** or a department of probation and the probation officer is authorized by his **or her** probation director, as the case may be. The warrant must be executed upon the same conditions and in the same manner as is otherwise provided for execution by a police officer.

§ 84. Section 570.54 of the criminal procedure law, subdivisions 2 and 3 as amended by chapter 2 of the laws of 1980, is amended to read as follows:

§ 570.54 Application for issuance of requisition; by whom made; contents.

1. When the return to this state of a person charged with crime in this state is required, the district attorney of the county in which the offense was committed, or, if the offense is one which is cognizable by him **or her**, the attorney general shall present to the governor his **or her** written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him **or her**, the approximate time, place and circumstances of its commission, the state in which he **or she** is believed to be, including the location of the accused therein at the time the application is made and certifying that, in the opinion of the said district attorney or attorney general the ends of justice require the arrest and return of the accused to this state for trial and that the proceeding is not instituted to enforce a private claim.

2. When there is required the return to this state of a person who has been convicted of a crime in this state and has escaped from confinement or broken the terms of his **or her** bail, probation or parole, the district attorney of the county in which the offense was committed, [~~the parole board, or~~] the warden of the institution or sheriff of the county, from which escape was made, or the commissioner of the state department of [~~correctional services~~] **corrections and community supervision** or his **or her** designee shall present to the governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he **or she** was convicted, the circumstances of his **or her** escape from confinement or of the breach of the terms of his **or her** bail, probation or parole, the state in which he **or she** is believed to be, including the location of the person therein at the time the application is made.

3. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the accusatory instrument stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The district attorney, attorney general, [~~parole board,~~] warden, sheriff or the commissioner of the state department of [~~correctional services~~] **corrections and community supervision** or his **or her** designee may also attach such further affidavits and other documents in duplicate as he **or she** shall deem proper to be submitted with such application. One copy of the application, with the action of the governor indicated by endorsement thereon, and one of the certified copies of the accusatory instrument, or of the judgment of conviction or the sentence shall be filed in the office of the secretary of state to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

§ 85. Section 570.56 of the criminal procedure law, as amended by chapter 193 of the laws of 1995, is amended to read as follows:

§ 570.56 Expense of extradition.

The expenses of extradition must be borne by the county from which the application for a requisition comes or, where the application is made by the attorney general, by the county in which the offense was committed. In the case of extradition of a person who has been convicted of a crime in this state and has escaped from a state prison or reformatory, the expense of extradition shall be borne by the department of [~~correctional services~~] **corrections and community supervision**. Where a person has broken the terms of his **or her** parole from a state prison or reformatory, the expense of extradition shall be borne by the state [~~division of parole~~] **department of corrections and community supervision**. Where a person has broken the terms of his **or her** bail or probation, the expense of extradition shall be borne by the county. Where a person has been convicted but not yet confined to a prison, or has been sentenced for a felony to a county jail or penitentiary and escapes, the expenses of extradition shall be charged to the county from whose custody the escape is effected. Nothing in this section shall preclude a county[~~,~~] **or** the department of [~~correctional services or the state division of parole~~] **corrections and community supervision**, as the case may be, from collecting the expenses involved in extradition from the person who was extradited.

§ 86. Section 650.10 of the criminal procedure law, as amended by chapter 550 of the laws of 1978, is amended to read as follows:

§ 650.10 Securing attendance of prisoner in this state as witness in proceeding without the state.

If a judge of a court of record in any other state, which by its laws has made provision for commanding a prisoner within that state to attend and testify in this state, certifies under the seal of that court that there is a criminal prosecution pending in such court or that a grand jury investigation has commenced, and that a person confined in a New York state correctional institution or prison within the department of [~~correction~~] **corrections and community supervision**, other than a person confined as criminally mentally ill, or as a defective delinquent, or confined in the death house awaiting execution, is a material witness in such prosecution or investigation and that his **or her** presence is required for a specified number of days, upon presentment of such certificate to a judge of a superior court in the county where the person is confined, upon notice to the attorney general, such judge, shall fix a time and place for a hearing and shall make an order directed to the person having custody of the prisoner requiring that such prisoner be produced at the hearing.

If at such hearing the judge determines that the prisoner is a material and necessary witness in the requesting state, the judge shall issue an order directing that the prisoner attend in the court where the prosecution or investigation is pending, upon such terms and conditions as the judge prescribes, including among other things, provision for the return of the prisoner at the conclusion of his **or her** testimony, proper safeguards on his **or her** custody, and proper financial reimbursement or other payment by the demanding jurisdiction for all expenses incurred in the production and return of the prisoner.

The attorney general is authorized as agent for the state of New York, when in his **or her** judgment it is necessary, to enter into such agreements with the appropriate authorities of the demanding jurisdiction as

he **or she** determines necessary to ensure proper compliance with the order of the court.

§ 87. Subdivisions 1, 2 and 4 of section 720.35 of the criminal procedure law, subdivision 1 as amended by chapter 452 of the laws of 1992, subdivision 2 as amended by chapter 412 of the laws of 2001 and subdivision 4 as added by chapter 7 of the laws of 2007, are amended to read as follows:

1. A youthful offender adjudication is not a judgment of conviction for a crime or any other offense, and does not operate as a disqualification of any person so adjudged to hold public office or public employment or to receive any license granted by public authority but shall be deemed a conviction only for the purposes of transfer of supervision and custody pursuant to section two hundred fifty-nine-m of the executive law.

2. Except where specifically required or permitted by statute or upon specific authorization of the court, all official records and papers, whether on file with the court, a police agency or the division of criminal justice services, relating to a case involving a youth who has been adjudicated a youthful offender, are confidential and may not be made available to any person or public or private agency, other than the designated educational official of the public or private elementary or secondary school in which the youth is enrolled as a student provided that such local educational official shall only have made available a notice of such adjudication and shall not have access to any other official records and papers, such youth or such youth's designated agent (but only where the official records and papers sought are on file with a court and request therefor is made to that court or to a clerk thereof), an institution to which such youth has been committed, the [~~division of parole~~] **department of corrections and community supervision** and a probation department of this state that requires such official records and papers for the purpose of carrying out duties specifically authorized by law; provided, however, that information regarding an order of protection or temporary order of protection issued pursuant to section 530.12 of this chapter or a warrant issued in connection therewith may be maintained on the statewide automated order of protection and warrant registry established pursuant to section two hundred twenty-one-a of the executive law during the period that such order of protection or temporary order of protection is in full force and effect or during which such warrant may be executed. Such confidential information may be made available pursuant to law only for purposes of adjudicating or enforcing such order of protection or temporary order of protection and, where provided to a designated educational official, as defined in section 380.90 of this chapter, for purposes related to the execution of the student's educational plan, where applicable, successful school adjustment and reentry into the community. Such notification shall be kept separate and apart from such student's school records and shall be accessible only by the designated educational official. Such notification shall not be part of such student's permanent school record and shall not be appended to or included in any documentation regarding such student and shall be destroyed at such time as such student is no longer enrolled in the school district. At no time shall such notification be used for any purpose other than those specified in this subdivision.

4. Notwithstanding subdivision two of this section, whenever a person is adjudicated a youthful offender and the conviction that was vacated and replaced by the youthful offender finding was for a sex offense as that term is defined in article ten of the mental hygiene law, all

records pertaining to the youthful offender adjudication shall be included in those records and reports that may be obtained by the commissioner of mental health or the commissioner of [~~mental retardation and developmental disabilities~~] **developmental disabilities**, as appropriate; the case review panel; and the attorney general pursuant to section 10.05 of the mental hygiene law.

§ 88. Paragraph b of subdivision 1 of section 272 of the education law, as amended by chapter 787 of the laws of 1978, is amended to read as follows:

b. The "area served" by a public library system for the purposes of this article shall mean the area which the public library system proposes to serve in its approved plan of service. In determining the population of the area served by the public library system the population shall be deemed to be that shown by the latest federal census for the political subdivisions in the area served. Such population shall be certified in the same manner as provided by section fifty-four of the state finance law except that such population shall include the reservation and school Indian population and inmates of state institutions under the direction, supervision or control of the state department of [~~correction~~] **corrections and community supervision**, the state department of mental hygiene and the state department of social welfare. In the event that any of the political subdivisions receiving library service are included within a larger political subdivision which is a part of the public library system the population used for the purposes of computing state aid shall be the population of the larger political subdivision, provided however, that where any political subdivision within a larger political subdivision shall have taken an interim census since the last census taken of the larger political subdivision, the population of the larger political subdivision may be adjusted to reflect such interim census and, as so adjusted, may be used until the next census of such larger political subdivision. In the event that the area served is not coterminous with a political subdivision, the population of which is shown on such census, or the area in square miles of which is available from official sources, such population and area shall be determined, for the purpose of computation of state aid pursuant to section two hundred seventy-three **of this part** by applying to the population and area in square miles of such political subdivision, the ratio which exists between the assessed valuation of the portion of such political subdivision included within the area served and the total assessed valuation of such political subdivision.

§ 89. Subparagraph 3 of paragraph a of subdivision 9 of section 605 of the education law, as amended by chapter 523 of the laws of 1992, is amended to read as follows:

(3) The applicant must agree to practice medicine in an area in New York state designated as having a shortage of physicians. The regents, after consultation with the commissioners of health, [~~correctional services~~] **corrections and community supervision**, mental health and [~~mental retardation and~~] developmental disabilities, shall designate those regions and facilities of New York state which have a shortage of physicians for the purposes of this section and establish relative rankings thereof.

§ 90. Subdivision 6 of section 6542 of the education law, as amended by chapter 179 of the laws of 1992, is amended to read as follows:

6. Notwithstanding any other provision of this article, nothing shall prohibit a physician employed by or rendering services to the department of [~~correctional services~~] **corrections and community supervision** under

contract from supervising no more than four physician assistants or specialist assistants in his practice for the department of [~~correctional services~~] **corrections and community supervision**.

§ 91. Subdivision 16-a of section 3-102 of the election law, as added by section 10 of part OO of chapter 56 of the laws of 2010, is amended to read as follows:

16-a. provide the department of [~~correctional services and the division of parole~~] **corrections and community supervision** with a sufficient number of voter registration forms to allow the department of [~~correctional services and the division of parole~~] **corrections and community supervision** to comply with the duty to provide such voter registration forms to persons upon the expiration of their maximum sentence of imprisonment. Such voter registration forms shall be addressed to the state board of elections.

§ 92. Subdivision 3 of section 11-0707 of the environmental conservation law, as amended by chapter 319 of the laws of 2003, is amended to read as follows:

3. Any person who is a patient at any facility in this state maintained by the United States Veterans' Administration or at any hospital or sanitorium for treatment of tuberculosis maintained by the state or any municipal corporation thereof or resident patient at any institution of the department of Mental Hygiene, or resident patient at the rehabilitation hospital of the department of Health, or at any rest camp maintained by the state through the Division of Veterans' Affairs in the Executive Department or any inmate of a conservation work camp within the youth rehabilitation facility of the department of [~~correction~~] **corrections and community supervision**, or any inmate of a youth opportunity or youth rehabilitation center within the Office of Children and Family Services, any resident of a nursing home or residential health care facility as defined in subdivisions two and three of section twenty-eight hundred one of the public health law, or any staff member or volunteer accompanying or assisting one or more residents of such nursing home or residential health care facility on an outing authorized by the administrator of such nursing home or residential health care facility may take fish as if he held a fishing license, except that he may not take bait fish by net or trap, if he has on his person an authorization upon a form furnished by the department containing such identifying information and data as may be required by it, and signed by the superintendent or other head of such facility, institution, hospital, sanitarium, nursing home, residential health care facility or rest camp, as the case may be, or by a staff physician thereat duly authorized so to do by the superintendent or other head thereof. Such authorization with respect to inmates of said conservation work camps shall be limited to areas under the care, custody and control of the department.

§ 93. Subdivision 1 of section 21 of the executive law, as amended by section 2 of part B of chapter 56 of the laws of 2010, is amended to read as follows:

1. There is hereby created in the executive department a disaster preparedness commission consisting of the commissioners of transportation, health, division of criminal justice services, education, social services, economic development, agriculture and markets, housing and community renewal, general services, labor, environmental conservation, mental health, parks, recreation and historic preservation, [~~correctional services~~] **corrections and community supervision** and children and family services, the president of the New York state energy research and development authority, the superintendents of state police, insurance,

banking, the secretary of state, the state fire administrator, the chair of the public service commission, the adjutant general, the directors of the offices within the division of homeland security and emergency services, the office for technology, and the office of victim services, the chairs of the thruway authority, the metropolitan transportation authority, the port authority of New York and New Jersey, the chief professional officer of the state coordinating chapter of the American Red Cross and three additional members, to be appointed by the governor, two of whom shall be chief executives. Each member agency may designate an officer of that agency, with responsibility for disaster preparedness matters, who may represent that agency on the commission. The commissioner of the division of homeland security and emergency services shall serve as chair of the commission, and the governor shall designate the vice chair of the commission. The members of the commission, except those who serve ex officio, shall be allowed their actual and necessary expenses incurred in the performance of their duties under this article but shall receive no additional compensation for services rendered pursuant to this article.

§ 94. Paragraph (a) of subdivision 1 of section 169 of the executive law, as amended by section 20 of part B of chapter 56 of the laws of 2010, is amended to read as follows:

(a) commissioner of [~~correctional services~~] **corrections and community supervision**, commissioner of education, commissioner of health, commissioner of mental health, commissioner of [~~mental retardation and~~] developmental disabilities, commissioner of children and family services, commissioner of temporary and disability assistance, chancellor of the state university of New York, commissioner of transportation, commissioner of environmental conservation, superintendent of state police, commissioner of general services and commissioner of the division of homeland security and emergency services;

§ 95. Section 354-a of the executive law, as separately amended by sections 34 and 68 of part A of chapter 56 of the laws of 2010, is amended to read as follows:

§ 354-a. Information on status of veterans receiving assistance. Departments, divisions, bureaus, boards, commissions and agencies of the state and political subdivisions thereof, which provide assistance, treatment, counseling, care, supervision or custody in service areas involving health, mental health, family services, criminal justice or employment, including but not limited to the office of alcoholism and substance abuse services, office of mental health, office of probation and correctional alternatives, office of children and family services, office of temporary and disability assistance, department of health, department of labor, local workforce investment boards, office [~~of mental retardation and~~] **for people with** developmental disabilities, **and** department of [~~correctional services and division of parole~~] **corrections and community supervision**, shall request assisted persons to provide information with regard to their veteran status and military experiences. Individuals identifying themselves as veterans shall be advised that the division of veterans' affairs and local veterans' service agencies established pursuant to section three hundred fifty-seven of this article provide assistance to veterans regarding benefits under federal and state law. Information regarding veterans status and military service provided by assisted persons solely to implement this section shall be protected as personal confidential information under article six-A of the public officers law against disclosure of confidential material, and used only to assist in the diagnosis, treatment, assess-

ment and handling of the veteran's problems within the agency requesting such information and in referring the veteran to the division of veterans' affairs for information and assistance with regard to benefits and entitlements under federal and state law.

§ 96. Paragraph a of subdivision 1 of section 374 of the executive law, as amended by chapter 243 of the laws of 1997, is amended to read as follows:

a. Two members, to be appointed by the governor, from among the commissioners of the departments of economic development, [~~correctional services~~] **corrections and community supervision**, education, health, labor, mental health and social services, office of general services, division of housing and community renewal, and the superintendent of insurance.

§ 97. Subdivisions 4, 5, 6 and 7 of section 508 of the executive law, subdivision 4 as amended by chapter 41 of the laws of 2010, subdivisions 5 and 6 as added by chapter 481 of the laws of 1978, subdivision 7 as separately amended by chapters 308 and 316 of the laws of 1983 and such section as renumbered by chapter 465 of the laws of 1992, are amended to read as follows:

4. The [~~division for youth~~] **office of children and family services** may apply to the sentencing court for permission to transfer a youth not less than sixteen nor more than eighteen years of age to the department of [~~correctional services~~] **corrections and community supervision**. Such application shall be made upon notice to the youth, who shall be entitled to be heard upon the application and to be represented by counsel. The court shall grant the application if it is satisfied that there is no substantial likelihood that the youth will benefit from the programs offered by the [~~division~~] **office** facilities.

5. The [~~division for youth~~] **office of children and family services** may transfer an offender not less than eighteen nor more than twenty-one years of age to the department of [~~correctional services~~] **corrections and community supervision** if the [~~director~~] **commissioner** of the [~~division~~] **office** certifies to the commissioner of [~~correctional services~~] **corrections and community supervision** that there is no substantial likelihood that the youth will benefit from the programs offered by [~~division~~] **office** facilities.

6. At age twenty-one, all juvenile offenders shall be transferred to the custody of the department of [~~correctional services~~] **corrections and community supervision** for confinement pursuant to the correction law.

7. While in the custody of the [~~division for youth~~] **office of children and family services**, an offender shall be subject to the rules and regulations of the [~~division~~] **office,** except that his parole, temporary release and discharge shall be governed by the laws applicable to inmates of state correctional facilities and his transfer to state hospitals in the office of mental health shall be governed by section five hundred [~~seventeen~~] **nine** of this chapter. The [~~director~~] **commissioner** of the [~~division for youth~~] **office of children and family services** shall, however, establish and operate temporary release programs at [~~division for youth~~] **office of children and family services** facilities for eligible juvenile offenders and contract with the [~~division of parole~~] **department of corrections and community supervision** for the provision of parole supervision services for temporary releasees. The rules and regulations for these programs shall not be inconsistent with the laws for temporary release applicable to inmates of state correctional facilities. For the purposes of temporary release programs for juvenile offenders only, when referred to or defined in article

twenty-six of the correction law, "institution" shall mean any facility designated by the [~~director~~] **commissioner** of the [~~division for youth~~] **office of children and family services**, "department" shall mean the [~~division for youth~~] **office of children and family services**, "inmate" shall mean a juvenile offender residing in [~~a division for youth~~] **an office of children and family services** facility, and "commissioner" shall mean the director of the [~~division for youth~~] **office of children and family services**. Time spent in [~~division for youth~~] **office of children and family services** facilities and in juvenile detention facilities shall be credited towards the sentence imposed in the same manner and to the same extent applicable to inmates of state correctional facilities.

§ 98. Subdivision 2 of section 510-c of the executive law, as amended by chapter 465 of the laws of 1992, is amended to read as follows:

2. Except as provided in subdivision three of this section, any child who has been placed with the [~~division~~] **office of children and family services** shall be deemed to have been discharged therefrom if, during the period provided in the order of placement or extension thereof, the child is convicted of a crime or adjudicated a youthful offender, and is committed to an institution in the department of [~~correctional services~~] **corrections and community supervision** or department of mental hygiene, or receives a one year sentence in a local correctional facility.

§ 99. Paragraph (b) of subdivision 4 of section 575 of the executive law, as separately amended by section 69 of part A and section 4 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

(b) The advisory council shall consist of nine members and [~~fourteen~~] **thirteen** ex-officio members. Each member shall be appointed to serve for a term of three years and shall continue in office until a successor appointed member is made. A member appointed to fill a vacancy shall be appointed for the unexpired term of the member he or she is to succeed. All of the members shall be individuals with expertise in the area of domestic violence. Three members shall be appointed by the governor, two members shall be appointed upon the recommendation of the temporary president of the senate, two members shall be appointed upon the recommendation of the speaker of the assembly, one member shall be appointed upon the recommendation of the minority leader of the senate, and one member shall be appointed upon the recommendation of the minority leader of the assembly. The ex-officio members of the advisory board shall consist of one representative from the staff of each of the following state departments and divisions: office of temporary and disability services; department of health; education department; office of mental health; office of alcoholism and substance abuse services; division of criminal justice services; office of probation and correctional alternatives; office of children and family services; office of victim services; office of court administration; department of labor; state office for the aging; **and** department of [~~correctional services; and the division of parole~~] **corrections and community supervision**.

§ 100. Paragraph (c) of subdivision 1 of section 632-a of the executive law, as amended by section 24 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

(c) "Funds of a convicted person" means all funds and property received from any source by a person convicted of a specified crime, or by the representative of such person as defined in subdivision six of section six hundred twenty-one of this article excluding child support and earned income, where such person:

(i) is an inmate serving a sentence with the department of [~~correctional services~~] **corrections and community supervision** or a prisoner

confined at a local correctional facility or federal correctional institute, and includes funds that a superintendent, sheriff or municipal official receives on behalf of an inmate or prisoner and deposits in an inmate account to the credit of the inmate pursuant to section one hundred sixteen of the correction law or deposits in a prisoner account to the credit of the prisoner pursuant to section five hundred-c of the correction law; or

(ii) is not an inmate or prisoner but who is serving a sentence of probation or conditional discharge or is presently subject to an undischarged indeterminate, determinate or definite term of imprisonment or period of post-release supervision or term of supervised release, but shall include earned income earned during a period in which such person was not in compliance with the conditions of his or her probation, parole, conditional release, period of post-release supervision by the [~~division of parole~~] **department of corrections and community supervision** or term of supervised release with the United States probation office or United States parole commission. For purposes of this subparagraph, such period of non-compliance shall be measured, as applicable, from the earliest date of delinquency determined by the [~~board or division of parole~~] **department of corrections and community supervision**, or from the earliest date on which a declaration of delinquency is filed pursuant to section 410.30 of the criminal procedure law and thereafter sustained, or from the earliest date of delinquency determined in accordance with applicable federal law, rules or regulations, and shall continue until a final determination sustaining the violation has been made by the trial court, [~~board or division of parole~~] **the department of corrections and community supervision**, or appropriate federal authority; or

(iii) is no longer subject to a sentence of probation or conditional discharge or indeterminate, determinate or definite term of imprisonment or period of post-release supervision or term of supervised release, and where within the previous three years: the full or maximum term or period terminated or expired or such person was granted a discharge by [~~a~~] **the state** board of parole **or the department of corrections and community supervision** pursuant to applicable law, or granted a discharge or termination from probation pursuant to applicable law or granted a discharge or termination under applicable federal or state law, rules or regulations prior to the expiration of such full or maximum term or period; and includes only: (A) those funds paid to such person as a result of any interest, right, right of action, asset, share, claim, recovery or benefit of any kind that the person obtained, or that accrued in favor of such person, prior to the expiration of such sentence, term or period; (B) any recovery or award collected in a lawsuit after expiration of such sentence where the right or cause of action accrued prior to the expiration or service of such sentence; and (C) earned income earned during a period in which such person was not in compliance with the conditions of his or her probation, parole, conditional release, period of post-release supervision by the [~~division of parole~~] **department of corrections and community supervision** or term of supervised release with the United States probation office or United States parole commission. For purposes of this subparagraph, such period of non-compliance shall be measured, as applicable, from the earliest date of delinquency determined by the [~~board or division of parole~~] **department of corrections and community supervision**, or from the earliest date on which a declaration of delinquency is filed pursuant to section 410.30 of the criminal procedure law and thereafter sustained, or from the earliest date of delinquency determined in accordance with applicable federal law, rules

or regulations, and shall continue until a final determination sustaining the violation has been made by the trial court, [~~board or division of parole~~] **the department of corrections and community supervision**, or appropriate federal authority.

§ 101. Paragraph (b) of subdivision 2 of section 632-a of the executive law, as amended by section 24 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

(b) Notwithstanding subparagraph (ii) of paragraph (a) of this subdivision, whenever the payment or obligation to pay involves funds of a convicted person that a superintendent, sheriff or municipal official receives or will receive on behalf of an inmate serving a sentence with the department of [~~correctional services~~] **corrections and community supervision** or prisoner confined at a local correctional facility and deposits or will deposit in an inmate account to the credit of the inmate or in a prisoner account to the credit of the prisoner, and the value, combined value or aggregate value of such funds exceeds or will exceed ten thousand dollars, the superintendent, sheriff or municipal official shall also give written notice to the office.

§ 102. Subdivision 9 of section 835 of the executive law, as amended by section 39 of part A of chapter 56 of the laws of 2010, is amended to read as follows:

9. "Qualified agencies" means courts in the unified court system, the administrative board of the judicial conference, probation departments, sheriffs' offices, district attorneys' offices, the state department of [~~correctional services~~] **corrections and community supervision**, the department of correction of any municipality, the insurance frauds bureau of the state department of insurance, the office of professional medical conduct of the state department of health for the purposes of section two hundred thirty of the public health law, the child protective services unit of a local social services district when conducting an investigation pursuant to subdivision six of section four hundred twenty-four of the social services law, the office of Medicaid inspector general, the temporary state commission of investigation, the criminal investigations bureau of the banking department, police forces and departments having responsibility for enforcement of the general criminal laws of the state and the Onondaga County Center for Forensic Sciences Laboratory when acting within the scope of its law enforcement duties.

§ 103. Paragraph (h) of subdivision 1 of section 840 of the executive law, as amended by chapter 843 of the laws of 1980, is amended to read as follows:

(h) Exemptions from particular provisions of this article in the case of any city having a population of one million or more, or in the case of the state department of [~~correctional services~~] **corrections and community supervision** if in its opinion the standards of police officer or peace officer training established and maintained by such city or department are higher than those established pursuant to this article; or revocation in whole or in part of such exemption, if in its opinion the standards of police officer or peace officer training established and maintained by such city or department are lower than those established pursuant to this article.

§ 104. Subdivision 4 of section 995-c of the executive law, as amended by section 65 of part A of chapter 56 of the laws of 2010, is amended to read as follows:

4. The commissioner of the division of criminal justice services, in consultation with the commission, the commissioner of health, [~~the divi-~~

~~sion of parole,~~] the director of the office of probation and correctional alternatives and the department of [~~correctional services~~] **corrections and community supervision**, shall promulgate rules and regulations governing the procedures for notifying designated offenders of the requirements of this section.

§ 105. The article heading of article 12-B of the executive law, as added by chapter 904 of the laws of 1977, is amended to read as follows:

STATE [~~DIVISION~~] **BOARD** OF PAROLE

§ 106. Section 31 of the executive law, as amended by section 11 of part B of chapter 56 of the laws of 2010, is amended to read as follows:

§ 31. Divisions. There shall be in the executive department the following divisions:

1. The division of the budget.
2. The division of military and naval affairs.
3. The office of general services.
4. The division of state police.
5. [~~The division of parole.~~
~~6.~~] The division of housing.
[~~7~~] **6**. The division of alcoholic beverage control.
[~~8~~] **7**. The division of human rights.
[~~9~~] **8**. The division of veterans' affairs.
[~~10~~] **9**. The division of homeland security and emergency services.
[~~11~~] **10**. Office for technology.

The governor may establish, consolidate, or abolish additional divisions and bureaus.

§ 107. Subdivision 1 of section 643 of the executive law, as separately amended by section 38 of part A and section 1 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

1. As used in this section, "crime victim-related agency" means any agency of state government which provides services to or deals directly with crime victims, including (a) the office of children and family services, the office for the aging, the division of veterans affairs, **the office of probation** and correctional alternatives**,** the [~~division of parole~~] **department of corrections and community supervision**, **the** office of victim services**,** the department of motor vehicles, the office of vocational rehabilitation, the workers' compensation board, the department of health, the division of criminal justice services, the office of mental health, every transportation authority and the division of state police, and (b) any other agency so designated by the governor within ninety days of the effective date of this section.

§ 108. Subdivision 8 of section 837-a of the executive law, as added by section 1 of part L of chapter 56 of the laws of 2006, is amended to read as follows:

8. Present to the governor, temporary president of the senate, minority leader of the senate, speaker of the assembly and the minority leader of the assembly an annual report about the function and effectiveness of the Operation IMPACT program. Such report shall include, but not be limited to, crime data obtained, analyzed and used by each Operation IMPACT partnership in participating counties and affected municipalities including the number of arrests made by law enforcement as a direct result of the Operation IMPACT program including any available demographic information about the persons arrested and prosecuted and the disposition of such matters, and any other information related to the program's effectiveness in reducing crime. Such report shall also include information about crime reduction strategies developed by Operation IMPACT partnerships, the number of state police and [~~division of~~

~~parole~~] **department of corrections and community supervision** personnel participating in Operation IMPACT activities, and a description of training supplied to local Operation IMPACT participants. The initial report required by this paragraph shall be presented by December thirty-first, two thousand six. Thereafter, an annual report shall be presented no later than December thirty-first of each year.

§ 108-a. The sixth undesignated paragraph of section 2 of section 1 of chapter 359 of the laws of 1968, constituting the facilities development corporation act, as amended by chapter 240 of the laws of 1974, is amended to read as follows:

It is hereby found and declared that the acquisition, construction, reconstruction, rehabilitation and improvement of facilities for the department of [~~correctional services~~] **corrections and community supervision** are public purposes which are essential to enable comprehensive modernization of the state's programs of [~~correctional services~~] **corrections**. To assure that such purposes are carried out, it is further found and declared that the facilities development corporation should be empowered in [~~coorperation~~] **cooperation** with the department of [~~correctional services~~] **corrections and community supervision** to provide for the acquisition, construction, reconstruction, rehabilitation and improvement of facilities for the department of [~~correctional services~~] **corrections and community supervision**.

§ 109. Subdivision 3-b of section 3 of section 1 of chapter 359 of the laws of 1968, constituting the facilities development corporation act, as added by chapter 337 of the laws of 1972, is amended to read as follows:

3-b. "Facility for the department of [~~correctional services~~] **corrections and community supervision**" means real property, a building, a unit within a building, or any structure on or improvement to real property of any kind or description essential, necessary or useful in the program of the department of [~~correctional services~~] **corrections and community supervision**, including all usual attendant and related facilities, fixtures, equipment, and connections for utility services or any combinations thereof, designed, acquired, constructed, reconstructed, rehabilitated and improved, or otherwise provided for the department of [~~correctional services~~] **corrections and community supervision**.

§ 110. Subdivision 10 of section 5 of section 1 of chapter 359 of the laws of 1968, constituting the facilities development corporation act, as amended by chapter 337 of the laws of 1972, is amended to read as follows:

10. To design, construct, acquire, reconstruct, rehabilitate and improve health facilities, facilities for the department of [~~correctional services~~] **corrections and community supervision** and mental hygiene facilities, or cause such facilities to be designed, constructed, acquired, reconstructed, rehabilitated and improved, in accordance with the provisions of this act.

§ 111. Subdivision 7 of section 6 of section 1 of chapter 359 of the laws of 1968, constituting the facilities development corporation act, as added by chapter 337 of the laws of 1972, is amended to read as follows:

7. To provide facilities for the department of [~~correctional services~~] **corrections and community supervision**.

§ 112. Section 7-a of section 1 of chapter 359 of the laws of 1968, constituting the facilities development corporation act, as amended by chapter 240 of the laws of 1974, is amended to read as follows:

§ 7-a. Relationship with the state department of [~~correctional services~~] **corrections and community supervision**. The corporation, upon the issuance by the director of the budget of a certificate of approval segregating funds to pay for their corporate services, shall design, construct, reconstruct, rehabilitate, improve, and equip facilities for the department of [~~correctional services~~] **corrections and community supervision** or cause facilities to be designed, constructed, reconstructed, rehabilitated, improved, and equipped. The corporation shall also assist and cooperate with and shall make its personnel and services fully available to the commissioner of [~~correctional services~~] **corrections and community supervision** and the department of [~~correctional services~~] **corrections and community supervision** in matters relating to their responsibilities for site selection, acquisition of and capital planning relating to facilities for the department of [~~correctional services~~] **corrections and community supervision**. During the course of construction, acquisition, reconstruction, rehabilitation and improvement of such facilities, the corporation shall consult with the commissioner of [~~correctional services~~] **corrections and community supervision** and the personnel of the department of [~~correctional services~~] **corrections and community supervision** as the work progresses in matters relating to space requirements, site plans, architectural concept and substantial changes in the plans and specifications therefor and in matters relating to the original furnishings, equipment, machinery, and apparatus needed to furnish and equip such facilities upon the completion of the work. The commissioner of [~~correctional services~~] **corrections and community supervision** and the department of [~~correctional services~~] **corrections and community supervision** shall assist and cooperate with the corporation in such matters.

§ 113. Subdivision (b) of section 213 of the family court act is amended to read as follows:

(b) Rules of court shall as soon as practicable implement this section by prescribing appropriate forms for reports and may require such additional information as may be appropriate. The administrative board of the judicial conference may request the state department of [~~correction~~] **corrections and community supervision** and the state department of social welfare to assist it in the preparation and processing of reports under this section, and those departments, when so requested, shall render such assistance as is possible.

§ 114. The sixth undesignated paragraph of section 842 of the family court act, as added by section 8 of part D of chapter 56 of the laws of 2008, is amended to read as follows:

In any proceeding in which an order of protection or temporary order of protection or a warrant has been issued under this section, the clerk of the court shall issue to the petitioner and respondent and his counsel and to any other person affected by the order a copy of the order of protection or temporary order of protection and ensure that a copy of the order of protection or temporary order of protection be transmitted to the local correctional facility where the individual is or will be detained, the state or local correctional facility where the individual is or will be imprisoned, and the supervising probation department or [~~division of parole~~] **the department of corrections and community supervision** where the individual is under probation or parole supervision.

§ 115. The second undesignated paragraph of section 69 of the general business law, as amended by section 1 of part A of chapter 62 of the laws of 2003, is amended to read as follows:

Nothing in this section shall be construed to forbid the sale of parts and components produced by inmate labor in correctional industry programs of the government of the United States or any state of the United States, or any political subdivision thereof, to the department of [~~correctional services'~~] **corrections and community supervision's** division of correctional industries for use in its manufacturing operations.

§ 116. Section 70 of the general municipal law, as amended by section 40 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

§ 70. Payment of judgments against municipal corporation. When a final judgment for a sum of money shall be recovered against a municipal corporation, and the execution thereof shall not be stayed pursuant to law, or the time for such stay shall have expired, the treasurer or other financial officer of such corporation having sufficient moneys in his hands belonging to the corporation not otherwise specifically appropriated, shall pay such judgment upon the production of a certified copy of the docket thereof. Notwithstanding the provisions of any other law to the contrary, in any case where payment for any reason is to be made to an inmate serving a sentence of imprisonment with the state department of [~~correctional services~~] **corrections and community supervision** or to a prisoner confined at a local correctional facility, the treasurer or other financial officer shall give written notice, if required pursuant to subdivision two of section six hundred thirty-two-a of the executive law, to the office of victim services that such payment shall be made thirty days after the date of such notice.

§ 117. Subdivision 1 of section 168 of the labor law, as amended by chapter 90 of the laws of 1947, is amended to read as follows:

1. This section shall apply to all persons employed by the state in the ward, cottage, colony, kitchen and dining room, and guard service personnel in any hospital, school, prison, reformatory or other institution within or subject to the jurisdiction, supervision, control or visitation of the department of [~~correction~~] **corrections and community supervision**, the department of health, the department of mental hygiene, the department of social welfare or the division of veterans' affairs in the executive department, and engaged in the performance of such duties as nursing, guarding or attending the inmates, patients, wards or other persons kept or housed in such institutions, or in protecting and guarding the buildings and/or grounds thereof, or in preparing or serving food therein.

§ 118. Subdivision 13 of section 83-m of the legislative law, as added by section 2 of part XX of chapter 57 of the laws of 2010, is amended to read as follows:

13. (a) The task force shall specify the form in which the department of [~~correctional services~~] **corrections and community supervision** shall provide such information required to be reported to the task force pursuant to subdivision eight of section seventy-one of the correction law.

(b) Upon receipt of such information for each incarcerated person subject to the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision**, the task force shall determine the census block corresponding to the street address of each such person's residential address prior to incarceration (if any), and the census block corresponding to the street address of the correctional facility in which such person was held subject to the jurisdiction of such department. Until such time as the United States bureau of the

census shall implement a policy of reporting each such incarcerated person at such person's residential address prior to incarceration, the task force shall use such data to develop a database in which all incarcerated persons shall be, where possible, allocated for redistricting purposes, such that each geographic unit reflects incarcerated populations at their respective residential addresses prior to incarceration rather than at the addresses of such correctional facilities. For all incarcerated persons whose residential address prior to incarceration was outside of the state, or for whom the task force cannot identify their prior residential address, and for all persons confined in a federal correctional facility on census day, the task force shall consider those persons to have been counted at an address unknown and persons at such unknown address shall not be included in such data set created pursuant to this paragraph. The task force shall develop and maintain such amended population data set and shall make such amended data set available to local governments, as defined in subdivision eight of section two of the municipal home rule law, and for the drawing of assembly and senate districts. The assembly and senate districts shall be drawn using such amended population data set.

(c) Notwithstanding any other provision of law, the information required to be provided pursuant to subdivision eight of section seventy-one of the correction law shall be treated as confidential and shall not be disclosed by the task force except as aggregated by census block for purpose specified in this subdivision.

§ 118-a. Subdivisions (a) and (m) of section 10.03 of the mental hygiene law, subdivision (a) as amended by chapter 168 of the laws of 2010 and subdivision (m) as added by chapter 7 of the laws of 2007, are amended to read as follows:

(a) "Agency with jurisdiction" as to a person means that agency which, during the period in question, would be the agency responsible for supervising or releasing such person, and can include the department of [~~correctional services~~] **corrections and community supervision**, the office of mental health, **and** the office for people with developmental disabilities[~~, and the division of parole~~].

(m) "Release" and "released" means release, conditional release or discharge from confinement, from **community** supervision by the [~~division of parole~~] **department of corrections and community supervision**, or from an order of observation, commitment, recommitment or retention.

§ 118-b. Subdivisions (a) and (b) of section 10.05 of the mental hygiene law, subdivision (a) as amended by chapter 168 of the laws of 2010 and subdivision (b) as added by chapter 7 of the laws of 2007, are amended to read as follows:

(a) The commissioner of mental health, in consultation with the commissioner of the department of [~~correctional services~~] **corrections and community supervision** and the commissioner of developmental disabilities, shall establish a case review panel consisting of at least fifteen members, any three of whom may sit as a team to review a particular case. At least two members of each team shall be professionals in the field of mental health or the field of developmental disabilities, as appropriate, with experience in the treatment, diagnosis, risk assessment or management of sex offenders. To the extent practicable, the workload of the case review panel should be evenly distributed among its members. Members of the case review panel and psychiatric examiners should be free to exercise independent professional judgment without pressure or retaliation for the exercise of that judgment from any source.

(b) When it appears to an agency with jurisdiction[~~, other than the division of parole,~~] that a person who may be a detained sex offender is nearing an anticipated release **from confinement**, the agency shall give notice of that fact to the attorney general and to the commissioner of mental health. [~~When the division of parole is the agency with jurisdiction, it may give such notice.~~] **When it appears to the department of corrections and community supervision that a person who may be a detained sex offender is nearing an anticipated release from community supervision, the agency may give such notice.** The agency with jurisdiction shall seek to give such notice at least one hundred twenty days prior to the person's anticipated release, but failure to give notice within such time period shall not affect the validity of such notice or any subsequent action, including the filing of a sex offender civil management petition.

§ 118-c. Subdivision (k) of section 10.06 of the mental hygiene law, as amended by section 1 of part H of chapter 58 of the laws of 2009, is amended to read as follows:

(k) At the conclusion of the hearing, the court shall determine whether there is probable cause to believe that the respondent is a sex offender requiring civil management. If the court determines that probable cause has not been established, the court shall issue an order dismissing the petition, and the respondent's release shall be in accordance with other applicable provisions of law. If the court determines that probable cause has been established: (i) the court shall order that the respondent be committed to a secure treatment facility designated by the commissioner for care, treatment and control upon his or her release, provided, however, that a respondent who otherwise would be required to be transferred to a secure treatment facility may, upon a written consent signed by the respondent and his or her counsel, consent to remain in the custody of the department of [~~correctional services~~] **corrections and community supervision** pending the outcome of the proceedings under this article, and that such consent may be revoked in writing at any time; (ii) the court shall set a date for trial in accordance with subdivision (a) of section 10.07 of this article; and (iii) the respondent shall not be released pending the completion of such trial.

§ 118-d. Subdivisions (c) and (d) of section 10.10 of the mental hygiene law, as added by chapter 7 of the laws of 2007, are amended to read as follows:

(c) The commissioner, or the commissioner of the department of [~~correctional services~~] **corrections and community supervision**, or other government entity responsible for the care and custody of respondents, shall be authorized to employ appropriate safety and security measures, as he or she deems necessary to ensure the safety of the public, during court proceedings and in the transport of persons committed or undergoing any proceedings under this article. Such commissioner shall provide training in the use of safe and appropriate security interventions to employees responsible for transporting persons under this article.

(d) The commissioner shall have the discretion to enter into agreements with the department of [~~correctional services~~] **corrections and community supervision** for the provision of security services relating to this article.

§ 118-e. Paragraphs 1 and 2 of subdivision (a), paragraph 1 of subdivision (b), subdivision (c), paragraph 1 of subdivision (d) and subdivision (f) of section 10.11 of the mental hygiene law, as added by chapter 7 of the laws of 2007, are amended to read as follows:

(1) Before ordering the release of a person to a regimen of strict and intensive supervision and treatment pursuant to this article, the court shall order that the [~~division of parole~~] **department of corrections and community supervision** recommend supervision requirements to the court. These supervision requirements, which shall be developed in consultation with the commissioner, may include but need not be limited to, electronic monitoring or global positioning satellite tracking for an appropriate period of time, polygraph monitoring, specification of residence or type or residence, prohibition of contact with identified past or potential victims, strict and intensive supervision by a parole officer, and any other lawful and necessary conditions that may be imposed by a court. In addition, after consultation with the psychiatrist, psychologist or other professional primarily treating the respondent, the commissioner shall recommend a specific course of treatment. A copy of the recommended requirements for supervision and treatment shall be given to the attorney general and the respondent and his or her counsel a reasonable time before the court issues its written order pursuant to this section.

(2) Before issuing its written order, the court shall afford the parties an opportunity to be heard, and shall consider any additional submissions by the respondent and the attorney general concerning the proposed conditions of the regimen of strict and intensive supervision and treatment. The court shall issue an order specifying the conditions of the regimen of strict and intensive supervision and treatment, which shall include specified supervision requirements and compliance with a specified course of treatment. A written statement of the conditions of the regimen of strict and intensive supervision and treatment shall be given to the respondent and to his or her counsel, any designated service providers or treating professionals, the commissioner, the attorney general and the supervising parole officer. The court shall require the [~~division of parole~~] **department of corrections and community supervision** to take appropriate actions to implement the supervision plan and assure compliance with the conditions of the regimen of strict and intensive supervision and treatment. A regimen of strict and intensive supervision does not toll the running of any form of supervision in criminal cases, including but not limited to post-release supervision and parole.

(1) Persons ordered into a regimen of strict and intensive supervision and treatment pursuant to this article shall be subject to a minimum of six face-to-face supervision contacts and six collateral contacts per month. Such minimum contact requirements shall continue unless subsequently modified by the court or the [~~division of parole~~] **department of corrections and community supervision**.

(c) An order for a regimen of strict and intensive supervision and treatment places the person in the custody and control of the [~~state division of parole~~] **department of corrections and community supervision**. A person ordered to undergo a regimen of strict and intensive supervision and treatment pursuant to this article is subject to lawful conditions set by the court and the [~~division of parole~~] **department of corrections and community supervision**.

(1) A person's regimen of strict and intensive supervision and treatment may be revoked if such a person violates a condition of strict and intensive supervision. If a parole officer has reasonable cause to believe that the person has violated a condition of the regimen of strict and intensive supervision and treatment or, if there is an oral or written evaluation or report by a treating professional indicating

that the person may be a dangerous sex offender requiring confinement, a parole officer authorized in the same manner as provided in subparagraph (i) of paragraph (a) of subdivision three of section two hundred fifty-nine-i of the executive law may take the person into custody and transport the person for lodging in a secure treatment facility or a local correctional facility for an evaluation by a psychiatric examiner, which evaluation shall be conducted within five days. A parole officer may take the person, under custody, to a psychiatric center for prompt evaluation, and at the end of the examination, return the person to the place of lodging. A parole officer, as authorized by this paragraph, may direct a peace officer, acting pursuant to his or her special duties, or a police officer who is a member of an authorized police department or force or of a sheriff's department, to take the person into custody and transport the person as provided in this paragraph. It shall be the duty of such peace officer or police officer to take into custody and transport any such person upon receiving such direction. The [~~division of parole~~] **department of corrections and community supervision** shall promptly notify the attorney general and the mental hygiene legal service, when a person is taken into custody pursuant to this paragraph. No provision of this section shall preclude the [~~division~~] **board** of parole from proceeding with a revocation hearing as authorized by subdivision three of section two hundred fifty-nine-i of the executive law.

(f) The court may modify or terminate the conditions of the regimen of strict and intensive supervision and treatment on the petition of the supervising parole officer, the commissioner or the attorney general. Such petition shall be served on the respondent and the respondent's counsel. A person subject to a regimen of strict and intensive supervision and treatment pursuant to this article may petition every two years for modification or termination, commencing no sooner than two years after the regimen of strict and intensive supervision and treatment commenced, with service of such petition on the attorney general, the [~~division of parole~~] **department of corrections and community supervision**, and the commissioner. Upon receipt of a petition for modification or termination pursuant to this section, the court may require the [~~division of parole~~] **department of corrections and community supervision** and the commissioner to provide a report concerning the person's conduct while subject to a regimen of strict and intensive supervision and treatment. If more than one petition is filed, the petitions may be considered in a single hearing.

§ 118-f. Subdivision (h) of section 19.07 of the mental hygiene law, as added by section 16 of part AAA of chapter 56 of the laws of 2009, is amended to read as follows:

(h) The office of alcoholism and substance abuse services shall monitor programs providing care and treatment to inmates in correctional facilities operated by the department of [~~correctional services~~] **corrections and community supervision** who have a history of alcohol or substance abuse or dependence. The office shall also develop guidelines for the operation of alcohol and substance abuse treatment programs in such correctional facilities in order to ensure that such programs sufficiently meet the needs of inmates with a history of alcohol or substance abuse or dependence and promote the successful transition to treatment in the community upon release. No later than the first day of December of each year, the office shall submit a report regarding the adequacy and effectiveness of alcohol and substance abuse treatment programs operated by the department of [~~correctional services~~] **corrections and community supervision** to the governor, the temporary

president of the senate, the speaker of the assembly, the chairman of the senate committee on crime victims, crime and correction, and the chairman of the assembly committee on correction.

§ 118-g. Paragraphs 2 and 3 of subdivision (a) of section 19.09 of the mental hygiene law, paragraph 2 as amended by section 45 of part A of chapter 56 of the laws of 2010 and paragraph 3 as amended by chapter 601 of the laws of 2007, are amended to read as follows:

(2) Upon the request of a state agency, including but not limited to the department of [~~**correctional services**~~] **corrections and community supervision**, the office of probation and correctional alternatives, **and** the office of children and family services, [~~**and the board of parole,**~~] the commissioner shall have the power to provide alcoholism, substance abuse, and chemical dependence services either directly or through agreements with local certified or approved providers to persons in the custody or under the jurisdiction of the requesting agency within amounts available and within priorities established through the planning process.

(3) The commissioner may coordinate alcoholism, alcohol abuse, substance abuse, substance dependence and chemical dependence related activities in all departments of the state by convening at regular intervals a coordinating committee of representatives of the departments of health, [~~**correctional services**~~] **corrections and community supervision**, labor, economic development, education, and motor vehicles, and the office of temporary and disability assistance and any other department or agency having an interest therein.

§ 118-h. Subdivisions (e), (f), (g), (i) and (j) of section 29.27 of the mental hygiene law, as added by chapter 766 of the laws of 1976, are amended to read as follows:

(e) When the director of the facility in which the inmate-patient is in custody finds that the inmate-patient is no longer mentally ill or no longer requires hospitalization for care and treatment, he shall so notify the inmate-patient and commissioner of [~~**correctional services**~~] **corrections and community supervision** or, in the case of an inmate-patient coming from a jail or correctional institution operated by local government, the officer in charge of the jail or correctional institution from which the inmate-patient was committed. The commissioner of [~~**correctional services**~~] **corrections and community supervision** or such officer, as the case may be, shall immediately arrange to take such inmate-patient into custody and return him to a correctional facility or to the jail or correctional institution operated by local government.

(f) Upon delivery of the inmate-patient to the representative of the commissioner of [~~**correctional services**~~] **corrections and community supervision** or of an officer in charge of a jail or correctional institution operated by local government, the responsibility of the department and its facilities for the custody of the inmate-patient shall terminate. Where the inmate is returned to a state correctional facility, the department shall continue to be responsible for the inmate-patient's psychiatric care if the inmate-patient upon his return is in a program established pursuant to section four hundred one of the correction law.

(g) If an inmate-patient in the custody of the department escapes from custody, immediate notice shall be given to the commissioner of [~~**correctional services**~~] **corrections and community supervision** or, in the case of an inmate-patient coming from a jail or correctional institution operated by local government, to the officer in charge of such jail or correctional institution. Notice shall also be given to appropriate law enforcement authorities.

(i) Upon release of an inmate-patient from a facility, the director shall forward a copy of all health and psychiatric records to the commissioner of [~~correctional services~~] **corrections and community supervision** or to the officer in charge of a jail or correctional institution operated by local government, as the case may be.

(j) If the sentence for which an inmate-patient is confined expires or is vacated or modified by court order, the director shall so notify the commissioner of [~~correctional services~~] **corrections and community supervision** or such officer in charge of a jail or correctional institution operated by local government, as appropriate.

§ 118-i. Paragraph 10 of subdivision (c) of section 33.13 of the mental hygiene law, as amended by chapter 168 of the laws of 2010, is amended to read as follows:

10. to a correctional facility, when the chief administrative officer has requested such information with respect to a named inmate of such correctional facility as defined by subdivision three of section forty of the correction law or to the [~~division of parole~~] **department of corrections and community supervision**, when the [~~division~~] **department** has requested such information with respect to a person under its jurisdiction or an inmate of a state correctional facility, when such inmate is within four weeks of release from such institution to [~~the jurisdiction of the division of parole~~] **community supervision**. Information released pursuant to this paragraph may be limited to a summary of the record, including but not limited to: the basis for referral to the facility; the diagnosis upon admission and discharge; a diagnosis and description of the patient's or client's current mental condition; the current course of treatment, medication and therapies; and the facility's recommendation for future mental hygiene services, if any. Such information may be forwarded to the department of [~~correctional services~~] **corrections and community supervision** staff in need of such information for the purpose of making a determination regarding an inmate's health care, security, safety or ability to participate in programs. In the event an inmate is transferred, the sending correctional facility shall forward, upon request, such summaries to the chief administrative officer of any correctional facility to which the inmate is subsequently incarcerated. The office of mental health and the office for people with developmental disabilities, in consultation with the commission of correction and the [~~division of parole~~] **department of corrections and community supervision**, shall promulgate rules and regulations to implement the provisions of this paragraph.

§ 118-j. Subdivision (z) of section 45.07 of the mental hygiene law, as added by chapter 1 of the laws of 2008, is amended to read as follows:

(z) Monitor and make recommendations regarding the quality of care provided to inmates with serious mental illness, including those who are in a residential mental health treatment unit or segregated confinement in facilities operated by the department of [~~correctional services~~] **corrections and community supervision**, and oversee compliance with paragraphs (d) and (e) of subdivision six of section one hundred thirty-seven, and section four hundred one, of the correction law. Such responsibilities shall be carried out in accordance with section four hundred one-a of the correction law.

§ 119. Clause (c.) of subparagraph 13 of paragraph (a) of subdivision 1 of section 10 of the municipal home rule law, as amended by section 3 of part XX of chapter 57 of the laws of 2010, is amended to read as follows:

(c.) As used in this subparagraph the term "population" shall mean residents, citizens, or registered voters. For such purposes, no person shall be deemed to have gained or lost a residence, or to have become a resident of a local government, as defined in subdivision eight of section two of this chapter, by reason of being subject to the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision** and present in a state correctional facility pursuant to such jurisdiction. A population base for such a plan of apportionment shall utilize the latest statistical information obtainable from an official enumeration done at the same time for all the residents, citizens, or registered voters of the local government. Such a plan may allocate, by extrapolation or any other rational method, such latest statistical information to representation areas or units of local government, provided that any plan containing such an allocation shall have annexed thereto as an appendix, a detailed explanation of the allocation.

§ 120. Subdivisions 6 and 7 of section 60.04 of the penal law, subdivision 6 as added by chapter 738 of the laws of 2004 and subdivision 7 as added by section 18 of part AAA of chapter 56 of the laws of 2009, are amended to read as follows:

6. Substance abuse treatment. When the court imposes a sentence of imprisonment which requires a commitment to the state department of [~~correctional services~~] **corrections and community supervision** upon a person who stands convicted of a controlled substance or marihuana offense, the court may, upon motion of the defendant in its discretion, issue an order directing that the department of [~~correctional services~~] **corrections and community supervision** enroll the defendant in the comprehensive alcohol and substance abuse treatment program in an alcohol and substance abuse correctional annex as defined in subdivision eighteen of section two of the correction law, provided that the defendant will satisfy the statutory eligibility criteria for participation in such program. Notwithstanding the foregoing provisions of this subdivision, any defendant to be enrolled in such program pursuant to this subdivision shall be governed by the same rules and regulations promulgated by the department of [~~correctional services~~] **corrections and community supervision**, including without limitation those rules and regulations establishing requirements for completion and those rules and regulations governing discipline and removal from the program. No such period of court ordered corrections based drug abuse treatment pursuant to this subdivision shall be required to extend beyond the defendant's conditional release date.

7. a. Shock incarceration participation. When the court imposes a sentence of imprisonment which requires a commitment to the department of [~~correctional services~~] **corrections and community supervision** upon a person who stands convicted of a controlled substance or marihuana offense, upon motion of the defendant, the court may issue an order directing that the department of [~~correctional services~~] **corrections and community supervision** enroll the defendant in the shock incarceration program as defined in article twenty-six-A of the correction law, provided that the defendant is an eligible inmate, as described in subdivision one of section eight hundred sixty-five of the correction law. Notwithstanding the foregoing provisions of this subdivision, any defendant to be enrolled in such program pursuant to this subdivision shall be governed by the same rules and regulations promulgated by the department of [~~correctional services~~] **corrections and community supervision**, including without limitation those rules and regulations estab-

lishing requirements for completion and such rules and regulations governing discipline and removal from the program.

b. (i) In the event that an inmate designated by court order for enrollment in the shock incarceration program requires a degree of medical care or mental health care that cannot be provided at a shock incarceration facility, the department, in writing, shall notify the inmate, provide a proposal describing a proposed alternative-to-shock-incarceration program, and notify him or her that he or she may object in writing to placement in such alternative-to-shock-incarceration program. If the inmate objects in writing to placement in such alternative-to-shock-incarceration program, the department of [~~correctional services~~] **corrections and community supervision** shall notify the sentencing court, provide such proposal to the court, and arrange for the inmate's prompt appearance before the court. The court shall provide the proposal and notice of a court appearance to the people, the inmate and the appropriate defense attorney. After considering the proposal and any submissions by the parties, and after a reasonable opportunity for the people, the inmate and counsel to be heard, the court may modify its sentencing order accordingly, notwithstanding the provisions of section 430.10 of the criminal procedure law.

(ii) An inmate who successfully completes an alternative-to-shock-incarceration program within the department of [~~correctional services~~] **corrections and community supervision** shall be treated in the same manner as a person who has successfully completed the shock incarceration program, as set forth in subdivision four of section eight hundred sixty-seven of the correction law.

§ 121. Subdivision 8 of section 60.35 of the penal law, as amended by section 1 of part E of chapter 56 of the laws of 2004, is amended to read as follows:

8. Subdivision one of section 130.10 of the criminal procedure law notwithstanding, at the time that the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee is imposed a town or village court may, and all other courts shall, issue and cause to be served upon the person required to pay the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee, a summons directing that such person appear before the court regarding the payment of the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee, if after sixty days from the date it was imposed it remains unpaid. The designated date of appearance on the summons shall be set for the first day court is in session falling after the sixtieth day from the imposition of the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee. The summons shall contain the information required by subdivision two of section 130.10 of the criminal procedure law except that in substitution for the requirement of paragraph (c) of such subdivision the summons shall state that the person served must appear at a date, time and specific location specified in the summons if after sixty days from the date of issuance the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee remains unpaid. The court shall not issue a summons under this subdivision to a person who is being sentenced to a term of confinement in excess of sixty days in jail or in the department of [~~correctional services~~] **corrections and community supervision**. The

mandatory surcharges, sex offender registration fee and DNA databank fees, crime victim assistance fees and supplemental sex offender victim fees for those persons shall be governed by the provisions of section 60.30 of this article.

§ 122. Paragraph (b) of subdivision 2 of section 70.02 of the penal law, as separately amended by chapters 764 and 765 of the laws of 2005, is amended to read as follows:

(b) Except as provided in paragraph (b-1) of this subdivision, subdivision six of section 60.05 and subdivision four of this section, the sentence imposed upon a person who stands convicted of a class D violent felony offense, other than the offense of criminal possession of a weapon in the third degree as defined in subdivision [~~four,~~] five, seven or eight of section 265.02 or criminal sale of a firearm in the third degree as defined in section 265.11, must be in accordance with the applicable provisions of this chapter relating to sentencing for class D felonies provided, however, that where a sentence of imprisonment is imposed which requires a commitment to the state department of [~~correctional services~~] **corrections and community supervision**, such sentence shall be a determinate sentence in accordance with paragraph (c) of subdivision three of this section.

§ 123. Subdivision 7 of section 70.06 of the penal law, as amended by chapter 738 of the laws of 2004, is amended to read as follows:

7. Notwithstanding any other provision of law, in the case of a person sentenced for a specified offense or offenses as defined in subdivision five of section 410.91 of the criminal procedure law, who stands convicted of no other felony offense, who has not previously been convicted of either a violent felony offense as defined in section 70.02 of this article, a class A felony offense or a class B felony offense, and is not under the jurisdiction of or awaiting delivery to the department of [~~correctional services~~] **corrections and community supervision**, the court may direct that such sentence be executed as a parole supervision sentence as defined in and pursuant to the procedures prescribed in section 410.91 of the criminal procedure law.

§ 124. Section 70.20 of the penal law, as amended by chapter 303 of the laws of 1981, subdivision 1 as separately amended by chapters 3 and 516 of the laws of 1995, paragraphs (b), (c), (d) and (e) of subdivision 1 as added by chapter 516 of the laws of 1995, subdivision 2-a as added by chapter 1 of the laws of 1995, subdivision 3 as amended by chapter 3 of the laws of 1995, subdivision 4 as amended by chapter 479 of the laws of 1992, paragraph (a) of subdivision 4 as separately amended by chapter 465 of the laws of 1992 and paragraphs (d) and (e) of subdivision 4 as relettered and subdivision 5 as designated by chapter 516 of the laws of 1995, is amended to read as follows:

§ 70.20 Place of imprisonment.

1. (a) Indeterminate or determinate sentence. Except as provided in subdivision four of this section, when an indeterminate or determinate sentence of imprisonment is imposed, the court shall commit the defendant to the custody of the state department of [~~correctional services~~] **corrections and community supervision** for the term of his or her sentence and until released in accordance with the law; provided, however, that a defendant sentenced pursuant to subdivision seven of section 70.06 shall be committed to the custody of the state department of [~~correctional services~~] **corrections and community supervision** for immediate delivery to a reception center operated by the department.

(b) The court in committing a defendant who is not yet eighteen years of age to the department of [~~correctional services~~] **corrections and**

community supervision shall inquire as to whether the parents or legal guardian of the defendant, if present, will grant to the minor the capacity to consent to routine medical, dental and mental health services and treatment.

(c) Notwithstanding paragraph (b) of this subdivision, where the court commits a defendant who is not yet eighteen years of age to the custody of the department of [~~correctional services~~] **corrections and community supervision** in accordance with this section and no medical consent has been obtained prior to said commitment, the commitment order shall be deemed to grant the capacity to consent to routine medical, dental and mental health services and treatment to the person so committed.

(d) Nothing in this subdivision shall preclude a parent or legal guardian of an inmate who is not yet eighteen years of age from making a motion on notice to the department of [~~correctional services~~] **corrections and community supervision** pursuant to article twenty-two of the civil practice law and rules and section one hundred forty of the correction law, objecting to routine medical, dental or mental health services and treatment being provided to such inmate under the provisions of paragraph (b) of this subdivision.

(e) Nothing in this section shall require that consent be obtained from the parent or legal guardian, where no consent is necessary or where the defendant is authorized by law to consent on his or her own behalf to any medical, dental, and mental health service or treatment.

2. Definite sentence. Except as provided in subdivision four of this section, when a definite sentence of imprisonment is imposed, the court shall commit the defendant to the county or regional correctional institution for the term of his sentence and until released in accordance with the law.

2-a. Sentence of life imprisonment without parole. When a sentence of life imprisonment without parole is imposed, the court shall commit the defendant to the custody of the state department of [~~correctional services~~] **corrections and community supervision** for the remainder of the life of the defendant.

3. Undischarged imprisonment in other jurisdiction. When a defendant who is subject to an undischarged term of imprisonment, imposed at a previous time by a court of another jurisdiction, is sentenced to an additional term or terms of imprisonment by a court of this state to run concurrently with such undischarged term, as provided in subdivision four of section 70.25, the return of the defendant to the custody of the appropriate official of the other jurisdiction shall be deemed a commitment for such portion of the term or terms of the sentence imposed by the court of this state as shall not exceed the said undischarged term. The defendant shall be committed to the custody of the state department of [~~correctional services~~] **corrections and community supervision** if the additional term or terms are indeterminate or determinate or to the appropriate county or regional correctional institution if the said term or terms are definite for such portion of the term or terms of the sentence imposed as shall exceed such undischarged term or until released in accordance with law. If such additional term or terms imposed shall run consecutively to the said undischarged term, the defendant shall be committed as provided in subdivisions one and two of this section.

4. (a) Notwithstanding any other provision of law to the contrary, a juvenile offender, or a juvenile offender who is adjudicated a youthful offender and given an indeterminate or a definite sentence, shall be committed to the custody of the [~~director of the division for~~

~~youth~~]**commissioner of the office of children and family services** who shall arrange for the confinement of such offender in secure facilities of the [~~division~~] **office**. The release or transfer of such offenders from the [~~division for youth~~] **office of children and family services** shall be governed by section five hundred eight of the executive law.

(b) The court in committing a juvenile offender and youthful offender to the custody of the [~~division for youth~~] **office of children and family services** shall inquire as to whether the parents or legal guardian of the youth, if present, will consent for the [~~division~~] **office of children and family services** to provide routine medical, dental and mental health services and treatment.

(c) Notwithstanding paragraph (b) of this subdivision, where the court commits an offender to the custody of the [~~division for youth~~] **office of children and family services** in accordance with this section and no medical consent has been obtained prior to said commitment, the commitment order shall be deemed to grant consent for the [~~division for youth~~] **office of children and family services** to provide for routine medical, dental and mental health services and treatment to the offender so committed.

(d) Nothing in this subdivision shall preclude a parent or legal guardian of an offender who is not yet eighteen years of age from making a motion on notice to the [~~division for youth~~] **office of children and family services** pursuant to article twenty-two of the civil practice law and rules objecting to routine medical, dental or mental health services and treatment being provided to such offender under the provisions of paragraph (b) of this subdivision.

(e) Nothing in this section shall require that consent be obtained from the parent or legal guardian, where no consent is necessary or where the offender is authorized by law to consent on his or her own behalf to any medical, dental and mental health service or treatment.

5. Subject to regulations of the department of health, routine medical, dental and mental health services and treatment is defined for the purposes of this section to mean any routine diagnosis or treatment, including without limitation the administration of medications or nutrition, the extraction of bodily fluids for analysis, and dental care performed with a local anesthetic. Routine mental health treatment shall not include psychiatric administration of medication unless it is part of an ongoing mental health plan or unless it is otherwise authorized by law.

§ 125. Subdivisions 1 and 3 of section 70.20 of the penal law, subdivision 1 as amended by chapter 516 of the laws of 1995 and subdivision 3 as amended by chapter 303 of the laws of 1981, are amended to read as follows:

1. (a) Indeterminate sentence. Except as provided in subdivision four of this section, when an indeterminate sentence of imprisonment is imposed, the court shall commit the defendant to the custody of the state department of [~~correctional services~~] **corrections and community supervision** for the term of his or her sentence and until released in accordance with the law.

(b) The court in committing a defendant who is not yet eighteen years of age to the department of [~~correctional services~~] **corrections and community supervision** shall inquire as to whether the parents or legal guardian of the defendant, if present, will grant to the minor the capacity to consent to routine medical, dental and mental health services and treatment.

(c) Notwithstanding paragraph (b) of this subdivision, where the court commits a defendant who is not yet eighteen years of age to the custody of the department of [~~correctional services~~] **corrections and community supervision** in accordance with this section and no medical consent has been obtained prior to said commitment, the commitment order shall be deemed to grant the capacity to consent to routine medical, dental and mental health services and treatment to the person so committed.

(d) Nothing in this subdivision shall preclude a parent or legal guardian of an inmate who is not yet eighteen years of age from making a motion on notice to the department of [~~correctional services~~] **corrections and community supervision** pursuant to article twenty-two of the civil practice law and rules and section one hundred forty of the correction law, objecting to routine medical, dental or mental health services and treatment being provided to such inmate under the provisions of paragraph (b) of this subdivision.

(e) Nothing in this section shall require that consent be obtained from the parent or legal guardian, where no consent is necessary or where the defendant is authorized by law to consent on his or her own behalf to any medical, dental, and mental health service or treatment.

3. Undischarged imprisonment in other jurisdiction. When a defendant who is subject to an undischarged term of imprisonment, imposed at a previous time by a court of another jurisdiction, is sentenced to an additional term or terms of imprisonment by a court of this state to run concurrently with such undischarged term, as provided in subdivision four of section 70.25, the return of the defendant to the custody of the appropriate official of the other jurisdiction shall be deemed a commitment for such portion of the term or terms of the sentence imposed by the court of this state as shall not exceed the said undischarged term. The defendant shall be committed to the custody of the state department of [~~correctional services~~] **corrections and community supervision** if the additional term or terms are indeterminate or to the appropriate county or regional correctional institution if the said term or terms are definite for such portion of the term or terms of the sentence imposed as shall exceed such undischarged term or until released in accordance with law. If such additional term or terms imposed shall run consecutively to the said undischarged term, the defendant shall be committed as provided in subdivisions one and two of this section.

§ 126. The opening paragraph of subdivision 1 and subdivisions 6 and 7 of section 70.30 of the penal law, the opening paragraph of subdivision 1 as amended by chapter 3 of the laws of 1995, subdivision 6 as amended by chapter 465 of the laws of 1974 and subdivision 7 as amended by chapter 392 of the laws of 1988, are amended to read as follows:

An indeterminate or determinate sentence of imprisonment commences when the prisoner is received in an institution under the jurisdiction of the state department of [~~correctional services~~] **corrections and community supervision**. Where a person is under more than one indeterminate or determinate sentence, the sentences shall be calculated as follows:

6. Escape. When a person who is serving a sentence of imprisonment escapes from custody, the escape shall interrupt the sentence and such interruption shall continue until the return of the person to the institution in which the sentence was being served or, if the sentence was being served in an institution under the jurisdiction of the state department of [~~correctional services~~] **corrections and community supervision**, to an institution under the jurisdiction of that department. Any time spent by such person in custody from the date of escape to the date

the sentence resumes shall be credited against the term or maximum term of the interrupted sentence, provided:

(a) That such custody was due to an arrest or surrender based upon the escape; or

(b) That such custody arose from an arrest on another charge which culminated in a dismissal or an acquittal; or

(c) That such custody arose from an arrest on another charge which culminated in a conviction, but in such case, if a sentence of imprisonment was imposed, the credit allowed shall be limited to the portion of the time spent in custody that exceeds the period, term or maximum term of imprisonment imposed for such conviction.

7. Absconding from temporary release or furlough program. When a person who is serving a sentence of imprisonment is permitted to leave an institution to participate in a program of work release or furlough program as such term is defined in section six hundred thirty-one of the correction law, or in the case of an institution under the jurisdiction of the state department of [~~correctional services~~] **corrections and community supervision** or a facility under the jurisdiction of the state [~~division for youth~~] **office of children and family services** to participate in a program of temporary release, fails to return to the institution or facility at or before the time prescribed for his **or her** return, such failure shall interrupt the sentence and such interruption shall continue until the return of the person to the institution in which the sentence was being served or, if the sentence was being served in an institution under the jurisdiction of the state department of [~~correctional services~~] **corrections and community supervision** or a facility under the jurisdiction of the state [~~division for youth~~] **office of children and family services** to an institution under the jurisdiction of that department or a facility under the jurisdiction of that [~~division~~] **office**. Any time spent by such person in an institution from the date of his **or her** failure to return to the date his **or her** sentence resumes shall be credited against the term or maximum term of the interrupted sentence, provided:

(a) That such incarceration was due to an arrest or surrender based upon the failure to return; or

(b) That such incarceration arose from an arrest on another charge which culminated in a dismissal or an acquittal; or

(c) That such custody arose from an arrest on another charge which culminated in a conviction, but in such case, if a sentence of imprisonment was imposed, the credit allowed shall be limited to the portion of the time spent in custody that exceeds the period, term or maximum term of imprisonment imposed for such conviction.

§ 127. The opening paragraph of subdivision 1 of section 70.30 of the penal law, as amended by chapter 481 of the laws of 1978, is amended to read as follows:

An indeterminate sentence of imprisonment commences when the prisoner is received in an institution under the jurisdiction of the state department of [~~correctional services~~] **corrections and community supervision**. Where a person is under more than one indeterminate sentence, the sentences shall be calculated as follows:

§ 127-a. Section 70.35 of the penal law, as amended by chapter 3 of the laws of 1995, is amended to read as follows:

§ 70.35 Merger of certain definite and indeterminate or determinate sentences.

The service of an indeterminate or determinate sentence of imprisonment shall satisfy any definite sentence of imprisonment imposed on a

person for an offense committed prior to the time the indeterminate or determinate sentence was imposed, except as provided in paragraph (b) of subdivision five of section 70.25 of this article. A person who is serving a definite sentence at the time an indeterminate or determinate sentence is imposed shall be delivered to the custody of the state department of [~~correctional services~~] **corrections and community supervision** to commence service of the indeterminate or determinate sentence immediately unless the person is serving a definite sentence pursuant to paragraph (b) of subdivision five of section 70.25 of this article. In any case where the indeterminate or determinate sentence is revoked or vacated, the person shall receive credit against the definite sentence for each day spent in the custody of the state department of [~~correctional services~~] **corrections and community supervision**.

§ 127-b. Section 70.35 of the penal law, as amended by chapter 527 of the laws of 1989, is amended to read as follows:

§ 70.35 Merger of certain definite and indeterminate sentences.

The service of an indeterminate sentence of imprisonment shall satisfy any definite sentence of imprisonment imposed on a person for an offense committed prior to the time the indeterminate sentence was imposed, except as provided in paragraph (b) of subdivision five of section 70.25 of this article. A person who is serving a definite sentence at the time an indeterminate sentence is imposed shall be delivered to the custody of the state department of [~~correctional services~~] **corrections and community supervision** to commence service of the indeterminate sentence immediately unless the person is serving a definite sentence pursuant to paragraph (b) of subdivision five of section 70.25 of this article. In any case where the indeterminate sentence is revoked or vacated, the person shall receive credit against the definite sentence for each day spent in the custody of the state department of [~~correctional services~~] **corrections and community supervision**.

§ 127-c. Paragraph (a) of subdivision 1 of section 70.40 of the penal law, as amended by chapter 3 of the laws of 1995, subparagraph (i) as amended by chapter 435 of the laws of 1997, subparagraph (v) as amended by section 7 of part J of chapter 56 of the laws of 2009, is amended to read as follows:

(a) Release on parole shall be in the discretion of the state board of parole, and such person shall continue service of his **or her** sentence or sentences while on parole, in accordance with and subject to the provisions of the executive law **and the correction law**.

(i) A person who is serving one or more than one indeterminate sentence of imprisonment may be paroled from the institution in which he **or she** is confined at any time after the expiration of the minimum or the aggregate minimum period of the sentence or sentences or, where applicable, the minimum or aggregate minimum period reduced by the merit time allowance granted pursuant to paragraph (d) of subdivision one of section eight hundred three of the correction law.

(ii) A person who is serving one or more than one determinate sentence of imprisonment shall be ineligible for discretionary release on parole.

(iii) A person who is serving one or more than one indeterminate sentence of imprisonment and one or more than one determinate sentence of imprisonment**,** which run concurrently may be paroled at any time after the expiration of the minimum period of imprisonment of the indeterminate sentence or sentences, or upon the expiration of six-sevenths of the term of imprisonment of the determinate sentence or sentences, whichever is later.

(iv) A person who is serving one or more than one indeterminate sentence of imprisonment and one or more than one determinate sentence of imprisonment which run consecutively may be paroled at any time after the expiration of the sum of the minimum or aggregate minimum period of the indeterminate sentence or sentences and six-sevenths of the term or aggregate term of imprisonment of the determinate sentence or sentences.

(v) Notwithstanding any other subparagraph of this paragraph, a person may be paroled from the institution in which he **or she** is confined at any time on medical parole pursuant to section two hundred fifty-nine-r or section two hundred fifty-nine-s of the executive law or for deportation pursuant to paragraph (d) of subdivision two of section two hundred fifty-nine-i of the executive law or after the successful completion of a shock incarceration program pursuant to article twenty-six-A of the correction law.

§ 127-d. Paragraph (a) of subdivision 1 of section 70.40 of the penal law, as separately amended by chapter 261 of the laws of 1987 and chapter 55 of the laws of 1992, subparagraph (i) as added by chapter 3 of the laws of 1995, is amended to read as follows:

(a) **(i)** A person who is serving one or more than one indeterminate sentence of imprisonment may be paroled from the institution in which he **or she** is confined at any time after the expiration of the minimum or the aggregate minimum period of imprisonment of the sentence or sentences or after the successful completion of a shock incarceration program, as defined in article twenty-six-A of the correction law, whichever is sooner. Release on parole shall be in the discretion of the state board of parole, and such person shall continue service of his **or her** sentence or sentences while on parole, in accordance with and subject to the provisions of the executive law **and the correction law**.

[~~(i)~~] **(ii)** A person who is serving one or more than one indeterminate sentence of imprisonment may be paroled from the institution in which he **or she** is confined at any time after the expiration of the minimum or the aggregate minimum period of the sentence or sentences.

§ 127-d-1. Paragraph (b) of subdivision 1 of section 70.40 of the penal law, as amended by chapter 1 of the laws of 1998, is amended to read as follows:

(b) A person who is serving one or more than one indeterminate or determinate sentence of imprisonment shall, if he **or she** so requests, be conditionally released from the institution in which he **or she** is confined when the total good behavior time allowed to him **or her**, pursuant to the provisions of the correction law, is equal to the unserved portion of his **or her** term, maximum term or aggregate maximum term; provided, however, that (i) in no event shall a person serving one or more indeterminate sentence of imprisonment and one or more determinate sentence of imprisonment which run concurrently be conditionally released until serving at least six-sevenths of the determinate term of imprisonment which has the longest unexpired time to run and (ii) in no event shall a person be conditionally released prior to the date on which such person is first eligible for discretionary parole release. The conditions of release, including those governing post-release supervision, shall be such as may be imposed by the state board of parole in accordance with the provisions of the executive law.

Every person so released shall be under the supervision of the state [~~board of parole~~] **department of corrections and community supervision** for a period equal to the unserved portion of the term, maximum term, aggregate maximum term, or period of post-release supervision.

§ 127-e. Paragraph (b) of subdivision 1 of section 70.40 of the penal law, as separately amended by chapter 467 of the laws of 1979 and chapter 1 of the laws of 1998, the closing paragraph as separately amended by chapter 148 of the laws of 1975 and chapter 1 of the laws of 1998, is amended to read as follows:

(b) A person who is serving one or more than one indeterminate sentence of imprisonment shall, if he **or she** so requests, be conditionally released from the institution in which he **or she** is confined when the total good behavior time allowed to him **or her**, pursuant to the provisions of the correction law, is equal to the unserved portion of his **or her** maximum or aggregate maximum term. The conditions of release, including those governing post-release supervision, shall be such as may be imposed by the state board of parole in accordance with the provisions of the executive law.

Every person so released shall be under the supervision of the [~~**state board of parole**~~] **department of corrections and community supervision** for a period equal to the unserved portion of the maximum, aggregate maximum term, or period of post-release supervision.

§ 127-f. Paragraph (c) of subdivision 1 of section 70.40 of the penal law, as added by section 13 of part E of chapter 62 of the laws of 2003, is amended to read as follows:

(c) A person who is serving one or more than one indeterminate sentence of imprisonment shall, if he or she so requests, be released from the institution in which he or she is confined if granted presumptive release pursuant to section eight hundred six of the correction law. The conditions of release shall be such as may be imposed by the state board of parole in accordance with the provisions of the executive law. Every person so released shall be under the supervision of the [~~**state board of parole**~~] **department of corrections and community supervision** for a period equal to the unserved portion of his or her maximum or aggregate maximum term unless discharged in accordance with law.

§ 127-g. Subdivision 2 of section 70.40 of the penal law, as amended by section 4 of part SS of chapter 56 of the laws of 2009, is amended to read as follows:

2. Definite sentence. A person who is serving one or more than one definite sentence of imprisonment with a term or aggregate term in excess of ninety days, and is eligible for release according to the criteria set forth in paragraphs (a), (b) and (c) of subdivision one of section two hundred seventy-three of the correction law, may, if he or she so requests, be conditionally released from the institution in which he or she is confined at any time after service of sixty days of that term, exclusive of credits allowed under subdivisions four and six of section 70.30. In computing service of sixty days, the credit allowed for jail time under subdivision three of section 70.30 shall be calculated as time served. Conditional release from such institution shall be in the discretion of the parole board, or a local conditional release commission established pursuant to article twelve of the correction law, provided, however that where such release is by a local conditional release commission, the person must be serving a definite sentence with a term in excess of one hundred twenty days and may only be released after service of ninety days of such term. In computing service of ninety days, the credit allowed for jail time under subdivision three of section 70.30 of this article shall be calculated as time served. A conditional release granted under this subdivision shall be upon such conditions as may be imposed by the parole board, in accordance with the

provisions of the executive law, or a local conditional release commission in accordance with the provisions of the correction law.

Conditional release shall interrupt service of the sentence or sentences and the remaining portion of the term or aggregate term shall be held in abeyance. Every person so released shall be under the supervision of the [~~parole board~~] **department of corrections and community supervision** or a local probation department and in the custody of the local conditional release commission in accordance with article twelve of the correction law, for a period of one year. The local probation department shall cause complete records to be kept of every person released to its supervision pursuant to this subdivision. The [~~division of parole~~] **department of corrections and community supervision** may supply to a local probation department and the local conditional release commission custody information and records maintained on persons under the supervision of such local probation department to aid in the performance of its supervision responsibilities. Compliance with the conditions of release during the period of supervision shall satisfy the portion of the term or aggregate term that has been held in abeyance.

§ 127-h. Paragraphs (a) and (b) of subdivision 3 of section 70.40 of the penal law, paragraph (a) as amended by section 14 of part E of chapter 62 of the laws of 2003, paragraph (b) as amended by section 5 of part SS of chapter 56 of the laws of 2009, are amended to read as follows:

(a) When a person is alleged to have violated the terms of presumptive release or parole and the state board of parole has declared such person to be delinquent, the declaration of delinquency shall interrupt the person's sentence as of the date of the delinquency and such interruption shall continue until the return of the person to an institution under the jurisdiction of the state department of [~~correctional services~~] **corrections and community supervision**.

(b) When a person is alleged to have violated the terms of his **or her** conditional release or post-release supervision and has been declared delinquent by the parole board or the local conditional release commission having supervision over such person, the declaration of delinquency shall interrupt the period of supervision or post-release supervision as of the date of the delinquency. For a conditional release, such interruption shall continue until the return of the person to the institution from which he **or she** was released or, if he **or she** was released from an institution under the jurisdiction of the state department of [~~correctional services~~] **corrections and community supervision**, to an institution under the jurisdiction of that department. Upon such return, the person shall resume service of his **or her** sentence. For a person released to post-release supervision, the provisions of section 70.45 shall apply.

§ 127-i. Intentionally omitted.

§ 127-j. Subdivision 5 of section 70.45 of the penal law, as added by chapter 1 of the laws of 1998, paragraph (d) as amended by section 5 of part E of chapter 56 of the laws of 2007, is amended to read as follows:

5. Calculation of service of period of post-release supervision. A period or periods of post-release supervision shall be calculated and served as follows:

(a) A period of post-release supervision shall commence upon the person's release from imprisonment to supervision by the [~~division of parole~~] **department of corrections and community supervision** and shall interrupt the running of the determinate sentence or sentences of imprisonment and the indeterminate sentence or sentences of imprisonment, if

any. The remaining portion of any maximum or aggregate maximum term shall then be held in abeyance until the successful completion of the period of post-release supervision or the person's return to the custody of the [~~department of correctional services~~] **department of corrections and community supervision**, whichever occurs first.

(b) Upon the completion of the period of post-release supervision, the running of such sentence or sentences of imprisonment shall resume and only then shall the remaining portion of any maximum or aggregate maximum term previously held in abeyance be credited with and diminished by such period of post-release supervision. The person shall then be under the jurisdiction of the [~~division of parole~~] **department of corrections and community supervision** for the remaining portion of such maximum or aggregate maximum term.

(c) When a person is subject to two or more periods of post-release supervision, such periods shall merge with and be satisfied by discharge of the period of post-release supervision having the longest unexpired time to run; provided, however, any time served upon one period of post-release supervision shall not be credited to any other period of post-release supervision except as provided in subdivision five of section 70.30 of this article.

(d) When a person is alleged to have violated a condition of post-release supervision and the [~~division of parole~~] **department of corrections and community supervision** has declared such person to be delinquent: (i) the declaration of delinquency shall interrupt the period of post-release supervision; (ii) such interruption shall continue until the person is restored to post-release supervision; (iii) if the person is restored to post-release supervision without being returned to the department of [~~correctional services~~] **corrections and community supervision**, any time spent in custody from the date of delinquency until restoration to post-release supervision shall first be credited to the maximum or aggregate maximum term of the sentence or sentences of imprisonment, but only to the extent authorized by subdivision three of section 70.40 of this article. Any time spent in custody solely pursuant to such delinquency after completion of the maximum or aggregate maximum term of the sentence or sentences of imprisonment shall be credited to the period of post-release supervision, if any; and (iv) if the person is ordered returned to the department of [~~correctional services~~] **corrections and community supervision**, the person shall be required to serve the time assessment before being re-released to post-release supervision. In the event the balance of the remaining period of post-release supervision is six months or less, such time assessment may be up to six months unless a longer period is authorized pursuant to subdivision one of this section. The time assessment shall commence upon the issuance of a determination after a final hearing that the person has violated one or more conditions of supervision. While serving such assessment, the person shall not receive any good behavior allowance pursuant to section eight hundred three of the correction law. Any time spent in custody from the date of delinquency until return to the department of [~~correctional services~~] **corrections and community supervision** shall first be credited to the maximum or aggregate maximum term of the sentence or sentences of imprisonment, but only to the extent authorized by subdivision three of section 70.40 of this article. The maximum or aggregate maximum term of the sentence or sentences of imprisonment shall run while the person is serving such time assessment in the custody of the department of [~~correctional services~~] **corrections and community supervision**. Any time spent in custody solely pursuant to

such delinquency after completion of the maximum or aggregate maximum term of the sentence or sentences of imprisonment shall be credited to the period of post-release supervision, if any.

(e) Notwithstanding paragraph (d) of this subdivision, in the event a person is sentenced to one or more additional indeterminate or determinate term or terms of imprisonment prior to the completion of the period of post-release supervision, such period of post-release supervision shall be held in abeyance and the person shall be committed to the custody of the department of [~~correctional services~~] **corrections and community supervision** in accordance with the requirements of the prior and additional terms of imprisonment.

(f) When a person serving a period of post-release supervision is returned to the department of [~~correctional services~~] **corrections and community supervision** pursuant to an additional consecutive sentence of imprisonment and without a declaration of delinquency, such period of post-release supervision shall be held in abeyance while the person is in the custody of the department of [~~correctional services~~] **corrections and community supervision**. Such period of post-release supervision shall resume running upon the person's re-release.

§ 127-k. Paragraph (d) of subdivision 3 of section 70.70 of the penal law, as added by chapter 738 of the laws of 2004, is amended to read as follows:

(d) Sentence of parole supervision. In the case of a person sentenced for a specified offense or offenses as defined in subdivision five of section 410.91 of the criminal procedure law, who stands convicted of no other felony offense, who has not previously been convicted of either a violent felony offense as defined in section 70.02 of this article, a class A felony offense or a class B felony offense, and is not under the jurisdiction of or awaiting delivery to the department of [~~correctional services~~] **corrections and community supervision**, the court may direct that a determinate sentence imposed pursuant to this subdivision shall be executed as a parole supervision sentence as defined in and pursuant to the procedures prescribed in section 410.91 of the criminal procedure law.

§ 127-l. Subdivision 1 of section 85.15 of the penal law, as amended by chapter 3 of the laws of 1995, is amended to read as follows:

1. Indeterminate and determinate sentences. The service of an indeterminate or a determinate sentence of imprisonment shall satisfy any sentence of intermittent imprisonment imposed on a person for an offense committed prior to the time the indeterminate or determinate sentence was imposed. A person who is serving a sentence of intermittent imprisonment at the time an indeterminate or a determinate sentence of imprisonment is imposed shall be delivered to the custody of the state department of [~~correctional services~~] **corrections and community supervision** to commence service of the indeterminate or determinate sentence immediately.

§ 127-m. Subdivision 1 of section 85.15 of the penal law, as added by chapter 477 of the laws of 1970, is amended to read as follows:

1. Indeterminate and reformatory sentences. The service of an indeterminate or a reformatory sentence of imprisonment shall satisfy any sentence of intermittent imprisonment imposed on a person for an offense committed prior to the time the indeterminate or reformatory sentence was imposed. A person who is serving a sentence of intermittent imprisonment at the time an indeterminate or a reformatory sentence of imprisonment is imposed shall be delivered to the custody of the state department of [~~correction~~] **corrections and community supervision** to

commence service of the indeterminate or reformatory sentence immediately.

§ 127-n. Section 205.17 of the penal law, as amended by chapter 460 of the laws of 1983, is amended to read as follows:

§ 205.17 Absconding from temporary release in the first degree.

A person is guilty of absconding from temporary release in the first degree when having been released from confinement in a correctional institution under the jurisdiction of the state department of [~~correctional services~~] **corrections and community supervision** or a facility under the jurisdiction of the state [~~division for youth~~] **office of children and family services** to participate in a program of temporary release, he **or she** intentionally fails to return to the institution or facility of his **or her** confinement at or before the time prescribed for his **or her** return.

Absconding from temporary release in the first degree is a class E felony.

§ 127-o. Section 205.19 of the penal law, as added by chapter 554 of the laws of 1986, is amended to read as follows:

§ 205.19 Absconding from a community treatment facility.

A person is guilty of absconding from a community treatment facility when having been released from confinement from a correctional institution under the jurisdiction of the state department of [~~correctional services~~] **corrections and community supervision** by transfer to a community treatment facility, he **or she** leaves such facility without authorization or he **or she** intentionally fails to return to the community treatment facility at or before the time prescribed for his **or her** return.

Absconding from a community treatment facility is a class E felony.

§ 127-p. Section 240.32 of the penal law, as separately amended by chapters 422 and 441 of the laws of 2000, is amended to read as follows:

§ 240.32 Aggravated harassment of an employee by an inmate.

An inmate or respondent is guilty of aggravated harassment of an employee by an inmate when, with intent to harass, annoy, threaten or alarm a person in a facility whom he **or she** knows or reasonably should know to be an employee of such facility or the [~~division of~~] **board of** parole or the office of mental health, or a probation department, bureau or unit or a police officer, he **or she** causes or attempts to cause such employee to come into contact with blood, seminal fluid, urine or feces, by throwing, tossing or expelling such fluid or material.

For purposes of this section, "inmate" means an inmate or detainee in a correctional facility, local correctional facility or a hospital, as such term is defined in subdivision two of section four hundred of the correction law. For purposes of this section, "respondent" means a juvenile in a secure facility operated and maintained by the office of children and family services who is placed with or committed to the office of children and family services. For purposes of this section, "facility" means a correctional facility or local correctional facility, hospital, as such term is defined in subdivision two of section four hundred of the correction law, or a secure facility operated and maintained by the office of children and family services.

Aggravated harassment of an employee by an inmate is a class E felony.

§ 127-q. Paragraphs (e) and (f) of subdivision 3 of section 130.05 of the penal law, paragraph (e) as amended by chapter 1 of the laws of 2000, subparagraph (iv) of paragraph (e) as added and paragraph (f) as amended by chapter 335 of the laws of 2007, are amended to read as follows:

(e) committed to the care and custody of the state department of [~~correctional services~~] **corrections and community supervision** or a hospital, as such term is defined in subdivision two of section four hundred of the correction law, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such department or hospital. For purposes of this paragraph, "employee" means (i) an employee of the state department of [~~correctional services~~] **corrections and community supervision** who performs professional duties**: (A)** in a state correctional facility consisting of providing custody, medical or mental health services, counseling services, educational programs, or vocational training for inmates; **or**

[~~(ii) an employee of the division of parole who performs professional duties~~] **(B)** in a state correctional facility and who provides institutional parole services [~~pursuant to section two hundred fifty-nine-e of the executive law~~]; or

[~~(iii)~~] **(ii)** an employee of the office of mental health who performs professional duties in a state correctional facility or hospital, as such term is defined in subdivision two of section four hundred of the correction law, consisting of providing custody, or medical or mental health services for such inmates; or

[~~(iv)~~] **(iii)** a person, including a volunteer, providing direct services to inmates in the state correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the state department of correctional services or, in the case of a volunteer, a written agreement with such department, provided that the person received written notice concerning the provisions of this paragraph; or

(f) committed to the care and custody of a local correctional facility, as such term is defined in subdivision two of section forty of the correction law, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such facility. For purposes of this paragraph, "employee" means an employee of the local correctional facility where the person is committed who performs professional duties consisting of providing custody, medical or mental health services, counseling services, educational services, or vocational training for inmates. For purposes of this paragraph, "employee" shall also mean a person, including a volunteer or a government employee of the state [~~division of parole~~] **department of corrections and community supervision** or a local health, education or probation agency, providing direct services to inmates in the local correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the local correctional department or, in the case of such a volunteer or government employee, a written agreement with such department, provided that such person received written notice concerning the provisions of this paragraph; or

§ 127-r. Subdivision 1 of section 10 of the public buildings law, as added by chapter 83 of the laws of 1995, is amended to read as follows:

1. Except as provided in subdivision two of this section, whenever the head of any agency, board, division or commission, with the approval of the director of the budget, (a) shall certify to the commissioner of general services that any property on state land or on land under lease to the state and consisting of buildings with or without fixtures attached thereto, and any other improvements upon such lands, are unfit, not adapted or not needed for use by such agency, board, division or

commission and (b) shall recommend for reasons to be stated, that the said property should be disposed of, the commissioner of general services shall, after causing an investigation to be made, dispose of said property by sale or demolition as will best promote the public interest. Public notice of a proposed sale where the value of the property to be sold exceeds five thousand dollars shall be given by advertising at least once in a newspaper published and having a general circulation in the county in which such lands are located and in such other newspaper or newspapers as the commissioner of general services may deem to be necessary. Such advertisement shall give a general description and location of the property and the terms of the sale and the date on which proposals for the same will be received by the commissioner of general services. Should any or all of the offers so received be deemed by the commissioner of general services to be too low, he or she may dispose of such property so advertised at private sale within ninety days of the opening of the bids, provided that no such private sale shall be consummated at a price lower than that submitted as a result of public advertising. The commissioner of general services shall also have the power to demolish such property either by contract or, if such property is located on lands which are under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision**, the work of such demolition may be done by the inmates of the institution where such property is located, provided however that the commissioner of [~~correctional services~~] **corrections and community supervision** shall consent to the employment of the inmates for the work of demolition. The provisions of this subdivision shall be effective notwithstanding the provisions of any other general or special law relating to the disposal of buildings with the fixtures attached thereto or of any improvements upon lands belonging to or under lease to the state, and any such statute or parts thereof relating to such disposal of buildings, fixtures and improvements insofar as they are inconsistent with the provisions of this section are hereby superseded. A record of any such sale shall be filed with the state agency head above referred to and the proceeds of such sale or disposal shall be paid into the treasury of the state to the credit of the capital projects fund.

§ 127-s. Subdivision 26 of section 206 of the public health law, as added by section 1 of chapter 419 of the laws of 2009, is amended to read as follows:

26. The commissioner is hereby authorized and directed to review any policy or practice instituted in facilities operated by the department of [~~correctional services~~] **corrections and community supervision** regarding human immunodeficiency virus (HIV), acquired immunodeficiency syndrome (AIDS), and hepatitis C (HCV) including the prevention of the transmission of HIV and HCV and the treatment of AIDS, HIV and HCV among inmates. Such review shall be performed annually and shall focus on whether such HIV, AIDS or HCV policy or practice is consistent with current, generally accepted medical standards and procedures used to prevent the transmission of HIV and HCV and to treat AIDS, HIV and HCV among the general public. In performing such reviews, in order to determine the quality and adequacy of care and treatment provided, department personnel are authorized to enter correctional facilities and inspect policy and procedure manuals and medical protocols, interview health services providers and inmate-patients, review medical grievances, and inspect a representative sample of medical records of inmates known to be infected with HIV or HCV or have AIDS. Prior to initiating a review of a correctional system, the commissioner shall inform the public,

including patients, their families and patient advocates, of the scheduled review and invite them to provide the commissioner with relevant information. Upon the completion of such review, the department shall, in writing, approve such policy or practice as instituted in facilities operated by the department of [~~correctional services~~] **corrections and community supervision** or, based on specific, written recommendations, direct the department of [~~correctional services~~] **corrections and community supervision** to prepare and implement a corrective plan to address deficiencies in areas where such policy or practice fails to conform to current, generally accepted medical standards and procedures. The commissioner shall monitor the implementation of such corrective plans and shall conduct such further reviews as the commissioner deems necessary to ensure that identified deficiencies in HIV, AIDS and HCV policies and practices are corrected. All written reports pertaining to reviews provided for in this subdivision shall be maintained, under such conditions as the commissioner shall prescribe, as public information available for public inspection.

§ 127-t. Subdivision 26 of section 206 of the public health law, as amended by section 2 of chapter 419 of the laws of 2009, is amended to read as follows:

26. The commissioner is hereby authorized and directed to review any policy or practice instituted in facilities operated by the department of [~~correctional services~~] **corrections and community supervision**, and in all local correctional facilities, as defined in subdivision sixteen of section two of the correction law, regarding human immunodeficiency virus (HIV), acquired immunodeficiency syndrome (AIDS), and hepatitis C (HCV) including the prevention of the transmission of HIV and HCV and the treatment of AIDS, HIV and HCV among inmates. Such review shall be performed annually and shall focus on whether such HIV, AIDS or HCV policy or practice is consistent with current, generally accepted medical standards and procedures used to prevent the transmission of HIV and HCV and to treat AIDS, HIV and HCV among the general public. In performing such reviews, in order to determine the quality and adequacy of care and treatment provided, department personnel are authorized to enter correctional facilities and inspect policy and procedure manuals and medical protocols, interview health services providers and inmate-patients, review medical grievances, and inspect a representative sample of medical records of inmates known to be infected with HIV or HCV or have AIDS. Prior to initiating a review of a correctional system, the commissioner shall inform the public, including patients, their families and patient advocates, of the scheduled review and invite them to provide the commissioner with relevant information. Upon the completion of such review, the department shall, in writing, approve such policy or practice as instituted in facilities operated by the department of [~~correctional services~~] **corrections and community supervision**, and in any local correctional facility, or, based on specific, written recommendations, direct the department of [~~correctional services~~] **corrections and community supervision**, or the authority responsible for the provision of medical care to inmates in local correctional facilities to prepare and implement a corrective plan to address deficiencies in areas where such policy or practice fails to conform to current, generally accepted medical standards and procedures. The commissioner shall monitor the implementation of such corrective plans and shall conduct such further reviews as the commissioner deems necessary to ensure that identified deficiencies in HIV, AIDS and HCV policies and practices are corrected. All written reports pertaining to reviews provided for in

this subdivision shall be maintained, under such conditions as the commissioner shall prescribe, as public information available for public inspection.

§ 128. Subdivision 2 of section 579 of the public health law, as added by chapter 436 of the laws of 1993, is amended to read as follows:

2. This title shall not be applicable to and the department shall not have the power to regulate pursuant to this title: (a) any examination performed by a state or local government of materials derived from the human body for use in criminal identification or as evidence in a criminal proceeding or for investigative purposes; (b) any test conducted pursuant to paragraph (c) of subdivision four of section eleven hundred ninety-four of the vehicle and traffic law and paragraph [~~(b)~~] **(c)** of subdivision [~~four~~] **eight** of section 25.24 of the parks, recreation and historic preservation law; (c) any examination performed by a state or local agency of materials derived from the body of an inmate, pretrial releasee, parolee, conditional releasee or probationer to (i) determine, measure or otherwise describe the presence or absence of any substance whose possession, ingestion or use is prohibited by law, the rules of the department of [~~correctional services~~] **corrections and community supervision**, the conditions of release established by the board of parole, the conditions of release established by a court or a local conditional release commission or the conditions of any program to which such individuals are referred and (ii) to determine whether there has been a violation thereof; or (d) any examination performed by a coroner or medical examiner for the medical-legal investigation of a death. Nothing herein shall prevent the department from consulting with the division of criminal justice services, the department of [~~correctional services~~] **corrections and community supervision**, the state police, or any other state agency or commission, at the request of the division of criminal justice services, the department of [~~correctional services~~] **corrections and community supervision**, the state police, or such other agency or commission, concerning examination of materials for purposes other than public health.

§ 129. Subdivision 8 of section 2780 of the public health law, as amended by chapter 786 of the laws of 1992, is amended to read as follows:

8. "Health or social service" means any public or private care, treatment, clinical laboratory test, counseling or educational service for adults or children, and acute, chronic, custodial, residential, outpatient, home or other health care provided pursuant to this chapter or the social services law; public assistance or care as defined in article one of the social services law; employment-related services, housing services, foster care, shelter, protective services, day care, or preventive services provided pursuant to the social services law; services for the mentally disabled as defined in article one of the mental hygiene law; probation services, provided pursuant to articles twelve and twelve-A of the executive law; parole services, provided pursuant to article [~~twelve-B of the executive law~~] **eight of the correction law**; [~~correctional services~~] **corrections and community supervision**, provided pursuant to the correction law; detention and rehabilitative services provided pursuant to article nineteen-G of the executive law; and the activities of the health care worker HIV/HBV advisory panel pursuant to article twenty-seven-DD of this chapter.

§ 130. Subdivision 2 of section 2785-a of the public health law, as added by chapter 76 of the laws of 1995, is amended to read as follows:

2. At the time of communicating the test results to the subject or the victim, such public health officer shall directly provide the victim and person tested with (a) counseling or referrals for counseling for the purposes specified in subdivision five of section two thousand seven hundred eighty-one of this article; (b) counseling with regard to HIV disease and HIV testing in accordance with law and consistent with subdivision five of section two thousand seven hundred eighty-one of this article; and (c) appropriate health care and support services, or referrals to such available services. If at the time of communicating the test results, the person tested is in the custody of the department of [~~correctional services~~] **corrections and community supervision**, [~~division for youth~~] **office of children and family services**, office of mental health or a local correctional institution, the counseling and services required by this subdivision may be provided by a public health officer associated with the county or facility within which the person tested is confined.

§ 131. Subdivision 4 of section 2994-cc of the public health law, as added by chapter 8 of the laws of 2010, is amended to read as follows:

4. (a) When the concurrence of a second physician is sought to fulfill the requirements for the issuance of a nonhospital order not to resuscitate for patients in a correctional facility, such second physician shall be selected by the chief medical officer of the department of [~~correctional services~~] **corrections and community supervision** or his or her designee.

(b) When the concurrence of a second physician is sought to fulfill the requirements for the issuance of a nonhospital order not to resuscitate for hospice and home care patients, such second physician shall be selected by the hospice medical director or hospice nurse coordinator designated by the medical director or by the home care services agency director of patient care services, as appropriate to the patient.

§ 132. Subdivision 4 of section 4174 of the public health law, as amended by section 6 of part OO of chapter 56 of the laws of 2010, is amended to read as follows:

4. No fee shall be charged for a search, certification, certificate, certified copy or certified transcript of a record to be used for school entrance, employment certificate or for purposes of public relief or when required by the veterans administration to be used in determining the eligibility of any person to participate in the benefits made available by the veterans administration or when required by a board of elections for the purposes of determining voter eligibility or when requested by the department of [~~correctional services~~] **corrections and community supervision** or a local correctional facility as defined in subdivision sixteen of section two of the correction law for the purpose of providing a certified copy or certified transcript of birth to an inmate in anticipation of such inmate's release from custody or when requested by the office of children and family services or an authorized agency for the purpose of providing a certified copy or certified transcript of birth to a youth placed in the custody of the local commissioner of social services or the custody of the office of children and family services pursuant to article three of the family court act in anticipation of such youth's discharge from placement.

§ 133. Section 4179 of the public health law, as amended by section 7 part OO of chapter 56 of the laws of 2010, is amended to read as follows:

§ 4179. Vital records; fees; city of New York. Notwithstanding the provisions of paragraph one of subdivision a of section 207.13 of the

health code of the city of New York, the department of health shall charge, and the applicant shall pay, for a search of two consecutive calendar years under one name and the issuance of a certificate of birth, death or termination of pregnancy, or a certification of birth or death, or a certification that the record cannot be found, a fee of fifteen dollars for each copy. Provided, however, that no such fee shall be charged when the department of [~~correctional services~~] **corrections and community supervision** or a local correctional facility as defined in subdivision sixteen of section two of the correction law requests a certificate of birth or certification of birth for the purpose of providing such certificate of birth or certification of birth to an inmate in anticipation of such inmate's release from custody or when the office of children and family services or an authorized agency requests a certified copy or certified transcript of birth for a youth placed in the custody of the local commissioner of social services or the custody of the office of children and family services pursuant to article three of the family court act for the purpose of providing such certified copy or certified transcript of birth to such youth in anticipation of discharge from placement.

§ 134. Paragraph (l) of subdivision 1 of section 2782 of the public health law, as added by chapter 584 of the laws of 1988, is amended to read as follows:

(l) an employee or agent of the [~~division of parole~~] **department of corrections and community supervision**, in accordance with paragraph (a) of subdivision two of section twenty-seven hundred eighty-six of this article, to the extent the employee or agent is authorized to access records containing such information in order to carry out the [~~division's~~] **department's** functions, powers and duties with respect to the protected individual, pursuant to section two hundred fifty-nine-a of the executive law;

§ 135. Subdivision 8 of section 92 of the public officers law, as separately amended by section 40 of part A and section 2 of part A1 of chapter 56 and by chapter 491 of the laws of 2010, is amended to read as follows:

(8) Public safety agency record. The term "public safety agency record" means a record of the state commission of correction, the temporary state commission of investigation, the department of [~~correctional services~~] **corrections and community supervision**, the office of children and family services, [~~the division of parole,~~] the office of victim services, the office of probation and correctional alternatives or the division of state police or of any agency or component thereof whose primary function is the enforcement of civil or criminal statutes if such record pertains to investigation, law enforcement, confinement of persons in correctional facilities or supervision of persons pursuant to criminal conviction or court order, and any records maintained by the division of criminal justice services pursuant to sections eight hundred thirty-seven, eight hundred thirty-seven-a, eight hundred thirty-seven-b, eight hundred thirty-seven-c, eight hundred thirty-eight, eight hundred thirty-nine, and eight hundred forty-five of the executive law and by the department of state pursuant to section ninety-nine of the executive law.

§ 136. Section 18 of the railroad law, as amended by chapter 840 of the laws of 1984, is amended to read as follows:

§ 18. Railroads through public lands. The commissioner of general services may grant to any domestic or foreign railroad corporation land belonging to the people of the state, except the reservation at Niagara

and the Concourse lands on Coney Island, which may be required for the purposes of its road on such terms as may be agreed upon by them; or a domestic railroad corporation may acquire title thereto by condemnation; and the county or town officers having charge of any land belonging to any county or town, required for a domestic railroad corporation for the purposes of its road, may grant such land to the corporation for such compensation as may be agreed upon. In case the land or any right, interest or easement therein, required by a domestic or foreign railroad corporation is used for prison purposes the commissioner of general services may grant such land, or any right, interest or easement therein, provided the plans of such railroad corporation for the use of such prison lands, or such right, interest or easement therein, have the approval of the commissioner of [~~correctional services~~] **corrections and community supervision**.

§ 137. Subdivision 3 and 4 of section 88 of the railroad law, as amended by chapter 247 of the laws of 1964, are amended to read as follows:

3. The corporation, express company or steamboat company making any such application shall cause the fingerprints of each proposed appointee to be taken [~~by a police agency~~] **in the form and manner prescribed by the division of criminal justice services** and [~~shall cause~~] one set of such fingerprints [~~to~~] **shall** be forwarded to the division of [~~identification, New York state department of correction, at Albany, New York~~] **criminal justice services**, and one set [~~of such fingerprints to be forwarded to the identification division,~~] **to the** federal bureau of investigation[~~, United States department of justice, at Washington, D. C., with the request that such~~]**. Such** fingerprints shall be searched by each agency against the fingerprint records in its files and be retained in the files of such agencies [~~and the further request that reports of the results of such searches shall be transmitted to the superintendent of state police~~].

4. Reports of the results of such searches [~~of the fingerprint records of the department of correction and of the department of justice~~] shall be reviewed by the superintendent of state police prior to granting an appointment[~~,~~] to determine whether a proposed appointee is thereby shown to have been convicted of a crime in the state of New York or of any offense in any other place which if committed in the state of New York would have been a crime and no person who is determined by such review to have been so convicted shall receive an appointment under this section.

§ 138. Subdivision a of section 63-a of the retirement and social security law, as added by chapter 722 of the laws of 1996, is amended to read as follows:

a. Any member in the uniformed personnel in institutions under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision** or a security hospital treatment assistant, as those terms are defined in subdivision i of section eighty-nine of this article, who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury, sustained in the performance or discharge of his or her duties by, or as the natural and proximate result of an act of any inmate or any person confined in an institution under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision** or office of mental health, or by any person who has been committed to such institution by any court shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-

three of this title, subject to the provisions of section sixty-four of this title.

§ 139. Section 89 of the retirement and social security law, as amended by chapter 578 of the laws of 1989, subdivision i as amended by chapter 499 of the laws of 2006, is amended to read as follows:

§ 89. Retirement of members in the uniformed personnel in institutions under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision** or who are security hospital treatment assistants; new plan. a. Any member in the uniformed personnel in institutions under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision**, as hereinafter defined, who enters or re-enters service on or after the effective date of this section, or who is a security hospital treatment assistant who enters or reenters service on or after the effective date of the amendment permitting security hospital treatment assistants to be covered by this section, shall contribute on the basis provided for by this section.

b. Any member in the uniformed personnel in institutions under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision**, as hereinafter defined, who entered such service prior to the effective date of this section may, on or before September first, nineteen hundred sixty-six, elect to come under the provisions of this section. Such election shall be in writing and shall be duly executed and filed with the comptroller.

c. Any member in the uniformed personnel in institutions under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision**, as hereinafter defined, who entered such service prior to the effective date of this section, may, on or before December thirty-first, nineteen hundred sixty-six, elect to come under the provisions of this section. Such election shall be in writing and shall be duly executed and filed with the comptroller. Any such member who has made an election as set forth herein on or before December thirty-first, nineteen hundred sixty-five, shall be permitted to withdraw the same and in like manner make a new election on or before December thirty-first, nineteen hundred sixty-six.

d. A member who elects or is required to contribute in accordance with this section shall contribute, in lieu of the proportion of compensation as provided in section twenty-one of this article, a proportion of his **or her** compensation similarly determined. Such latter proportion shall be computed to provide at the time when he **or she** shall first become eligible for retirement under this section, an annuity equal to one-one hundredth of his **or her** final average salary for each year of service as a member rendered after May first, nineteen hundred sixty-five, and prior to the attainment of the age when he **or she** shall first become eligible for retirement. Such member's rate of contribution pursuant to this section shall be appropriately reduced pursuant to section seventy-a of this article for such period of time as his **or her** employer contributes pursuant to such section toward pensions-providing-for-increased-take-home pay. No such member shall be required to continue contributions after completing twenty-five years of such service.

e. A member contributing on the basis of this section at the time of retirement, shall be entitled to retire after the completion of twenty-five years of total creditable service as defined in subdivision i of this section, or upon the attainment of age sixty, by filing an application therefor in a manner similar to that provided in section seventy of

this article. He **or she** thereupon shall receive, on retirement a retirement allowance consisting of:

1. An annuity, which shall be the actuarial equivalent of his **or her** accumulated contributions at the time of his **or her** retirement, plus,

2. A pension which, together with such annuity and a pension which is the actuarial equivalent of the reserves for-increased-take-home pay to which he **or she** may then be entitled, if any, shall equal one-fiftieth of his **or her** final average salary for each year of creditable service in the uniformed personnel in institutions under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision** or for each year of creditable service as a security hospital treatment assistant under the jurisdiction of the office of mental health, as hereinafter defined. This pension shall not exceed the amount needed to make the total amount of the benefits provided under paragraphs one and two of this subdivision e equal to one-half of his **or her** final average salary.

3. An additional pension equal to the pension for any creditable service rendered while not in the uniformed personnel in institutions under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision** and rendered while not serving as a security hospital treatment assistant under the jurisdiction of the office of mental health, as hereinafter defined, as provided under paragraphs two and three of subdivision a of section seventy-five of this article. This pension shall:

(a) Be payable only if such member has attained age sixty at the time of retirement and has not completed twenty-five years of service for which he receives credits under this article, and

(b) Not increase the total allowance to more than one-half of his **or her** final average salary.

For the purpose only of determining the amount of the pension provided herein, the annuity shall be computed as it would be:

(aa) if not reduced by the actuarial equivalent of any outstanding loan, and

(bb) if not increased by the actuarial equivalent of any additional contributions, and

(cc) if not reduced by reason of the member's election to decrease his **or her** annuity contributions to the retirement system in order to apply the amount of such reduction in payment of his contributions for old-age and survivors insurance coverage.

f. The increased pensions to members of the uniformed personnel in institutions under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision** or to members who are security hospital treatment assistants under the jurisdiction of the office of mental health, as provided by this section, shall be paid from additional contributions made by the state on account of such member. The actuary of the retirement system shall compute the additional contribution of each member who elects to receive the special benefits provided under this section. Such additional contributions shall be computed on the basis of contributions during the prospective service of such member which will cover the liability of the retirement system for such extra pensions.

g. In computing the twenty-five years of completed service of a member in the uniformed personnel in institutions under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision** or of a member who is a security hospital treatment assistant under the jurisdiction of the office of mental health, as hereinafter

defined, full credit shall be given and full allowance shall be made for service of such member in war after world war 1 as defined in section two of this chapter, provided such member at the time of his **or her** entrance into the armed forces was in state service.

h. The provisions of this section shall be controlling notwithstanding any provision in this article to the contrary.

i. As used in this section, "uniformed persons" or "uniformed personnel" in institutions under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision** or "security hospital treatment assistants" under the jurisdiction of the office of mental health mean officers or employees holding the titles hereinafter set forth in institutions under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision** or under the jurisdiction of the office of mental health, namely: correction officers, prison guards, correction sergeants, correction lieutenants, correction captains, deputy assistant superintendent or warden, deputy warden or deputy superintendent, superintendents and wardens, assistant director and director of correction reception center, director of correctional program, assistant director of correctional program, director of community correctional center, community correctional center assistant, correction hospital officers, male or female, correction hospital senior officers, correction hospital charge officer, correction hospital supervising officer, correction hospital security supervisor, correction hospital chief officer, correction youth camp officer, correction youth camp supervisor, assistant supervisor, correctional camp superintendent, assistant correctional camp superintendent, director of crisis intervention unit, assistant director of crisis intervention unit, security hospital treatment assistants, security hospital treatment assistants (Spanish speaking), security hospital senior treatment assistants, security hospital supervising treatment assistants and security hospital treatment chiefs. Previous service rendered under the titles by which such positions were formerly designated and previous service rendered as a narcotic addiction control commission officer shall constitute creditable service. Notwithstanding any provision of law to the contrary, any employee of the department of [~~correctional services~~] **corrections and community supervision** who became enrolled under this section by reason of employment as a uniformed person in an institution under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision** shall be entitled to full retirement credit for, and full allowance shall be made under this section for the service of such employee, not to exceed twelve years, while assigned to the training academy or central office, in the following titles, namely: correction officer, correction sergeant, correction lieutenant, correction captain, correctional services investigator, senior correctional services employee investigator, correctional services fire and safety coordinator, director of special housing and inmate disciplinary program, assistant director of special housing and inmate disciplinary program, assistant chief of investigations, director of CERT operations, correctional facility operations specialist, director of security staffing project, correctional security technical services specialist, assistant commissioner and deputy commissioner.

j. Notwithstanding any provisions of subdivision a, b or i of this section to the contrary, a member who is in the collective negotiating unit designated as the security services unit and established pursuant to article fourteen of the civil service law and who has elected or is

required to contribute in accordance with this section may, on or before March thirty-first, nineteen hundred seventy-three, elect to come under the provisions of section seventy-five-h of this article. Such election shall be duly executed and filed with the comptroller.

k. Any member who, on or before the effective date of this provision, is a security hospital treatment assistant under the jurisdiction of the office of mental health may, by filing an election within one year after the effective date of this provision, elect to be subject to the provisions of this section. Such election shall be in writing, shall be duly executed and filed with the comptroller and shall be irrevocable.

§ 140. Section 89-n of the retirement and social security law, as added by chapter 573 of the laws of 1991, is amended to read as follows:

§ 89-n. Computation of twenty-five years of service; correction officers. a. Notwithstanding any inconsistent provision of law, in computing twenty-five years of completed service by correction officers in all counties, full credit shall be given and full allowance shall be made for service of such member as a correction officer employed by the city of New York, as a uniformed employee in an institution under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision**, as a security hospital assistant under the jurisdiction of the office of mental health, or as a correction officer in any county in which he or she was eligible to retire after twenty-five years of total creditable service.

b. Notwithstanding any inconsistent provision of law, in computing twenty-five years of completed service by state correction officers, full credit shall be given and full allowance shall be made for service of such members as a correction officer employed by the city of New York as a uniformed employee in an institution under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision**, as a security hospital assistant under the jurisdiction of the office of mental health, or as a correction officer in any county in which he or she was eligible to retire after twenty-five years of total creditable service.

§ 141. Subdivision a of section 444 of the retirement and social security law, as amended by chapter 625 of the laws of 2007, is amended to read as follows:

a. Except as provided in subdivision c of section four hundred forty-five-a of this article, subdivision c of section four hundred forty-five-b of this article, subdivision c of section four hundred forty-five-c of this article, subdivision c of section four hundred forty-five-d of this article as added by chapter four hundred seventy-two of the laws of nineteen hundred ninety-five, subdivision c of section four hundred forty-five-e of this article, subdivision c of section four hundred forty-five-f of this article and subdivision c of section four hundred forty-five-h of this article, the maximum retirement benefit computed without optional modification provided to a member of a retirement system who is subject to the provisions of this article, other than a police officer, a firefighter, an investigator member of the New York city employees' retirement system, a member of the uniformed personnel in institutions under the jurisdiction of the New York city department of correction who receives a performance of duty disability retirement allowance, a member of the uniformed personnel in institutions under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision** or a security hospital treatment assistant, as those terms are defined in subdivision i of section eighty-nine of this chapter, who receives a performance of duty

disability retirement allowance, a member of a teachers' retirement system, New York city employees' retirement system, New York city board of education retirement system or a member of the New York state and local employees' retirement system or a member of the New York city employees' retirement system or New York city board of education retirement system employed as a special officer, parking control specialist, school safety agent, campus peace officer, taxi and limousine inspector or a police communications member and who receives a performance of duty disability pension, from funds other than those based on a member's own or increased-take-home-pay contributions, shall, before any reduction for early retirement, be sixty per centum of the first fifteen thousand three hundred dollars of final average salary, and fifty per centum of final average salary in excess of fifteen thousand three hundred dollars, and forty per centum of final average salary in excess of twenty-seven thousand three hundred dollars, provided, however, that the benefits provided by subdivision c of section four hundred forty-five-d of this article as added by chapter four hundred seventy-two of the laws of nineteen hundred ninety-five based upon the additional member contributions required by subdivision d of such section four hundred forty-five-d shall be subject to the maximum retirement benefit computations set forth in this section. The maximum retirement benefit computed without optional modification payable to a police officer, an investigator member of the New York city employees' retirement system or a firefighter shall equal that payable upon completion of thirty years of service, except that the maximum service retirement benefit computed without optional modification shall equal that payable upon completion of thirty-two years of service.

§ 142. Section 450 of the retirement and social security law, as amended by chapter 489 of the laws of 1998, is amended to read as follows:

§ 450. Definitions. For the purposes of this article: (1) the term "correction officer" shall mean members of the New York state and local employees' retirement system who are in a plan limited to uniformed personnel in institutions under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision** or members of such system who are also in titles defined in subdivision i of section eighty-nine of this chapter and correction members of the New York city employees' retirement system; (2) the term "police officer or firefighter" shall mean members of the New York state and local police and fire retirement system, the New York city police pension fund, New York city fire department pension fund, and housing police members and transit police members of the New York city employees' retirement system; (3) the term "sanitation man" shall mean sanitation members of the New York city employees' retirement system; and (4) the term "investigator member" shall mean members who are police officers as defined in paragraph (g) of subdivision thirty-four of section 1.20 of the criminal procedure law.

§ 143. Subdivision c of section 503 of the retirement and social security law, as amended by chapter 622 of the laws of 2004, is amended to read as follows:

c. A general member shall be eligible for early service retirement at age fifty-five with five years of credited service. A general member in the uniformed correction force of the New York city department of correction, who is not eligible for early service retirement pursuant to subdivision c of section five hundred four-a of this article or subdivision c of section five hundred four-b of this article or subdivision c

of section five hundred four-d of this article, or a general member in the uniformed personnel in institutions under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision**, as defined in subdivision i of section eighty-nine of this chapter or serving in institutions who is also in a title defined in such subdivision and who has made an election pursuant to the provisions of article seventeen of this chapter, shall also be eligible for early service retirement after twenty-five years of credited service.

§ 144. Subdivisions d and e of section 504 of the retirement and social security law, subdivision d as amended by chapter 622 of the laws of 2004, and subdivision e as amended by chapter 578 of the laws of 1989, is amended to read as follows:

d. The early service retirement benefit for general members in the uniformed correction force of the New York city department of correction, who are not entitled to an early service retirement benefit pursuant to subdivision c of section five hundred four-a of this article or subdivision c of section five hundred four-b of this article or subdivision c of section five hundred four-d of this article, or for general members in the uniformed personnel in institutions under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision**, as defined in subdivision i of section eighty-nine of this chapter, shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service, but not in excess of fifty percent of final average salary.

e. The early service retirement benefit for uniformed personnel in institutions under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision**, as defined in subdivision i of section eighty-nine of this chapter, or who are in titles defined in subdivision i of section eighty-nine of this chapter and who have made an election pursuant to the provisions of article seventeen of this chapter, shall be a pension equal to one-fiftieth of final average salary times years of credited service at the completion of twenty-five years of service, but not in excess of fifty percent of final average salary.

§ 145. The opening paragraph of subdivision a of section 507-a of the retirement and social security law, as amended by chapter 578 of the laws of 1989, is amended to read as follows:

Application for a disability retirement allowance for a member in the uniformed personnel in institutions under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision** of New York state as defined in subdivision i of section eighty-nine of this chapter or for a member serving in institutions who is also in a title defined in such subdivision and who has made an election pursuant to the provisions of article seventeen of this chapter or the New York city department of correction may be made by:

§ 146. Subdivision a of section 507-b of the retirement and social security law, as added by chapter 722 of the laws of 1996, is amended to read as follows:

a. Any member in the uniformed personnel in institutions under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision** or a security hospital treatment assistant, as those terms are defined in subdivision i of section eighty-nine of this chapter, who becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury, sustained in the performance or discharge of his or her duties by, or as

a natural and proximate result of, an act of any inmate or any person confined in an institution under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision** or office of mental health, or by any person who has been committed to such institution by any court shall be paid a performance of duty disability retirement allowance equal to that which is provided in section sixty-three of this chapter, subject to the provisions of section sixty-four of this chapter.

§ 147. Subdivision f of section 511 of the retirement and social security law, as amended by chapter 667 of the laws of 1996, is amended to read as follows:

f. This section shall not apply to general members in the uniformed correction force of the New York city department of correction or to uniformed personnel in institutions under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision** and security hospital treatment assistants, as those terms are defined in subdivision i of section eighty-nine of this chapter.

§ 148. Subdivisions b and d of section 516 of the retirement and social security law, subdivision b as amended by chapter 174 of the laws of 1989 and subdivision d as amended by chapter 622 of the laws of 2004, is amended to read as follows:

b. The deferred vested benefit of general members, except for general members in the uniformed correction force of the New York city department of correction or uniformed personnel in institutions under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision** as defined in subdivision i of section eighty-nine of this chapter, with twenty or more years of credited service shall be a pension commencing at normal retirement age equal to one-fiftieth of final average salary times years of credited service, not in excess of thirty years, less fifty percent of the primary social security retirement benefit, as provided in section five hundred eleven of this article. The deferred vested benefit of general members, except for general members in the uniformed correction force of the New York city department of correction or uniformed personnel in institutions under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision** as defined in subdivision i of section eighty-nine of this chapter, with less than twenty years of credited service shall be a pension commencing at normal retirement age equal to one-sixtieth of final average salary times years of credited service, less fifty percent of the primary social security retirement benefit, as provided in section five hundred eleven of this article. Such deferred vested benefit may be paid in the form of an early service retirement benefit, or may be postponed until after normal retirement age, in which event the benefit will be subject to reduction or escalation as provided in subdivision c of section five hundred four of this article.

d. The deferred vested benefit of general members in the uniformed correction force of the New York city department of correction, who are not entitled to a deferred vested benefit under subdivision d of section five hundred four-a of this article or under subdivision d of section five hundred four-b of this article or under subdivision d of section five hundred four-d of this article, or of general members in the uniformed personnel in institutions under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision**, as defined in subdivision i of section eighty-nine of this chapter, with twenty or more years of credited service shall be a pension

commencing at normal retirement age equal to one-fiftieth of final average salary times years of credited service, not in excess of thirty years. The deferred vested benefit of general members in the uniformed correction force of the New York city department of correction, who are not entitled to a deferred vested benefit under subdivision d of section five hundred four-a of this article or under subdivision d of section five hundred four-b of this article or under subdivision d of section five hundred four-d of this article, or of general members in the uniformed personnel in institutions under jurisdiction of the department of [~~correctional services~~] **corrections and community supervision**, as defined in subdivision i of section eighty-nine of this chapter, with less than twenty years of credited service shall be a pension commencing at normal retirement age equal to one-sixtieth of final average salary times years of credited service. Such deferred vested benefit may be paid in the form of an early service retirement benefit, or may be postponed until after normal retirement age, in which event the benefit will be subject to reduction or escalation as provided in subdivision c of section five hundred four of this article.

§ 149. Paragraph 2 of subdivision a of section 600 of the retirement and social security law, as amended by chapter 421 of the laws of 2006, is amended to read as follows:

2. (a) Members in the uniformed personnel in institutions under the jurisdiction of the department of [~~correctional services~~] **corrections and community supervision** of New York state, other than certain persons as defined in this section or the New York city department of correction.

(b) For purposes of this paragraph, certain persons means either:

(i) a person who is appointed to the title of superintendent, who has had at least seven years of service credited toward the retirement plan established pursuant to this article while employed by the department of [~~correctional services~~] **corrections and community supervision** and who elects the retirement plan established pursuant to this article within ninety days of his or her appointment. Such election shall be in writing, shall be duly executed and filed with the comptroller and shall be irrevocable as long as such person is in the title of superintendent; or

(ii) a person who serves in the title of superintendent as of April first, two thousand six, who has had at least seven years of service credited toward the retirement plan established pursuant to this article while employed by the department of [~~correctional services~~] **corrections and community supervision** and who elects the retirement plan established pursuant to this article on or before September thirtieth, two thousand six. Such election shall be in writing, shall be duly executed and filed with the comptroller and shall be irrevocable as long as such person is in the title of superintendent.

(c) Any person in the title of superintendent who is eligible to make an election as described in this section but who does not make such election, shall remain a member of the retirement plan that persons appointed to the title of superintendent join who do not meet the above criteria.

§ 150. Subdivision 8 of section 20 of the social services law, as added by chapter 568 of the laws of 2008, is amended to read as follows:

8. (a) The office of temporary and disability assistance shall promulgate rules and regulations for the administration of this subdivision. The rules and regulations shall provide for the conditions under which local social services officials determine the placement of applicants for and recipients of public assistance for whom a notice pursuant to

[~~subdivision sixteen of~~] section two hundred [~~fifty-nine-c~~] **three** of the [~~executive~~] **correction** law, has been received and who are:

(i) determined to be in immediate need of shelter; and

(ii) designated a level two or level three sex offender pursuant to article six-C of the correction law.

(b) When making determinations in regard to the placement of such individuals in shelter, local social services officials shall consider the following factors:

(i) the location of other sex offenders required to register pursuant to the sex offender registration act, specifically whether there is a concentration of registered sex offenders in a certain residential area or municipality;

(ii) the number of registered sex offenders residing at a particular property;

(iii) proximity of the entities with vulnerable populations;

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

(v) investigation and approval of such placement by the [~~state division of parole~~] **department of corrections and community supervision**.

§ 151. Paragraph (g) of subdivision 5 of section 62 of the social services law, as added by chapter 55 of the laws of 1992, is amended to read as follows:

(g) (1) When a person applies for medical parole, and is in need of public assistance, including medical assistance, the department of [~~correctional services~~] **corrections and community supervision** shall cause an application for such assistance to be forwarded to the department of social services.

(2) Upon receipt of an application for public assistance, including medical assistance, forwarded by the [~~state~~] department of [~~correctional services~~] **corrections and community supervision** for persons meeting the conditions of medical parole, financial eligibility for such assistance and care shall be determined by the New York state department of social services prior to the person's parole.

(3) Determination of continuing eligibility for public assistance, including medical assistance, and care will be the responsibility of the social services district into which such person is released.

(4) Any inconsistent provision of this chapter or other law notwithstanding, when a person is released on medical parole pursuant to section two hundred fifty-nine-r **or two hundred fifty-nine-s** of the executive law and is in need of public assistance, including medical assistance, the social services district in which such person was convicted and from which he or she was committed to the custody of the [~~state~~] department of [~~correctional services~~] **corrections and community supervision** shall be responsible for the administrative costs of the initial and any subsequent eligibility determination and the costs of any public assistance, including medical assistance, following such persons release on medical parole for so long as such person is eligible therefor.

§ 152. Subdivision 14 of section 131 of the social services law, as added by section 11 of part B of chapter 436 of the laws of 1997, is amended to read as follows:

14. (a) Notwithstanding any provision of this chapter or other law to the contrary, no public assistance shall be given to any individual who

is (i) fleeing to avoid prosecution or custody or conviction under the laws of the place from which the individual flees for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees or which, in the case of the state of New Jersey, is a high misdemeanor under the laws of such state or (ii) violating a condition of probation or parole imposed under federal or state law.

(b) For purposes of this section, if and to the extent permitted by federal law, a person shall be considered to be violating a condition of probation or parole only if:

(i) he or she is currently an absconder from probation or parole supervision and a warrant alleging such a violation is outstanding; or

(ii) he or she has been found by judicial determination to have violated probation or by administrative adjudication by the [~~division of parole~~] **department of corrections and community supervision** to have violated parole.

Such person shall be considered to be violating a condition of probation or parole only until he or she is restored to probation or parole supervision or released from custody, or until the expiration of the person's maximum period of imprisonment or supervision, whichever occurs first.

(c) A person considered to be violating a condition of probation or parole under this section shall include a person who is violating a condition of probation or parole imposed under federal law.

(d) For purposes of this section, probation or parole shall include conditional release, wherever applicable.

§ 153. Subparagraph (k) of paragraph (A) of subdivision 4 of section 422 of the social services law, as amended by chapter 12 of the laws of 1996, is amended to read as follows:

(k) a probation service conducting an investigation pursuant to article three or seven or section six hundred fifty-three of the family court act where there is reason to suspect the child or the child's sibling may have been abused or maltreated and such child or sibling, parent, guardian or other person legally responsible for the child is a person named in an indicated report of child abuse or maltreatment and that such information is necessary for the making of a determination or recommendation to the court; or a probation service regarding a person about whom it is conducting an investigation pursuant to article three hundred ninety of the criminal procedure law, or a probation service or the [~~state division of parole~~] **department of corrections and community supervision** regarding a person to whom the service or [~~division~~] **department** is providing supervision pursuant to article sixty of the penal law or [~~section two hundred fifty-nine-a of the executive law~~] **article eight of the correction law**, where the subject of investigation or supervision has been convicted of a felony under article one hundred twenty, one hundred twenty-five or one hundred thirty-five of the penal law or any felony or misdemeanor under article one hundred thirty, two hundred thirty-five, two hundred forty-five, two hundred sixty or two hundred sixty-three of the penal law, or has been indicted for any such felony and, as a result, has been convicted of a crime under the penal law, where the service or [~~division~~] **department** requests the information upon a certification that such information is necessary to conduct its investigation, that there is reasonable cause to believe that the subject of an investigation is the subject of an indicated report and that there is reasonable cause to believe that such records are necessary to the investigation by the probation service or the [~~state division of parole~~]

department, provided, however, that only indicated reports shall be furnished pursuant to this subdivision;

§ 154. Subdivision 11 of section 460-d of the social services law, as amended by section 42 of part B of chapter 58 of the laws of 2004, is amended to read as follows:

11. On or before issuance by the department to an adult care facility operator of official written notice of: the proposed revocation, suspension or denial of the operator's operating certificate; the limitation of the operating certificate with respect to new admissions; the issuance of a department order or commissioner's order; the seeking of equitable relief pursuant to this section; the proposed assessment of civil penalties for violations of the provisions of subparagraph two of paragraph (b) of subdivision seven of this section or placement on the "do not refer list" pursuant to subdivision fifteen of this section, written notice also shall be given to the appropriate office of the department of mental hygiene, department of [~~**correctional services, state division of parole**~~] **corrections and community supervision** and local social services districts, and provided further that the department of health shall notify hospitals in the locality in which such facility is located that such notice has been issued. Upon resolution of such enforcement action the department shall notify the appropriate office of the department of mental hygiene, department of [~~**correctional services, state division of parole**~~] **corrections and community supervision**, local social services districts and hospitals.

§ 155. Subdivision 1 of section 102 of the state administrative procedure act, as amended by chapter 635 of the laws of 1995, is amended to read as follows:

1. "Agency" means any department, board, bureau, commission, division, office, council, committee or officer of the state, or a public benefit corporation or public authority at least one of whose members is appointed by the governor, authorized by law to make rules or to make final decisions in adjudicatory proceedings but shall not include the governor, agencies in the legislative and judicial branches, agencies created by interstate compact or international agreement, the division of military and naval affairs to the extent it exercises its responsibility for military and naval affairs, the division of state police, the identification and intelligence unit of the division of criminal justice services, the state insurance fund, the unemployment insurance appeal board, and except for purposes of subdivision one of section two hundred two-d of this chapter, the workers' compensation board and except for purposes of article two of this chapter, the [~~**state division of parole and the**~~] department of [~~**correctional services**~~] **corrections and community supervision**.

§ 156. Subdivision 12 of section 8 of the state finance law, as separately amended by chapters 305 and 477 of the laws of 1985, is amended to read as follows:

12. Notwithstanding any inconsistent provision of the court of claims act, examine, audit and certify for payment any claim submitted and approved by the head of any institution in the department of mental hygiene, the department of [~~**correctional services**~~] **corrections and community supervision**, the department of health or the [~~**division for youth**~~] **office of children and family services** for personal property damaged or destroyed by any inmate thereof, or for personal property of an employee damaged or destroyed without fault on his part, by a fire in said institution; or any claim submitted and approved by the head of any institution in the department of mental hygiene or the [~~**division for**~~

~~youth~~] **office of children and family services** for real or personal property damaged or destroyed or for personal injuries caused by any patient during thirty days from the date of his escape from such institution; or any claim submitted and approved by the [~~chairman of the board of parole~~] **commissioner of the department of corrections and community supervision** for personal property of an employee damaged or destroyed without fault on his part as a result of actions unique to the performance of his official duties in accordance with rules and regulations promulgated by the [~~chairman~~] **commissioner of the department of corrections and community supervision** with the approval of the comptroller; or any claim submitted and approved by the chief administrator of the courts for personal property of any judge or justice of the unified court system or of any nonjudicial officer or employee thereof damaged or destroyed, without fault on his part, by any party, witness, juror or bystander to court proceedings, provided no such claim may be certified for payment to a nonjudicial officer or employee who is in a collective negotiating unit until the chief administrator shall deliver to the comptroller a certificate that there is in effect with respect to such negotiating unit a written collective bargaining agreement with the state pursuant to article fourteen of the civil service law which provides therefor; or any claim submitted and approved by the superintendent of state police for personal property of a member of the state police damaged or destroyed without fault on his part as a result of actions unique to the performance of police duties in accordance with rules and regulations promulgated by the superintendent with the approval of the comptroller; or any claim submitted and approved by the head of a state department or agency having employees in the security services unit or the security supervisors unit for personal property of a member of such units damaged or destroyed without fault on his part as a result of actions unique to the performance of law enforcement duties in accordance with rules and regulations promulgated by the department or agency head, after consultation with the employee organization representing such units and with the approval of the comptroller and payment of any such claim shall not exceed the sum of three hundred fifty dollars. Where an agreement between the state and an employee organization reached pursuant to the provisions of article fourteen of the civil service law provides for payments to be made to employees by an institution, such payments for claims not in excess of seventy-five dollars, or one hundred fifty dollars if otherwise provided in accordance with the terms of such agreement, may be made from a petty cash account established pursuant to section one hundred fifteen of this chapter, and in the manner prescribed therein.

§ 157. Subdivision 12-g of section 8 of the state finance law, as amended by section 37 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

12-g. Notwithstanding any other provision of the court of claims act or any other law to the contrary, thirty days before the comptroller issues a check for payment to an inmate serving a sentence of imprisonment with the [~~state~~] department of [~~correctional services~~] **corrections and community supervision** or to a prisoner confined at a local correctional facility for any reason, including a payment made in satisfaction of any damage award in connection with any lawsuit brought by or on behalf of such inmate or prisoner against the state or any of its employees in federal court or any other court, the comptroller shall give written notice, if required pursuant to subdivision two of section six hundred thirty-two-a of the executive law, to the office of victim

services that such payment shall be made thirty days after the date of such notice.

§ 158. Subparagraph 4 of paragraph a of subdivision 1 of section 54 of the state finance law, as added by chapter 430 of the laws of 1997, is amended to read as follows:

(4) Population excludes the reservation and school Indian population and inmates of [~~state~~] institutions under the direction, supervision or control of the state department of [~~correctional services~~] **corrections and community supervision** and the state department of mental hygiene and the inmates of state institutions operated and maintained by the [~~state division for youth~~] **office of children and family services**.

§ 159. Subdivisions 3 and 4 of section 97-cc of the state finance law, as added by chapter 338 of the laws of 1989, are amended to read as follows:

3. Moneys within the rehabilitative alcohol and substance abuse treatment fund, upon appropriation by the legislature, shall be available [~~to the division of parole and~~] to the department of [~~correctional services~~] **corrections and community supervision** for the operation of alcohol and substance abuse treatment facilities, alcohol and substance abuse correctional annexes and residential treatment facilities, including, but not limited to, the payment of private sector treatment providers and for providing alcohol and substance abuse treatment services to persons under the supervision of the [~~division~~] **department of corrections and community supervision**.

4. Moneys, shall be payable from the fund on the audit and warrant of the comptroller on vouchers approved and certified by the commissioner of [~~correctional services~~] **corrections and community supervision**.

§ 160. Section 97-ooo of the state finance law, as added by section 10 of part B of chapter 57 of the laws of 1998, is amended to read as follows:

§ 97-ooo. [~~Division of parole~~] **Department of corrections and community supervision** asset forfeiture account. 1. There is hereby established in the joint custody of the state comptroller and the [~~division of parole~~] **department of corrections and community supervision** a special account within the miscellaneous special revenue fund to be known as the [~~division of parole~~] **department of corrections and community supervision** asset forfeiture account. Such account shall consist, subject to necessary federal approval, of moneys received by the [~~division of parole~~] **department of corrections and community supervision** through the equitable sharing that is authorized in federal forfeiture actions.

2. The moneys of the account shall be available for purposes of developing additional resources such as, but not limited to, obtaining equipment, establishing training programs, or accessing existing technology or databases.

3. The [~~chairman of the board~~] **commissioner** of [~~parole~~] **the department of corrections and community supervision** shall report to the commissioner of the division of criminal justice services, the director of the budget, the chairman of the senate finance committee and the chairman of the assembly ways and means committee by October first, nineteen hundred ninety-eight and every six months thereafter, on the source and amounts of moneys in the account. Such report shall describe the amount of moneys received by the federal government and the [~~division of parole~~] **department of corrections and community supervision** from the joint activities of the [~~division~~] **department** and federal law enforcement agencies, the law enforcement activities which led to such forfeiture and the value of the assets so seized.

4. The moneys of such account shall be made available on the audit and warrant of the comptroller on vouchers certified or approved by the [~~chairman~~] **commissioner** of the [~~board of parole~~] **department of corrections and community supervision**.

§ 161. Paragraphs (a) and (b) of subdivision 3 of section 99-m of the state finance law, as added by section 2 of part E of chapter 56 of the laws of 2005, are amended to read as follows:

(a) An individual or entity ("administrator"), appointed by the governor in consultation with the temporary president of the senate, the speaker of the assembly, and representatives of eligible claimants, shall develop the compensation payment plan. Such administrator shall not be entitled to salary or remuneration for his/her services; however, reasonable expenses directly connected to the conduct of the administrator's duties shall be paid through the department of [~~correctional services~~] **corrections and community supervision**.

(b) The administrator shall receive from each claimant an accounting of the injuries suffered by the state employee victim during the course of the Attica riots. The administrator shall determine and promulgate to potential claimants through the department of [~~correctional services~~] **corrections and community supervision** the means and dates by which said accountings of injuries shall be submitted and determined. To the extent any inconsistency or discrepancy in accounts of injuries suffered is identified, the administrator may rely upon the assistance of the report, research, and documentation regarding the Attica riots compiled by the Attica task force created in March of two thousand one.

§ 162. Section 125 of the state finance law, as amended by chapter 37 of the laws of 1962, is amended to read as follows:

§ 125. Fiscal supervision of certain institutions. Notwithstanding any other provision of law relative to the supervision and control by departments of any of the institutions under the jurisdiction and control of the [~~department of social welfare~~] **office of temporary and disability assistance**, the department of health, the department of mental hygiene and the department of [~~correction~~] **corrections and community supervision** on the first day of January, nineteen hundred thirty-nine and of any institution which shall hereafter be under the jurisdiction of such departments, such department shall have the powers and duties prescribed by this article with respect to such institution. This section shall not impair or affect the powers of the commissioner of general services under the provisions of article eleven of this chapter with respect to estimates made pursuant to this section so far as they constitute a requisition for material, equipment or supplies.

§ 163. Subdivision 1 of section 128 of the state finance law, as amended by chapter 471 of the laws of 1980, is amended to read as follows:

1. Any personal property, and any interest or increments accruing thereon, belonging or credited to a person in any institution under the jurisdiction of the [~~department of social services~~] **office of children and family services**, the department of health, the department of mental hygiene, the executive department, or the department of [~~correctional services~~] **corrections and community supervision** who shall have been discharged from such institution or who shall have died or escaped before discharge or before termination of sentence, which is in the custody of the proper officer of such institution, shall, if unclaimed by such discharged or escaped person or by the legal representative of such deceased person for a period of six months after the discharge, decease or escape of such person, be fully inventoried and a copy of

such inventory shall be filed with the commissioner of such department having jurisdiction over such institution and with the state comptroller.

§ 164. Paragraph a of subdivision 2, paragraphs a and b of subdivision 3, subparagraph (i) of paragraph a of subdivision 4, subdivision 5 and paragraphs a and d of subdivision 6 of section 162 of the state finance law, as added by chapter 83 of the laws of 1995 and paragraph a of subdivision 2 as amended by chapter 501 of the laws of 2002, are amended to read as follows:

a. Commodities produced by the [~~department of correctional services'~~] correctional industries program **of the department of corrections and community supervision** and provided to the state pursuant to subdivision two of section one hundred eighty-four of the correction law;

[~~fa~~] **a**. By December thirty-first, nineteen hundred ninety-five, the commissioner, in consultation with the commissioners of [~~correctional services~~] **corrections and community supervision**, [~~social services~~] **the office of children and family services, the office of temporary and disability assistance**, mental health and education, shall prepare a list of all commodities and services that are available and are being provided as of said date, for purchase by state agencies, public benefit corporations or political subdivisions from those entities accorded preference or priority status under this section. Such list may include references to catalogs and other descriptive literature which are available directly from any provider accorded preferred status under this section. The commissioner shall make this list available to prospective vendors, state agencies, public benefit corporations, political subdivisions and other interested parties. Thereafter, new or substantially different commodities or services may only be made available by preferred sources for purchase by more than one state agency, public benefit corporation or political subdivision after addition to said list.

b. After January first, nineteen hundred ninety-six, upon the application of the commissioner of [~~correctional services~~] **corrections and community supervision**, the commissioner of [~~social services~~] **the office of children and family services, the office of temporary and disability assistance**, the commissioner of mental health or the commissioner of education, or a non-profit-making facilitating agency designated by one of the said commissioners pursuant to paragraph e of subdivision six of this section, the state procurement council may recommend that the commissioner: (i) add commodities or services to, or (ii) in order to insure that such list reflects current production and/or availability of commodities and services, delete at the request of a preferred source, commodities or services from, the list established by paragraph a of this subdivision. The council may make a non-binding recommendation to the relevant preferred source to delete a commodity or service from such list. Additions may be made only for new services or commodities, or for services or commodities that are substantially different from those reflected on said list for that provider. The decision to recommend the addition of services or commodities shall be based upon a review of relevant factors as determined by the council including costs and benefits to be derived from such addition and shall include an analysis by the office of general services conducted pursuant to subdivision six of this section. Unless the state procurement council shall make a recommendation to the commissioner on any such application within one hundred twenty days of receipt thereof, such application shall be deemed recommended. In the event that the state procurement council shall deny any

such application, the commissioner or non-profit-making agency which submitted such application may, within thirty days of such denial, appeal such denial to the commissioner of general services who shall review all materials submitted to the state procurement council with respect to such application and who may request such further information or material as is deemed necessary. Within sixty days of receipt of all information or materials deemed necessary, the commissioner shall render a written final decision on the application which shall be binding upon the applicant and upon the state procurement council.

(i) When commodities are available, in the form, function and utility required by a state agency, public authority, commission, public benefit corporation or political subdivision, said commodities must be purchased first from the [~~department of correctional services'~~] correctional industries program **of the department of corrections and community supervision**;

5. Prices charged by the department of [~~correctional services~~] **corrections and community supervision**. The prices to be charged for commodities produced by the [~~department of correctional services'~~] correctional industries program **of the department of corrections and community supervision** shall be established by the commissioner of [~~correctional services~~] **corrections and community supervision** in accordance with section one hundred eighty-six of the correction law.

a. The prices established by the commissioner of [~~correctional services~~] **corrections and community supervision** shall be based upon costs as determined pursuant to this subdivision, but shall not exceed a reasonable fair market price determined at or within ninety days before the time of sale. Fair market price as used herein means the price at which a vendor of the same or similar product or service who is regularly engaged in the business of selling such product or service offers to sell such product or service under similar terms in the same market. Costs shall be determined in accordance with an agreement between the commissioner of [~~correctional services~~] **corrections and community supervision** and the director of the budget.

b. A purchaser of any such product or service may, at any time prior to or within thirty days of the time of sale, appeal the purchase price in accordance with section one hundred eighty-six of the correction law, on the basis that it unreasonably exceeds fair market price. Such an appeal shall be decided by a majority vote of a three-member price review board consisting of the director of the budget, the commissioner of [~~correctional services~~] **corrections and community supervision** and the commissioner or their representatives. The decision of the review board shall be final.

a. Except with respect to the [~~department of correctional services'~~] correctional industries program **of the department of corrections and community supervision**, it shall be the duty of the commissioner to determine, and from time to time review, the prices of all commodities and to approve the price of all services provided by preferred sources as specified in this section offered to state agencies, political subdivisions or public benefit corporations having their own purchasing office.

d. Such qualified charitable non-profit-making agencies for the blind and other severely disabled may make purchases of materials, equipment and supplies [~~from the department of correctional services' correctional industries program,~~] directly from the correctional industries program administered by the commissioner of [~~correctional services~~] **corrections and community supervision**, subject to such rules as may be established

from time to time pursuant to the correction law; provided that the qualified charitable non-profit-making agency for the blind or other severely disabled shall accept sole responsibility for any payment due the department of [~~correctional services~~] **corrections and community supervision**.

§ 165. Subparagraph (viii) of paragraph a of subdivision 3 of section 163 of the state finance law, as added by chapter 83 of the laws of 1995, is amended to read as follows:

(viii) The commissioner may permit and prescribe the conditions for, (A) any association, consortium or group of privately owned or municipal, federal or state owned or operated hospitals, medical schools, other health related facilities or voluntary ambulance services, which have entered into a contract and made mutual arrangements for the joint purchase of commodities pursuant to section twenty-eight hundred three-a of the public health law; (B) any institution for the instruction of the deaf or of the blind listed in section forty-two hundred one of the education law; (C) any qualified non-profit-making agency for the blind approved by the commissioner of [~~social services~~] **the office of children and family services or the office of temporary and disability assistance**; (D) any qualified charitable non-profit-making agency for the severely disabled approved by the commissioner of education; (E) any hospital or residential health care facility as defined in section twenty-eight hundred one of the public health law; (F) any private not-for-profit mental hygiene facility as defined in section 1.03 of the mental hygiene law; and (G) any public authority or public benefit corporation of the state, including the port authority of New York and New Jersey and the interstate environmental commission, to make purchases using centralized contracts for commodities. Such qualified non-profit-making agencies for the blind and severely disabled may make purchases from the [~~department of correctional services'~~] correctional industries program **of the department of corrections and community supervision** subject to rules pursuant to the correction law.

§ 166. Section 401 of the state technology law, as added by section 1 of part E of chapter 1 of the laws of 2004, and as renumbered by chapter 741 of the laws of 2005, is amended to read as follows:

§ 401. Statewide wireless network advisory council. There is hereby established within the office for technology a statewide wireless network advisory council. The advisory council shall consist of twenty-seven members. The governor shall appoint two members and the temporary president of the senate and the speaker of the assembly shall each appoint four members. One of the governor's appointments and three of the appointments of the temporary president of the senate and of the speaker of the assembly shall be a member, officer, or employee of a first responder organization that serves a municipal corporation. One each of the appointments of the temporary president of the senate and of the speaker of the assembly shall possess expertise in the field of communications technology but no appointee shall be the owner, principal, or employee of an entity that has a contract with the state of New York or that vends communications products to any state or local government. An organization shall be considered a first responder organization if it provides policing, firefighting, or emergency medical services, as defined in subdivision eleven of section three hundred two of the retirement and social security law, subdivision two of section one hundred of the general municipal law, subdivisions one, two, three, four, five, six, and seven of section three thousand one of the public health law, and section six hundred fifty of the county law. In addi-

tion, the temporary president of the senate and the speaker of the assembly shall each designate one member of their respective houses to serve on the advisory council. Ex officio members of the council shall be the director of the office of homeland security, the superintendent of the state police, the director of the office for technology, the commissioner of the department of health, the commissioner of the department of [~~correctional services~~] **corrections and community supervision**, the commissioner of the department of transportation, the commissioner of the department of environmental conservation, the chairperson of the thruway authority, the state fire administrator of the office of fire prevention and control, the chief judge of the state, the commissioner of the division of criminal justice services, the chairperson of the metropolitan transportation authority, a designee of the law enforcement council and the designee of the mayor of the city of New York, or their designees. The chief information officer of New York state shall be the chair of the advisory council.

§ 167. Section 2222-a of the surrogate's court procedure act, as amended by section 45 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

§ 2222-a. Notice of legacy or distributive share payable to inmate or prisoner

Where the legatee, distributee or beneficiary is an inmate serving a sentence of imprisonment with the state department of [~~correctional services~~] **corrections and community supervision** or a prisoner confined at a local correctional facility, the court shall give prompt written notice to the office of victim services, and at the same time direct that no payment be made to such inmate or prisoner for a period of thirty days following the date of entry of the order containing such direction.

§ 168. Subdivision (d) of section 484 of the tax law, as added by chapter 860 of the laws of 1987, is amended to read as follows:

(d) The provisions of this article shall not be applicable to any sale as to which the tax imposed by section four hundred seventy-one of this chapter is not applicable or to a sale to the department of [~~correctional services~~] **corrections and community supervision** of this state for sale to or use by inmates in institutions under the jurisdiction of such department.

§ 169. Subdivision (c) of section 1846 of the tax law, as added by chapter 65 of the laws of 1985, is amended to read as follows:

(c) In the alternative, if the tax commission concludes that any cigarettes seized pursuant to this section, when offered at public sale, will bring a price less than the reasonably estimated price which the department of [~~correctional services~~] **corrections and community supervision** would have to pay for the purchase of such cigarettes for sale to or use by inmates in institutions under the jurisdiction of such department, the tax commission may dispose of such cigarettes by transferring them to the department of [~~correctional services~~] **corrections and community supervision** for sale to or use by inmates in such institutions.

§ 170. Subdivision (c) of section 1846-a of the tax law, as added by chapter 61 of the laws of 1989, is amended to read as follows:

(c) In the alternative, if the commissioner concludes that any tobacco products seized pursuant to this section, when offered at public sale, will bring a price less than the reasonably estimated price which the department of [~~correctional services~~] **corrections and community supervision** would have to pay for the purchase of such tobacco products for sale to or use by inmates in institutions under the jurisdiction of such

department, the commissioner may dispose of such tobacco products by transferring them to the department of [~~correctional services~~] **corrections and community supervision** for sale to or use by inmates in such institutions.

§ 171. Section 25-a of the town law, as added by chapter 295 of the laws of 1949, is amended to read as follows:

§ 25-a. Fingerprints of persons before appointment as town policemen, or as constables possessing powers in criminal matters. No person shall be appointed or reappointed a member of the police department, or a special policeman, or a constable not limited to powers and duties in civil actions and proceedings only, in any town, who shall not previously, for the purposes of this section, have submitted fingerprints [~~of his two hands~~] **in the form and manner prescribed by the division of criminal justice services** to the town board or other board or officer of the town empowered by law to make such appointment or reappointment, and it shall be the duty of such board or officer, before making such appointment or reappointment, to compare or cause to be compared such fingerprints with fingerprints filed with the division of criminal [~~identification of the state department of correction~~] **justice services**; provided, however, that in any case where the fingerprints of any such person shall once have been submitted pursuant to this section and are on file with the board empowered to make the appointment or reappointment, no new submission thereof shall be required, nor shall such board be required to make or cause to be made such comparison if such comparison shall have been made previously pursuant to this section and certification thereof by such department is on file with such board.

§ 172. Section 109-a of the vehicle and traffic law, as amended by chapter 370 of the laws of 2000, is amended to read as follows:

§ 109-a. Correction vehicle. Every vehicle operated in the city of New York by the New York city department of correction or the New York state department of [~~correctional services~~] **corrections and community supervision** while engaged in an emergency operation.

§ 173. Subdivision 3 of section 10 of the workers' compensation law, as amended by chapter 244 of the laws of 2002, is amended to read as follows:

3. Notwithstanding any other provisions of this chapter, where a public safety worker, including but not limited to a firefighter, emergency medical technician, police officer, correction officer, civilian employee of the department of corrections **and community supervision** or other person employed by the state to work within a correctional facility maintained by the department of [~~correctional services~~] **corrections and community supervision**, driver and medical observer, in the course of performing his or her duties, is exposed to the blood or other bodily fluids of another individual or individuals, the executive officer of the appropriate ambulance, fire or police district may authorize such public safety worker to obtain the care and treatment, including diagnosis, recommended medicine and other medical care needed to ascertain whether such individual was exposed to or contracted any communicable disease and such care and treatment shall be the responsibility of the insurance carrier of the appropriate ambulance, fire or police district or, if a public safety worker was not so exposed in the course of performing his or her duties for such a district, then such person shall be covered for the treatment provided for in this subdivision by the carrier of his or her employer when such person is acting in the scope of his or her employment. For the purpose of this subdivision, the term "public safety worker" shall include persons who act for payment or who

act as volunteers in an organized group such as a rescue squad, police department, correctional facility, ambulance corps, fire department, or fire company.

§ 174. This act shall take effect immediately, provided that:

1. the amendments to section 72-a of the correction law made by section seven of this act shall not affect the expiration of such section and shall expire and be deemed repealed therewith;

2. the amendments to section 91 of the correction law made by section ten of this act shall take effect on the same date as the reversion of such section as provided in section 8 of part H of chapter 56 of the laws of 2009, as amended;

3. the amendments to section 92 of the correction law made by section eleven of this act shall take effect on the same date as the reversion of such section as provided in section 8 of part H of chapter 56 of the laws of 2009, as amended;

4. the amendments to section 140-a of the correction law made by section sixteen of this act shall not affect the repeal of such section and shall be deemed repealed therewith;

5. the amendments to section 803 of the correction law made by section thirty-seven of this act shall be subject to the expiration of such section and shall expire and be deemed repealed therewith;

6. the amendments to section 803 of the correction law made by section thirty-eight of this act shall take effect on the same date as the reversion of such section as provided in section 74 of chapter 3 of the laws of 1995, as amended;

7. the amendments to section 806 of the correction law made by section forty of this act shall not affect the repeal of such section and shall expire and be deemed repealed therewith;

8. the amendments to subdivision 1 of section 851 of the correction law made by section forty-one of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 5 of chapter 554 of the laws of 1986, as amended, when upon such date the provisions of section forty-one-a of this act shall take effect;

9. the amendments to subdivision 1 of section 851 of the correction law made by section forty-one-a of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 10 of chapter 339 of the laws of 1972, as amended, when upon such date the provisions of section forty-one-b of this act shall take effect;

10. the amendments to the closing paragraph of subdivision 2 of section 851 of the correction law made by section forty-two of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 46 of chapter 60 of the laws of 1994, as amended, when upon such date the provisions of section forty-three of this act shall take effect;

10-a. the amendments to subdivision 5 of section 851 of the correction law made by section forty-three-a of this act shall take effect upon the expirations of section 42 of chapter 60 of the laws of 1994, section 10 of chapter 339 of the laws of 1972 and section 3 of chapter 554 of laws of 1986;

11. the amendments to subdivision 5 of section 852 of the correction law made by section forty-four of this act shall not affect the expiration and reversion of such section and shall expire and be deemed repealed therewith;

12. the amendments to subdivision 2 of section 852 of the correction law made by section forty-five of this act shall take effect on the same

date as the reversion of such section as provided in section 10 of chapter 339 of the laws of 1972, as amended;

13. the amendments to subdivision 2 of section 856 of the correction law made by section forty-six of this act shall take effect on the same date as the reversion of section 856 as provided in section 10 of chapter 339 of the laws of 1972, as amended;

14. the amendments to subdivision 6 of section 855 of the correction law made by section forty-seven of this act shall be subject to the expiration and reversion of such section pursuant to section 10 of chapter 339 of the laws of 1972, as amended, when upon such date the provisions of section forty-eight of this act shall take effect;

15. the amendments to subdivision (f) of section 1101 of the civil practice law and rules made by section fifty-one of this act shall not affect the expiration and reversion of such subdivision and shall expire and be deemed repealed therewith;

16. the amendments to subdivisions 2 and 4 of section 209 of the civil service law made by section sixty-four of this act shall not affect the expiration of such subdivisions and shall expire and be deemed repealed therewith;

17. the amendments to subdivision 9 of section 10 of the court of claims act made by section sixty-seven of this act shall not affect the expiration of such subdivision and shall expire and be deemed repealed therewith;

18. the amendments to section 410.91 of the criminal procedure law made by section seventy-six of this act shall not affect the repeal of such section and shall expire and be deemed repealed therewith;

19. the amendments to subdivisions 2 and 4 of section 430.20 of the criminal procedure law made by section seventy-seven of this act shall be subject to the expiration and reversion of such subdivisions pursuant to section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section seventy-eight of this act shall take effect;

20. the amendments to section 83-m of the legislative law made by section one hundred eighteen of this act shall not affect the repeal of such section and shall expire and be deemed repealed therewith;

21. the amendments to subdivision 7 of section 70.06 of the penal law made by section one hundred twenty-three of this act shall not affect the repeal of such subdivision and shall expire and be deemed repealed therewith;

22. the amendments to subdivisions 1 and 3 of section 70.20 of the penal law made by section one hundred twenty-four of this act shall be subject to the expiration and reversion of such subdivisions pursuant to section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section one hundred twenty-five of this act shall take effect;

23. the amendments to the opening paragraph of subdivision 1 of section 70.30 of the penal law made by section one hundred twenty-six of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section one hundred twenty-seven of this act shall take effect;

24. the amendments to subdivision 7 of section 70.30 of the penal law made by section one hundred twenty-six of this act shall not affect the expiration of such subdivision and shall expire and be deemed repealed therewith;

25. the amendments to section 70.35 of the penal law made by section one hundred twenty-seven-a of this act shall be subject to the expiration and reversion of such section pursuant to section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section one hundred twenty-seven-b of this act shall take effect;

26. the amendments to paragraph (a) of subdivision 1 of section 70.40 of the penal law made by section one hundred twenty-seven-c of this act shall be subject to the expiration and reversion of such paragraph, when upon such date the provisions of section one hundred twenty-seven-d of this act shall take effect;

27. the amendments to paragraph (b) of subdivision 1 of section 70.40 of the penal law made by section one hundred twenty-seven-d-1 of this act shall be subject to the expiration and reversion of such paragraph pursuant to section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section one hundred twenty-seven-e of this act shall take effect;

28. the amendments to paragraph (c) of subdivision 1 of section 70.40 of the penal law made by section one hundred twenty-seven-f of this act shall not affect the repeal of such paragraph and shall expire and be deemed repealed therewith;

29. the amendments to subdivision 1 of section 85.15 of the penal law made by section one hundred twenty-seven-1 of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section one hundred twenty-seven-m of this act shall take effect;

30. the amendments to section 205.17 of the penal law made by section one hundred twenty-seven-n of this act shall not affect the expiration of such section and shall expire therewith;

31. the amendments to section 205.19 of the penal law made by section one hundred twenty-seven-o of this act shall not affect the expiration of such section and shall expire therewith;

32. the amendments to subdivision 26 of section 206 of the public health law made by section one hundred twenty-seven-t of this act shall take effect on the same date and in the same manner as section 2 of chapter 419 of the laws of 2009 takes effect;

33. the amendments to section 99-m of the state finance law made by section one hundred sixty-one of this act shall not affect the repeal of such section and shall expire and be deemed repealed therewith; and

34. the amendments to section 163 of the state finance law made by section one hundred sixty-five of this act shall not affect the repeal of such section and shall expire and be deemed repealed therewith.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Subparts A and B of this act shall be as specifically set forth in the last section of such Subparts.

PART D

Section 1. The economic development law is amended by adding a new article 18 to read as follows:

ARTICLE 18

DIVISION OF SCIENCE, TECHNOLOGY AND INNOVATION

Section 360. Division of science, technology and innovation.

§ 360. Division of science, technology and innovation. 1. Economic development efficiency. In order to promote economic development efficiency in the state of New York, the transfer of powers, functions and affairs of the New York state foundation for science, technology and innovation is hereby authorized and there is hereby created within the department the division of science, technology and innovation. Notwithstanding the foregoing, the small business technology investment fund and cash assets of the New York state foundation for science, technology and innovation shall be transferred to the urban development corporation pursuant to subdivision twelve of this section.

2. Transfer of powers of the New York state foundation for science, technology and innovation. The functions and powers possessed by and all of the obligations and duties of the New York state foundation for science, technology and innovation, as established pursuant to article ten-A of the public authorities law and article ten-B of the executive law, with the exception of the small business technology investment fund and cash assets of the New York state foundation for science, technology and innovation shall be transferred and assigned to, and assumed by and devolved upon, the department. Notwithstanding the foregoing, any programs specified in law to be administered by the New York state foundation for science, technology and innovation shall be administered by the department only to the extent of available appropriations.

3. Abolition of the New York state foundation for science, technology and innovation. Upon the transfer pursuant to subdivisions two and twelve of this section of the functions and powers possessed by and all of the obligations and duties of the New York state foundation for science, technology and innovation, as established pursuant to article ten-A of the public authorities law and article ten-B of the executive law, the New York state foundation for science, technology and innovation shall be abolished.

3-a. Notwithstanding any other provision of law, rule, or regulation to the contrary, upon the transfer of functions from the New York state foundation for science, technology and innovation pursuant to this section, employees of the New York state foundation for science, technology and innovation, as determined by the commissioner in his or her discretion, who are necessary to the continuation of the transferred functions and substantially engaged in the performance of the transferred functions shall be transferred to the department. Employees transferred pursuant to this section shall be transferred without further examination or qualification and shall retain their respective civil service classifications or the equivalent thereof.

4. Continuity of authority of the New York state foundation for science, technology and innovation. Except as herein otherwise provided, upon the transfer pursuant to subdivisions two and twelve of this section of the functions and powers possessed by and all of the obligations and duties of the New York state foundation for science, technology and innovation as established pursuant to such provisions of the executive law and the public authorities law to the department as prescribed by subdivision two of this section and to the urban development corporation pursuant to subdivision twelve of this section for the purpose of succession of all functions, powers, duties and obligations

of the New York state foundation for science, technology and innovation, the department and the urban development corporation, as appropriate shall be deemed to and be held to constitute the continuation of such functions, powers, duties and obligations and not a different agency or authority.

5. Transfer of records of the New York state foundation for science, technology and innovation. Upon the transfer pursuant to subdivisions two and twelve of this section of the functions and powers possessed by and all of the obligations and duties of the New York state foundation for science, technology and innovation as established pursuant to such provisions of the executive law and the public authorities law to the department as prescribed by subdivision two of this section and to the urban development corporation pursuant to subdivision twelve of this section, all books, papers, records and property pertaining to the New York state foundation for science, technology and innovation shall be transferred to and maintained by the department and the urban development corporation, as appropriate.

6. Completion of unfinished business of the New York state foundation for science, technology and innovation. Upon the transfer pursuant to subdivisions two and twelve of this section of the functions and powers possessed by and all of the obligations and duties of the New York state foundation for science, technology and innovation as established pursuant to such provisions of the executive law and the public authorities law to the department as prescribed by subdivision two of this section and to the urban development corporation pursuant to subdivision twelve of this section, any business or other matter undertaken or commenced by the New York state foundation for science, technology and innovation pertaining to or connected with the functions, powers, obligations and duties so transferred and assigned to the department may be conducted or completed by the department and the urban development corporation, as appropriate.

7. Terms occurring in laws, contracts or other documents of or pertaining to the New York state foundation for science, technology and innovation. Upon the transfer pursuant to subdivisions two and twelve of this section of the functions and powers possessed by and all of the obligations and duties of the New York state foundation for science, technology and innovation as established pursuant to such provisions of the executive law and the public authorities law, whenever the New York state foundation for science, technology and innovation and the executive director thereof, the functions, powers, obligations and duties of which are transferred to the department and the urban development corporation are referred to or designated in any law, contract or document pertaining to the functions, powers, obligations and duties transferred and assigned pursuant to this section, such reference or designation shall be deemed to refer to the department and its commissioner or the urban development corporation and its president and chief executive officer, as appropriate, or his or her designee.

8. Existing rights and remedies of or pertaining to the New York state foundation for science, technology and innovation preserved. Upon the transfer pursuant to subdivisions two and twelve of this section of the functions and powers possessed by and all of the obligations and duties of the New York state foundation for science, technology and innovation as established pursuant to the executive law and the public authorities law to the department as prescribed by subdivision two of this section and to the urban development corporation pursuant to subdivision twelve of this section, no existing right or remedy of the state, including the

New York state foundation for science, technology and innovation, shall be lost, impaired or affected by reason of this section.

9. Pending actions and proceedings of or pertaining to the New York state foundation for science, technology and innovation. Upon the transfer pursuant to subdivisions two and twelve of this section of the functions and powers possessed by and all of the obligations and duties of the New York state foundation for science, technology and innovation as established pursuant to such provisions of the executive law and the public authorities law transfer to the department as prescribed by subdivision two of this section and to the urban development corporation pursuant to subdivision twelve of this section, no action or proceeding pending on the effective date of this section, brought by or against the New York state foundation for science, technology and innovation or executive director thereof shall be affected by any provision of this section, but the same may be prosecuted or defended in the name of the department or the urban development corporation, as appropriate. In all such actions and proceedings, the department and the urban development corporation, as appropriate, upon application to the court, shall be substituted as a party.

10. Continuation of rules and regulations of or pertaining to the New York state foundation for science, technology and innovation. Upon the transfer pursuant to subdivisions two and twelve of this section of the functions and powers possessed by and all the obligations and duties of the New York state foundation for science, technology and innovation as established pursuant to such provisions of the executive law and the public authorities law transfer to the department as prescribed by subdivision two of this section and to the urban development corporation pursuant to subdivision twelve of this section, all rules, regulations, acts, determinations and decisions of the New York state foundation for science, technology and innovation, pertaining to the functions transferred and assigned by this section to the department and the urban development corporation, as appropriate, in force at the time of such transfer, assignment, assumption and devolution shall continue in force and effect as rules, regulations, acts, determinations and decisions of the department and the urban development corporation, as appropriate, until duly modified or repealed.

11. Transfer of appropriations heretofore made to the New York state foundation for science, technology and innovation. Upon the transfer pursuant to subdivisions two and twelve of this section of the functions and powers possessed by and all of the obligations and duties of the New York state foundation for science, technology and innovation as established pursuant to such provisions of the executive law and the public authorities law to the department as prescribed by subdivision two of this section and to the urban development corporation pursuant to subdivision twelve of this section, all appropriations and reappropriations which shall have been made available as of the date of such transfer to the New York state foundation for science, technology and innovation or segregated pursuant to law, to the extent of remaining unexpended or unencumbered balances thereof, whether allocated or unallocated and whether obligated or unobligated, shall be transferred to and made available for use and expenditure by the department or the urban development corporation as deemed appropriate by the commissioner and shall be payable on vouchers certified or approved by the commissioner of taxation and finance, on audit and warrant of the comptroller. Payments of liabilities for expenses of personal services, maintenance and operation which shall have been incurred as of the date of such transfer by

the New York state foundation for science, technology and innovation, and for liabilities incurred and to be incurred in completing its affairs shall also be made on vouchers certified or approved by the commissioner, on audit and warrant of the comptroller.

12. Transfer of certain assets and liabilities. Upon the transfer pursuant to subdivision two of this section of the functions and powers possessed by and all the obligations and duties of the New York state foundation for science, technology and innovation, as established pursuant to article ten-A of the public authorities law and article ten-B of the executive law as prescribed by subdivision two of this section, all cash assets of the New York state foundation for science, technology and innovation, and all assets, records, and liabilities of the small business technology investment fund (SBTIF) established pursuant to appropriations made by various chapters of the law including, but not limited to chapter fifty-three of the laws of nineteen hundred eighty-one, chapter fifty-three of the laws of nineteen hundred eighty-five, chapter fifty-three of the laws of nineteen hundred eighty-six, chapter fifty-three of the laws of nineteen hundred eighty-seven, chapter fifty-three of the laws of nineteen hundred eighty-eight, chapter fifty-three of the laws of nineteen hundred eighty-nine, chapter fifty-three of the laws of nineteen hundred ninety, chapter fifty-three of the laws of nineteen hundred ninety-one, chapter fifty-three of the laws of nineteen hundred ninety-two, chapter fifty-three of the laws of nineteen hundred ninety-three, chapter fifty-three of the laws of nineteen hundred ninety-four, and chapter fifty-three of the laws of nineteen hundred ninety-five shall be transferred to the urban development corporation.

13. Severability. If any clause, sentence, paragraph or part of this section shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 2. Sections 3151 and 3152 of the public authorities law are REPEALED.

§ 3. This act shall take effect May 1, 2011.

PART E

Section 1. The executive law is amended by adding a new article 3-A to read as follows:

ARTICLE 3-A

EXECUTIVE REORGANIZATION ACT OF 2011

Section 33. Short title.
34. Duty of governor to examine agencies; legislative purpose.
35. Definitions.
36. Findings by governor; issuance of reorganization plan.
37. Contents of reorganization plan.
38. Provisions not to be included in a reorganization plan.
39. Effective date of reorganization plan.
39-a. Effect on actions or proceedings.
39-b. Severability.

§ 33. Short title. This article shall be known and may be cited as the "executive reorganization act of 2011".

§ 34. Duty of governor to examine agencies; legislative purpose. 1. The governor, from time to time, shall examine the organization of all

agencies and shall determine what changes therein are necessary to accomplish one or more of the following purposes:

(a) to promote the better execution of the laws, the more effective management of the government and of its agencies and functions, and the expeditious administration of public business;

(b) to reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of the government;

(c) to increase the efficiency of the operations of the government to the fullest extent practicable;

(d) to group, consolidate, coordinate and merge agencies and functions of the government;

(e) to reduce the number of agencies by consolidating those having similar functions, and to abolish such agencies or functions thereof as may not be necessary for the efficient conduct of the government; and

(f) to eliminate overlap and duplication of effort.

2. The legislature declares that the public interest is best served by fulfilling the purposes set forth in this section and that such purposes may be accomplished more speedily and effectively under this article.

§ 35. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Agency" means:

(a) Any administrative unit of state government, including, but not limited to, any agency, board, bureau, commission, department, division, institution, office, state public authority, state task force, or other body, or parts thereof, however designated, whether or not it receives legislative appropriations, but does not include any entity whose primary function is service to the legislative or judicial branches of state government, the department of law, the department of audit and control or the board of regents;

(b) Any office or officer in any agency, except the department of law and department of audit and control; and

(c) Any state public authority or public benefit corporation created by or existing under any state law, or parts thereof, however designated, with one or more of its members appointed by the governor or who serve as members by virtue of holding a civil office of the state, other than an interstate or international authority or public benefit corporation, including any subsidiaries of such public authority or public benefit corporation.

Provided that "agency" shall not include any department, board, bureau, commission, division, office, council, committee or officer of a municipality or a local industrial development agency or local public authority or local public benefit corporation as that term is defined in section sixty-six of the general construction law.

2. "Assembly" means the New York state assembly.

3. "Function" means any activity, assignment, duty, power, responsibility, right, set of operations or other activity.

4. "Governor" means the governor of the state of New York.

5. "Legislature" means the legislature of the state of New York.

6. "Officer" means every officer appointed by one or more state officers, or by the legislature, and authorized to exercise their official functions throughout the entire state, or without limitation to any political subdivision of the state, and is not limited to persons receiving compensation for their services.

7. "Regulation or other action" means any regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

8. "Reorganization" or "reorganize" means:

(a) The transfer of the whole or any part of any agency, or of the whole or any part of the functions thereof, to the jurisdiction and control of any other agency;

(b) The abolition of all or any part of the functions of any agency;

(c) The consolidation, coordination or merger of the whole or any part of any agency, or of the whole or any part of the functions thereof, with the whole or any part of any other agency or the functions thereof;

(d) The consolidation, coordination or merger, of any part of any agency or the functions thereof with any other part of the same agency or the functions thereof;

(e) The authorization of any non-elective officer to delegate any of their functions;

(f) The abolition of the whole or any part of any agency which does not have, or upon the taking effect of reorganization will not have, any functions; or

(g) The establishment of a new agency to perform the whole or any part of the functions of any existing agency or agencies.

9. "Reorganization plan" or "plan" shall mean the bill prepared by the governor, and submitted to the legislature as a program bill, that contains terms and information regarding the reorganization of one or more agencies pursuant to this article which, when enacted, shall accomplish such reorganization.

10. "Senate" means the New York state senate.

§ 36. Findings by governor; issuance of reorganization plan. 1. Whenever the governor finds it in the public interest, he or she may reorganize one or more agencies.

2. Nothing in this article shall prohibit or limit the authority of the governor or legislature to implement or enact a reorganization plan pursuant to any other lawful process.

§ 37. Contents of reorganization plan. 1. A reorganization plan shall:

(a) set forth as findings in such plan, a description of the nature and purposes of the reorganization, together with an explanation of the advantages that will result from its implementation, including:

(i) anticipated savings and costs associated with each significant modification of any agency functions or operations;

(ii) the productivity gains measured in numbers of full-time employees and the types of positions, if any, that may be created or eliminated as a result of the reorganization plan;

(iii) estimated improvements and other impacts, including fiscal and service impacts, on programs or services recipients, if the reorganization plan is adopted; and

(iv) estimated long-term projected fiscal impact of the reorganization plan;

(b) specify with respect to each function that is either abolished or merged with another function included in the plan the statutory authority for the exercise of the function;

(c) provide for the uninterrupted conduct of the governmental services and functions affected by but not absorbed by the plan;

(d) provide for the transfer, assumption or other disposition of the records, property, and personnel affected by a reorganization, further provided, should any employees be transferred from one agency to another, that such transfer will be without further examination or qualification and such employees shall retain their respective civil service

classifications, status and collective bargaining unit designations and be governed by applicable collective bargaining agreements;

(e) provide for terminating the affairs of an agency abolished;

(f) set forth every law and chapter that will be directly impacted pursuant to the reorganization plan;

(g) provide for the transfer of such unexpended balances of appropriations and reappropriation of remaining expended or unexpended funds whether allocated or unallocated and whether obligated or unobligated, available for use in connection with a function or agency affected by a reorganization, as necessary by reason of the reorganization for use in connection with the functions affected by the reorganization, or for the use of the agency which shall have the functions after the reorganization plan is effective. However, the unexpended balances so transferred may be used only for the purposes for which the appropriation was originally made. Such reorganization plan may not contain appropriations for a reorganized agency. Any such appropriation as may be needed may only be considered pursuant to a single appropriation in legislation outside of the reorganization plan or in the executive budget submitted in the fiscal year following the enactment of the reorganization plan;

(h) provide that no existing right or remedy shall be lost, impaired or affected by any reorganization plan;

(i) provide that no action or proceeding pending at any time when such reorganization plan takes effect, brought by or against any agency which is subject to such plan, shall be affected by any provision of the plan, but the same may be prosecuted or defended in the name of such agency. In all such actions and proceedings, if an agency is eliminated and its functions and responsibilities are transferred, then the head of the surviving agency, upon application of the court, shall be substituted as a party;

(j) describe in detail:

(i) other actions, if any, necessary to plan to complete the reorganization;

(ii) the anticipated nature and substance of any orders, directives, and other administrative and operational actions which are expected to be required for completing or implementing the reorganization; and

(iii) any preliminary actions which have been taken in the implementation process;

(k) provide a projected timetable for completion of the implementation process; and

(l) include provisions for the appointment and compensation of the head and one or more officers of an agency (including an agency resulting from a consolidation or other type of reorganization) if the governor finds and declares that by reason of a reorganization made by the plan the provisions are in the public interest. The agency head may be an individual or may be a commission or board with more than one member. In any case, the term of office may not be fixed for a period in excess of the term remaining to be served by the then governor, the pay may not be at a rate in excess of that found by the governor to be applicable to comparable officers in the state government, and, if the appointment is not to a position in the competitive service, it shall be made by the commissioner or other chief executive officer, board or commission of the agency affected. If the reorganization plan creates a new agency that includes the function of an agency whose head was confirmed with the advice and consent of the senate, or substantially modifies the functions of an existing agency whose head was confirmed with the advice and consent of the senate, then the head or heads of such new or modi-

fied agency shall be appointed with the advice and consent of the senate.

2. A reorganization plan may change the name of an agency affected by a reorganization and the title of its head, and shall designate the name of an agency resulting from a reorganization and the title of its head.

§ 38. Provisions not to be included in a reorganization plan. 1. No reorganization plan shall provide for, and no reorganization under this article shall have the effect of:

(a) abolishing or modifying any agency or entity created or established by the New York state constitution, including without limitation, the board of regents, legislature, judiciary, comptroller and attorney general, or abolishing or modifying any agency or entity administered by such constitutionally established agency or entity that is not subject to direct gubernatorial control, or abolishing or transferring to or from the jurisdiction and control of any such agency any function conferred by the New York state constitution on an agency authorized by such constitution, or affecting or changing any implementing statutes related to such agencies or entities;

(b) abolishing any function required by federal law or interstate compacts;

(c) violating any covenant with bondholders; or

(d) abolishing statutorily prescribed functions, provided that such functions may be assigned to a different agency than the one to which they were originally assigned by the statute.

2. No reorganization plan shall have the effect of limiting in any way the validity of any statute enacted, or any regulation or other action made, prescribed, issued, granted or performed in respect to or by any agency before the effective date of the plan except to the extent that the plan specifically so provides nor shall such plan have the effect of limiting or altering the advice and consent powers of the senate.

§ 39. Effective date of reorganization plan. 1. A reorganization plan shall be voted on by each house of the legislature, without amendment as submitted by the governor, within thirty days after such submission. The governor may submit only one such plan annually and may amend that plan one time within such thirty day period. Both houses of the legislature shall then have thirty days from the submission of such amendment to vote on the amended reorganization plan. Without the consent of both houses of the legislature, neither a plan nor an amendment may be submitted by the governor after the thirtieth day of May in any year.

2. Under provisions contained in a reorganization plan, a provision of the plan may be effective at a time later than the date on which the plan otherwise is effective.

§ 39-a. Effect on actions or proceedings. This article shall not affect actions or proceedings, civil or criminal, brought by or against any agency or officer, the functions, powers and duties of which have been transferred or abolished pursuant to this article; nor shall any reorganization affect any order or recommendation made by, or other matters or proceedings before, any agency or officer, the functions, powers and duties of which have been transferred or abolished pursuant to a reorganization plan under this article.

§ 39-b. Severability. If any clause, sentence, paragraph, subdivision, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judg-

ment shall have been rendered. It is hereby declared to be the intent of the legislature that this article would have been enacted even if such invalid provisions had not been included in this section.

§ 2. The legislative law is amended by adding a new section 54-b to read as follows:

§ 54-b. Reorganization plan. The legislature may by concurrent resolution prescribe rules for the consideration and disposition of a reorganization plan, as defined in article three-A of the executive law.

§ 3. This act shall take effect immediately and shall be deemed repealed May 31, 2014.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through E of this act shall be as specifically set forth in the last section of such Parts.

Chapter 95 **Signed June 24, 2011**

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.

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which utilize gender-specific terms in reference to the parties to a marriage, or which in any other way may be inconsistent with this act, be construed in a gender-neutral manner or in any way necessary to effectuate the intent of this act.

§ 3. The domestic relations law is amended by adding two new sections 10-a and 10-b to read as follows:

§ 10-a. Parties to a marriage. 1. A marriage that is otherwise valid shall be valid regardless of whether the parties to the marriage are of the same or different sex.

2. No government treatment or legal status, effect, right, benefit, privilege, protection or responsibility relating to marriage, whether deriving from statute, administrative or court rule, public policy, common law or any other source of law, shall differ based on the parties to the marriage being or having been of the same sex rather than a different sex. When necessary to implement the rights and responsibilities of spouses under the law, all gender-specific language or terms shall be construed in a gender-neutral manner in all such sources of law.

§ 10-b. Application. 1. Notwithstanding any other provision of law, pursuant to subdivision nine of section two hundred ninety-two of the executive law, a corporation incorporated under the benevolent orders law or described in the benevolent orders law but formed under any other law of this state or a religious corporation incorporated under the education law or the religious corporations laws shall be deemed to be in its nature distinctly private and therefore, shall not be required to provide accommodations, advantages, facilities or privileges related to the solemnization or celebration of a marriage.

2. A refusal by a benevolent organization or a religious corporation, incorporated under the education law or the religious corporations law, to provide accommodations, advantages, facilities or privileges in connection with section ten-a of this article shall not create a civil claim or cause of action.

3. Pursuant to subdivision eleven of section two hundred ninety-six of the executive law, nothing in this article shall be deemed or construed to prohibit any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization from limiting employment or sales or rental of housing accommodations or admission to or giving preference to persons of the same religion or denomination or from taking such action as is calculated by such organization to promote the religious principles for which it is established or maintained.

§ 4. Section 13 of the domestic relations law, as amended by chapter 720 of the laws of 1957, is amended to read as follows:

§ 13. Marriage licenses. It shall be necessary for all persons intended to be married in New York state to obtain a marriage license from a town or city clerk in New York state and to deliver said license, within sixty days, to the clergyman or magistrate who is to officiate before the marriage ceremony may be performed. In case of a marriage contracted pursuant to subdivision four of section eleven of this chapter, such license shall be delivered to the judge of the court of record before whom the acknowledgment is to be taken. If either party to the marriage resides upon an island located not less than twenty-five miles from the office or residence of the town clerk of the town of which such island is a part, and if such office or residence is not on such island such license may be obtained from any justice of the peace residing on

such island, and such justice, in respect to powers and duties relating to marriage licenses, shall be subject to the provisions of this article governing town clerks and shall file all statements or affidavits received by him while acting under the provisions of this section with the town clerk of such town. **No application for a marriage license shall be denied on the ground that the parties are of the same, or a different, sex.**

§ 5. Subdivision 1 of section 11 of the domestic relations law, as amended by chapter 319 of the laws of 1959, is amended and a new subdivision 1-a is added to read as follows:

1. A clergyman or minister of any religion, or by the senior leader, or any of the other leaders, of The Society for Ethical Culture in the city of New York, having its principal office in the borough of Manhattan, or by the leader of The Brooklyn Society for Ethical Culture, having its principal office in the borough of Brooklyn of the city of New York, or of the Westchester Ethical Society, having its principal office in Westchester county, or of the Ethical Culture Society of Long Island, having its principal office in Nassau county, or of the Riverdale-Yonkers Ethical Society having its principal office in Bronx county, or by the leader of any other Ethical Culture Society affiliated with the American Ethical Union**; provided that no clergyman or minister as defined in section two of the religious corporations law, or Society for Ethical Culture leader shall be required to solemnize any marriage when acting in his or her capacity under this subdivision**.

1-a. A refusal by a clergyman or minister as defined in section two of the religious corporations law, or Society for Ethical Culture leader to solemnize any marriage under this subdivision shall not create a civil claim or cause of action.

§ 6. This act shall take effect on the thirtieth day after it shall 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:

Section 1. Section 10-b of the domestic relations law, as added by 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, is REPEALED and a new section 10-b is added to read as follows:

§ 10-b. Religious exception. 1. Notwithstanding any state, local or municipal law, rule, regulation, ordinance, or other provision of law to the contrary, a religious entity as defined under the education law or section two of the religious corporations law, or a corporation incorporated under the benevolent orders law or described in the benevolent orders law but formed under any other law of this state, or a not-for-profit corporation operated, supervised, or controlled by a religious corporation, or any employee thereof, being managed, directed, or supervised by or in conjunction with a religious corporation, benevolent order, or a not-for-profit corporation as described in this subdivision, shall not be required to provide services, accommodations, advantages, facilities, goods, or privileges for the solemnization or celebration of a marriage. Any such refusal to provide services, accommodations, advantages, facilities, goods, or privileges shall not create any civil claim or cause of action or result in any state or local government action to penalize, withhold benefits, or discriminate against such religious

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corporation, benevolent order, a not-for-profit corporation operated, supervised, or controlled by a religious corporation, or any employee thereof being managed, directed, or supervised by or in conjunction with a religious corporation, benevolent order, or a not-for-profit corporation.

2. Notwithstanding any state, local or municipal law or rule, regulation, ordinance, or other provision of law to the contrary, nothing in this article shall limit or diminish the right, pursuant to subdivision eleven of section two hundred ninety-six of the executive law, of any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, to limit employment or sales or rental of housing accommodations or admission to or give preference to persons of the same religion or denomination or from taking such action as is calculated by such organization to promote the religious principles for which it is established or maintained.

3. Nothing in this section shall be deemed or construed to limit the protections and exemptions otherwise provided to religious organizations under section three of article one of the constitution of the state of New York.

§ 2. Subdivision 1-a of section 11 of the domestic relations law, as added by 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, is amended to read as follows:

1-a. A refusal by a clergyman or minister as defined in section two of the religious corporations law, or Society for Ethical Culture leader to solemnize any marriage under this subdivision shall not create a civil claim or cause of action **or result in any state or local government action to penalize, withhold benefits or discriminate against such clergyman or minister**.

§ 3. 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, is amended by adding a new section 5-a to read as follows:

§ 5-a. This act is to be construed as a whole, and all parts of it are to be read and construed together. If any part of this act shall be adjudged by any court of competent jurisdiction to be invalid, the remainder of this act shall be invalidated. Nothing herein shall be construed to affect the parties' right to appeal the matter.

§ 4. This act shall take effect on the same date as such chapter of the laws of 2011, takes effect.

Chapter 97 **Signed June 24, 2011**

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:

Section 1. This act enacts into law major components of legislation relating to real property tax levies, rent regulation, exemption from local taxation and mandate relief. Each component is wholly contained within a Part identified as Parts A through C. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. The general municipal law is amended by adding a new section 3-c to read as follows:

§ 3-c. Limit upon real property tax levies by local governments. 1. Unless otherwise provided by law, the amount of real property taxes that may be levied by or on behalf of any local government, other than the city of New York and the counties contained therein, shall not exceed the tax levy limit established pursuant to this section.

2. When used in this section:

(a) "Allowable levy growth factor" shall be the lesser of: (i) one and two one-hundredths; or (ii) the sum of one plus the inflation factor; provided, however, that in no case shall the levy growth factor be less than one.

(b) "Available carryover" means the amount by which the tax levy for the prior fiscal year was below the tax levy limit for such fiscal year, if any, but no more than an amount that equals one and one-half percent of the tax levy limit for such fiscal year.

(c) "Coming fiscal year" means the fiscal year of the local government for which a tax levy limit shall be determined pursuant to this section.

(d) "Inflation factor" means the quotient of: (i) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period ending six months prior to the start of the coming fiscal year minus the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period ending six months prior to the start of the prior fiscal year, divided by: (ii) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period ending six months prior to the start of the prior fiscal year, with the result expressed as a decimal to four places.

(e) "Local government" means a county, city, town, village, fire district, or special district including but not limited to a district created pursuant to article twelve or twelve-A, or governed by article thirteen of the town law, or created pursuant to article five-A, five-B or five-D of the county law, chapter five hundred sixteen of the laws of nineteen hundred twenty-eight, or chapter two hundred seventy-three of the laws of nineteen hundred thirty-nine, and shall include town improvements provided pursuant to articles three-A and twelve-C of the town law but shall not include the city of New York or the counties contained therein.

(f) "Prior fiscal year" means the fiscal year of the local government immediately preceding the coming fiscal year.

(g) "Tax levy limit" means the amount of taxes authorized to be levied by or on behalf of a local government pursuant to this section, provided, however, that the tax levy limit shall not include the following:

(i) a tax levy necessary for expenditures resulting from court orders or judgments against the local government arising out of tort actions for any amount that exceeds five percent of the total tax levied in the prior fiscal year;

(ii) in years in which the system average actuarial contribution rate of the New York state and local employees' retirement system, as defined by paragraph ten of subdivision a of section nineteen-a of the retirement and social security law, increases by more than two percentage points from the previous year, a tax levy necessary for expenditures for the coming fiscal year for local government employer contributions to the New York state and local employees' retirement system caused by growth in the system average actuarial contribution rate minus two percentage points;

(iii) in years in which the system average actuarial contribution rate of the New York state and local police and fire retirement system, as defined by paragraph eleven of subdivision a of section three hundred nineteen-a of the retirement and social security law, increases by more than two percentage points from the previous year, a tax levy necessary for expenditures for the coming fiscal year for local government employer contributions to the New York state and local police and fire retirement system caused by growth in the system average actuarial contribution rate minus two percentage points;

(iv) in years in which the normal contribution rate of the New York state teachers' retirement system, as defined by paragraph a of subdivision two of section five hundred seventeen of the education law, increases by more than two percentage points from the previous year, a tax levy necessary for expenditures for the coming fiscal year for local government employer contributions to the New York state teachers' retirement system caused by growth in the normal contribution rate minus two percentage points.

(h) "Tax" or "taxes" shall include (i) a charge imposed upon real property by or on behalf of a county, city, town, village or school district for municipal or school district purposes, and (ii) special ad valorem levies and special assessments as defined in subdivisions fourteen and fifteen of section one hundred two of the real property tax law.

3. (a) Subject to the provisions of subdivision five of this section, beginning with the fiscal year that begins in two thousand twelve, no local government shall adopt a budget that requires a tax levy that is greater than the tax levy limit for the coming fiscal year. Provided however the tax levy limit shall not prohibit a levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph (g) of subdivision two of this section.

(b)(i) The commissioner of taxation and finance shall calculate a quantity change factor for each local government for the coming fiscal year based upon the physical or quantity change, as defined by section twelve hundred twenty of the real property tax law, reported to the commissioner of taxation and finance by the assessor or assessors pursuant to section five hundred seventy-five of the real property tax law. The quantity change factor shall show the percentage by which the full value of the taxable real property in the local government has changed due to physical or quantity change between the second final assessment

roll or rolls preceding the final assessment roll or rolls upon which taxes are to be levied, and the final assessment roll or rolls immediately preceding the final assessment roll or rolls upon which taxes are to be levied.

(ii) After determining the quantity change factor for the local government, the commissioner of taxation and finance shall proceed as follows:

(A) If the quantity change factor is negative, the commissioner of taxation and finance shall not determine a tax base growth factor for the local government.

(B) If the quantity change factor is positive, the commissioner of taxation and finance shall determine a tax base growth factor for the local government which is equal to one plus the quantity change factor.

(iii) The commissioner of taxation and finance shall notify the state comptroller and each local government of the applicable tax base growth factors, if any, as soon thereafter as such factors are determined.

(c) Each local government shall calculate the tax levy limit applicable to the coming fiscal year which shall be determined as follows:

(i) Ascertain the total amount of taxes levied for the prior fiscal year.

(ii) Multiply the result by the tax base growth factor, calculated pursuant to paragraph (b) of this subdivision, if any.

(iii) Add any payments in lieu of taxes that were receivable in the prior fiscal year.

(iv) Subtract the tax levy necessary to support expenditures pursuant to subparagraph (i) of paragraph (g) of subdivision two of this section for the prior fiscal year, if any.

(v) Multiply the result by the allowable levy growth factor.

(vi) Subtract any payments in lieu of taxes receivable in the coming fiscal year.

(vii) Add the available carryover, if any.

(d) Whenever the responsibility and associated cost of a local government function is transferred to another local government, the state comptroller shall determine the costs and savings on the affected local governments attributable to such transfer for the first fiscal year following the transfer, and notify such local governments of such determination and that they shall adjust their tax levy limits accordingly.

4. (a) When two or more local governments consolidate, the state comptroller shall determine the tax levy limit for the consolidated local government for the first fiscal year following the consolidation based on the respective tax levy limits of the component local governments that formed such consolidated local government from the last fiscal year prior to the consolidation.

(b) When a local government dissolves, the state comptroller shall determine the tax levy limit for the local government that assumes the debts, liabilities, and obligations of such dissolved local government for the first fiscal year following the dissolution based on the respective tax levy limits of such dissolved local government and such local government that assumes the debts, liabilities, and obligations of such dissolved local government from the last fiscal year prior to the dissolution.

(c) The tax levy limit established by this section shall not apply to the first fiscal year after a local government is newly established or constituted through a process other than consolidation or dissolution.

5. A local government may adopt a budget that requires a tax levy that is greater than the tax levy limit for the coming fiscal year, not

including any levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph g of subdivision two of this section, only if the governing body of such local government first enacts, by a vote of sixty percent of the total voting power of such body, a local law to override such limit for such coming fiscal year only, or in the case of a district or fire district, a resolution, approved by a vote of sixty percent of the total voting power of such body, to override such limit for such coming fiscal year only.

6. In the event a local government's actual tax levy for a given fiscal year exceeds the tax levy limit as established pursuant to this section due to clerical or technical errors, the local government shall place the excess amount of the levy in reserve in accordance with such requirements as the state comptroller may prescribe, and shall use such funds and any interest earned thereon to offset the tax levy for the ensuing fiscal year. If, upon examination pursuant to sections thirty-three and thirty-four of this chapter, the state comptroller finds that a local government levied taxes in excess of the applicable tax levy limit, the local government, as soon as practicable, shall place an amount equal to the excess amount of the levy in such reserve in accordance with this subdivision.

7. All local governments subject to the provisions of this section shall, prior to adopting a budget for the coming fiscal year, submit to the state comptroller, in a form and manner as he or she may prescribe, any information necessary for calculating the tax levy limit for the coming fiscal year.

§ 2. The education law is amended by adding a new section 2023-a to read as follows:

§ 2023-a. Limitations upon school district tax levies. 1. Generally. Unless otherwise provided by law, the amount of taxes that may be levied by or on behalf of any school district, other than a city school district of a city with one hundred twenty-five thousand inhabitants or more, shall not exceed the tax levy limit established pursuant to this section, not including any tax levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph i of subdivision two of this section.

2. Definitions. As used in this section:

a. "Allowable levy growth factor" shall be the lesser of: (i) one and two one-hundredths; or (ii) the sum of one plus the inflation factor; provided, however, that in no case shall the levy growth factor be less than one.

b. "Available carryover" means the amount by which the tax levy for the prior school year was below the applicable tax levy limit for such school year, if any, but no more than an amount that equals one and one-half percent of the tax levy limit for such school year.

c. "Capital local expenditures" means the taxes associated with budgeted expenditures resulting from the financing, refinancing, acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for school district capital facilities or school district capital equipment, including debt service and lease expenditures, and transportation capital debt service, subject to the approval of the qualified voters where required by law.

d. "Capital tax levy" means the tax levy necessary to support capital local expenditures, if any.

e. "Coming school year" means the school year for which tax levy limits are being determined pursuant to this section.

f. "Inflation factor" means the quotient of: (i) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period preceding January first of the current year minus the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period preceding January first of the prior year, divided by: (ii) the average of the national consumer price indexes determined by the United States department of labor for the twelve-month period preceding January first of the prior year, with the result expressed as a decimal to four places.

g. "Prior school year" means the school year immediately preceding the coming school year.

h. "School district" means a common school district, union free school district, central school district, central high school district or a city school district in a city with less than one hundred twenty-five thousand inhabitants.

i. "Tax levy limit" means the amount of taxes a school district is authorized to levy pursuant to this section, provided, however, that the tax levy limit shall not include the following:

(i) a tax levy necessary for expenditures resulting from court orders or judgments against the school district arising out of tort actions for any amount that exceeds five percent of the total tax levied in the prior school year;

(ii) in years in which the system average actuarial contribution rate of the New York state and local employees' retirement system, as defined by paragraph ten of subdivision a of section nineteen-a of the retirement and social security law, increases by more than two percentage points from the previous year, a tax levy necessary for expenditures for the coming fiscal year for school district employer contributions to the New York state and local employees' retirement system caused by growth in the system average actuarial contribution rate minus two percentage points;

(iii) in years in which the normal contribution rate of the New York state teachers' retirement system, as defined by paragraph a of subdivision two of section five hundred seventeen of this chapter, increases by more than two percentage points from the previous year, a tax levy necessary for expenditures for the coming fiscal year for school district employer contributions to the New York state teachers' retirement system caused by growth in the normal contribution rate minus two percentage points; and

(iv) a capital tax levy.

2-a. Tax base growth factor. a. No later than February fifteenth of each year, the commissioner of taxation and finance shall identify those school districts for which tax base growth factors must be determined for the coming school year, and shall notify the commissioner of the tax base growth factors so determined, if any.

b. The commissioner of taxation and finance shall calculate a quantity change factor for the coming school year for each school district based upon the physical or quantity change, as defined by section twelve hundred twenty of the real property tax law, reported to the commissioner of taxation and finance by the assessor or assessors pursuant to section five hundred seventy-five of the real property tax law. The quantity change factor shall show the percentage by which the full value of the taxable real property in the school district has changed due to physical or quantity change between the second final assessment roll or rolls preceding the final assessment roll or rolls upon which taxes are

to be levied, and the final assessment roll or rolls immediately preceding the final assessment roll or rolls upon which taxes are to be levied.

c. After determining the quantity change factor for a school district, the commissioner of taxation and finance shall proceed as follows:

(i) If the quantity change factor is negative, the commissioner of taxation and finance shall not determine a tax base growth factor for the school district.

(ii) If the quantity change factor is positive, the commissioner of taxation and finance shall determine a tax base growth factor for the school district which is equal to one plus the quantity change factor.

3. Computation of tax levy limits. a. Each school district shall calculate the tax levy limit for each school year which shall be determined as follows:

(1) Ascertain the total amount of taxes levied for the prior school year.

(2) Multiply the result by the tax base growth factor, if any.

(3) Add any payments in lieu of taxes that were receivable in the prior school year.

(4) Subtract the tax levy necessary to support the expenditures pursuant to subparagraphs (i) and (iv) of paragraph i of subdivision two of this section for the prior school year, if any.

(5) Multiply the result by the allowable levy growth factor.

(6) Subtract any payments in lieu of taxes receivable in the coming fiscal year.

(7) Add the available carryover, if any.

b. On or before March first of each year, any school district subject to the provisions of this section shall submit to the state comptroller, the commissioner, and the commissioner of taxation and finance, in a form and manner prescribed by the state comptroller, any information necessary for the calculation of the tax levy limit; and the school district's determination of the tax levy limit pursuant to this section shall be subject to review by the commissioner and the commissioner of taxation and finance.

4. Reorganized school districts. When two or more school districts reorganize, the commissioner shall determine the tax levy limit for the reorganized school district for the first school year following the reorganization based on the respective tax levy limits of the school districts that formed the reorganized district from the last school year in which they were separate districts, provided that in the event of formation of a new central high school district, the tax levy limits for the new central high school district and its component school districts shall be determined in accordance with a methodology prescribed by the commissioner.

5. Erroneous levies. In the event a school district's actual tax levy for a given school year exceeds the maximum allowable levy as established pursuant to this section due to clerical or technical errors, the school district shall place the excess amount of the levy in reserve in accordance with such requirements as the state comptroller may prescribe, and shall use such funds and any interest earned thereon to offset the tax levy for the ensuing school year.

6. (a) Notwithstanding any other provision of law to the contrary, in the event the trustee, trustees or board of education of a school district that is subject to the provisions of this section proposes a budget that will require a tax levy that exceeds the tax levy limit for the corresponding school year, not including any levy necessary to

support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph i of subdivision two of this section, then such budget shall be approved if sixty percent of the votes cast thereon are in the affirmative.

(b) Where the trustee, trustees or board of education proposes a budget subject to the requirements of paragraph (a) of this subdivision, the ballot for such budget shall include the following statement in substantially the same form: "Adoption of this budget requires a tax levy increase of which exceeds the statutory tax levy increase limit of for this school fiscal year and therefore exceeds the state tax cap and must be approved by sixty percent of the qualified voters present and voting."

7. In the event that the original proposed budget is not approved by the voters, the sole trustee, trustees or board of education may adopt a final budget pursuant to subdivision eight of this section or resubmit to the voters the original or a revised budget at a special district meeting in accordance with subdivision three of section two thousand seven of this part. Upon one defeat of such resubmitted budget, the sole trustee, trustees or board of education shall adopt a final budget pursuant to subdivision eight of this section.

8. Notwithstanding any other provision of law to the contrary, if the qualified voters fail to approve the proposed school district budget upon resubmission or upon a determination not to resubmit for a second vote pursuant to subdivision seven of this section, the sole trustee, trustees or board of education shall levy a tax no greater than the tax that was levied for the prior school year.

9. Nothing in this section shall preclude the trustee, trustees, or board of education of a school district, in their discretion, from submitting additional items of expenditures to the voters for approval as separate propositions or the voters from submitting propositions pursuant to sections two thousand eight and two thousand thirty-five of this part; provided however, except in the case of a proposition submitted for any expenditure contained within subparagraphs (i) through (iv) of paragraph i of subdivision two of this section, if any proposition, or propositions collectively that are subject to a vote on the same date, would require an expenditure of money that would require a tax levy and would result in the tax levy limit being exceeded for the corresponding school year then such proposition shall be approved if sixty percent of the votes cast thereon are in the affirmative.

§ 3. Section 2023 of the education law, as amended by section 24 of part A of chapter 436 of the laws of 1997, subdivision 1 as amended by chapter 682 of the laws of 2002, subparagraphs (v) and (vi) of paragraph b of subdivision 4 as separately amended by section 1 of part D-2 of chapter 57 of the laws of 2007 and chapter 422 of the laws of 2007, subparagraph (vii) of paragraph b of subdivision 4 as added by section 1 of part D-2 of chapter 57 of the laws of 2007, subparagraph (vii) of paragraph b of subdivision 4 as added by chapter 422 of the laws of 2007 and paragraph b-1 of subdivision 4 as amended by section 5 of part B of chapter 57 of the laws of 2008, is amended to read as follows:

§ 2023. Levy of tax for certain purposes without vote; contingency budget. 1. If the qualified voters shall neglect or refuse to vote the sum estimated necessary for teachers' salaries, after applying thereto the public school moneys, and other moneys received or to be received for that purpose, or if they shall neglect or refuse to vote the sum estimated necessary for ordinary contingent expenses, including the purchase of library books and other instructional materials associated

with a library and expenses incurred for interschool athletics, field trips and other extracurricular activities and the expenses for cafeteria or restaurant services, the sole trustee, board of trustees, or board of education shall adopt a contingency budget including such expenses and shall levy a tax**, subject to the restrictions as set forth in subdivision four of this section and subdivision eight of section two thousand twenty-three-a of this part,** for the same, in like manner as if the same had been voted by the qualified voters, subject to the limitations contained in subdivisions three and four of this section.

2. Notwithstanding the defeat of a school budget, school districts shall continue to transport students to and from the regular school program in accordance with the mileage limitations previously adopted by the qualified voters of the school district. Such mileage limits shall change only when amended by a special proposition passed by a majority of the qualified voters of the school district. In cases where the school budget is defeated by such qualified voters of the school district, appropriations for transportation costs for purposes other than for transportation to and from the regular school program, and transportation that would constitute an ordinary contingent expense pursuant to subdivision one of this section, shall be authorized in the budget only after approval by the qualified voters of the district.

3. The administrative component of a contingency budget shall not comprise a greater percentage of the contingency budget exclusive of the capital component than the lesser of (1) the percentage the administrative component had comprised in the prior year budget exclusive of the capital component; or (2) the percentage the administrative component had comprised in the last proposed defeated budget exclusive of the capital component.

4. a. The contingency budget shall not result in a [~~**percentage increase in total spending over the district's total spending under the school district budget for the prior school year that exceeds the lesser of: (i) the result obtained when one hundred twenty percent is multiplied by the percentage increase in the consumer price index, with the result rounded to two decimal places; or (ii) four percent.**~~

~~**b. The following types of expenditures shall be disregarded in determining total spending:**~~

~~**(i) expenditures resulting from a tax certiorari proceeding;**~~

~~**(ii) expenditures resulting from a court order or judgment against the school district;**~~

~~**(iii) emergency expenditures that are certified by the commissioner as necessary as a result of damage to, or destruction of, a school building or school equipment;**~~

~~**(iv) capital expenditures resulting from the construction, acquisition, reconstruction, rehabilitation or improvement of school facilities, including debt service and lease expenditures, subject to the approval of the qualified voters where required by law;**~~

~~**(v) expenditures in the contingency budget attributable to projected increases in public school enrollment, which, for the purpose of this subdivision, may include increases attributable to the enrollment of students attending a pre-kindergarten program established in accordance with section thirty-six hundred two-e of this chapter, to be computed based upon an increase in enrollment from the year prior to the base year for which the budget is being adopted to the base year for which the budget is being adopted, provided that where the trustees or board of education have documented evidence that a further increase in enrollment will occur during the school year for which the contingency budget**~~

~~is prepared because of new construction, inception of a pre-kindergarten program, growth or similar factors, the expenditures attributable to such additional enrollment may also be disregarded;~~

~~(vi) non-recurring expenditures in the prior year's school district budget; and~~

~~(vii) expenditures for payments to charter schools pursuant to section twenty-eight hundred fifty-six of this chapter.~~

~~(vii) expenditures for self-supporting programs. For purposes of this subparagraph, "self-supporting programs" shall mean any programs that are entirely funded by private funds that cover all the costs of the program.~~

~~b-1. Notwithstanding any other provision of this subdivision to the contrary, in the event a state grant in aid provided to the district in the prior year is eliminated and incorporated into a non-categorical general state aid in the current school year, the amount of such grant may be included in the computation of total spending for the prior school year, provided that the commissioner has verified that the grant in aid has been incorporated into such non-categorical general state aid~~] **tax levy greater than the tax levied for the prior school year**.

[~~c.~~] **b.** The resolution of the trustee, board of trustees, or board of education adopting a contingency budget shall incorporate by reference a statement specifying the projected percentage increase or decrease in total spending for the school year, and explaining the reasons for disregarding any portion of an increase in spending in formulating the contingency budget.

[~~d.~~] **c.** Notwithstanding any other provision of law to the contrary, the trustees or board of education shall not be authorized to amend or revise a final contingency budget where such amendment or revision would result in total spending in excess of the spending limitation in paragraph (a) of this subdivision; provided that the trustees or board of education shall be authorized to add appropriations for[~~:~~

~~(i) the categories of expenditures excluded from the spending limitations set forth in paragraph (b) of this subdivision, subject to approval of the qualified voters where required by law;~~

~~(ii) expenditures resulting from an actual increase in enrollment over the projected enrollment used to develop the contingency budget, provided that where such actual enrollment is less than such projected enrollment, it shall be the duty of the trustees or board of education to use such excess funds to reduce taxes; and~~

~~(iii)~~] the expenditure of gifts, grants in aid for specific purposes or for general use or insurance proceeds authorized pursuant to subdivision two of [~~sudivision~~] **section** seventeen hundred eighteen of this chapter in addition to that which has been previously budgeted.

[~~e. For the purposes of this subdivision:~~

~~(i) "Base school year" shall mean the school year immediately preceding the school year for which the contingency budget is prepared.~~

~~(ii) "Consumer price index" shall mean the percentage that represents the average of the national consumer price indexes determined by the United States department of labor, for the twelve month period preceding January first of the current year.~~

~~(iii) "Current year" shall mean the calendar year in which the school district budget is submitted for a vote of the qualified voters.~~

~~(iv) "Resident public school district enrollment shall mean the resident public school enrollment of the school district as defined in paragraph n of subdivision one of section thirty-six hundred two of this chapter.~~

~~(v) "Total spending" shall mean the total amount appropriated under the school district budget for the school year.~~]

§ 4. Paragraph a of subdivision 7 of section 1608 of the education law, as amended by chapter 238 of the laws of 2007, is amended to read as follows:

a. Each year, commencing with the proposed budget for the two thousand--two thousand one school year, the trustee or board of trustees shall prepare a property tax report card, pursuant to regulations of the commissioner, and shall make it publicly available by transmitting it to local newspapers of general circulation, appending it to copies of the proposed budget made publicly available as required by law, making it available for distribution at the annual meeting, and otherwise disseminating it as required by the commissioner. Such report card shall include: (i) the amount of total spending and total estimated school tax levy that would result from adoption of the proposed budget and the percentage increase or decrease in total spending and total school tax levy from the school district budget for the preceding school year; and (ii) **the district's tax levy limit determined pursuant to section two thousand twenty-three-a of this title, and the estimated school tax levy, excluding any levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph i of subdivision two of section two thousand twenty-three-a of this title, that would result from adoption of the proposed budget; and (iii)** the projected enrollment growth for the school year for which the budget is prepared, and the percentage change in enrollment from the previous year; and [~~(iii)~~] **(iv)** the percentage increase in the consumer price index, as defined in paragraph c of this subdivision; and [~~(iv)~~] **(v)** the projected amount of the unappropriated unreserved fund balance that will be retained if the proposed budget is adopted, the projected amount of the reserved fund balance, the projected amount of the appropriated fund balance, the percentage of the proposed budget that the unappropriated unreserved fund balance represents, the actual unappropriated unreserved fund balance retained in the school district budget for the preceding school year, and the percentage of the school district budget for the preceding school year that the actual unappropriated unreserved fund balance represents.

§ 5. Paragraph a of subdivision 7 of section 1716 of the education law, as amended by chapter 238 of the laws of 2007, is amended to read as follows:

a. Each year, commencing with the proposed budget for the two thousand--two thousand one school year, the board of education shall prepare a property tax report card, pursuant to regulations of the commissioner, and shall make it publicly available by transmitting it to local newspapers of general circulation, appending it to copies of the proposed budget made publicly available as required by law, making it available for distribution at the annual meeting, and otherwise disseminating it as required by the commissioner. Such report card shall include: (i) the amount of total spending and total estimated school tax levy that would result from adoption of the proposed budget and the percentage increase or decrease in total spending and total school tax levy from the school district budget for the preceding school year; and (ii) **the district's tax levy limit determined pursuant to section two thousand twenty-three-a of this title, and the estimated school tax levy, excluding any levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph i of subdivision two of section two thousand twenty-three-a of this title, that would result from adoption**

of the proposed budget; and (iii) the projected enrollment growth for the school year for which the budget is prepared, and the percentage change in enrollment from the previous year; and [~~(iii)~~] **(iv)** the percentage increase in the consumer price index, as defined in paragraph c of this subdivision; and [~~(iv)~~] **(v)** the projected amount of the unappropriated unreserved fund balance that will be retained if the proposed budget is adopted, the projected amount of the reserved fund balance, the projected amount of the appropriated fund balance, the percentage of the proposed budget that the unappropriated unreserved fund balance represents, the actual unappropriated unreserved fund balance retained in the school district budget for the preceding school year, and the percentage of the school district budget for the preceding school year that the actual unappropriated unreserved fund balance represents.

§ 6. Section 2008 of the education law is amended by adding a new subdivision 3 to read as follows:

3. Notwithstanding any other provision of law to the contrary, any proposition submitted by the voters that requires the expenditure of money shall be subject to the requirements set forth in subdivision nine of section two thousand twenty-three-a of this part.

§ 7. Section 2022 of the education law, as amended by section 23 of part A of chapter 436 of the laws of 1997, subdivisions 1 and 3 as amended by section 8 of part C of chapter 58 of the laws of 1998, subdivision 2-a as amended by section 3 of part A of chapter 60 of the laws of 2000, paragraph b of subdivision 2-a as amended by section 5 of part W of chapter 57 of the laws of 2008, subdivision 4 as amended by section 7 of part M of chapter 57 of the laws of 2005 and subdivision 6 as added by chapter 61 of the laws of 2003, is amended to read as follows:

§ 2022. Vote on school district budgets and on the election of school district trustees and board of education members. 1. Notwithstanding any law, rule or regulation to the contrary, the election of trustees or members of the board of education, and the vote upon the appropriation of the necessary funds to meet the estimated expenditures, in any common school district, union free school district, central school district or central high school district shall be held at the annual meeting and election on the third Tuesday in May, provided, however, that such election shall be held on the second Tuesday in May if the commissioner at the request of a local school board certifies no later than March first that such election would conflict with religious observances. [~~**When such election or vote is taken by recording the ayes and noes of the qualified voters attending, a majority of the qualified voters present and voting, by a hand or voice vote, may determine to take up the question of voting the necessary funds to meet the estimated expenditures for a specific item separately, and the qualified voters present and voting may increase the amount of any estimated expenditures or reduce the same, except for teachers' salaries, and the ordinary contingent expenses of the schools.**~~] The sole trustee, board of trustees or board of education of every common, union free, central or central high school district and every city school district to which this article applies shall hold a budget hearing not less than seven nor more than fourteen days prior to the annual meeting and election or special district meeting at which a school budget vote will occur, and shall prepare and present to the voters at such budget hearing a proposed school district budget for the ensuing school year.

2. Except as provided in subdivision four of this section, nothing in this section shall preclude the trustees or board of education, in their discretion, from submitting additional items of expenditure to the

voters for approval as separate propositions or the voters from submitting propositions pursuant to [~~section~~] **sections** two thousand eight and two thousand thirty-five of this [~~article~~] **part; provided however that such propositions shall be subject to the requirements set forth in subdivision nine of section two thousand twenty-three-a of this part**.

2-a. Every common, union free, central, central high school district and city school district to which this article applies shall mail a school budget notice to all qualified voters of the school district after the date of the budget hearing, but no later than six days prior to the annual meeting and election or special district meeting at which a school budget vote will occur. The school budget notice shall compare the percentage increase or decrease in total spending under the proposed budget over total spending under the school district budget adopted for the current school year, with the percentage increase or decrease in the consumer price index, from January first of the prior school year to January first of the current school year, and shall also include the information required by paragraphs a and b of this subdivision. The notice shall also set forth the date, time and place of the school budget vote, in the same manner as in the notice of annual meeting**, and shall also include the district's tax levy limit pursuant to section two thousand twenty-three-a of this part, and the estimated school tax levy, excluding any levy necessary to support the expenditures pursuant to subparagraphs (i) through (iv) of paragraph i of subdivision two of section two thousand twenty-three-a of this part, that would result from adoption of the proposed budget**. Such notice shall be in a form prescribed by the commissioner.

a. Commencing with the proposed budget for the two thousand one--two thousand two school year, such notice shall also include a description of how total spending and the tax levy resulting from the proposed budget would compare with a projected contingency budget adopted pursuant to section two thousand twenty-three of this article, assuming that such contingency budget is adopted on the same day as the vote on the proposed budget. Such comparison shall be in total and by component (program, capital and administrative), and shall include a statement of the assumptions made in estimating the projected contingency budget.

b. Commencing with the proposed budget for the two thousand eight--two thousand nine school year, such notice shall also include, in a format prescribed by the commissioner, an estimate of the tax savings that would be available to an eligible homeowner under the basic school tax relief (STAR) exemption authorized by section four hundred twenty-five of the real property tax law if the proposed budget were adopted. Such estimate shall be made in the manner prescribed by the commissioner, in consultation with the office of real property services.

3. In all elections for trustees or members of boards of education or votes involving the expenditure of money, or authorizing the levy of taxes, the vote thereon shall be by ballot, or, in school districts that prior to nineteen hundred ninety-eight conducted their vote at the annual meeting, may be ascertained by taking and recording the ayes and noes of such qualified voters attending and voting at such district meetings.

4. **The budget adoption process shall conform to the requirements set forth in section two thousand twenty-three-a of this part.** In the event that the original proposed budget is not approved by the voters, the sole trustee, trustees or board of education may adopt a final budget pursuant to subdivision five of this section or resubmit to the voters the original or a revised budget pursuant to subdivision three of section two thousand seven of this part. Upon one defeat of such resub-

mitted budget, the sole trustee, trustees or board of education shall adopt a final budget pursuant to subdivision five of this section. Notwithstanding any other provision of law to the contrary, the school district budget for any school year, or any part of such budget or any propositions involving the expenditure of money for such school year shall not be submitted for a vote of the qualified voters more than twice.

5. If the qualified voters fail to approve the proposed school district budget upon resubmission or upon a determination not to resubmit for a second vote pursuant to subdivision four of this section, the sole trustee, trustees or board of education, after applying thereto the public school moneys and other moneys received or to be received for that purpose, shall levy a tax for the sum necessary for teachers' salaries and other ordinary contingent expenses in accordance with the provisions of this subdivision and [~~**section**~~] **sections** two thousand twenty-three **and two thousand twenty-three-a** of this article.

6. Notwithstanding the provisions of subdivision four of section eighteen hundred four and subdivision five of section nineteen hundred six of this title, subdivision one of section two thousand two of this article, subdivision one of this section, subdivision two of section twenty-six hundred one-a of this title and any other provision of law to the contrary, the annual district meeting and election of every common, union free, central and central high school district and the annual meeting of every city school district in a city having a population of less than one hundred twenty-five thousand inhabitants that is scheduled to be held on the third Tuesday of May, two thousand three is hereby adjourned until the first Tuesday in June, two thousand three. The trustees or board of education of each such school district shall provide notice of such adjourned meeting to the qualified voters in the manner prescribed for notice of the annual meeting, and such notice shall provide for an adjourned budget hearing. The adjourned district meeting or district meeting and election shall be deemed the annual meeting or annual meeting and election of the district for all purposes under this title and the date of the adjourned meeting shall be deemed the statewide uniform voting day for all purposes under this title. Notwithstanding the provisions of subdivision seven of section sixteen hundred eight or subdivision seven of section seventeen hundred sixteen of this title or any other provision of law, rule or regulation to the contrary, in two thousand three the property tax report card shall be submitted to the department no later than twenty days prior to the date of the adjourned meeting and the department shall make its compilation available electronically at least seven days prior to such date.

§ 8. Section 2035 of the education law is amended by adding a new subdivision 3 to read as follows:

3. Any proposition submitted pursuant to this section shall be subject to the requirements set forth in subdivision nine of section two thousand twenty-three-a of this part.

§ 9. Section 2601-a of the education law, as added by chapter 171 of the laws of 1996, subdivision 2 as amended by section 6 and subdivision 4 as amended by section 8 of part M of chapter 57 of the laws of 2005, subdivision 3 as amended by chapter 640 of the laws of 2008, subdivision 5 as amended by section 29 of part A of chapter 436 of the laws of 1997, subdivision 6 as amended and subdivision 7 as added by chapter 474 of the laws of 1996, is amended to read as follows:

§ 2601-a. Procedures for adoption of school budgets in small city school districts. 1. The board of education of each city school district

subject to this article shall provide for the submission of a budget for approval of the voters pursuant to the provisions of this section **and in accordance with the requirements set forth in section two thousand twenty-three-a of this title**.

2. The board of education shall conduct all annual and special school district meetings for the purpose of adopting a school district budget in the same manner as a union free school district in accordance with the provisions of article forty-one of this title, except as otherwise provided by this section. The annual meeting and election of each such city school district shall be held on the third Tuesday of May in each year, provided, however that such annual meeting and election shall be held on the second Tuesday in May if the commissioner at the request of a local school board certifies no later than March first that such election would conflict with religious observances, and any school budget revote shall be held on the date and in the same manner specified in subdivision three of section two thousand seven of this title. The provisions of this article, and where applicable subdivisions nine and nine-a of section twenty-five hundred two of this title, governing the qualification and registration of voters, and procedures for the nomination and election of members of the board of education shall continue to apply, and shall govern the qualification and registration of voters and voting procedures with respect to the adoption of a school district budget.

3. The board of education shall prepare a proposed school district budget for the ensuing year in accordance with the provisions of section seventeen hundred sixteen of this chapter, including all provisions relating to required notices and appendices to the statement of expenditures. No board of education shall incur a school district liability except as authorized by the provisions of section seventeen hundred eighteen of this chapter. Such proposed budget shall be presented in three components: a program component, a capital component and an administrative component which shall be separately delineated in accordance with regulations of the commissioner after consultation with local school district officials. The administrative component shall include, but need not be limited to, office and central administrative expenses, traveling expenses and all compensation, salaries and benefits of all school administrators and supervisors, including business administrators, superintendents of schools and deputy, assistant, associate or other superintendents under all existing employment contracts or collective bargaining agreements, any and all expenditures associated with the operation of the board of education, the office of the superintendent of schools, general administration, the school business office, consulting costs not directly related to direct student services and programs, planning and all other administrative activities. The program component shall include, but need not be limited to, all program expenditures of the school district, including the salaries and benefits of teachers and any school administrators or supervisors who spend a majority of their time performing teaching duties, and all transportation operating expenses. The capital component shall include, but need not be limited to, all transportation capital, debt service, and lease expenditures; costs resulting from judgments in tax certiorari proceedings or the payment of awards from court judgments, administrative orders or settled or compromised claims; and all facilities costs of the school district, including facilities lease expenditures, the annual debt service and total debt for all facilities financed by bonds and notes of the school district, and the costs of construction, acquisition, reconstruction,

rehabilitation or improvement of school buildings, provided that such budget shall include a rental, operations and maintenance section that includes base rent costs, total rent costs, operation and maintenance charges, cost per square foot for each facility leased by the school district, and any and all expenditures associated with custodial salaries and benefits, service contracts, supplies, utilities, and maintenance and repairs of school facilities. For the purposes of the development of a budget for the nineteen hundred ninety-seven--ninety-eight school year, the board of education shall separate its program, capital and administrative costs for the nineteen hundred ninety-six--ninety-seven school year in the manner as if the budget for such year had been presented in three components. Except as provided in subdivision four of this section, nothing in this section shall preclude the board, in its discretion, from submitting additional items of expenditure to the voters for approval as separate propositions or the voters from submitting propositions pursuant to sections two thousand eight and two thousand thirty-five of this chapter **subject to the requirements set forth in subdivision nine of section two thousand twenty-three-a of this part**.

4. **The budget adoption process shall conform to the requirements set forth in section two thousand twenty-three-a of this title.** In the event the qualified voters of the district reject the budget proposed pursuant to subdivision three of this section, the board may propose to the voters a revised budget pursuant to subdivision three of section two thousand seven of this title or may adopt a contingency budget pursuant to subdivision five of this section and subdivision five of section two thousand twenty-two of this title. The school district budget for any school year, or any part of such budget or any propositions involving the expenditure of money for such school year shall not be submitted for a vote of the qualified voters more than twice. In the event the qualified voters reject the resubmitted budget, the board shall adopt a contingency budget in accordance with subdivision five of this section and subdivision five of such section two thousand twenty-two of this title.

5. If the qualified voters fail or refuse to vote the sum estimated to be necessary for teachers' salaries and other ordinary contingent expenses, the board shall adopt a contingency budget in accordance with this subdivision and shall levy a tax for that portion of such sum remaining after applying thereto the moneys received or to be received from state, federal or other sources, in the same manner as if the budget had been approved by the qualified voters; subject to the limitations imposed in subdivision four of section two thousand twenty-three of this chapter**, subdivision eight of section two thousand twenty-three-a of this title** and this subdivision. The administrative component shall not comprise a greater percentage of the contingency budget exclusive of the capital component than the lesser of (1) the percentage the administrative component had comprised in the prior year budget exclusive of the capital component; or (2) the percentage the administrative component had comprised in the last proposed defeated budget exclusive of the capital component. Such contingency budget shall include the sum determined by the board to be necessary for:

(a) teachers' salaries, including the salaries of all members of the teaching and supervising staff;

(b) items of expense specifically authorized by statute to be incurred by the board of education, including, but not limited to, expenditures for transportation to and from regular school programs included as ordinary contingent expenses in subdivision twelve of section twenty-five

hundred three of this chapter, expenditures for textbooks, required services for non-public school students, school health services, special education services, kindergarten and nursery school programs, and the district's share of the administrative costs and costs of services provided by a board of cooperative educational services;

(c) items of expense for legal obligations of the district, including, but not limited to, contractual obligations, debt service, court orders or judgments, orders of administrative bodies or officers, and standards and requirements of the board of regents and the commissioner that have the force and effect of law;

(d) the purchase of library books and other instructional materials associated with a library;

(e) items of expense necessary to maintain the educational programs of the district, preserve the property of the district or protect the health and safety of students and staff, including, but not limited to, support services, pupil personnel services, the necessary salaries for the necessary number of non-teaching employees, necessary legal expenses, water and utility charges, instructional supplies for teachers' use, emergency repairs, temporary rental of essential classroom facilities, and expenditures necessary to advise school district voters concerning school matters; and

(f) expenses incurred for interschool athletics, field trips and other extracurricular activities; and

(g) any other item of expense determined by the commissioner to be an ordinary contingent expense in any school district.

6. The commissioner shall determine appeals raising questions as to what items of expenditure are ordinary contingent expenses pursuant to subdivision five of this section in accordance with section two thousand twenty-four and three hundred ten of this chapter.

7. Each year, the board of education shall prepare a school district report card, pursuant to regulations of the commissioner, and shall make it publicly available by transmitting it to local newspapers of general circulation, appending it to copies of the proposed budget made publicly available as required by law, making it available for distribution at the annual meeting, and otherwise disseminating it as required by the commissioner. Such report card shall include measures of the academic performance of the school district, on a school by school basis, and measures of the fiscal performance of the district, as prescribed by the commissioner. Pursuant to regulations of the commissioner, the report card shall also compare these measures to statewide averages for all public schools, and statewide averages for public schools of comparable wealth and need, developed by the commissioner. Such report card shall include, at a minimum, any information on the school district regarding pupil performance and expenditure per pupil required to be included in the annual report by the regents to the governor and the legislature pursuant to section two hundred fifteen-a of this chapter; and any other information required by the commissioner. School districts (i) identified as having fifteen percent or more of their students in special education, or (ii) which have fifty percent or more of their students with disabilities in special education programs or services sixty percent or more of the school day in a general education building, or (iii) which have eight percent or more of their students with disabilities in special education programs in public or private separate educational settings shall indicate on their school district report card their respective percentages as defined in this paragraph and paragraphs (i) and (ii) of this subdivision as compared to the statewide average.

§ 10. Paragraph b-1 of subdivision 4 of section 3602 of the education law, as amended by section 26 of part A of chapter 58 of the laws of 2011, is amended to read as follows:

b-1. Notwithstanding any other provision of law to the contrary, for the two thousand seven--two thousand eight [~~through~~] school year and thereafter, the additional amount payable to each school district pursuant to this subdivision in the current year as total foundation aid, after deducting the total foundation aid base, shall be deemed a state grant in aid identified by the commissioner for general use for purposes of [~~sections~~] **section** seventeen hundred eighteen [~~and two thousand twenty-three~~] of this chapter.

§ 11. Paragraph a of subdivision 1 of section 3635 of the education law, as amended by chapter 69 of the laws of 1992, is amended to read as follows:

a. Sufficient transportation facilities (including the operation and maintenance of motor vehicles) shall be provided by the school district for all the children residing within the school district to and from the school they legally attend, who are in need of such transportation because of the remoteness of the school to the child or for the promotion of the best interest of such children. Such transportation shall be provided for all children attending grades kindergarten through eight who live more than two miles from the school which they legally attend and for all children attending grades nine through twelve who live more than three miles from the school which they legally attend and shall be provided for each such child up to a distance of fifteen miles, the distances in each case being measured by the nearest available route from home to school. The cost of providing such transportation between two or three miles, as the case may be, and fifteen miles shall be considered for the purposes of this chapter to be a charge upon the district and an ordinary contingent expense of the district. Transportation for a lesser distance than two miles in the case of children attending grades kindergarten through eight or three miles in the case of children attending grades nine through twelve and for a greater distance than fifteen miles may be provided by the district **with the approval of the qualified voters**, and, if provided, shall be offered equally to all children in like circumstances residing in the district; provided, however, that this requirement shall not apply to transportation offered pursuant to section thirty-six hundred thirty-five-b of this article.

§ 12. Nothing contained in this act shall impair or invalidate the powers or duties, as authorized by law, of a control board, interim finance authority or fiscal stability authority including such powers or duties that may require the tax levy limit, as that term is defined in section one or section two of this act, to be exceeded.

§ 13. This act shall take effect immediately; provided, however, that sections two through eleven of this act shall take effect July 1, 2011 and shall first apply to school district budgets and the budget adoption process for the 2012-13 school year; and shall continue to apply to school district budgets and the budget adoption process for any school year beginning in any calendar year during which this act is in effect; provided further, that if section 26 of part A of chapter 58 of the laws of 2011 shall not have taken effect on or before such date then section ten of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2011, takes effect; provided further, that section one of this act shall first apply to the levy of taxes by local governments for the fiscal year that begins in 2012 and

shall continue to apply to the levy of taxes by local governments for any fiscal year beginning in any calendar year during which this act is in effect; provided, further, that this act shall remain in full force and effect at a minimum until and including June 15, 2016 and shall remain in effect thereafter only so long as the public emergency requiring the regulation and control of residential rents and evictions and all such laws providing for such regulation and control continue as provided in subdivision 3 of section 1 of the local emergency rent control act, sections 26-501, 26-502 and 26-520 of the administrative code of the city of New York, section 17 of chapter 576 of the laws of 1974 and subdivision 2 of section 1 of chapter 274 of the laws of 1946 constituting the emergency housing rent control law, and section 10 of chapter 555 of the laws of 1982, amending the general business law and the administrative code of the city of New York relating to conversions of residential property to cooperative or condominium ownership in the city of New York as such laws are continued by chapter 93 of the laws of 2011 and as such sections are amended from time to time.

PART B

Section 1. Short title. This act shall be known and may be cited as the "rent act of 2011."

§ 1-a. Section 17 of 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, as amended by chapter 93 of the laws of 2011, is amended to read as follows:

§ 17. Effective date. This act shall take effect immediately and shall remain in full force and effect until and including the [~~twenty-third~~] **fifteenth** day of June [~~2011~~] **2015**; except that sections two and three shall take effect with respect to any city having a population of one million or more and section one shall take effect with respect to any other city, or any town or village whenever the local legislative body of a city, town or village determines the existence of a public emergency pursuant to section three of the emergency tenant protection act of nineteen seventy-four, as enacted by section four of this act, and provided that the housing accommodations subject on the effective date of this act to stabilization pursuant to the New York city rent stabilization law of nineteen hundred sixty-nine shall remain subject to such law upon the expiration of this act.

§ 2. Subdivision 2 of section 1 of chapter 274 of the laws of 1946 constituting the emergency housing rent control law, as amended by chapter 93 of the laws of 2011, is amended to read as follows:

2. The provisions of this act, and all regulations, orders and requirements thereunder shall remain in full force and effect until and including June [~~23, 2011~~] **15, 2015**.

§ 3. Section 2 of chapter 329 of the laws of 1963 amending the emergency housing rent control law relating to recontrol of rents in Albany, as amended by chapter 93 of the laws of 2011, is amended to read as follows:

§ 2. This act shall take effect immediately and the provisions of subdivision 6 of section 12 of the emergency housing rent control law, as added by this act, shall remain in full force and effect until and including June [~~23, 2011~~] **15, 2015**.

§ 4. Section 10 of 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 condo-

minium ownership in the city of New York, as amended by chapter 93 of the laws of 2011, is amended to read as follows:

§ 10. This act shall take effect immediately; provided, that the provisions of sections one, two and nine of this act shall remain in full force and effect only until and including June [~~23, 2011~~] **15, 2015**; provided further that the provisions of section three of this act shall remain in full force and effect only so long as the public emergency requiring the regulation and control of residential rents and evictions continues as provided in subdivision 3 of section 1 of the local emergency housing rent control act; provided further that the provisions of sections four, five, six and seven of this act shall expire in accordance with the provisions of section 26-520 of the administrative code of the city of New York as such section of the administrative code is, from time to time, amended; provided further that the provisions of section 26-511 of the administrative code of the city of New York, as amended by this act, which the New York City Department of Housing Preservation and Development must find are contained in the code of the real estate industry stabilization association of such city in order to approve it, shall be deemed contained therein as of the effective date of this act; and provided further that any plan accepted for filing by the department of law on or before the effective date of this act shall continue to be governed by the provisions of section 352-eeee of the general business law as they had existed immediately prior to the effective date of this act.

§ 5. Section 4 of 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, as amended by chapter 93 of the laws of 2011, is amended to read as follows:

§ 4. This act shall take effect immediately; provided, that the provisions of sections one and three of this act shall remain in full force and effect only until and including June [~~23, 2011~~] **15, 2015**; and provided further that any plan accepted for filing by the department of law on or before the effective date of this act shall continue to be governed by the provisions of section 352-eee of the general business law as they had existed immediately prior to the effective date of this act.

§ 6. Subdivision 6 of section 46 of chapter 116 of the laws of 1997 constituting the rent regulation reform act of 1997, as amended by chapter 93 of the laws of 2011, is amended to read as follows:

6. sections twenty-eight, twenty-eight-a, twenty-eight-b and twenty-eight-c of this act shall expire and be deemed repealed after June [~~23, 2011~~] **15, 2015**;

§ 7. Paragraph 5-a of subdivision c of section 26-511 of the administrative code of the city of New York, as added by chapter 116 of the laws of 1997, is amended to read as follows:

(5-a) provides that, notwithstanding any provision of this chapter, the legal regulated rent for any vacancy lease entered into after the effective date of this paragraph shall be as hereinafter provided in this paragraph. The previous legal regulated rent for such housing accommodation shall be increased by the following: (i) if the vacancy lease is for a term of two years, twenty percent of the previous legal regulated rent; or (ii) if the vacancy lease is for a term of one year the increase shall be twenty percent of the previous legal regulated rent less an amount equal to the difference between (a) the two year renewal lease guideline promulgated by the guidelines board of the city

of New York applied to the previous legal regulated rent and (b) the one year renewal lease guideline promulgated by the guidelines board of the city of New York applied to the previous legal regulated rent. In addition, if the legal regulated rent was not increased with respect to such housing accommodation by a permanent vacancy allowance within eight years prior to a vacancy lease executed on or after the effective date of this paragraph, the legal regulated rent may be further increased by an amount equal to the product resulting from multiplying such previous legal regulated rent by six-tenths of one percent and further multiplying the amount of rent increase resulting therefrom by the greater of (A) the number of years since the imposition of the last permanent vacancy allowance, or (B) if the rent was not increased by a permanent vacancy allowance since the housing accommodation became subject to this chapter, the number of years that such housing accommodation has been subject to this chapter. Provided that if the previous legal regulated rent was less than three hundred dollars the total increase shall be as calculated above plus one hundred dollars per month. Provided, further, that if the previous legal regulated rent was at least three hundred dollars and no more than five hundred dollars in no event shall the total increase pursuant to this paragraph be less than one hundred dollars per month. Such increase shall be in lieu of any allowance authorized for the one or two year renewal component thereof, but shall be in addition to any other increases authorized pursuant to this chapter including an adjustment based upon a major capital improvement, or a substantial modification or increase of dwelling space or services, or installation of new equipment or improvements or new furniture or furnishings provided in or to the housing accommodation pursuant to this section. **The increase authorized in this paragraph may not be implemented more than one time in any calendar year, notwithstanding the number of vacancy leases entered into in such year.**

§ 8. Subdivision (a-1) of section 10 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as added by chapter 116 of the laws of 1997, is amended to read as follows:

(a-1) provides that, notwithstanding any provision of this act, the legal regulated rent for any vacancy lease entered into after the effective date of this subdivision shall be as hereinafter set forth. The previous legal regulated rent for such housing accommodation shall be increased by the following: (i) if the vacancy lease is for a term of two years, twenty percent of the previous legal regulated rent; or (ii) if the vacancy lease is for a term of one year the increase shall be twenty percent of the previous legal regulated rent less an amount equal to the difference between (a) the two year renewal lease guideline promulgated by the guidelines board of the county in which the housing accommodation is located applied to the previous legal regulated rent and (b) the one year renewal lease guideline promulgated by the guidelines board of the county in which the housing accommodation is located applied to the previous legal regulated rent. In addition, if the legal regulated rent was not increased with respect to such housing accommodation by a permanent vacancy allowance within eight years prior to a vacancy lease executed on or after the effective date of this subdivision, the legal regulated rent may be further increased by an amount equal to the product resulting from multiplying such previous legal regulated rent by six-tenths of one percent and further multiplying the amount of rent increase resulting therefrom by the greater of (A) the number of years since the imposition of the last permanent vacancy

allowance, or (B) if the rent was not increased by a permanent vacancy allowance since the housing accommodation became subject to this act, the number of years that such housing accommodation has been subject to this act. Provided that if the previous legal regulated rent was less than three hundred dollars the total increase shall be as calculated above plus one hundred dollars per month. Provided, further, that if the previous legal regulated rent was at least three hundred dollars and no more than five hundred dollars in no event shall the total increase pursuant to this subdivision be less than one hundred dollars per month. Such increase shall be in lieu of any allowance authorized for the one or two year renewal component thereof, but shall be in addition to any other increases authorized pursuant to this act including an adjustment based upon a major capital improvement, or a substantial modification or increase of dwelling space or services, or installation of new equipment or improvements or new furniture or furnishings provided in or to the housing accommodation pursuant to section six of this act. **The increase authorized in this subdivision may not be implemented more than one time in any calendar year, notwithstanding the number of vacancy leases entered into in such year.**

§ 9. Paragraph (n) of subdivision 2 of section 2 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, as amended by chapter 82 of the laws of 2003, is amended to read as follows:

(n) any housing accommodation with a maximum rent of two thousand dollars or more per month at any time between the effective date of this paragraph and October first, nineteen hundred ninety-three which is or becomes vacant on or after the effective date of this paragraph[~~,~~]**;** or**, for** any housing accommodation with a maximum rent of two thousand dollars or more per month at any time on or after the effective date of the rent regulation reform act of 1997 **and before the effective date of the rent act of 2011,** which is or becomes vacant on or after the effective date of the rent regulation reform act of 1997 **and before the effective date of the rent act of 2011. This exclusion shall apply regardless of whether the next tenant in occupancy or any subsequent tenant in occupancy is charged or pays less than two thousand dollars a month; or, for any housing accommodation with a maximum rent of two thousand five hundred dollars or more per month at any time on or after the effective date of the rent act of 2011, which is or becomes vacant on or after such effective date**. This exclusion shall apply regardless of whether the next tenant in occupancy or any subsequent tenant in occupancy actually is charged or pays less than two thousand **five hundred** dollars a month. [~~This~~] **An** exclusion **pursuant to this paragraph** shall not apply, however, to or become effective with respect to housing accommodations which the commissioner determines or finds that the landlord or any person acting on his or her behalf, with intent to cause the tenant to vacate, has engaged in any course of conduct (including, but not limited to, interruption or discontinuance of required services) which interfered with or disturbed or was intended to interfere with or disturb the comfort, repose, peace or quiet of the tenant in his or her use or occupancy of the housing accommodations and in connection with such course of conduct, any other general enforcement provision of this law shall also apply.

§ 10. Paragraph 13 of subdivision a of section 5 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as amended by chapter 82 of the laws of 2003, is amended to read as follows:

(13) any housing accommodation with a legal regulated rent of two thousand dollars or more per month at any time between the effective date of this paragraph and October first, nineteen hundred ninety-three which is or becomes vacant on or after the effective date of this paragraph[~~,~~]**;** or**, for** any housing accommodation with a legal regulated rent of two thousand dollars or more per month at any time on or after the effective date of the rent regulation reform act of 1997 **and before the effective date of the rent act of 2011,** which is or becomes vacant on or after the effective date of the rent regulation reform act of 1997 **and before the effective date of the rent act of 2011. This exclusion shall apply regardless of whether the next tenant in occupancy or any subsequent tenant in occupancy is charged or pays less than two thousand dollars a month; or, for any housing accommodation with a legal regulated rent of two thousand five hundred dollars or more per month at any time on or after the effective date of the rent act of 2011, which is or becomes vacant on or after such effective date**. [~~This~~] **An** exclusion **pursuant to this paragraph** shall apply regardless of whether the next tenant in occupancy or any subsequent tenant in occupancy actually is charged or pays less than two thousand **five hundred** dollars a month. Provided however, that [~~this~~] **an** exclusion **pursuant to this paragraph** shall not apply to housing accommodations which became or become subject to this act (a) by virtue of receiving tax benefits pursuant to section four hundred twenty-one-a or four hundred eighty-nine of the real property tax law, except as otherwise provided in subparagraph (i) of paragraph (f) of subdivision two of section four hundred twenty-one-a of the real property tax law, or (b) by virtue of article seven-C of the multiple dwelling law. This paragraph shall not apply, however, to or become effective with respect to housing accommodations which the commissioner determines or finds that the landlord or any person acting on his or her behalf, with intent to cause the tenant to vacate, has engaged in any course of conduct (including, but not limited to, interruption or discontinuance of required services) which interfered with or disturbed or was intended to interfere with or disturb the comfort, repose, peace or quiet of the tenant in his or her use or occupancy of the housing accommodations and in connection with such course of conduct, any other general enforcement provision of this act shall also apply.

§ 11. Subparagraph (k) of paragraph 2 of subdivision e of section 26-403 of the administrative code of the city of New York, as amended by chapter 82 of the laws of 2003, is amended to read as follows:

(k) Any housing accommodation which becomes vacant on or after April first, nineteen hundred ninety-seven **and before the effective date of the rent act of 2011,** and where at the time the tenant vacated such housing accommodation the maximum rent was two thousand dollars or more per month**;** or**, for** any housing accommodation which is or becomes vacant on or after the effective date of the rent regulation reform act of 1997 **and before the effective date of the rent act of 2011** with a maximum rent of two thousand dollars or more per month**. This exclusion shall apply regardless of whether the next tenant in occupancy or any subsequent tenant in occupancy is charged or pays less than two thousand dollars a month; or, for any housing accommodation with a maximum rent of two thousand five hundred dollars or more per month at any time on or after the effective date of the rent act of 2011, which is or becomes vacant on or after such effective date**. This exclusion shall apply regardless of whether the next tenant in occupancy or any subsequent tenant in occupancy actually is charged or pays less than two thousand **five hundred** dollars a month. Provided however, that [~~this~~] **an** exclu-

sion **pursuant to this subparagraph** shall not apply to housing accommodations which became or become subject to this law by virtue of receiving tax benefits pursuant to section four hundred eighty-nine of the real property tax law. This subparagraph shall not apply, however, to or become effective with respect to housing accommodations which the commissioner determines or finds that the landlord or any person acting on his or her behalf, with intent to cause the tenant to vacate, has engaged in any course of conduct (including, but not limited to, interruption or discontinuance of required services) which interfered with or disturbed or was intended to interfere with or disturb the comfort, repose, peace or quiet of the tenant in his or her use or occupancy of the housing accommodations and in connection with such course of conduct, any other general enforcement provision of this law shall also apply.

§ 12. Section 26-504.2 of the administrative code of the city of New York, as amended by chapter 116 of the laws of 1997, subdivision a as amended by chapter 82 of the laws of 2003 and subdivision b as added by local law number 12 of the city of New York for the year 2000, is amended to read as follows:

§ 26-504.2 Exclusion of high rent accommodations. a. "Housing accommodations" shall not include**:** any housing accommodation which becomes vacant on or after April first, nineteen hundred ninety-seven **and before the effective date of the rent act of 2011** and where at the time the tenant vacated such housing accommodation the legal regulated rent was two thousand dollars or more per month[~~,~~]**;** or**, for** any housing accommodation which is or becomes vacant on or after the effective date of the rent regulation reform act of 1997 **and before the effective date of the rent act of 2011,** with a legal regulated rent of two thousand dollars or more per month**. This exclusion shall apply regardless of whether the next tenant in occupancy or any subsequent tenant in occupancy is charged or pays less than two thousand dollars a month; or, for any housing accommodation with a legal regulated rent of two thousand five hundred dollars or more per month at any time on or after the effective date of the rent act of 2011, which is or becomes vacant on or after such effective date**. This exclusion shall apply regardless of whether the next tenant in occupancy or any subsequent tenant in occupancy actually is charged or pays less than two thousand **five hundred** dollars a month. Provided however, that [~~this~~] **an** exclusion **pursuant to this subdivision** shall not apply to housing accommodations which became or become subject to this law (a) by virtue of receiving tax benefits pursuant to section four hundred twenty-one-a or four hundred eighty-nine of the real property tax law, except as otherwise provided in subparagraph (i) of paragraph (f) of subdivision two of section four hundred twenty-one-a of the real property tax law, or (b) by virtue of article seven-C of the multiple dwelling law. This section shall not apply, however, to or become effective with respect to housing accommodations which the commissioner determines or finds that the landlord or any person acting on his or her behalf, with intent to cause the tenant to vacate, engaged in any course of conduct (including, but not limited to, interruption or discontinuance of required services) which interfered with or disturbed or was intended to interfere with or disturb the comfort, repose, peace or quiet of the tenant in his or her use or occupancy of the housing accommodations and in connection with such course of conduct, any other general enforcement provision of this law shall also apply.

b. The owner of any housing accommodation that is not subject to this law pursuant to the provisions of subdivision a of this section or subparagraph k of paragraph 2 of subdivision e of section 26-403 of this code shall give written notice certified by such owner to the first tenant of that housing accommodation after such housing accommodation becomes exempt from the provisions of this law or the city rent and rehabilitation law. Such notice shall contain the last regulated rent, the reason that such housing accommodation is not subject to this law or the city rent and rehabilitation law, a calculation of how either the rental amount charged when there is no lease or the rental amount provided for in the lease has been derived so as to reach two thousand dollars or more per month **or, for a housing accommodation with a legal regulated rent or maximum rent of two thousand five hundred dollars or more per month on or after the effective date of the rent act of 2011, which is or becomes vacant on or after such effective date, whether the next tenant in occupancy or any subsequent tenant in occupancy actually is charged or pays less than a legal regulated rent or maximum rent of two thousand five hundred dollars or more per month**, a statement that the last legal regulated rent or the maximum rent may be verified by the tenant by contacting the state division of housing and community renewal, or any successor thereto, and the address and telephone number of such agency, or any successor thereto. Such notice shall be sent by certified mail within thirty days after the tenancy commences or after the signing of the lease by both parties, whichever occurs first or shall be delivered to the tenant at the signing of the lease. In addition, the owner shall send and certify to the tenant a copy of the registration statement for such housing accommodation filed with the state division of housing and community renewal indicating that such housing accommodation became exempt from the provisions of this law or the city rent and rehabilitation law, which form shall include the last regulated rent, and shall be sent to the tenant within thirty days after the tenancy commences or the filing of such registration, whichever occurs later.

§ 13. Subdivision a-2 of section 10 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as added by chapter 82 of the laws of 2003, is amended to read as follows:

[~~a-2.~~] **(a-2)** Provides that where the amount of rent charged to and paid by the tenant is less than the legal regulated rent for the housing accommodation, the amount of rent for such housing accommodation which may be charged upon renewal or upon vacancy thereof may, at the option of the owner, be based upon such previously established legal regulated rent, as adjusted by the most recent applicable guidelines increases and other increases authorized by law. Where, subsequent to vacancy, such legal regulated rent, as adjusted by the most recent applicable guidelines increases and any other increases authorized by law is two thousand dollars or more per month **or, for any housing accommodation which is or becomes vacant on or after the effective date of the rent act of 2011, is two thousand five hundred dollars or more per month**, such housing accommodation shall be excluded from the provisions of this act pursuant to paragraph thirteen of subdivision a of section five of this act.

§ 14. Paragraph 14 of subdivision c of section 26-511 of the administrative code of the city of New York, as added by chapter 82 of the laws of 2003, is amended to read as follows:

(14) provides that where the amount of rent charged to and paid by the tenant is less than the legal regulated rent for the housing accommodation, the amount of rent for such housing accommodation which may be charged upon renewal or upon vacancy thereof may, at the option of the owner, be based upon such previously established legal regulated rent, as adjusted by the most recent applicable guidelines increases and any other increases authorized by law. Where, subsequent to vacancy, such legal regulated rent, as adjusted by the most recent applicable guidelines increases and any other increases authorized by law is two thousand dollars or more per month **or, for any housing accommodation which is or becomes vacant on or after the effective date of the rent act of 2011, is two thousand five hundred dollars or more per month**, such housing accommodation shall be excluded from the provisions of this law pursuant to section 26-504.2 of this chapter.

§ 15. Subparagraph (e) of paragraph 1 of subdivision g of section 26-405 of the administrative code of the city of New York, as amended by chapter 253 of the laws of 1993, is amended to read as follows:

(e) The landlord and tenant by mutual voluntary written agreement agree to a substantial increase or decrease in dwelling space or a change in the services, furniture, furnishings or equipment provided in the housing accommodations. An adjustment under this subparagraph shall be equal to one-fortieth**, in the case of a building with thirty-five or fewer housing accommodations, or one-sixtieth, in the case of a building with more than thirty-five housing accommodations where such adjustment takes effect on or after September twenty-fourth, two thousand eleven,** of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges, provided further [~~than~~] **that** an owner who is entitled to a rent increase pursuant to this subparagraph shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings. The owner shall give written notice to the city rent agency of any such adjustment pursuant to this subparagraph[~~.~~]; or

§ 16. Paragraph 13 of subdivision c of section 26-511 of the administrative code of the city of New York, as added by chapter 253 of the laws of 1993, is amended to read as follows:

(13) provides that an owner is entitled to a rent increase where there has been a substantial modification or increase of dwelling space or an increase in the services, or installation of new equipment or improvements or new furniture or furnishings provided in or to a tenant's housing accommodation, on written tenant consent to the rent increase. In the case of a vacant housing accommodation, tenant consent shall not be required. The permanent increase in the legal regulated rent for the affected housing accommodation shall be one-fortieth**, in the case of a building with thirty-five or fewer housing accommodations, or one-sixtieth, in the case of a building with more than thirty-five housing accommodations where such permanent increase takes effect on or after September twenty-fourth, two thousand eleven,** of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges. Provided further that an owner who is entitled to a rent increase pursuant to this paragraph shall not be entitled to a further rent increase based upon the instal-

lation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings.

§ 17. Intentionally omitted.

§ 18. Paragraph 1 of subdivision d of section 6 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as added by chapter 253 of the laws of 1993, is amended to read as follows:

(1) there has been a substantial modification or increase of dwelling space or an increase in the services, or installation of new equipment or improvements or new furniture or furnishings, provided in or to a tenant's housing accommodation, on written tenant consent to the rent increase. In the case of a vacant housing accommodation, tenant consent shall not be required. The permanent increase in the legal regulated rent for the affected housing accommodation shall be one-fortieth**, in the case of a building with thirty-five or fewer housing accommodations, or one-sixtieth, in the case of a building with more than thirty-five housing accommodations where such permanent increase takes effect on or after September twenty-fourth, two thousand eleven,** of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges. Provided further [~~than~~] **that** an owner who is entitled to a rent increase pursuant to this paragraph shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings.

§ 19. Intentionally omitted.

§ 20. Intentionally omitted.

§ 21. Intentionally omitted.

§ 22. Intentionally omitted.

§ 23. Intentionally omitted.

§ 24. Intentionally omitted.

§ 25. The second undesignated paragraph of paragraph (a) of subdivision 4 of section 4 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, as amended by chapter 21 of the laws of 1962, clause 5 as amended by chapter 253 of the laws of 1993, is amended to read as follows:

No application for adjustment of maximum rent based upon a sales price valuation shall be filed by the landlord under this subparagraph prior to six months from the date of such sale of the property. In addition, no adjustment ordered by the commission based upon such sales price valuation shall be effective prior to one year from the date of such sale. Where, however, the assessed valuation of the land exceeds four times the assessed valuation of the buildings thereon, the commission may determine a valuation of the property equal to five times the equalized assessed valuation of the buildings, for the purposes of this subparagraph. The commission may make a determination that the valuation of the property is an amount different from such equalized assessed valuation where there is a request for a reduction in such assessed valuation currently pending; or where there has been a reduction in the assessed valuation for the year next preceding the effective date of the current assessed valuation in effect at the time of the filing of the application. Net annual return shall be the amount by which the earned income exceeds the operating expenses of the property, excluding mortgage interest and amortization, and excluding allowances for obsolescence and reserves, but including an allowance for

depreciation of two per centum of the value of the buildings exclusive of the land, or the amount shown for depreciation of the buildings in the latest required federal income tax return, whichever is lower; provided, however, that **(1)** no allowance for depreciation of the buildings shall be included where the buildings have been fully depreciated for federal income tax purposes or on the books of the owner; or (2) the landlord who owns no more than four rental units within the state has not been fully compensated by increases in rental income sufficient to offset unavoidable increases in property taxes, fuel, utilities, insurance and repairs and maintenance, excluding mortgage interest and amortization, and excluding allowances for depreciation, obsolescence and reserves, which have occurred since the federal date determining the maximum rent or the date the property was acquired by the present owner, whichever is later; or (3) the landlord operates a hotel or rooming house or owns a cooperative apartment and has not been fully compensated by increases in rental income from the controlled housing accommodations sufficient to offset unavoidable increases in property taxes and other costs as are allocable to such controlled housing accommodations, including costs of operation of such hotel or rooming house, but excluding mortgage interest and amortization, and excluding allowances for depreciation, obsolescence and reserves, which have occurred since the federal date determining the maximum rent or the date the landlord commenced the operation of the property, whichever is later; or (4) the landlord and tenant voluntarily enter into a valid written lease in good faith with respect to any housing accommodation, which lease provides for an increase in the maximum rent not in excess of fifteen per centum and for a term of not less than two years, except that where such lease provides for an increase in excess of fifteen per centum, the increase shall be automatically reduced to fifteen per centum; or (5) the landlord and tenant by mutual voluntary written agreement agree to a substantial increase or decrease in dwelling space or a change in the services, furniture, furnishings or equipment provided in the housing accommodations; provided that an owner shall be entitled to a rent increase where there has been a substantial modification or increase of dwelling space or an increase in the services, or installation of new equipment or improvements or new furniture or furnishings provided in or to a tenant's housing accommodation. The permanent increase in the maximum rent for the affected housing accommodation shall be one-fortieth**, in the case of a building with thirty-five or fewer housing accommodations, or one-sixtieth, in the case of a building with more than thirty-five housing accommodations where such permanent increase takes effect on or after September twenty-fourth, two thousand eleven,** of the total cost incurred by the landlord in providing such modification or increase in dwelling space, services, furniture, furnishings or equipment, including the cost of installation, but excluding finance charges provided further that an owner who is entitled to a rent increase pursuant to this clause shall not be entitled to a further rent increase based upon the installation of similar equipment, or new furniture or furnishings within the useful life of such new equipment, or new furniture or furnishings. The owner shall give written notice to the commission of any such adjustment pursuant to this clause; or (6) there has been, since March first, nineteen hundred fifty, an increase in the rental value of the housing accommodations as a result of a substantial rehabilitation of the building or housing accommodation therein which materially adds to the value of the property or appreciably prolongs its life, excluding ordinary repairs, maintenance and replacements; or (7)

there has been since March first, nineteen hundred fifty, a major capital improvement required for the operation, preservation or maintenance of the structure; or (8) there has been since March first, nineteen hundred fifty, in structures containing more than four housing accommodations, other improvements made with the express consent of the tenants in occupancy of at least seventy-five per centum of the housing accommodations, provided, however, that no adjustment granted hereunder shall exceed fifteen per centum unless the tenants have agreed to a higher percentage of increase, as herein provided; or (9) there has been, since March first, nineteen hundred fifty, a subletting without written consent from the landlord or an increase in the number of adult occupants who are not members of the immediate family of the tenant, and the landlord has not been compensated therefor by adjustment of the maximum rent by lease or order of the commission or pursuant to the federal act; or (10) the presence of unique or peculiar circumstances materially affecting the maximum rent has resulted in a maximum rent which is substantially lower than the rents generally prevailing in the same area for substantially similar housing accommodations.

§ 26. Intentionally omitted.

§ 27. Intentionally omitted.

§ 28. Intentionally omitted.

§ 29. Paragraph 12 of subdivision a of section 5 of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as amended by chapter 116 of the laws of 1997, is amended to read as follows:

(12) upon issuance of an order by the division, housing accommodations which are: (1) occupied by persons who have a total annual income [~~in excess of one hundred seventy-five thousand dollars per annum in each of the two preceding calendar years, as defined in and subject to the limitations and process set forth in section five-a of this act~~] **as defined in and subject to the limitations and process set forth in section five-a of this act in excess of the deregulation income threshold, as defined in section five-a of this act, in each of the two preceding calendar years**; and (2) have a legal regulated rent [~~of two thousand dollars or more per month~~] **that equals or exceeds the deregulation rent threshold, as defined in section five-a of this act**. Provided however, that this exclusion shall not apply to housing accommodations which became or become subject to this act (a) by virtue of receiving tax benefits pursuant to section four hundred twenty-one-a or four hundred eighty-nine of the real property tax law, except as otherwise provided in subparagraph (i) of paragraph (f) of subdivision two of section four hundred twenty-one-a of the real property tax law, or (b) by virtue of article seven-C of the multiple dwelling law.

§ 30. Section 5-a of section 4 of chapter 576 of the laws of 1974, constituting the emergency tenant protection act of nineteen seventy-four, as added by chapter 253 of the laws of 1993, subdivision (b) and paragraphs 1 and 2 of subdivision (c) as amended and subdivision (e) as added by chapter 116 of the laws of 1997, is amended to read as follows:

§ 5-a. High income rent [~~decontrol~~] **deregulation**. (a) **1.** For purposes of this section, annual income shall mean the federal adjusted gross income as reported on the New York state income tax return. Total annual income means the sum of the annual incomes of all persons whose names are recited as the tenant or co-tenant on a lease who occupy the housing accommodation and all other persons that occupy the housing accommodation as their primary residence on other than a temporary basis, excluding bona fide employees of such occupants residing therein in

connection with such employment and excluding bona fide subtenants in occupancy pursuant to the provisions of section two hundred twenty-six-b of the real property law. In the case where a housing accommodation is sublet, the annual income of the tenant or co-tenant recited on the lease who will reoccupy the housing accommodation upon the expiration of the sublease shall be considered.

2. Deregulation income threshold means total annual income equal to one hundred seventy-five thousand dollars in each of the two preceding calendar years for proceedings commenced before July first, two thousand eleven. For proceedings commenced on or after July first, two thousand eleven, the deregulation income threshold means the total annual income equal to two hundred thousand dollars in each of the two preceding calendar years.

3. Deregulation rent threshold means two thousand dollars for proceedings commenced before July first, two thousand eleven. For proceedings commenced on or after July first, two thousand eleven, the deregulation rent threshold means two thousand five hundred dollars.

(b) On or before the first day of May in each calendar year, the owner of each housing accommodation for which the legal regulated **monthly** rent [~~**is two thousand dollars or more per month**~~] **equals or exceeds the deregulation rent threshold** may provide the tenant or tenants residing therein with an income certification form prepared by the division of housing and community renewal on which such tenant or tenants shall identify all persons referred to in subdivision (a) of this section and shall certify whether the total annual income is in excess of [~~**one hundred seventy-five thousand dollars in each of the two preceding calendar years**~~] **the deregulation income threshold in each of the two preceding calendar years**. Such income certification form shall state that the income level certified to by the tenant may be subject to verification by the department of taxation and finance pursuant to section one hundred seventy-one-b of the tax law, and shall not require disclosure of any information other than whether the aforementioned threshold has been exceeded. Such income certification form shall clearly state that: (i) only tenants residing in housing accommodations which had a legal regulated **monthly** rent [~~**of two thousand dollars or more per month**~~] **that equals or exceeds the deregulation rent threshold** are required to complete the certification form; (ii) that tenants have protections available to them which are designed to prevent harassment; (iii) that tenants are not required to provide any information regarding their income except that which is requested on the form and may contain such other information the division deems appropriate. The tenant or tenants shall return the completed certification to the owner within thirty days after service upon the tenant or tenants. In the event that the total annual income as certified is in excess of [~~**one hundred seventy-five thousand dollars in each such year**~~] **the deregulation income threshold in each of the two preceding calendar years**, the owner may file the certification with the state division of housing and community renewal on or before June thirtieth of such year. Upon filing such certification with the division, the division shall, within thirty days after the filing, issue an order providing that such housing accommodation shall not be subject to the provisions of this act upon the expiration of the existing lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be mailed to the owner.

(c) 1. In the event that the tenant or tenants either fail to return the completed certification to the owner on or before the date required

by subdivision (b) of this section or the owner disputes the certification returned by the tenant or tenants, the owner may, on or before June thirtieth of such year, petition the state division of housing and community renewal to verify, pursuant to section one hundred seventy-one-b of the tax law, whether the total annual income exceeds [~~one hundred seventy-five thousand dollars in each of the two preceding calendar years~~] **the deregulation income threshold in each of the two preceding calendar years**. Within twenty days after the filing of such request with the division, the division shall notify the tenant or tenants that such tenant or tenants named on the lease must provide the division with such information as the division and the department of taxation and finance shall require to verify whether the total annual income exceeds [~~one hundred seventy-five thousand dollars in each such year~~] **the deregulation income threshold in each of the two preceding calendar years**. The division's notification shall require the tenant or tenants to provide the information to the division within sixty days of service upon such tenant or tenants and shall include a warning in bold faced type that failure to respond will result in an order being issued by the division providing that such housing accommodations shall not be subject to the provisions of this act.

2. If the department of taxation and finance determines that the total annual income is in excess of [~~one hundred seventy-five thousand dollars in each of the two preceding calendar years~~] **the deregulation income threshold in each of the two preceding calendar years**, the division shall, on or before November fifteenth of such year, notify the owner and tenants of the results of such verification. Both the owner and the tenants shall have thirty days within which to comment on such verification results. Within forty-five days after the expiration of the comment period, the division shall, where appropriate, issue an order providing that such housing accommodation shall not be subject to the provisions of this act upon expiration of the existing lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be sent to the owner.

3. In the event the tenant or tenants fail to provide the information required pursuant to paragraph one of this subdivision, the division shall issue, on or before December first of such year, an order providing that such housing accommodation shall not be subject to the provisions of this act upon the expiration [~~or~~] **of** the current lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be sent to the owner.

4. The provisions of the state freedom of information act shall not apply to any income information obtained by the division pursuant to this section.

(d) This section shall apply only to paragraph twelve of subdivision a of section five of this act.

(e) Upon receipt of such order of [~~decontrol~~] **deregulation** pursuant to this section, an owner shall offer the housing accommodation subject to such order to the tenant at a rent not in excess of the market rent, which for the purposes of this section means a rent obtainable in an arm's length transaction. Such rental offer shall be made by the owner in writing to the tenant by certified and regular mail and shall inform the tenant that such offer must be accepted in writing within ten days of receipt. The tenant shall respond within ten days after receipt of such offer. If the tenant declines the offer or fails to respond within

such period, the owner may commence an action or proceeding for the eviction of such tenant.

§ 31. Paragraph (m) of subdivision 2 of section 2 of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, as amended by chapter 116 of the laws of 1997, is amended to read as follows:

(m) upon the issuance of an order of [~~decontrol~~] **deregulation** by the division, housing accommodations which: (1) are occupied by persons who have a total annual income**, as defined in and subject to the limitations and process set forth in section two-a of this law,** in excess of [~~one hundred seventy-five thousand dollars in each of the two preceding calendar years, as defined in and subject to the limitations and process set forth in section two-a of this law~~] **the deregulation income threshold as defined in section two-a of this law in each of the two preceding calendar years**; and (2) have a maximum rent [~~of two thousand dollars or more per month~~] **that equals or exceeds the deregulation rent threshold as defined in section two-a of this law**.

§ 32. Section 2-a of chapter 274 of the laws of 1946, constituting the emergency housing rent control law, as added by chapter 253 of the laws of 1993, subdivision (b) and paragraphs 1 and 2 of subdivision (c) as amended and subdivision (e) as added by chapter 116 of the laws of 1997, is amended to read as follows:

§ 2-a. (a) **1.** For purposes of this section, annual income shall mean the federal adjusted gross income as reported on the New York state income tax return. Total annual income means the sum of the annual incomes of all persons who occupy the housing accommodation as their primary residence on other than a temporary basis, excluding bona fide employees of such occupants residing therein in connection with such employment and excluding bona fide subtenants in occupancy pursuant to the provisions of section two hundred twenty-six-b of the real property law. In the case where a housing accommodation is sublet, the annual income of the sublessor shall be considered.

2. Deregulation income threshold means total annual income equal to one hundred seventy-five thousand dollars in each of the two preceding calendar years for proceedings commenced before July first, two thousand eleven. For proceedings commenced on or after July first, two thousand eleven, the deregulation income threshold means the total annual income equal to two hundred thousand dollars in each of the two preceding calendar years.

3. Deregulation rent threshold means two thousand dollars for proceedings commenced prior to July first, two thousand eleven. For proceedings commenced on or after July first, two thousand eleven, the deregulation rent threshold means two thousand five hundred dollars.

(b) On or before the first day of May in each calendar year, the owner of each housing accommodation for which the maximum **monthly** rent [~~is two thousand dollars or more per month~~] **equals or exceeds the deregulation rent threshold** may provide the tenant or tenants residing therein with an income certification form prepared by the division of housing and community renewal on which such tenant or tenants shall identify all persons referred to in subdivision (a) of this section and shall certify whether the total annual income is in excess of [~~one hundred seventy-five thousand dollars in each of the two preceding calendar years~~] **the deregulation income threshold in each of the two preceding calendar years**. Such income certification form shall state that the income level certified to by the tenant may be subject to verification by the department of taxation and finance pursuant to section one hundred seventy-

one-b of the tax law and shall not require disclosure of any income information other than whether the aforementioned threshold has been exceeded. Such income certification form shall clearly state that: (i) only tenants residing in housing accommodations which had a maximum **monthly** rent **equal to or in excess** of [~~two thousand dollars or more per month~~] **the deregulation rent threshold** are required to complete the certification form; (ii) that tenants have protections available to them which are designed to prevent harassment; (iii) that tenants are not required to provide any information regarding their income except that which is requested on the form and may contain such other information the division deems appropriate. The tenant or tenants shall return the completed certification to the owner within thirty days after service upon the tenant or tenants. In the event that the total annual income as certified is in excess of [~~one hundred seventy-five thousand dollars in each such year~~] **the deregulation income threshold in each of the two preceding calendar years**, the owner may file the certification with the state division of housing and community renewal on or before June thirtieth of such year. Upon filing such certification with the division, the division shall, within thirty days after the filing, issue an order of [~~decontrol~~] **deregulation** providing that such housing accommodations shall not be subject to the provisions of this law as of the first day of June in the year next succeeding the filing of the certification by the owner. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be mailed to the owner.

(c) 1. In the event that the tenant or tenants either fail to return the completed certification to the owner on or before the date required by subdivision (b) of this section or the owner disputes the certification returned by the tenant or tenants, the owner may, on or before June thirtieth of such year, petition the state division of housing and community renewal to verify, pursuant to section one hundred seventy-one-b of the tax law, whether the total annual income exceeds [~~one hundred seventy-five thousand dollars in each of the two preceding calendar years~~] **the deregulation income threshold in each of the two preceding calendar years**. Within twenty days after the filing of such request with the division, the division shall notify the tenant or tenants that such tenant or tenants must provide the division with such information as the division and the department of taxation and finance shall require to verify whether the total annual income exceeds [~~one hundred seventy-five thousand dollars in each such year~~] **the deregulation income threshold in each of the two preceding calendar years**. The division's notification shall require the tenant or tenants to provide the information to the division within sixty days of service upon such tenant or tenants and shall include a warning in bold faced type that failure to respond will result in an order of [~~decontrol~~] **deregulation** being issued by the division for such housing accommodation.

2. If the department of taxation and finance determines that the total annual income is in excess of [~~one hundred seventy-five thousand dollars in each of the two preceding calendar years~~] **the deregulation income threshold in each of the two preceding calendar years**, the division shall, on or before November fifteenth of such year, notify the owner and tenants of the results of such verification. Both the owner and the tenants shall have thirty days within which to comment on such verification results. Within forty-five days after the expiration of the comment period, the division shall, where appropriate, issue an order of

[~~decontrol~~] **deregulation** providing that such housing accommodation shall not be subject to the provisions of this law as of the first day of March in the year next succeeding the filing of the owner's petition with the division. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be sent to the owner.

3. In the event the tenant or tenants fail to provide the information required pursuant to paragraph one of this subdivision, the division shall issue, on or before December first of such year, an order of [~~decontrol~~] **deregulation** providing that such housing accommodation shall not be subject to the provisions of this law as of the first day of March in the year next succeeding the last day on which the tenant or tenants were required to provide the information required by such paragraph. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be sent to the owner.

4. The provisions of the state freedom of information act shall not apply to any income information obtained by the division pursuant to this section.

(d) This section shall apply only to paragraph (m) of subdivision two of section two of this law.

(e) Upon receipt of such order of [~~decontrol~~] **deregulation** pursuant to this section, an owner shall offer the housing accommodation subject to such order to the tenant at a rent not in excess of the market rent, which for the purposes of this section means a rent obtainable in an arm's length transaction. Such rental offer shall be made by the owner in writing to the tenant by certified and regular mail and shall inform the tenant that such offer must be accepted in writing within ten days of receipt. The tenant shall respond within ten days after receipt of such offer. If the tenant declines the offer or fails to respond within such period, the owner may commence an action or proceeding for the eviction of such tenant.

§ 33. Subparagraph (j) of paragraph 2 of subdivision e of section 26-403 of the administrative code of the city of New York, as amended by chapter 116 of the laws of 1997, is amended to read as follows:

(j) Upon the issuance of an order of [~~decontrol~~] **deregulation** by the division, housing accommodations which: (1) are occupied by persons who have a total annual income**, as defined in and subject to the limitations and process set forth in section 26-403.1 of this chapter,** in excess of [~~one hundred seventy-five thousand dollars per annum~~] **the deregulation income threshold, as defined in section 26-403.1 of this chapter,** in each of the two preceding calendar years[~~, as defined in and subject to the limitations and process set forth in section 26-403.1 of this chapter~~]; and (2) have a maximum rent [~~of two thousand dollars or more per month~~] **that equals or exceeds the deregulation rent threshold, as defined in section 26-403.1 of this chapter**. Provided however, that this exclusion shall not apply to housing accommodations which became or become subject to this law by virtue of receiving tax benefits pursuant to section four hundred eighty-nine of the real property tax law.

§ 34. Section 26-403.1 of the administrative code of the city of New York, as added by chapter 253 of the laws of 1993, subdivision (b) and paragraphs 1 and 2 of subdivision (c) as amended and subdivision (e) as added by chapter 116 of the laws of 1997, is amended to read as follows:

§ 26-403.1 High income rent [~~decontrol~~] **deregulation**. (a) **1.** For purposes of this section, annual income shall mean the federal adjusted gross income as reported on the New York state income tax return. Total

annual income means the sum of the annual incomes of all persons who occupy the housing accommodation as their primary residence other than on a temporary basis, excluding bona fide employees of such occupants residing therein in connection with such employment and excluding bona fide subtenants in occupancy pursuant to the provisions of section two hundred twenty-six-b of the real property law. In the case where a housing accommodation is sublet, the annual income of the sublessor shall be considered.

2. Deregulation income threshold means total annual income equal to one hundred seventy-five thousand dollars in each of the two preceding calendar years for proceedings commenced prior to July first, two thousand eleven. For proceedings commenced on or after July first, two thousand eleven, the deregulation income threshold means the total annual income equal to two hundred thousand dollars in each of the two preceding calendar years.

3. Deregulation rent threshold means two thousand dollars for proceedings commenced before July first, two thousand eleven. For proceedings commenced on or after July first, two thousand eleven, the deregulation rent threshold means two thousand five hundred dollars.

(b) On or before the first day of May in each calendar year, the owner of each housing accommodation for which the maximum rent [~~is two thousand dollars or more per month~~] **equals or exceeds the deregulation rent threshold** may provide the tenant or tenants residing therein with an income certification form prepared by the division of housing and community renewal on which such tenant or tenants shall identify all persons referred to in subdivision (a) of this section and shall certify whether the total annual income is in excess of [~~one hundred seventy-five thousand dollars in each of the two preceding calendar years~~] **the deregulation income threshold in each of the two preceding calendar years**. Such income certification form shall state that the income level certified to by the tenant may be subject to verification by the department of taxation and finance pursuant to section one hundred seventy-one-b of the tax law and shall not require disclosure of any income information other than whether the aforementioned threshold has been exceeded. Such income certification form shall clearly state that: (i) only tenants residing in housing accommodations which have a maximum **monthly** rent [~~of two thousand dollars or more per month~~] **that equals or exceeds the deregulation rent threshold** are required to complete the certification form; (ii) that tenants have protections available to them which are designed to prevent harassment; (iii) that tenants are not required to provide any information regarding their income except that which is requested on the form and may contain such other information the division deems appropriate. The tenant or tenants shall return the completed certification to the owner within thirty days after service upon the tenant or tenants. In the event that the total annual income as certified is in excess of [~~one hundred seventy-five thousand dollars in each such year~~] **the deregulation income threshold in each of the two preceding calendar years**, the owner may file the certification with the state division of housing and community renewal on or before June thirtieth of such year. Upon filing such certification with the division, the division shall, within thirty days after the filing, issue an order of [~~decontrol~~] **deregulation** providing that such housing accommodations shall not be subject to the provisions of this law as of the first day of June in the year next succeeding the filing of the certification by the owner. A copy of such order shall be mailed by regular and certified

mail, return receipt requested, to the tenant or tenants and a copy thereof shall be mailed to the owner.

(c) 1. In the event that the tenant or tenants either fail to return the completed certification to the owner on or before the date required by subdivision (b) of this section or the owner disputes the certification returned by the tenant or tenants, the owner may, on or before June thirtieth of such year, petition the state division of housing and community renewal to verify, pursuant to section one hundred seventy-one-b of the tax law, whether the total annual income exceeds [~~one hundred seventy-five thousand dollars in each of the two preceding calendar years~~] **the deregulation income threshold in each of the two preceding calendar years**. Within twenty days after the filing of such request with the division, the division shall notify the tenant or tenants that such tenant or tenants must provide the division with such information as the division and the department of taxation and finance shall require to verify whether the total annual income exceeds [~~one hundred seventy-five thousand dollars in each such year~~] **the deregulation income threshold in each of the two preceding calendar years**. The division's notification shall require the tenant or tenants to provide the information to the division within sixty days of service upon such tenant or tenants and shall include a warning in bold faced type that failure to respond will result in an order of [~~decontrol~~] **deregulation** being issued by the division for such housing accommodation.

2. If the department of taxation and finance determines that the total annual income is in excess of [~~one hundred seventy-five thousand dollars in each of the two preceding calendar years~~] **the deregulation income threshold in each of the two preceding calendar years**, the division shall, on or before November fifteenth of such year, notify the owner and tenants of the results of such verification. Both the owner and the tenants shall have thirty days within which to comment on such verification results. Within forty-five days after the expiration of the comment period, the division shall, where appropriate, issue an order of [~~decontrol~~] **deregulation** providing that such housing accommodation shall not be subject to the provisions of this law as of the first day of March in the year next succeeding the filing of the owner's petition with the division. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be sent to the owner.

3. In the event the tenant or tenants fail to provide the information required pursuant to paragraph one of this subdivision, the division shall issue, on or before December first of such year, an order of [~~decontrol~~] **deregulation** providing that such housing accommodation shall not be subject to the provisions of this law as of the first day of March in the year next succeeding the last day on which the tenant or tenants were required to provide the information required by such paragraph. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be sent to the owner.

4. The provisions of the state freedom of information act shall not apply to any income information obtained by the division pursuant to this section.

(d) This section shall apply only to subparagraph (j) of paragraph two of subdivision e of section 26-403 of this [~~code~~] **chapter**.

(e) Upon receipt of such order of [~~decontrol~~] **deregulation** pursuant to this section, an owner shall offer the housing accommodation subject to

such order to the tenant at a rent not in excess of the market rent, which for the purposes of this section means a rent obtainable in an arm's length transaction. Such rental offer shall be made by the owner in writing to the tenant by certified and regular mail and shall inform the tenant that such offer must be accepted in writing within ten days of receipt. The tenant shall respond within ten days after receipt of such offer. If the tenant declines the offer or fails to respond within such period, the owner may commence an action or proceeding for the eviction of such tenant.

§ 35. Section 26-504.1 of the administrative code of the city of New York, as amended by chapter 116 of the laws of 1997, is amended to read as follows:

§ 26-504.1 Exclusion of accommodations of high income renters. Upon the issuance of an order by the division, "housing accommodations" shall not include housing accommodations which: (1) are occupied by persons who have a total annual income**, as defined in and subject to the limitations and process set forth in section 26-504.3 of this chapter,** in excess of [~~**one hundred seventy-five thousand dollars per annum**~~] **the deregulation income threshold, as defined in section 26-504.3 of this chapter,** for each of the two preceding calendar years[~~**, as defined in and subject to the limitations and process set forth in section 26-504.3 of this chapter**~~]; and (2) have a legal regulated **monthly** rent [~~**of two thousand dollars or more per month**~~] **that equals or exceeds the deregulation rent threshold, as defined in section 26-504.3 of this chapter**. Provided, however, that this exclusion shall not apply to housing accommodations which became or become subject to this law (a) by virtue of receiving tax benefits pursuant to section four hundred twenty-one-a or four hundred eighty-nine of the real property tax law, except as otherwise provided in subparagraph (i) of paragraph (f) of subdivision two of section four hundred twenty-one-a of the real property tax law, or (b) by virtue of article seven-C of the multiple dwelling law.

§ 36. Section 26-504.3 of the administrative code of the city of New York, as added by chapter 253 of the laws of 1993, subdivision (b) and paragraphs 1 and 2 of subdivision (c) as amended and subdivision (e) as added by chapter 116 of the laws of 1997, is amended to read as follows:

§ 26-504.3 High income rent [~~**decontrol**~~] **deregulation**. (a) **1.** For purposes of this section, annual income shall mean the federal adjusted gross income as reported on the New York state income tax return. Total annual income means the sum of the annual incomes of all persons whose names are recited as the tenant or co-tenant on a lease who occupy the housing accommodation and all other persons that occupy the housing accommodation as their primary residence on other than a temporary basis, excluding bona fide employees of such occupants residing therein in connection with such employment and excluding bona fide subtenants in occupancy pursuant to the provisions of section two hundred twenty-six-b of the real property law. In the case where a housing accommodation is sublet, the annual income of the tenant or co-tenant recited on the lease who will reoccupy the housing accommodation upon the expiration of the sublease shall be considered.

2. Deregulation income threshold means total annual income equal to one hundred seventy-five thousand dollars in each of the two preceding calendar years for proceedings commenced before July first, two thousand eleven. For proceedings commenced on or after July first, two thousand eleven, the deregulation income threshold means the total annual income equal to two hundred thousand dollars in each of the two preceding calendar years.

3. Deregulation rent threshold means two thousand dollars for proceedings commenced before July first, two thousand eleven. For proceedings commenced on or after July first, two thousand eleven, the deregulation rent threshold means two thousand five hundred dollars.

(b) On or before the first day of May in each calendar year, the owner of each housing accommodation for which the legal regulated rent [~~is two thousand dollars or more per month~~] **equals or exceeds the deregulation rent threshold** may provide the tenant or tenants residing therein with an income certification form prepared by the division of housing and community renewal on which such tenant or tenants shall identify all persons referred to in subdivision (a) of this section and shall certify whether the total annual income is in excess of [~~one hundred seventy-five thousand dollars in each of the two preceding calendar years~~] **the deregulation income threshold in each of the two preceding calendar years**. Such income certification form shall state that the income level certified to by the tenant may be subject to verification by the department of taxation and finance pursuant to section one hundred seventy-one-b of the tax law and shall not require disclosure of any income information other than whether the aforementioned threshold has been exceeded. Such income certification form shall clearly state that: (i) only tenants residing in housing accommodations which have a legal regulated **monthly** rent [~~of two thousand dollars or more per month~~]**, that equals or exceeds the deregulation rent threshold** are required to complete the certification form; (ii) that tenants have protections available to them which are designed to prevent harassment; (iii) that tenants are not required to provide any information regarding their income except that which is requested on the form and may contain such other information the division deems appropriate. The tenant or tenants shall return the completed certification to the owner within thirty days after service upon the tenant or tenants. In the event that the total annual income as certified is in excess of [~~one hundred seventy-five thousand dollars in each such year~~] **the deregulation income threshold in each of the two preceding calendar years**, the owner may file the certification with the state division of housing and community renewal on or before June thirtieth of such year. Upon filing such certification with the division, the division shall, within thirty days after the filing, issue an order providing that such housing accommodation shall not be subject to the provisions of this act upon the expiration of the existing lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be mailed to the owner.

(c) 1. In the event that the tenant or tenants either fail to return the completed certification to the owner on or before the date required by subdivision (b) of this section or the owner disputes the certification returned by the tenant or tenants, the owner may, on or before June thirtieth of such year, petition the state division of housing and community renewal to verify, pursuant to section one hundred seventy-one-b of the tax law, whether the total annual income exceeds [~~one hundred seventy-five thousand dollars in each of the two preceding calendar years~~] **the deregulation income threshold in each of the two preceding calendar years**. Within twenty days after the filing of such request with the division, the division shall notify the tenant or tenants named on the lease that such tenant or tenants must provide the division with such information as the division and the department of taxation and finance shall require to verify whether the total annual income exceeds [~~one hundred seventy-five thousand dollars in each such~~

~~year~~] **the deregulation income threshold in each of the two preceding calendar years**. The division's notification shall require the tenant or tenants to provide the information to the division within sixty days of service upon such tenant or tenants and shall include a warning in bold faced type that failure to respond will result in an order being issued by the division providing that such housing accommodation shall not be subject to the provisions of this law.

2. If the department of taxation and finance determines that the total annual income is in excess of [~~one hundred seventy-five thousand dollars in each of the two preceding calendar years~~] **the deregulation income threshold in each of the two preceding calendar years**, the division shall, on or before November fifteenth of such year, notify the owner and tenants of the results of such verification. Both the owner and the tenants shall have thirty days within which to comment on such verification results. Within forty-five days after the expiration of the comment period, the division shall, where appropriate, issue an order providing that such housing accommodation shall not be subject to the provisions of this law upon the expiration of the existing lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be sent to the owner.

3. In the event the tenant or tenants fail to provide the information required pursuant to paragraph one of this subdivision, the division shall issue, on or before December first of such year, an order providing that such housing accommodation shall not be subject to the provisions of this law upon the expiration of the current lease. A copy of such order shall be mailed by regular and certified mail, return receipt requested, to the tenant or tenants and a copy thereof shall be sent to the owner.

4. The provisions of the state freedom of information act shall not apply to any income information obtained by the division pursuant to this section.

(d) This section shall apply only to section 26-504.1 of this [~~code~~] **chapter**.

(e) Upon receipt of such order of [~~decontrol~~] **deregulation** pursuant to this section, an owner shall offer the housing accommodation subject to such order to the tenant at a rent not in excess of the market rent, which for the purposes of this section means a rent obtainable in an arm's length transaction. Such rental offer shall be made by the owner in writing to the tenant by certified and regular mail and shall inform the tenant that such offer must be accepted in writing within ten days of receipt. The tenant shall respond within ten days after receipt of such offer. If the tenant declines the offer or fails to respond within such period, the owner may commence an action or proceeding for the eviction of such tenant.

§ 37. Paragraph (b) of subdivision 3 of section 171-b of the tax law, as amended by chapter 116 of the laws of 1997, is amended to read as follows:

(b) The department, when requested by the division of housing and community renewal, shall verify the total annual income of all persons residing in housing accommodations as their primary residence subject to rent regulation and shall notify the commissioner of the division of housing and community renewal as may be appropriate whether the total annual income exceeds [~~one hundred seventy-five thousand dollars per annum in each of the two preceding calendar years~~] **the applicable deregulation income threshold in each of the two preceding calendar years**.

No other information regarding the annual income of such persons shall be provided.

§ 38. Subparagraph (i) of paragraph (a) of subdivision 2 of section 421-a of the real property tax law, as amended by chapter 288 of the laws of 1985, is amended to read as follows:

(i) Within a city having a population of one million or more, new multiple dwellings, except hotels, shall be exempt from taxation for local purposes, other than assessments for local improvements, for the tax year or years immediately following taxable status dates occurring subsequent to the commencement and prior to the completion of construction, but not to exceed three such tax years**, except for new multiple dwellings the construction of which commenced between January first, two thousand seven, and June thirtieth, two thousand nine, shall have an additional thirty-six months to complete construction and shall be eligible for full exemption from taxation for the first three years of the period of construction; any eligible project that seeks to utilize the six-year period of construction authorized by this section must apply for a preliminary certificate of eligibility within one year of the effective date of the rent act of 2011, provided, however that such multiple dwellings shall be eligible for a maximum of three years of benefits during the construction period**, and shall continue to be exempt from such taxation in tax years immediately following the taxable status date first occurring after the expiration of the exemption herein conferred during construction so long as used at the completion of construction for dwelling purposes for a period not to exceed ten years in the aggregate after the taxable status date immediately following the completion thereof, as follows:

(A) except as otherwise provided herein there shall be full exemption from taxation during the period of construction or the period of three years immediately following commencement of construction, whichever expires sooner, **except for new multiple dwellings the construction of which commenced between January first, two thousand seven, and June thirtieth, two thousand nine, shall have an additional thirty-six months to complete construction and shall be eligible for full exemption from taxation for the first three years of the period of construction; any eligible project that seeks to utilize the six-year period of construction authorized by this section must apply for a preliminary certificate of eligibility within one year of the effective date of the rent act of 2011, provided, however that such multiple dwellings shall be eligible for a maximum of three years of benefits during the construction period,** and for two years following such period;

(B) followed by two years of exemption from eighty per cent of such taxation;

(C) followed by two years of exemption from sixty per cent of such taxation;

(D) followed by two years of exemption from forty per cent of such taxation;

(E) followed by two years of exemption from twenty per cent of such taxation;

The following table shall illustrate the computation of the tax exemption:

CONSTRUCTION OF CERTAIN MULTIPLE DWELLINGS

	Exemption
During Construction (maximum three years);	100%

except construction commenced between January first, two thousand seven and June thirtieth, two thousand nine (maximum three years)

Following completion of work Year:	
1	100%
2	100
3	80
4	80
5	60
6	60
7	40
8	40
9	20
10	20

§ 39. Clause (A) of subparagraph (ii) of paragraph (a) of subdivision 2 of section 421-a of the real property tax law, as amended by chapter 288 of the laws of 1985, is amended to read as follows:

(A) Within a city having a population of one million or more the local housing agency may adopt rules and regulations providing that except in areas excluded by local law new multiple dwellings, except hotels, shall be exempt from taxation for local purposes, other than assessments for local improvements, for the tax year or years immediately following taxable status dates occurring subsequent to the commencement and prior to the completion of construction, but not to exceed three such tax years, **except for new multiple dwellings the construction of which commenced between January first, two thousand seven, and June thirtieth, two thousand nine, shall have an additional thirty-six months to complete construction and shall be eligible for full exemption from taxation for the first three years of the period of construction; any eligible project that seeks to utilize the six-year period of construction authorized by this section must apply for a preliminary certificate of eligibility within one year of the effective date of the rent act of 2011, provided, however that such multiple dwellings shall be eligible for a maximum of three years of benefits during the construction period,** and shall continue to be exempt from such taxation in tax years immediately following the taxable status date first occurring after the expiration of the exemption herein conferred during such construction so long as used at the completion of construction for dwelling purposes for a period not to exceed fifteen years in the aggregate, as follows:

a. except as otherwise provided herein there shall be full exemption from taxation during the period of construction or the period of three years immediately following commencement of construction, whichever expires sooner, **except for new multiple dwellings the construction of which commenced between January first, two thousand seven, and June thirtieth, two thousand nine, shall have an additional thirty-six months to complete construction and shall be eligible for full exemption from taxation for the first three years of the period of construction; any eligible project that seeks to utilize the six-year period of construction authorized by this section must apply for a preliminary certificate of eligibility within one year of the effective date of the rent act of 2011, provided, however that such multiple dwellings shall**

be eligible for a maximum of three years of benefits during the construction period, and for eleven years following such period;

b. followed by one year of exemption from eighty percent of such taxation;

c. followed by one year of exemption from sixty percent of such taxation;

d. followed by one year of exemption from forty percent of such taxation;

e. followed by one year of exemption from twenty percent of such taxation.

§ 40. Clause (A) of subparagraph (iii) of paragraph (a) of subdivision 2 of section 421-a of the real property tax law, as amended by chapter 702 of the laws of 1992, is amended to read as follows:

(A) Within a city having a population of one million or more the local housing agency may adopt rules and regulations providing that new multiple dwellings, except hotels, shall be exempt from taxation for local purposes, other than assessments for local improvements, for the tax year or years immediately following taxable status dates occurring subsequent to the commencement and prior to the completion of construction, but not to exceed three such tax years, **except for new multiple dwellings the construction of which commenced between January first, two thousand seven, and June thirtieth, two thousand nine, shall have an additional thirty-six months to complete construction and shall be eligible for full exemption from taxation for the first three years of the period of construction; any eligible project that seeks to utilize the six-year period of construction authorized by this section must apply for a preliminary certificate of eligibility within one year of the effective date of the rent act of 2011, provided, however that such multiple dwellings shall be eligible for a maximum of three years of benefits during the construction period,** and shall continue to be exempt from such taxation in tax years immediately following the taxable status date first occurring after the expiration of the exemption herein conferred during such construction so long as used at the completion of construction for dwelling purposes for a period not to exceed twenty-five years in the aggregate, provided that the area in which the project is situated is a neighborhood preservation program area as determined by the local housing agency as of June first, nineteen hundred eighty-five, or is a neighborhood preservation area as determined by the New York city planning commission as of June first, nineteen hundred eighty-five, or is an area that was eligible for mortgage insurance provided by the rehabilitation mortgage insurance corporation as of May first, nineteen hundred ninety-two or is an area receiving funding for a neighborhood preservation project pursuant to the neighborhood reinvestment corporation act (42 U.S.C. §§180 et seq.) as of June first, nineteen hundred eighty-five, as follows:

a. except as otherwise provided herein there shall be full exemption from taxation during the period of construction or the period of three years immediately following commencement of construction, whichever expires sooner, **except for new multiple dwellings the construction of which commenced between January first, two thousand seven, and June thirtieth, two thousand nine, shall have an additional thirty-six months to complete construction and shall be eligible for full exemption from taxation for the first three years of the period of construction; any eligible project that seeks to utilize the six-year period of construction authorized by this section must apply for a preliminary certificate of eligibility within one year of the effective date of the**

rent act of 2011, provided, however that such multiple dwellings shall be eligible for a maximum of three years of benefits during the construction period, and for twenty-one years following such period;

b. followed by one year of exemption from eighty percent of such taxation;

c. followed by one year of exemption from sixty percent of such taxation;

d. followed by one year of exemption from forty percent of such taxation;

e. followed by one year of exemption from twenty percent of such taxation.

§ 41. The opening paragraph of clause (A) of subparagraph (iv) of paragraph (a) of subdivision 2 of section 421-a of the real property tax law, as amended by chapter 618 of the laws of 2007, is amended to read as follows:

Unless excluded by local law, in the city of New York, the benefits of this subparagraph shall be available in the borough of Manhattan for new multiple dwellings on tax lots now existing or hereafter created south of or adjacent to either side of one hundred tenth street [~~which~~] **that** commence construction after July first, nineteen hundred ninety-two and before [~~December twenty-eighth~~] **June fifteenth**, two thousand [~~ten~~] **fifteen** only if:

§ 42. Subparagraph (ii) of paragraph (c) of subdivision 2 of section 421-a of the real property tax law, as amended by chapter 618 of the laws of 2007, is amended to read as follows:

(ii) construction is commenced after January first, nineteen hundred seventy-five and before [~~December twenty-eighth~~] **June fifteenth**, two thousand [~~ten~~] **fifteen** provided, however, that such commencement period shall not apply to multiple dwellings eligible for benefits under subparagraph (iv) of paragraph (a) of this subdivision;

§ 43. The real property tax law is amended by adding a new section 421-m to read as follows:

§ 421-m. Exemption of certain new or substantially rehabilitated multiple dwellings from local taxation. 1. (a) A city, town or village may, by local law, provide for the exemption of multiple dwellings constructed or substantially rehabilitated in a benefit area designated in such local law from taxation and special ad valorem levies, but not special assessments, as provided in this section. Subsequent to the adoption of such a local law, any other municipal corporation in which the designated benefit area is located may likewise exempt such property from its taxation and special ad valorem levies by local law, or in the case of a school district, by resolution.

(b) As used in this section, the term "benefit area" means the area within a city, town or village, designated by local law, to which an exemption, established pursuant to this section, applies.

(c) The term "substantial rehabilitation" means all work necessary to bring a property into compliance with all applicable laws and regulations including but not limited to the installation, replacement or repair of heating, plumbing, electrical and related systems and the elimination of all hazardous and immediately hazardous violations in the structure in accordance with state and local laws and regulations of state and local agencies. Substantial rehabilitation may also include reconstruction or work to improve the habitability or prolong the useful life of the property; provided substantial rehabilitation shall not include ordinary maintenance or repair.

(d) The term "multiple dwelling" means a dwelling, other than a hotel, which is to be occupied or is occupied as the residence or home of three or more families living independently of one another, whether such dwelling is rented or owned as a cooperative or condominium.

2. (a) Eligible new or substantially rehabilitated multiple dwellings in a designated benefit area shall be exempt according to the following schedule:

CONSTRUCTION OR SUBSTANTIAL REHABILITATION OF CERTAIN MULTIPLE DWELLINGS

During construction or substantial rehabilitation (maximum three years)	Exemption 100%
Following completion of work year:	
1 through 12	100%
13-14	80%
15-16	60%
17-18	40%
19-20	20%

(b) Provided that taxes shall be paid during any such period at least in the amount of the taxes paid on such land and any improvements thereon during the tax year preceding the commencement of such exemption. Provided further that no other exemption may be granted concurrently to the same improvements under any other section of law.

3. To be eligible for exemption under this section:

(a) Such construction or substantial rehabilitation shall take place on vacant, predominantly vacant or under-utilized land, or on land improved with a non-conforming use or on land containing one or more substandard or structurally unsound dwellings, or a dwelling that has been certified as unsanitary by the local health agency.

(b) Such construction or substantial rehabilitation was commenced on or after the effective date of the local law, ordinance or resolution described in subdivision one of this section, but no later than June fifteenth, two thousand fifteen.

(c) At least twenty percent of the units shall be affordable to individuals or families of low and moderate income whose incomes at the time of initial occupancy do not exceed ninety percent of the area median income adjusted for family size and the individual or family shall pay in rent or monthly carrying charges no more than thirty percent of their adjusted gross income as reported in their federal income tax return, or would be reported if such return were required, less such personal exemptions and deductions and medical expenses as are actually taken by the taxpayer, as verified according to procedures established by the state division of housing and community renewal. Such procedures shall be published through notice in the state register without further action required for the promulgation of regulations pursuant to the state administrative procedure act.

(d) Such construction or substantial rehabilitation is carried out with the assistance of grants, loans or subsidies for the construction or substantial rehabilitation of affordable housing from any federal, state or local agency or instrumentality thereof.

4. Application for exemption under this section shall be made on a form prescribed by the commissioner and filed with the assessor on or before the applicable taxable status date.

5. In the case of property which is used partially as a multiple dwelling and partially for commercial or other purposes, the property shall be eligible for the exemption authorized by this section if:

(a) The square footage of the portion used as a multiple dwelling represents at least fifty percent of the square footage of the entire property;

(b) At least twenty percent of the units are affordable to individuals or families of low and moderate income, as determined according to the criteria set forth in paragraph (c) of subdivision three of this section; and

(c) The requirements of this section are otherwise satisfied with respect to the portion of the property used as a multiple dwelling.

6. The exemption authorized by this section shall not be available in a jurisdiction to which the provisions of section four hundred twenty-one-a or four hundred twenty-one-c of this article are applicable.

7. A city, town or village providing an exemption pursuant to the authority of this section shall develop an income monitoring and compliance plan to meet the criteria of paragraph (c) of subdivision three of this section and such plan shall be reviewed, evaluated and approved by the state division of housing and community renewal as a condition of providing such exemption. Such plan shall include an annual certification that the multiple dwelling receiving an exemption meets the requirements of this section. Such certification shall be provided to the assessor and the state division of housing and community renewal. If such requirements are not met, then the multiple dwelling shall not qualify for the exemption in that year.

§ 44. The division of housing and community renewal shall, pursuant to this act, promulgate rules and regulations to implement and enforce all provisions of this act and any law renewed or continued by this act.

§ 45. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 46. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after June 24, 2011; provided, however, that:

(a) the amendments to chapter 4 of title 26 of the administrative code of the city of New York made by sections seven, twelve, fourteen, sixteen, thirty-five and thirty-six of this act shall expire on the same date as such chapter expires and shall not affect the expiration of such chapter as provided under section 26-520 of such law;

(b) the amendments to section 4 of chapter 576 of the laws of 1974 constituting the emergency tenant protection act of nineteen seventy-four made by sections eight, ten, thirteen, eighteen, twenty-nine and thirty of this act shall expire on the same date as such act expires and shall not affect the expiration of such act as provided in section 17 of chapter 576 of the laws of 1974;

(c) the amendments to section 2 of the emergency housing rent control law made by sections nine, twenty-five, thirty-one and thirty-two of this act shall expire on the same date as such law expires and shall not affect the expiration of such law as provided in subdivision 2 of section 1 of chapter 274 of the laws of 1946;

(d) the amendments to chapter 3 of title 26 of the administrative code of the city of New York made by sections eleven, fifteen, thirty-three

and thirty-four of this act shall remain in full force and effect only as long as the public emergency requiring the regulation and control of residential rents and evictions continues, as provided in subdivision 3 of section 1 of the local emergency housing rent control act;

(e) the amendments to section 421-a of the real property tax law made by sections thirty-eight, thirty-nine, forty, forty-one and forty-two of this act shall be deemed to have been in full force and effect as of December 28, 2010; and

(f) the amendments made by sections thirty through thirty-seven of this act shall not be grounds for dismissal of any owner application for deregulation where a notice or application for such deregulation, that is filed or served between May 1, 2011 through July 1, 2011, used the income and rent deregulation thresholds in effect prior to the effective date of such sections. Any tenant failure to respond to such notice or application because of the use of such income or deregulation thresholds shall constitute grounds to afford such tenant an additional opportunity to respond.

PART C

Section 1. This act enacts into law major components of legislation relating to mandate relief. Each component is wholly contained within a Subpart identified as Subparts A through H. The effective date for each particular provision contained within such Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Subpart in which it is found. Section three of this act sets forth the general effective date of this act.

SUBPART A

Section 1. Subdivisions 3 and 5 of section 97-g of the state finance law, subdivision 3 as amended by section 45 of part K of chapter 81 of the laws of 2002 and subdivision 5 as added by chapter 710 of the laws of 1964, are amended to read as follows:

3. Moneys of the fund shall be available to the commissioner of general services for the purchase of food, supplies and equipment for [~~state institutions and other~~] state agencies, and for the purpose of furnishing or providing centralized services to or for [~~state institutions and other~~] state agencies**; provided further that such moneys shall be available to the commissioner of general services for purposes pursuant to items (d) and (f) of subdivision four of this section to or for political subdivisions**. Beginning the first day of April, two thousand two, moneys in such fund shall also be transferred by the state comptroller to the revenue bond tax fund account of the general debt service fund in amounts equal to those required for payments to authorized issuers for revenue bonds issued pursuant to article five-C of this chapter for the purpose of lease purchases and installment purchases by or for state agencies and institutions for personal or real property purposes.

5. The amount expended from such fund for the above-stated purposes shall be charged against the [~~state institution or~~] agency **or political subdivisions above** receiving such food, supplies, equipment and services and all payments received therefor shall be credited to such fund.

§ 2. Subdivision 4 of section 97-g of the state finance law, as amended by chapter 410 of the laws of 2009, is amended to read as follows:

4. The term "centralized services" as used in this section shall mean and include only (a) communications services, (b) mail, messenger and reproduction services, (c) computer services, (d) fuels, including natural gas, hydrogen, biofuels and gasoline, and automotive services, (e) renovation and maintenance services, (f) purchases of electricity, renewable energy, renewable energy credits or attributes from the power authority of the state of New York and, in consultation with the power authority of the state of New York, from other suppliers, (g) real property management services, (h) building design and construction services, (i) parking services, (j) distribution of United States department of agriculture donated foods to eligible recipients, pursuant to all applicable statutes and regulations, (k) distribution of federal surplus property donations to all eligible recipients, pursuant to applicable statutes and regulations, and (l) payments and related services for lease purchases and installment purchases by or for state agencies and institutions for personal property purposes financed through the issuance of certificates of participation. The services defined in items (a) through **(c), (e), (g) and** (h) of this subdivision shall be provided to state agencies and institutions only.

§ 3. Intentionally omitted

§ 4. Section 103 of the general municipal law is amended by adding a new subdivision 1-b to read as follows:

1-b. A political subdivision or any district therein shall have the option of purchasing information technology and telecommunications hardware, software and professional services through cooperative purchasing permissible pursuant to federal general services administration information technology schedule seventy or any successor schedule. A political subdivision or any district therein that purchases through general services administration schedule seventy, information technology and consolidated schedule contracts shall comply with federal schedule ordering procedures as provided in federal acquisition regulation 8.405-1 or 8.405-2 or successor regulations, whichever is applicable. Adherence to such procedures shall constitute compliance with the competitive bidding requirements under this section.

§ 5. Subdivision 3 of section 103 of the general municipal law, as amended by chapter 343 of the laws of 2007, is amended to read as follows:

3. Notwithstanding the provisions of subdivision one of this section, any officer, board or agency of a political subdivision or of any district therein authorized to make purchases of materials, equipment or supplies, or to contract for services, may make such purchases, or may contract for services, other than services subject to article [~~eight or~~] nine of the labor law, when available, through the county in which the political subdivision or district is located or through any county within the state subject to the rules established pursuant to subdivision two of section four hundred eight-a of the county law; provided that the political subdivision or district for which such officer, board or agency acts shall accept sole responsibility for any payment due the vendor or contractor. All purchases and all contracts for such services shall be subject to audit and inspection by the political subdivision or district for which made. Prior to making such purchases or contracts the officer, board or agency shall consider whether such contracts will result in cost savings after all factors, including charges for service,

material, and delivery, have been considered. No officer, board or agency of a political subdivision or of any district therein shall make any purchase or contract for any such services through the county in which the political subdivision or district is located or through any county within the state when bids have been received for such purchase or such services by such officer, board or agency, unless such purchase may be made or the contract for such services may be entered into upon the same terms, conditions and specifications at a lower price through the county.

§ 6. Subdivision 2 of section 408-a of the county law, as amended by section 2 of part X of chapter 62 of the laws of 2003, is amended to read as follows:

2. The board of supervisors may, in the case of any purchase contract or any contract for services, other than services subject to article [~~**eight or**~~] nine of the labor law, of the county to be awarded to the lowest responsible bidder after advertisement for bids, authorize the inclusion of a provision whereby purchases may be made or such services may be obtained under such contract by any political subdivision or fire company (as both are defined in section one hundred of the general municipal law) or district. In such event, the board shall adopt rules prescribing the conditions under which, and the manner in which, purchases may be made or services may be obtained by such political subdivision, fire company or district.

§ 7. Section 104 of the general municipal law, as amended by chapter 137 of the laws of 2008, is amended to read as follows:

§ 104. Purchase through office of general services**; certain federal contracts. 1**. Notwithstanding the provisions of section one hundred three of this article or of any other general, special or local law, any officer, board or agency of a political subdivision, of a district therein, of a fire company or of a voluntary ambulance service authorized to make purchases of materials, equipment, food products, or supplies, or services available pursuant to sections one hundred sixty-one and one hundred sixty-seven of the state finance law, may make such purchases, except of printed material, through the office of general services subject to such rules as may be established from time to time pursuant to sections one hundred sixty-three and one hundred sixty-seven of the state finance law [~~**or through the general services administration pursuant to section 1555 of the federal acquisition streamlining act of 1994, P.L. 103-355**~~]; provided that any such purchase shall exceed five hundred dollars and that the political subdivision, district, fire company or voluntary ambulance service for which such officer, board or agency acts shall accept sole responsibility for any payment due the vendor. All purchases shall be subject to audit and inspection by the political subdivision, district, fire company or voluntary ambulance service for which made. No officer, board or agency of a political subdivision, or a district therein, of a fire company or of a voluntary ambulance service shall make any purchase through such office when bids have been received for such purchase by such officer, board or agency, unless such purchase may be made upon the same terms, conditions and specifications at a lower price through such office. Two or more fire companies or voluntary ambulance services may join in making purchases pursuant to this section, and for the purposes of this section such groups shall be deemed "fire companies or voluntary ambulance services."

2. Notwithstanding the provisions of section one hundred three of this article or of any other general, special or local law, any officer, board or agency of a political subdivision, or of a district therein,

may make purchases from federal general service administration supply schedules pursuant to section 211 of the federal e-government act of 2002, P.L. 107-347, and pursuant to section 1122 of the national defense authorization act for fiscal year 1994, P.L. 103-160, or any successor schedules in accordance with procedures established pursuant thereto. Prior to making such purchases the officer, board or agency shall consider whether such purchases will result in cost savings after all factors, including charges for service, material, and delivery, have been considered.

§ 8. Subdivision 2 of section 27 of the municipal home rule law, as amended by chapter 259 of the laws of 1987, is amended to read as follows:

2. Each such certified copy shall contain the text only of the local law without the brackets and without the matter within the brackets, the matter with a line run through it, or the italicizing or underscoring, if any, to indicate the changes made by it, except that each such certified copy of a local law enacted by a city with a population of one million or more shall be printed in the same form as the official copy of the proposed local law which became the local law provided that line numbers, the printed number of the bill and explanatory matter shall be omitted[~~**, and also have attached thereto a certificate executed by the corporation counsel, municipal attorney or other principal law officer to the effect that it contains the correct text and that all proper proceedings have been had or taken for the enactment of such local law, which certificate shall constitute presumptive evidence thereof, provided that any failure or omission so to certify shall not invalidate such local law**~~].

§ 9. This act shall take effect immediately, provided, however that:

1. sections one, four, five, six and seven of this act shall expire and be deemed repealed 3 years after they shall have become a law;

2. the amendments to subdivision 4 of section 97-g of the state finance law made by section two of this act shall not affect the expiration and reversion of such subdivision as provided in section 3 of chapter 410 of the laws of 2009, and shall expire and be deemed repealed therewith;

3. sections four, five, six and seven of this act shall apply to any contract let or awarded on or after such effective date.

SUBPART B

Section 1. Section 99-r of the general municipal law, as amended by section 1 of part B of chapter 494 of the laws of 2009, is amended to read as follows:

§ 99-r. Contracts for services. Notwithstanding any other provisions of law to the contrary, the governing board of any municipal corporation may enter into agreements and/or contracts with any state agency including any department, board, bureau, commission, division, office, council, committee, or officer of the state, whether permanent or temporary, or a public benefit corporation or public authority, or a soil and water conservation district, and any unit of the state university of New York, pursuant to and consistent with sections three hundred fifty-five and sixty-three hundred one of the education law within or without such municipal corporation to provide or receive fuel, equipment, maintenance and repair, supplies, water supply, street sweeping or maintenance, sidewalk maintenance, right-of-way maintenance, storm water and other drainage, sewage disposal, landscaping, mowing, or any other services of

government. Such state agency, soil and water conservation district, or unit of the state university of New York, within the limits of any specific statutory appropriation authorized and made available therefor by the legislature or by the governing body responsible for the operation of such state agency, soil and water conservation district, or unit of the state university of New York may contract with any municipal corporation for such services as herein provided **and may provide, in agreements and/or contracts entered into pursuant to this section, for the reciprocal provision of services or other consideration of approximately equivalent value, including, but not limited to, routine and/or emergency services, monies, equipment, buildings and facilities, materials or a commitment to provide future routine and/or emergency services, monies, equipment, buildings and facilities or materials**. Any such contract may be entered into by direct negotiations and shall not be subject to the provisions of section one hundred three of this chapter.

§ 2. Paragraph (e) of subdivision 4 of section 10-c of the highway law, as amended by chapter 413 of the laws of 1991, is amended to read as follows:

(e) Funds allocated for local street or highway projects under this subdivision shall be used to undertake work on a project either with the municipality's own forces or by contract, provided however, that whenever the estimate for the construction contract work exceeds one hundred thousand dollars **but does not exceed two hundred fifty thousand dollars such work must be performed either with the municipality's own forces or by contract let by competitive bid in accordance with the provisions of section one hundred three of the general municipal law and provided further, however, that whenever the estimate for the construction contract work exceeds two hundred fifty thousand dollars** such work must be performed by contract let by competitive bid in accordance with the provisions of section one hundred three of the general municipal law.

§ 3. Section 102 of the general municipal law, as added by chapter 861 of the laws of 1953 and subdivision 2 as amended by chapter 537 of the laws of 1984, is amended to read as follows:

§ 102. Deposits on plans and specifications. 1. Notwithstanding any inconsistent provision of any general, special or local law, the officer, board or agency of any political subdivision or of any district therein, charged with the duty of preparing plans and specifications for and awarding or entering into contracts for the performance of public work, [~~shall~~] **may** require, as a deposit to guarantee the safe return of such plans and specifications, the payment of a fixed sum of money, not exceeding one hundred dollars for each copy thereof, by persons or corporations desiring a copy thereof. Any person or corporation desiring a copy of such plans and specifications and making the [~~deposit~~] **payment** required by this section shall be furnished with one copy of the plans and specifications.

2. If a proposal is duly submitted by any person or corporation making the deposit required by subdivision one and such proposal is accompanied by a certified check or other security in accordance with the requirements contained in the plans and specifications or in the public advertisement for bids, and if the copy of the plans and specifications used by such person or corporation, other than the successful bidder, is returned in good condition within thirty days following the award of the contract covered by such plans and specifications or the rejection of the bid of such person or corporation, the full amount of such deposit for one copy of the plans and specifications shall be returned to such person or corporation, including the successful bidder. Partial

reimbursement, in an amount equal to the full amount of such deposit for one set of plans and specifications per unsuccessful bidder or non-bidder less the actual cost of reproduction of the plans and specifications as determined by the officer, board or agency of any political subdivision or of any district therein, charged with the duty of preparing the plans and specifications, shall be made for the return of all other copies of the plans and specifications in good condition within thirty days following the award of the contract or the rejection of the bids covered by such plans and specifications.

§ 4. This act shall take effect immediately.

SUBPART C

Section 1. Section 72-c of the general municipal law, as amended by chapter 229 of the laws of 1992, is amended to read as follows:

§ 72-c. Expenses of members of the police department and other peace officers in attending police training schools. The board or body of a county, city, town or village authorized to appropriate and to raise money by taxation and to make payments therefrom, is hereby authorized, in its discretion, to appropriate and to raise money by taxation and to make payments from such moneys, for the annual expenses of the members of the police department of such municipal corporation in attending a police training school, as provided by the regulations of the department, either within such municipal corporation or elsewhere within the state; and for the payment of reasonable expenses of such members and other police officers or peace officers of the municipality while going to, attending, and returning from any training school conducted by or under the auspices of the federal bureau of investigation, whether within or without the state. Notwithstanding any inconsistent provision of any general, special or local law to the contrary, whenever a member of the police department of a municipal corporation[~~, having a population of ten thousand or less,~~] has attended a police training school, the expense of which was borne by such municipal corporation, terminates employment with such municipal corporation and commences employment with any other municipal corporation or employer county sheriff, such employer municipal corporation or employer county sheriff shall reimburse the prior employer municipal corporation[~~, having a population of ten thousand or less,~~] for such expenses, including, salary, tuition, enrollment fees, books, and the cost of transportation to and from training school, as follows: on a pro rata basis, to be calculated by subtracting from the number of days in the three years following the date of the member's graduation from police training school, the number of days between the date of the member's graduation from training school and the date of the termination of employment with the municipal corporation which paid for such training, and multiplying the difference by the per diem cost of such expenses, to be calculated by dividing the total cost of such expenses by the number of days in the three years following the date of the member's graduation, if such change in employment occurs within three years of such member's graduation from police training school. Provided, however, the employer municipal corporation or employer county sheriff shall not be required to reimburse the prior employer municipal corporation for that portion of such expenses which is reimbursable by the member to the prior employer municipal corporation under the terms of an employment or labor agreement. Provided, further, however, the employer municipal corporation or employer county sheriff shall not be required to reimburse the prior employer municipal corporation for such

basic training if such change in employment occurs after the expiration of the validity of the member's certificate attesting to the satisfactory completion of an approved municipal police basic training program.

§ 2. Section 207-m of the general municipal law is REPEALED.

§ 3. The opening paragraph and paragraph (l) of subdivision 4 of section 20.40 of the criminal procedure law, paragraph (l) as amended by chapter 346 of the laws of 2007, are amended to read as follows:

A person may be convicted in an appropriate criminal court of a particular county, of an offense of which the criminal courts of this state have jurisdiction pursuant to section 20.20, committed either by his **or her** own conduct or by the conduct of another for which he **or she** is legally accountable pursuant to section 20.00 of the penal law, when:

(l) An offense of identity theft or unlawful possession of personal [~~identification~~] **identifying** information **and all criminal acts committed as part of the same criminal transaction as defined in subdivision two of section 40.10 of this chapter** may be prosecuted (i) in any county in which part of the offense took place regardless of whether the defendant was actually present in such county, or (ii) in the county in which the person who suffers financial loss resided at the time of the commission of the offense, or (iii) in the county where the person whose personal [~~identification~~] **identifying** information was used in the commission of the offense resided at the time of the commission of the offense. The law enforcement agency of any such county shall take a police report of the matter and provide the complainant with a copy of such report at no charge.

§ 4. Section 176 of the family court act is amended to read as follows:

§ 176. Inter-county probation. [~~If a person placed under probation by the family court resides in or moves to a county other than the county in which he was placed on probation, the family court which placed him on probation may transfer the proceedings to the county in which the probationer resides or to which he has moved or may place him under the supervision of the probation service attached to the family court in which the probationer resides or to which he has moved.~~]

1. Where a person placed on probation resides in another jurisdiction within the state at the time of the order of disposition, the family court which placed him or her on probation shall transfer supervision to the probation department in the jurisdiction in which the person resides. Where, after a probation disposition is pronounced, a probationer requests to reside in another jurisdiction within the state, the family court which placed him or her on probation may, in its discretion, approve a change in residency and, upon approval, shall transfer supervision to the probation department serving the county of the probationer's proposed new residence. Any transfer under this subdivision must be in accordance with rules adopted by the commissioner of the division of criminal justice services.

2. Upon completion of a transfer as authorized pursuant to subdivision one of this section, the family court within the jurisdiction of the receiving probation department shall assume all powers and duties of the family court which placed the probationer on probation and shall have sole jurisdiction in the case. The family court which placed the probationer on probation shall immediately forward its entire case record to the receiving court.

3. Upon completion of a transfer as authorized pursuant to subdivision one of this section, the probation department in the receiving jurisdiction shall assume all powers and duties of the probation department in

the jurisdiction of the family court which placed the probationer on probation.

§ 5. The mental hygiene law is amended by adding a new section 29.28 to read as follows:

§ 29.28 Payment of costs for prosecution of inmate-patients.

(a) When an inmate-patient, as defined in subdivision (a) of section 29.27 of this article, who was committed from a state correctional facility, is alleged to have committed an offense while in the custody of the department, the department of corrections and community supervision shall pay all reasonable costs for the prosecution of such offense, including but not limited to, costs for: a grand jury impaneled to hear and examine evidence of such offense, petit jurors, witnesses, the defense of any inmate financially unable to obtain counsel in accordance with the provisions of the county law, the district attorney, the costs of the sheriff and the appointment of additional court attendants, officers or other judicial personnel.

(b) It shall be the duty of the governing body of any county wherein such prosecution occurs to cause a sworn statement of all costs to be forwarded to the department. Upon certification by the department that such costs as authorized by this statute have been incurred, the department shall forward the proper vouchers to the state comptroller. It shall be the duty of the comptroller to examine such statement and to correct same by striking therefrom any and all items which are not authorized pursuant to the provisions of this section and after correcting such statement, the comptroller shall draw his warrant for the amount of any such costs in favor of the appropriate county treasurer, which sum shall be paid to said county treasurer out of any moneys appropriated therefor.

(c) The department shall, after consultation with the director of the budget, promulgate rules and regulations to carry out the provisions of this section.

§ 6. This act shall take effect immediately, provided, that section five of this act shall take effect on the thirtieth day after it shall have become law.

SUBPART D

Section 1. Section 514 of the general municipal law, as amended by chapter 492 of the laws of 1963, is amended to read as follows:

§ 514. Filing of proposed plans. The municipality or agency, as the case may be, shall file with the commissioner a copy of [~~each~~] **any** proposed urban renewal program **assisted by state loans, periodic subsidies or capital grants,** embodying the plans, layout, estimated cost and proposed [~~methed~~] **method** of financing. Any change made in [~~the~~] **an** urban renewal program **assisted by state loans, periodic subsidies or capital grants** shall be filed with the commissioner. From time to time prior to completion, and with reasonable promptness after [~~each~~] **any** urban renewal program **assisted by state loans, periodic subsidies or capital grants** shall have been completed, upon request of the commissioner, the municipality or agency shall file with the commissioner a detailed statement of the cost thereof.

Upon receipt of a copy of a proposed urban renewal program, or any proposed change therein, the commissioner may transmit his criticism and suggestions to the municipality or agency, as the case may be. No change in an urban renewal program assisted by state loans, periodic subsidies

or capital grants may be made by a municipality or agency without the approval of the commissioner.

§ 2. Subdivision 1 of section 553 of the general municipal law, as amended by chapter 681 of the laws of 1963, subparagraph 1 of paragraph (a) as amended by chapter 213 of the laws of 1966, is amended to read as follows:

1. (a) Upon the establishment of a municipal urban renewal agency by special act of the legislature, the mayor of the city or village wherein such agency is established, or the town board of the town, shall file within six months after the effective date of the special act of the legislature establishing such agency or before the first day of July, nineteen hundred sixty-four, whichever date shall be later, [~~in the office of the commissioner, and a duplicate~~] in the office of the secretary of state, a certificate signed by him setting forth: (1) the effective date of the special act establishing the agency; (2) the name of the agency; (3) the names of the members and their terms of office, specifying which member is the chairman; and (4) facts establishing the need for the establishment of an agency in such city, town or village.

(b) Every such agency shall be perpetual in duration, except that if [~~(1) such certificate is not filed with and approved by the commissioner within six months after the effective date of the special act of the legislature establishing such agency or before the first day of July, nineteen hundred sixty-four, whichever date shall be later, or if (2)~~], at the expiration of ten years subsequent to the effective date of the special act, there shall be outstanding no bonds or other obligations theretofore issued by such agency or by the municipality for **or** on [~~in~~] behalf of the agency, then the corporate existence of such agency shall thereupon terminate and it shall [~~there upon~~] **thereupon** be deemed to be and shall be dissolved.

§ 3. Subdivision 2 of section 553 of the general municipal law, as added by chapter 921 of the laws of 1962, is amended to read as follows:

2. An agency shall be a corporate governmental agency, constituting a public benefit corporation. Except as otherwise provided by special act of the Legislature, an agency shall consist of not less than three nor more than five members who shall be appointed by the mayor of a city or village or the town board of a town and who shall serve at the pleasure of the appointing authority. A member shall continue to hold office until his successor is appointed and has qualified. The mayor of a city or village, or the town board of a town, shall designate the first chairman [~~and file with the commissioner a certificate of appointment or re-appointment of any member~~]. Such members shall receive no compensation for their services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of their duties.

§ 4. This act shall take effect immediately.

SUBPART E

Section 1. Section 410-x of the social services law is amended by adding a new subdivision 8 to read as follows:

8. Notwithstanding any provision of law to the contrary, child care assistance payments made pursuant to this section may be made by direct deposit or debit card, as elected by the recipient, and administered electronically, and in accordance with such guidelines, as may be set forth by regulation of the office of children and family services. The office of children and family services may enter into contracts on

behalf of local social services districts for such direct deposit or debit card services in accordance with section twenty-one-a of this chapter.

§ 2. Subdivision 2 of section 378 of the social services law, as amended by chapter 555 of the laws of 1978, is amended to read as follows:

2. Such certificates and licenses shall be valid for not more than [~~one year~~] **two years** after date of issue but may be renewed or extended subject to regulations established by the [~~department~~] **office of children and family services**.

§ 3. This act shall take effect immediately.

SUBPART F

Section 1. Subdivision 1 of section 3241 of the education law, as amended by chapter 971 of the laws of 1969, is amended to read as follows:

1. The board of education of each city, except in cities having a population of one hundred twenty-five thousand or more, shall constitute a permanent census board in such city. Such board shall, under its regulations, cause a census of the children in its city to be taken and to be amended from day to day, as changes of residence shall occur among persons in such cities within the ages prescribed in subdivision two of this section and as other persons shall come within the ages prescribed therein and as other persons within such ages shall become residents of such cities, so that there shall always be on file with such board a complete census giving the facts and information required in subdivision two of this section**; provided, however, that for pre-school students from birth to five years of age, such census may be prepared and filed biennially on or before the fifteenth day of October**.

§ 2. Section 3242 of the education law, as amended by chapter 425 of the laws of 1993, is amended to read as follows:

§ 3242. School census in school districts. The trustees or board of education of every school district may cause a census to be taken of all children between birth and eighteen years of age, including all such facts and information as are required in the census provided for in section thirty-two hundred forty-one of this chapter. Such census shall be prepared **annually for children between ages five and eighteen who are entitled to attend the public schools without payment of tuition** in duplicate in their respective school districts, and one copy thereof filed with the teacher or principal and the other copy filed with the district superintendent or superintendent on or before the [~~fifteen~~] **fifteenth** day of October. **For pre-school students from birth to five years of age, such census may be prepared and filed biennially on or before the fifteenth day of October.** Such census shall include the reports and information required from cities as provided in section thirty-two hundred forty-one. All information regarding a [~~handicapped person~~] **student with a disability** under the age of twenty-one years shall be filed annually with the superintendent of the board of cooperative educational services of which said district may be a part.

§ 3. Section 3635 of the education law is amended by adding a new subdivision 8 to read as follows:

8. a. The trustees or board of education of a school district may, at its discretion, provide student transportation based upon patterns of actual ridership. The actual ridership shall be determined by a school district based upon documented history and experience that yields a

consistent pattern of eligible pupils not using district transportation; or modeling of future ridership; or the sharing of transportation regionally; or other criteria approved by the commissioner; provided however that any methodology shall require an additional ten percent in seating capacity above the number of seats derived using such methodology which shall be available in case of unanticipated riders.

Nothing in this subdivision shall be construed to reduce or relieve school districts from the responsibility of providing transportation to students otherwise eligible for such transportation. Nothing in this subdivision shall be construed to authorize a school district to have standing passengers in violation of section thirty-six hundred thirty-five-c of this article, and unanticipated ridership shall not be deemed an unforeseen occurrence for purposes of subdivision two of such section after the first day in which such unanticipated ridership occurs.

Any school district that, at its discretion, has elected to provide student transportation based upon patterns of actual ridership shall place such plans on the school district's website, if one exists, on or before August fifteenth of the school year in which the transportation plan will be implemented and shall be required to have a back up plan as part of their emergency management practices for pupil transportation in the event that a bus is filled beyond capacity.

b. The commissioner shall evaluate the effectiveness of this subdivision including the methodologies used by school districts to determine the patterns of actual ridership and whether such methodologies ensure that all students otherwise eligible receive transportation and that student safety is assured.

§ 4. Clause (b) of subparagraph 3 of paragraph e of subdivision 6 of section 3602 of the education law, as amended by section 1 of part F of chapter 383 of the laws of 2001, is amended to read as follows:

(b) Such assumed amortization for a project approved by the commissioner on or after the later of the first day of December, two thousand one or thirty days after the date upon which this subdivision shall have become a law **and prior to the first day of July, two thousand eleven** or for any debt service related to projects approved by the commissioner prior to such date where a bond, capital note or bond anticipation note is first issued on or after [~~such date~~] **the first day of December, two thousand one** to fund such projects, shall commence: (i) eighteen months after such approval or (ii) on the date of receipt by the commissioner of a certification by the district that a general construction contract has been awarded for such project by the district, whichever is later, and **such assumed amortization for a project approved by the commissioner on or after the first day of July, two thousand eleven shall commence: (iii) eighteen months after such approval or (iv) on the date of receipt by the commissioner of both the final certificate of substantial completion of the project issued by the architect or engineer and the final cost report for such project, whichever is later or (v) upon the date of a finding by the commissioner that the certificate of substantial completion of the project has been issued by the architect or engineer, but the district is unable to complete the final cost report because of circumstances beyond the control of the district. Such assumed amortization** shall provide for equal semiannual payments of principal and interest based on an interest rate established pursuant to subparagraph five of this paragraph for such purpose for the school year during which such certification is received. The first installment of obligations issued by the school district in support of such projects

may mature not later than the dates established pursuant to sections 21.00 and 22.10 of the local finance law.

§ 5. Subdivision 35 of section 1604 of the education law, as added by chapter 263 of the laws of 2005, is amended to read as follows:

35. a. In their discretion, to adopt a resolution establishing the office of claims auditor and appoint a claims auditor who shall hold his or her position subject to the pleasure of such trustees. **In its discretion, the trustees may adopt a resolution establishing the office of deputy claims auditor who shall act as claims auditor in the absence of the claims auditor.** Such claims auditor shall report directly to the trustees. No person shall be eligible for appointment to the office of claims auditor **or deputy claims auditor** who shall also be:

(1) a trustee of the school district;

(2) the clerk or treasurer of the school district;

(3) the superintendent of schools or other official of the district responsible for business management;

(4) the person designated as purchasing agent; or

(5) clerical or professional personnel directly involved in accounting and purchasing functions of the school district.

b. Such claims auditor **or deputy claims auditor** shall not be required to be a resident of the district, and the [~~**position**~~] **positions** of claims auditor **and deputy claims auditor** shall be classified in the exempt class of the civil service. The trustees, at any time after the establishment of the office of claims auditor **or deputy claims auditor**, may adopt a resolution abolishing such office, whereupon such office shall be abolished. When the office of claims auditor shall have been established and a claims auditor shall have been appointed and shall have qualified, the powers and duties of the trustees with respect to claims auditing, and allowing or rejecting all accounts, charges, claims or demands against the school district, shall devolve upon and thereafter be exercised by such claims auditor during the continuance of such office. The trustees shall be permitted to delegate the claims audit function **to one or more independent entities** by using (1) inter-municipal cooperative agreements, (2) shared services to the extent authorized by section nineteen hundred fifty of this title, or (3) independent contractors, to fulfill this function.

c. When the trustees delegate the claims audit function using an inter-municipal cooperative agreement, shared service authorized by section nineteen hundred fifty of this title, or an independent contractor, the trustees shall be responsible for auditing all claims for services from the entity providing the delegated claims auditor, either directly or through a delegation to a different independent entity.

§ 6. Subdivision 20-a of section 1709 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

20-a. a. In its discretion to adopt a resolution establishing the office of claims auditor and appoint a claims auditor who shall hold his or her position subject to the pleasure of such board of education. **In its discretion, the board of education may adopt a resolution establishing the office of deputy claims auditor who shall act as claims auditor in the absence of the claims auditor.** Such claims auditor shall report directly to the board of education. No person shall be eligible for appointment to the office of claims auditor **or deputy claims auditor** who shall also be:

(1) a member of the board of education;

(2) the clerk or treasurer of the board of education;

(3) the superintendent of schools or other official of the district responsible for business management;

(4) the person designated as purchasing agent; or

(5) clerical or professional personnel directly involved in accounting and purchasing functions of the school district.

b. Such claims auditor **or deputy claims auditor** shall not be required to be a resident of the district, and such position shall be classified in the exempt class of the civil service. Such board of education, at any time after the establishment of the office of claims auditor **or deputy claims auditor**, may adopt a resolution abolishing such office, whereupon such office shall be abolished. When the office of claims auditor shall have been established and a claims auditor shall have been appointed and shall have qualified, the powers and duties of the board of education with respect to claims auditing, allowing or rejecting all accounts, charges, claims or demands against the school district shall devolve upon and thereafter be exercised by such claims auditor, during the continuance of such office. A board shall be permitted to delegate the claims audit function **to one or more independent entities** by using (1) inter-municipal cooperative agreements, (2) shared services to the extent authorized by section nineteen hundred fifty of this title, or (3) independent contractors, to fulfill this function.

c. When the board of education delegates the claims audit function using an inter-municipal cooperative agreement, shared service authorized by section nineteen hundred fifty of this title, or an independent contractor, the board shall be responsible for auditing all claims for services from the entity providing the delegated claims auditor, either directly or through a delegation to a different independent entity.

§ 7. Paragraph e of subdivision 2 of section 1711 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

e. To have supervision and direction of associate, assistant and other superintendents, directors, supervisors, principals, teachers, lecturers, medical inspectors, nurses, claims auditors, **deputy claims auditors,** attendance officers, janitors and other persons employed in the management of the schools or the other educational activities of the district authorized by this chapter and under the direction and management of the board of education; to transfer teachers from one school to another, or from one grade of the course of study to another grade in such course, and to report immediately such transfers to such board for its consideration and actions; to report to such board violations of regulations and cases of insubordination, and to suspend an associate, assistant or other superintendent, director, supervisor, expert, principal, teacher or other employee until the next regular meeting of such board, when all facts relating to the case shall be submitted to such board for its consideration and action.

§ 8. Subdivision 1 of section 1724 of the education law, as amended by chapter 259 of the laws of 1975, is amended to read as follows:

1. No claim against a central school district or a union free school district, except for compensation for services of an officer or employee engaged at agreed wages by the hour, day, week, month or year or for the principal of or interest on indebtedness of the district, shall be paid unless an itemized voucher therefor approved by the officer whose action gave rise or origin to the claim, shall have been presented to the board of education of the district and shall have been audited and allowed**; provided, however that in the case of a school district with a public school enrollment of ten thousand students or more, the board of educa-**

tion may, at its discretion, use a risk-based or sampling methodology to determine which claims are to be audited in lieu of auditing all claims so long as it is determined by resolution of the board of education that the methodology for choosing the sample provides reasonable assurance that all the claims represented in the sample are proper charges against the school district. The board of education shall be authorized, but not required, to prescribe the form of such voucher.

§ 9. Subdivision 5 of section 2503 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

5. Shall create, abolish, maintain and consolidate such positions, divisions, boards or bureaus as, in its judgment, may be necessary for the proper and efficient administration of its work; shall appoint properly qualified persons to fill such positions, including a superintendent of schools, such associate, assistant and other superintendents, directors, supervisors, principals, teachers, lecturers, special instructors, medical inspectors, nurses, claims auditors, **deputy claims auditors,** attendance officers, secretaries, clerks, custodians, janitors and other employees and other persons or experts in educational, social or recreational work or in the business management or direction of its affairs as said board shall determine necessary for the efficient management of the schools and other educational, social, recreational and business activities; and shall determine their duties except as otherwise provided herein.

§ 10. Subdivision 5 of section 2508 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

5. To have supervision and direction of associate, assistant and other superintendents, directors, supervisors, principals, teachers, lecturers, medical inspectors, nurses, claims auditors, **deputy claims auditors,** attendance officers, janitors and other persons employed in the management of the schools or the other educational activities of the district authorized by this chapter and under the direction and management of the board of education; to transfer teachers from one school to another, or from one grade of the course of study to another grade in such course, and to report immediately such transfers to such board for its consideration and action; to report to such board violations of regulations and cases of insubordination, and to suspend an associate, assistant or other superintendent, director, supervisor, expert, principal, teacher or other employee until the next regular meeting of such board, when all facts relating to the case shall be submitted to such board for its consideration and action.

§ 11. Subdivision 2 of section 2523 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

2. Such moneys shall be disbursed only on the signature of such treasurer by checks payable to the person or persons entitled thereto. The board of education may in its discretion require that such checks-other than checks for salary, be countersigned by another officer of such district. When authorized by resolution of the board of education such checks may be signed with the facsimile signature of the treasurer and other district officer whose signature is required, as reproduced by a machine or device commonly known as a check-signer. Each check drawn by the treasurer shall state the fund against which it is drawn. No fund shall be overdrawn nor shall any check be drawn upon one fund to pay a claim chargeable to another. No money shall be paid out by the treasurer except upon the warrant of the clerk of the board of education after audit and allowance by such board, or if a claims auditor **or deputy claims auditor** shall have been appointed, except upon the warrant of

such claims auditor **or deputy claims auditor** after audit and allowance thereof; provided, however, when provision for payment has been made in the annual budget the treasurer may pay, without such warrant or prior audit and allowance, (a) the principal of and interest on bonds, notes or other evidences of indebtedness of the district or for the payment of which the district shall be liable, and (b) compensation for services of officers or employees engaged at agreed wages by the hour, day, week, month or year upon presentation of a duly certified payroll**; and provided further that in the case of a city school district with a public school enrollment of ten thousand students or more, the board of education may, at its discretion, use a risk-based or sampling methodology to determine which claims are to be audited in lieu of auditing all claims so long as it is determined by resolution of the board of education that the methodology for choosing the sample provides reasonable assurance that all the claims represented in the sample are proper charges against the school district**. By resolution duly adopted, the board may determine to enter into a contract to provide for the deposit of the periodic payroll of the school district in a bank or trust company for disbursal by it in accordance with provisions of section ninety-six-b of the banking law.

§ 12. Subdivision 1 of section 2524 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

1. No claim against a city school district, except for compensation for services of an officer or employee engaged at agreed wages by the hour, day, week, month or year or for the principal of or interest on indebtedness of the district, shall be paid unless an itemized voucher therefor approved by the officer whose action gave rise or origin to the claim, shall have been presented to the board of education**,** or **the** claims auditor **or deputy claims auditor** of the city school district and shall have been audited and allowed**, provided that in the case of a city school district with a public school enrollment of ten thousand students or more, the board of education may, at its discretion, use a risk-based or sampling methodology to determine which claims are to be audited in lieu of auditing all claims so long as it is determined by resolution of the board of education that the methodology for choosing the sample provides reasonable assurance that all the claims represented in the sample are proper charges against the school district**. The board of education shall be authorized, but not required, to prescribe the form of such voucher.

§ 13. Section 2525 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

§ 2525. Audit of claims. 1. The board of education, in considering any claim **or where applicable a sampling of claims**, may require any person presenting the same to be sworn before it or before any member thereof and to give testimony relative to the justness and accuracy of such claim, and may take evidence and examine witnesses under oath in respect to the claim, and for that purpose may issue subpoenas for the attendance of witnesses. When a claim **or where applicable a sampling of claims** has been finally audited by the board of education the clerk of such board shall endorse thereon or attach thereto a certificate of such audit and file the same as a public record in his or her office. When any claim has been so audited and a certificate thereof so filed, the clerk of the board of education shall draw a warrant specifying the name of the claimant, the amount allowed and the fund, function and object chargeable therewith and such other information as may be deemed necessary and essential, directed to the treasurer of the district, authoriz-

ing and directing him or her to pay to the claimant the amount allowed upon his or her claim. A copy of such warrant shall be filed in the office of the clerk.

2. In a city school district in which the office of claims auditor **or deputy claims auditor** has been created, the claims auditor **or deputy claims auditor** in considering a claim **or where applicable a sampling of claims**, may require any person presenting the same to be sworn before him or her and to give testimony relative to the justness and accuracy of such claim, and may take evidence and examine witnesses under oath in respect to the claim, and for that purpose may issue subpoenas for the attendance of witnesses. When a claim**, or where applicable a sampling of claims,** has been finally audited by the claims auditor **or deputy claims auditor** he or she shall endorse thereon or attach thereto a certificate of such audit and file the same as a public record in his or her office. When any claim has been so audited and a certificate thereof so filed, the claims auditor **or deputy claims auditor** shall draw a warrant specifying the number of the claim, the name of the claimant, the amount allowed and the fund, function and object chargeable therewith and such other information as may be deemed necessary or essential, directed to the treasurer of the district, authorizing and directing him or her to pay to the claimant the amount allowed upon his or her claim. **In the case of a city school district with a public school enrollment of ten thousand students or more, the board of education may, at its discretion, use a risk-based or sampling methodology to determine which claims are to be audited in lieu of auditing all claims so long as it is determined by resolution of the board of education that the methodology for choosing the sample provides reasonable assurance that all the claims represented in the sample are proper charges against the school district.** A copy of such warrant shall be filed in the office of the clerk.

§ 14. Section 2526 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

§ 2526. Claims auditor. 1. The board of education of a city school district may adopt a resolution establishing the office of claims auditor and appoint a claims auditor who shall hold his or her position subject to the pleasure of such board of education. **In its discretion, the board may adopt a resolution establishing the office of deputy claims auditor who shall act as claims auditor in the absence of the claims auditor.** Such claims auditor shall report directly to the board of education. No person shall be eligible for appointment to the office of claims auditor **or deputy claims auditor** who shall be:

(1) a member of the board of education;

(2) the clerk or treasurer of the board of education;

(3) the superintendent of schools or other official of the district responsible for business management;

(4) the person designated as purchasing agent; or

(5) clerical or professional personnel directly involved in accounting and purchasing functions of the school district.

1-a. The [~~position~~] **positions** of claims auditor **and deputy claims auditor** shall be classified in the exempt class of civil service. Such board of education, at any time after the establishment of the office of claims auditor **or deputy claims auditor**, may adopt a resolution abolishing such office, whereupon such office shall be abolished.

2. When the office of claims auditor shall have been established and a claims auditor shall have been appointed and shall have qualified, the powers and duties of the board of education with respect to claims

auditing, allowing or rejecting all accounts, charges, claims or demands against the city school district shall devolve upon and thereafter be exercised by such claims auditor, during the continuance of such office. The board of education shall be permitted to delegate the claims audit function **to one or more independent entities** by using (1) inter-municipal cooperative agreements, (2) shared services to the extent authorized by section nineteen hundred fifty of this title, or (3) independent contractors, to fulfill this function.

3. When the board of education delegates the claims audit function using an inter-municipal cooperative agreement, shared service authorized by section nineteen hundred fifty of this title, or an independent contractor, the board shall be responsible for auditing all claims for services from the entity providing the delegated claims auditor, either directly or through a delegation to a different independent entity.

§ 15. Section 2527 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

§ 2527. Official undertakings. The clerk of the board of education or, where the office of claims auditor **or deputy claims auditor** has been created, the claims auditor **or deputy claims auditor**, and the treasurer, collector and such other officers and employees as the board of education shall designate, shall, before they enter upon the duties of their respective offices or positions, each execute to the school district and file with the school district clerk an official undertaking in such sum and with such corporate surety as the board of education shall direct and approve. The board of education may, at any time, require any such officer or employee to file a new official undertaking for such sum and with such corporate surety as the board shall approve. Such undertakings as shall have been approved by the board of education shall forthwith be filed with the school district clerk. The expense of any undertaking executed pursuant to this section shall be a school district charge.

§ 16. Subdivision 2-a of section 2554 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

2-a. a. In its discretion to adopt a resolution establishing the office of claims auditor and appoint a claims auditor who shall hold his or her position subject to the pleasure of the board. **In its discretion, the board may adopt a resolution establishing one or more offices of deputy claims auditor who shall act as claims auditor in the absence of the claims auditor.** Such claims auditor shall report directly to the board of education. No person shall be eligible for appointment to the office of claims auditor **or deputy claims auditor** who shall be

(1) a member of the board of education;

(2) a clerk or treasurer of the board of education;

(3) the superintendent of schools or other official of the district responsible for business management;

(4) the person designated as purchasing agent; or

(5) clerical or professional personnel directly involved in accounting and purchasing functions of the school district.

b. The [~~**position**~~] **positions** of claims auditor **or deputy claims auditor** shall be classified in the exempt class of civil service. The board of education, at any time after the establishment of the office of claims auditor **or deputy claims auditor**, may adopt a resolution abolishing the office. When the office of claims auditor shall have been established and a claims auditor shall have been appointed and shall have qualified, the powers and duties of the board of education with respect to auditing accounts, charges, claims or demands against the city school district shall devolve upon and thereafter be exercised by such claims auditor,

during the continuance of the office. The board of education shall be permitted to delegate the claims audit function **to one or more independent entities** by using (1) inter-municipal cooperative agreements, or (2) independent contractors, to fulfill this function.

c. When the board of education delegates the claims audit function using an inter-municipal cooperative agreement, shared service authorized by section nineteen hundred fifty of this title, or an independent contractor, the board shall be responsible for auditing all claims for services from the entity providing the delegated claims auditor, either directly or through a delegation to a different independent entity.

§ 17. Subdivision 2 of section 2562 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

2. The said board of education may require any person presenting for settlement an account or claim for any cause whatever against it to be sworn before it or a committee thereof, or before the claims auditor **or deputy claims auditor**, or before any person designated by said board, touching such account or claim, and when so sworn, to answer orally as to any facts relative to the justness of such account or claim. A member of the board, the claims auditor, or any other person designated as hereinbefore stated, shall have the power to administer an oath to any person who shall give testimony to the justness of such account or claim, and for the purpose of securing such testimony may issue subpoenas for the attendance of witnesses. Wilful false swearing before the said board of education, a committee thereof, the claims auditor **or deputy claims auditor**, or before any person designated as hereinbefore stated, is perjury and punishable as such.

§ 18. Subdivision 6 of section 2566 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

6. To have supervision and direction of associate, assistant, district and other superintendents, directors, supervisors, principals, teachers, lecturers, medical inspectors, nurses, claims auditors, **deputy claims auditors,** attendance officers, janitors and other persons employed in the management of the schools or the other educational activities of the city authorized by this chapter and under the direction and management of the board of education, except that in the city school districts of the cities of Buffalo and Rochester to also appoint, within the amounts budgeted therefor, such associate, assistant and district superintendents and all other supervising staff who are excluded from the right to bargain collectively pursuant to article fourteen of the civil service law; to transfer teachers from one school to another, or from one grade of the course of study to another grade in such course, and to report immediately such transfers to said board for its consideration and action; to report to said board of education violations of regulations and cases of insubordination, and to suspend an associate, assistant, district or other superintendent, director, supervisor, expert, principal, teacher or other employee until the next regular meeting of the board, when all facts relating to the case shall be submitted to the board for its consideration and action.

§ 19. Paragraph a of subdivision 1 of section 2576 of the education law, as amended by chapter 263 of the laws of 2005, is amended to read as follows:

a. The salary of the superintendent of schools, associate, district or assistant or other superintendents, examiners, directors, supervisors, principals, teachers, lecturers, special instructors, claims auditors, **deputy claims auditors,** medical inspectors, nurses, attendance officers, clerks, custodians and janitors and the salary, fees or compensation of

all other employees appointed or employed by said board of education. In addition, the expenses of personnel utilized to fulfill the internal audit function pursuant to section twenty-one hundred sixteen-b of this [~~chapter~~] **title**.

§ 20. Subdivisions 2 and 4 of section 2580 of the education law, subdivision 2 as amended by chapter 263 of the laws of 2005 and subdivision 4 as amended by chapter 452 of the laws of 1964, are amended to read as follows:

2. Such funds shall be disbursed by authority of the board of education upon written orders drawn on the city treasurer or other fiscal officer of the city. Such orders shall be signed by the superintendent of schools and the secretary of the board of education or such other officers as the board may authorize. If a claims auditor **or deputy claims auditor** shall have been appointed, orders shall be signed by [~~the~~] **such** claims auditor; provided, however, that the board may require, in addition, the signature of such other officer or officers as it may by resolution direct. Orders shall be numbered consecutively and shall specify the purpose for which they are drawn and the person or corporation to whom they are payable.

4. It shall be unlawful for a city treasurer or other officer having the custody of such city funds to permit their use for any purpose other than that for which they are lawfully authorized; they shall be paid out only on audit of the board of education or as otherwise provided herein**; provided, however, that the board of education may, at its discretion, use a risk-based or sampling methodology to determine which claims are to be audited in lieu of auditing all claims so long as it is determined by resolution of the board of education that the methodology for choosing the sample provides reasonable assurance that all the claims represented in the sample are proper charges against the school district**. Payments from such funds shall be made only by checks signed by the treasurer or other custodian of such moneys and payable to the person or persons entitled thereto and countersigned either by the comptroller, or in a city having no comptroller, by an officer designated by the officer or body having the general control of the financial affairs of such city. The board of education of such city shall make, in addition to such classification of its funds and accounts as it desires for its own use and information, such further classification of the funds under its management and control and of the disbursements thereof as the comptroller of the city, or the officer or body having the general control of the financial affairs of such city, shall require, and such board shall furnish such data in relation to such funds and their disbursements as the comptroller or such other financial officer or body of the city shall require.

§ 21. The education law is amended by adding a new section 1527-c to read as follows:

§ 1527-c. Shared superintendent program. Notwithstanding any other provision of law, rule or regulation to the contrary, the governing board of a school district with an enrollment of less than one thousand students in the previous year shall be authorized to enter into a school superintendent sharing contract with no more than two additional school districts each of which had fewer than one thousand in enrolled pupils in the previous year. Each shared superintendent arrangement shall be governed by the boards of education of the school districts participating in the shared contract. Provided however, that this section shall not be construed to alter, affect or impair any employment contract which is in effect on or before July first, two thousand thirteen. Any

school district which has entered into a school superintendent sharing program will continue to be eligible to complete such contract notwithstanding that the enrollment of the school district exceeded one thousand students after entering into a shared superintendent contract.

§ 22. Section 1604 of the education law is amended by adding a new subdivision 21-b to read as follows:

21-b. a. The trustees are authorized to provide regional transportation services by rendering such services jointly with other school districts or boards of cooperative educational services. Such services may include pupil transportation between home and school, transportation during the day to and from school and a special education program or service or a program at a board of cooperative educational services or an approved shared program at another school district, transportation for field trips or to and from extracurricular activities, and cooperative school bus maintenance.

b. The trustees are authorized to enter into a contract with another school district, a county, municipality, or the state office of children and family services to provide transportation for children, including contracts to provide such transportation as regional transportation services, provided that the contract cost is appropriate. In determining the appropriate transportation contract cost, the transportation service provider school district shall use a calculation consistent with regulations adopted by the commissioner for the purpose of assuring that charges reflect the true costs that would be incurred by a prudent person in the conduct of a competitive transportation business.

§ 23. Paragraphs g and h of subdivision 25 of section 1709 of the education law, paragraph g as added by chapter 367 of the laws of 1979 and paragraph h as added by chapter 700 of the laws of 1993, are amended to read as follows:

g. The board of education is authorized to provide regional transportation services by rendering such services jointly with other school districts or boards of cooperative educational services. Such services may include pupil transportation between home and school**, transportation during the day to and from school and a special education program or service or a program at a board of cooperative educational services or an approved shared program at another school district, transportation for field trips or to and from extracurricular activities,** and cooperative school bus maintenance.

h. The board of education is authorized to enter into a contract with another school district, a county, municipality, or the state [~~division for youth~~] **office of children and family services** to provide transportation for children, **including contracts to provide such transportation as regional transportation services,** provided that the contract cost is appropriate. In determining the appropriate transportation contract cost, the transportation service provider school district shall use a calculation consistent with regulations adopted by the commissioner for the purpose of assuring that charges reflect the true costs that would be incurred by a prudent person in the conduct of a competitive transportation business.

§ 24. Paragraph b of subdivision 2 of section 33 of the general municipal law, as added by chapter 267 of the laws of 2005, is amended to read as follows:

b. In undertaking such audits the comptroller's review shall include, but not be limited to:

(1) examining, auditing and evaluating financial documents and records of school districts, BOCES and charter schools,

(2) assessing the current financial practices of school districts, BOCES and charter schools to ensure that they are consistent with established standards, **including whether any school district that uses a risk-based or sampling methodology to determine which claims are to be audited in lieu of auditing all claims has adopted a methodology that provides reasonable assurance that all the claims represented in the sample are proper charges against the school district;** and

(3) determining that school districts, BOCES, and charter schools provide for adequate protections against any fraud, theft, or professional misconduct.

§ 25. The comptroller shall review the effectiveness of allowing school districts to use a risk-based or sampling methodology to determine which claims are to be audited in lieu of auditing all claims including whether this practice maintains adequate school district fiscal accountability and any recommendations for improvements or modifications that should be made and whether school districts should be authorized to continue such practice. Such report shall be issued to the governor and the legislature by January 15, 2014.

§ 26. This act shall take effect immediately provided, however, that the provisions of section three of this act shall expire June 30, 2014 when upon such date the provisions of such section shall be deemed repealed; provided, further that the provisions of sections eight, eleven, twelve, thirteen and twenty of this act shall expire July 1, 2014 when upon such date the provisions of such sections shall be deemed repealed.

SUBPART G

Section 1. Paragraph 1 of subdivision (c) of section 81.44 of the mental hygiene law, as added by chapter 175 of the laws of 2008, is amended to read as follows:

1. serve a copy of the statement of death upon the court examiner, the duly appointed personal representative of the decedent's estate, or, if no [~~person~~] **personal** representative has been appointed, then upon the personal representative named in the decedent's will or any trust instrument, if known, **upon the local department of social services** and upon the public administrator of the chief fiscal officer of the county in which the guardian was appointed, and

§ 2. Subdivision 4 of section 458-b of the social services law is amended by adding a new paragraph (d) to read as follows:

(d) Payments pursuant to this section may be made by direct deposit or debit card, as elected by the recipient, and administered electronically, and in accordance with section twenty-one-a of this chapter and with such guidelines as may be set forth by regulation of the office of children and family services. The office of children and family services may enter into contracts on behalf of local social services districts for such direct deposit or debit card services in accordance with section twenty-one-a of this chapter.

§ 3. This act shall take effect immediately; provided, however that section one of this act shall take effect on the ninetieth day after it shall have become law; provided, further, that section two of this act shall take effect on the same date and in the same manner as section 4 of part F of chapter 58 of the laws of 2010, takes effect.

SUBPART H

Section 1. Section 204-a of the state administrative procedure act, as added by chapter 479 of the laws of 2001, is amended to read as follows:

§ 204-a. Alternate methods for implementing regulatory mandates. 1. As used in this section:

(a) "local government" means any county, city, town, village, school district, fire district or other special district;

(b) "regulatory mandate" means any rule which requires one or more local governments to create a new program, increase the level of service for an existing program or otherwise comply with mandatory requirements; and

(c) "petition" means a document submitted by a local government seeking approval of an alternate method for implementing a regulatory mandate.

2. A **local government, or two or more local governments acting jointly, may seek approval for an alternate method of implementing a regulatory mandate by submitting to the appropriate state agency a** petition **which** shall include **but not be limited to**:

(a) **for each involved local government,** an indication that submission has been approved by the governing body of the local government or by an officer duly authorized by the governing body to do so;

(b) an identification of the regulatory mandate which is the subject of the petition and information sufficient to establish that the proposed alternate method of implementation is consistent with and will effectively carry out the objectives of the regulatory mandate;

(c) information [~~on the process used by the local government to ensure that all stakeholders have been appropriately involved in the process of developing the alternate method, including where relevant the date of any hearing, forum or other meeting to seek input on the alternate method~~] **sufficient to establish that the proposed alternate method of implementation is consistent with and will effectively carry out the objectives of the regulatory mandate**;

(d) documentation that the petition has been submitted to the authorized agents of any certified or recognized employee organizations representing employees who would be effected by implementation of the alternate method;

(e) [~~a proposed plan and timetable for compiling and reporting information to facilitate evaluation of the effectiveness of the alternate method;~~]

(f) if] **whether** the state [~~provides~~] **has provided** financial assistance for complying with the regulatory mandate[~~, any proposed amount or percentage of such assistance which would be returned to the state due to savings from implementing the alternate method~~]; and

[~~(g)~~] **(f)** the name, public office address and telephone number of the representative of the local government who will coordinate requests for additional information on the petition**; and**

[~~3. Two~~] **(g) where two** or more local governments [~~may submit a petition~~] **have petitioned** jointly, [~~provided that each local government meets the requirements of paragraphs (a), (c), (d) and (g) of subdivision two of this section, and provided that the petition~~] **information which** addresses the manner in which responsibility for implementation will be allocated between or among the participating local governments.

[**4**] **3**. The agency shall cause a notice of the petition to be published in the state register **and a newspaper of general circulation in the impacted community** and shall receive comments on the petition for a period of thirty days. Such notice shall either include the full text

of the information set forth in the petition or shall set forth the address of a website on which the full text has been posted. The notice shall include the name, public office address and telephone number, and may include a fax number and electronic mail address, of an agency representative from whom additional information on the petition can be obtained and to whom comments on the petition may be submitted.

[~~5. (a)~~] **4.** Not later than thirty days after the last day of the comment period, the agency shall approve or disapprove the petition. The agency may approve the petition without change or with such conditions or modifications as the agency deems appropriate. Notice of the agency determination shall be provided in writing to the local government and shall be published in the state register. The agency shall not grant a petition unless it determines that the petition has met the requirements of subdivision two of this section and that the local government has established that the alternate method is consistent with and will effectively carry out the objectives of the regulatory mandate; provided, however, that no petition shall be approved which would result in the contravention of any environmental, health or safety standard or would reduce any benefits or rights accorded by law or rule to third parties. In approving a petition, an agency may waive a statutory provision only if it is specifically authorized by law to waive such provision. An approval shall include a timetable for agency evaluation of the effectiveness of the alternate method.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, upon receipt of an objection to a petition from the authorized agent of any certified or recognized employee organization representing employees who would be affected by implementation of the alternate method, the agency shall provide any such organizations with an opportunity for a hearing. If an adjudicatory proceeding is requested, the petition shall not be approved unless the agency determines by a preponderance of the evidence that implementing the alternate method would not affect such employees by contravening any environmental, health or safety standard, reducing any rights or benefits or violating the terms of any negotiated agreement, and that all other requirements of this section have been met. The provisions of this subdivision are in addition to and shall not be construed to impair or modify any rights of such employees under any other law, regulation or contract.

5. A local government that objects to a state agency determination to modify or disapprove its petition may appeal in writing to the mandate relief council, who, upon review of the agency's findings and determination, may approve, modify or disapprove the petition.

6. Nothing in this section shall require a local government to commence or continue an alternate method of implementation if it determines in its sole discretion not to do so, except to the extent that a local government has committed to commencing or continuing an alternate method in a joint petition submitted pursuant to subdivision [~~three~~] **two** of this section.

7. A state agency may rescind its approval of a petition [~~at any time if it determines, based on the information reported pursuant to paragraph (e) of subdivision two of this section or other information available to it, that the alternate method is not effectively carrying out the objectives of the regulatory mandate or is being implemented in a manner detrimental to the public interest~~] **only after a hearing, provided, however, that the agency may suspend its approval of a petition prior to a hearing if it finds that immediate suspension is necessary to address an imminent threat to health or safety. Notice of a**

hearing must be provided to the petitioner at least thirty days prior to the hearing and must be posted on the agency's website. Such notice must state the basis for the agency's decision to seek rescission and inform the local government that it may request information relied upon by the agency in making its determination, which information must be provided to the local government at least seven days in advance of the hearing. After such hearing, the agency may rescind its approval upon a finding that the alternative method of implementation is not consistent with or does not effectively carry out the objectives of the regulatory mandate.

[~~7.~~] **8.** Notwithstanding any other provision of law, implementation of an alternate method approved by an agency pursuant to this section shall be deemed to lawfully meet all requirements of the regulatory mandate. An agency shall retain the authority to enforce compliance with the alternate method in the same manner as it may enforce compliance with the underlying rule. Any action on a petition by a state agency shall be subject to review pursuant to article seventy-eight of the civil practice law and rules.

[~~8.~~] **9.** In accordance with the timetable established pursuant to subdivision [~~four~~] **three** of this section, the agency shall evaluate the effectiveness of the alternate method in carrying out the objectives of the regulatory mandate. The evaluation shall identify any savings or other benefits, and any costs or other disadvantages, of implementing the alternate method, and shall address the desirability of incorporating the alternate method into the rules of the agency. Notice of availability of the evaluation shall be published in the state register.

§ 2. The executive law is amended by adding a new section 666 to read as follows:

§ 666. Mandate relief council. 1. Definitions. a. "Mandate" means any requirement that a local government perform or administer any program, project or activity, required or imposed by a state law or state agency that requires a higher level of service for an existing local government program, project or activity.

b. "Local government" means a county, city, town, village, school district, or special district.

c. "State agency" or "agency" means any state agency, department, office, board, bureau, division, committee, council or office under the direction or control of the executive.

2. Mandate relief council. There is hereby created within the executive department the mandate relief council, which shall be comprised of eleven members as follows: the secretary to the governor, who shall chair the council, the counsel to the governor, the director of the division of the budget, the secretary of state, and three additional members to be appointed by the governor from among his or her executive chamber staff, two members to be appointed by the temporary president of the senate, and two members to be appointed by the speaker of the assembly.

a. Six members of the council, or their designees in the case of the director of the division of the budget and the secretary of state, shall constitute a quorum.

b. The council shall meet regularly upon the call of its chair and as frequently as its business may require. The members of the council shall serve without compensation but shall receive reimbursement for their reasonable and necessary expenses.

c. The council shall, upon request of a local government or one of the members of the council, identify and review mandates that can be eliminated or reformed, and make such other and further inquiries, reports

and recommendations as the council may deem necessary and prudent to effectuate its mission of mandate relief. In identifying and determining whether such mandates are unsound, unduly burdensome or costly, the council shall receive and consider public comment about them and shall review them in light of cost-benefit principles and such other and further factors as the council shall deem necessary and prudent. The council shall not make a referral to the governor that a mandate be eliminated or reformed regarding any of the following mandates:

(i) those which are required to comply with federal laws or rules or to meet eligibility standards for federal entitlements;

(ii) those which reapportion the costs of activities between boards of education, counties, and municipalities;

(iii) those which implement provisions of the state constitution; and

(iv) those which the council determines are necessary for the maintenance of the public health or safety of the people of New York state.

d. All votes of the council, and all deliberations and reports of its proceedings shall be open to the public pursuant to article seven of the public officers law.

3. Council actions on regulatory mandates. Upon a determination that a mandate in any regulation, rule or order of any state agency has been imposed upon any local government in an unsound, unduly burdensome or costly manner so as to necessitate that it be eliminated or reformed, the council shall have the power to:

a. refer a request by a local government for a review of such regulatory mandate, for petition by such local government for a waiver, modification or repeal of such regulatory mandate pursuant to section two hundred four-a of the state administrative procedure act. In the event the council votes to make such referral on behalf of a local government, the state agency that is charged with reviewing the petition shall provide the technical assistance and support for such local government to properly prepare and submit such petition. In the event that such state agency reviewing the petition of the local government pursuant to section two hundred four-a of the state administrative procedure act does not provide the remedy sought by such local government, the council may hear and consider an appeal of such decision and grant such relief as it deems appropriate, including the making of a referral to the governor for the waiving, modifying or repealing of such regulatory mandate. The council shall adopt procedures by which it shall consider, decide and effectuate the remedies of such appeals consistent with this section.

b. upon a two-thirds vote, refer a regulation to the governor for repeal or modification, where the council has previously determined that such regulation imposes upon any local government a mandate in an unsound, unduly burdensome or costly manner, so as to necessitate that it be eliminated or reformed. Upon receipt of such referral by the council, the governor shall within sixty days, direct the state agency responsible for the promulgation, repeal or modification of such regulation to effectuate such repeal or modification of the regulation pursuant to the procedures that such agency would otherwise be required to follow under the law, had such agency on its own accord sought to repeal or modify the regulation.

4. Council actions on statutory mandates. The council may, upon a vote of seven members, refer a statute to the governor for repeal or modification, where the council has previously determined that such statute imposes upon any local government a mandate in an unsound, unduly burdensome or costly manner, so as to necessitate that it be eliminated

or reformed. Upon receipt of the referral by the council, the governor, within sixty days, shall have prepared a governor's program bill, for introduction in both houses of the legislature, to effectuate such repeal or modification of the statute.

5. Local government request. A local government may, by resolution of its governing body, ask the council to review a specific statute, regulation, rule or order of state government to determine whether such statute, regulation, rule or order of state government is an unfunded mandate or is otherwise unsound, unduly burdensome or costly so as to require that it be eliminated or reformed. No local government may make more than three such requests in each calendar year. Upon such review, the council shall, by majority vote, determine whether such mandate has been imposed upon such local government in an unsound, unduly burdensome or costly manner, so as to necessitate that it be eliminated or reformed. A determination of the council shall resolve any dispute regarding whether such a statute, regulation, rule or order constitutes such an unfunded mandate, but shall not be deemed a judicial determination under the law.

6. Appeals. Upon an appeal of a petition previously decided by a state agency pursuant to section two hundred four-a of the state administrative procedure act, the council, upon request of the local government, shall review the state agency's determination and may affirm, modify or reject such determination. Such appeal shall not preclude or limit a local government or any other party with standing from pursuing any right it may have pursuant to a proceeding instituted in accordance with the provisions of article seventy-eight of the civil practice law and rules or any other statute.

7. Reports. The council shall by December fifteenth of each year report to the governor and legislature regarding its activities, and regarding the issues, statutes, regulations, rules and orders which it reviewed, examined, proposed, referred, and/or considered. Such reports, which shall be adopted upon a majority vote of the members of the council, or their designees in the case of the director of the division of the budget or the secretary of state. All reports of the council shall be posted on a publicly accessible website.

8. Assistance of other agencies. To effectuate the purposes of this section, any state agency shall, at the request of the council, provide to the council such facilities, assistance and data as will enable the council to properly carry out its responsibilities and duties.

§ 3. This act shall take effect immediately; provided, however, that section one of this act shall take effect on the thirtieth day after it shall have become a law and shall expire January 1, 2015 or upon the departure from office of the fifty-sixth governor whichever comes first, provided however that section two of this act shall take effect January 15, 2012 and shall expire January 1, 2015 or upon the departure from office of the fifty-sixth governor whichever comes first.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or subpart of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or subpart thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Subparts A through H of this act shall be as specifically set forth in the last section of such Subparts.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through C of this act shall be as specifically set forth in the last section of such Parts; provided, however that Part B of this act shall remain in full force and effect at a minimum until and including June 15, 2015.

Chapter 161 **Signed July 20, 2011**

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:

Section 1. Subdivision c of section 208-f of the general municipal law, as amended by chapter 439 of the laws of 2010, is amended to read as follows:

c. Commencing July first, two thousand [~~ten~~] **eleven** the special accidental death benefit paid to a widow or widower or the deceased member's children under the age of eighteen or, if a student, under the age of twenty-three, if the widow or widower has died, shall be escalated by adding thereto an additional percentage of the salary of the deceased member (as increased pursuant to subdivision b of this section) in accordance with the following schedule:

calendar year of death of the deceased member	per centum
1977 or prior	[~~165.2%~~] **173.2%**
1978	[~~157.5%~~] **165.2%**
1979	[~~150.0%~~] **157.5%**
1980	[~~142.7%~~] **150.0%**
1981	[~~135.7%~~] **142.7%**
1982	[~~128.8%~~] **135.7%**
1983	[~~122.1%~~] **128.8%**
1984	[~~115.7%~~] **122.1%**
1985	[~~109.4%~~] **115.7%**
1986	[~~103.3%~~] **109.4%**
1987	[~~97.4%~~] **103.3%**
1988	[~~91.6%~~] **97.4%**
1989	[~~86.0%~~] **91.6%**

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

LBD10128-02-1

1990	[~~80.6%~~] **86.0%**
1991	[~~75.4%~~] **80.6%**
1992	[~~70.2%~~] **75.4%**
1993	[~~65.3%~~] **70.2%**
1994	[~~60.5%~~] **65.3%**
1995	[~~55.8%~~] **60.5%**
1996	[~~51.3%~~] **55.8%**
1997	[~~46.9%~~] **51.3%**
1998	[~~42.6%~~] **46.9%**
1999	[~~38.4%~~] **42.6%**
2000	[~~34.4%~~] **38.4%**
2001	[~~30.5%~~] **34.4%**
2002	[~~26.7%~~] **30.5%**
2003	[~~23.0%~~] **26.7%**
2004	[~~19.4%~~] **23.0%**
2005	[~~15.9%~~] **19.4%**
2006	[~~12.6%~~] **15.9%**
2007	[~~9.3%~~] **12.6%**
2008	[~~6.1%~~] **9.3%**
2009	[~~3.0%~~] **6.1%**
2010	[~~0.0%~~] **3.0%**
2011	**0.0%**

§ 2. Subdivision c of section 361-a of the retirement and social security law, as amended by chapter 439 of the laws of 2010, is amended to read as follows:

c. Commencing July first, two thousand [~~ten~~] **eleven** the special accidental death benefit paid to a widow or widower or the deceased member's children under the age of eighteen or, if a student, under the age of twenty-three, if the widow or widower has died, shall be escalated by adding thereto an additional percentage of the salary of the deceased member, as increased pursuant to subdivision b of this section, in accordance with the following schedule:

calendar year of death of the deceased member	per centum
1977 or prior	[~~165.2%~~] **173.2%**
1978	[~~157.5%~~] **165.2%**
1979	[~~150.0%~~] **157.5%**
1980	[~~142.7%~~] **150.0%**
1981	[~~135.7%~~] **142.7%**
1982	[~~128.8%~~] **135.7%**
1983	[~~122.1%~~] **128.8%**
1984	[~~115.7%~~] **122.1%**
1985	[~~109.4%~~] **115.7%**
1986	[~~103.3%~~] **109.4%**
1987	[~~97.4%~~] **103.3%**
1988	[~~91.6%~~] **97.4%**
1989	[~~86.0%~~] **91.6%**
1990	[~~80.6%~~] **86.0%**
1991	[~~75.4%~~] **80.6%**
1992	[~~70.2%~~] **75.4%**
1993	[~~65.3%~~] **70.2%**
1994	[~~60.5%~~] **65.3%**
1995	[~~55.8%~~] **60.5%**
1996	[~~51.3%~~] **55.8%**
1997	[~~46.9%~~] **51.3%**
1998	[~~42.6%~~] **46.9%**

1999	[~~38.4%~~] **42.6%**
2000	[~~34.4%~~] **38.4%**
2001	[~~30.5%~~] **34.4%**
2002	[~~26.7%~~] **30.5%**
2003	[~~23.0%~~] **26.7%**
2004	[~~19.4%~~] **23.0%**
2005	[~~15.9%~~] **19.4%**
2006	[~~12.6%~~] **15.9%**
2007	[~~9.3%~~] **12.6%**
2008	[~~6.1%~~] **9.3%**
2009	[~~3.0%~~] **6.1%**
2010	[~~0.0%~~] **3.0%**
2011	**0.0%**

§ 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 NYCRS 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 NYCRS 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 NYCRS, 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 NYCRS 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 NYCRS 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	**608**	**33.8**
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 NYCRS 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 NYCRS.

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 NYCRS 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.

Chapter 171 **Signed July 20, 2011**

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:

Section 1. The retirement and social security law is amended by adding a new section 1207 to read as follows:

§ 1207. Loans to members. a. Notwithstanding any general, special or local law to the contrary, a member in active service who has credit for at least one year of member service may borrow, no more than once within each twelve month period, an amount not exceeding seventy-five percent of the total contributions made pursuant to section twelve hundred four of this article or any other article of this chapter and not less than one thousand dollars.

b. An amount so borrowed, together with interest on any unpaid balance thereof, shall be repaid in equal installments which shall be made by the borrower directly to the retirement system or through regular payroll deduction. Such installments shall be in such amount as the retirement system shall approve; however, they shall be at least (a) two percent of the member's contract salary, and (b) sufficient to repay the amount borrowed, together with interest on unpaid balances thereof, within a period not in excess of five years. In the event of default, the retirement system shall be authorized to collect such payments due from the employer of such member through payroll deduction and such member shall forfeit all future entitlement to borrow from the retirement system until the unpaid balance of the loan outstanding at the time of default is fully paid. The retirement system, at any time, may accept payments on account of any loan in addition to the installments fixed for repayment thereof. All payments of principal and interest at the 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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shall be credited to his or her account as principal or interest. Any additional interest paid by the member shall be credited to the appropriate fund of the retirement system.

c. The rate of interest payable upon loans made pursuant to this section shall be one percent less than the valuation rate of interest adopted for such system. Whenever there is a change in the interest rate, it shall be applicable to loans made or renegotiated after the date of such change in the interest rate.

d. A service charge payable upon loans made pursuant to this section shall be set by the retirement system in an amount sufficient to cover the cost to the retirement system of administering the loans. Such charge shall be paid to the retirement system when the loan is made or in equal installments over the period the loan is outstanding. The amount of the service charge shall be credited to the fund from which administrative expenses are paid.

e. 1. Each loan made pursuant to this section shall be insured against the death of the member in an amount equal to the amount of the loan outstanding at any given time; with the exception that until thirty days have elapsed after the making thereof, no part of the loan shall be insured. Such insurance shall be provided by the retirement system. Upon the death of the member, the amount of insurance so payable shall be credited to his or her account. The premium payable by the member for such insurance shall be set by the retirement system at a rate not to exceed one percent of the amount loaned.

2. Such premium shall be prorated to July first next, or such other date fixed by the retirement system as is appropriate, and shall be paid to the retirement system in equal installments over the period of the loan. Thereafter, a premium not to exceed one percent per annum of the present value of the outstanding loan as of July first, or such other appropriate date, shall be paid in the same manner each succeeding year until such loan is repaid or the member is retired.

3. The retirement system shall, at least annually, review such premium rate, and may, in its discretion, increase or reduce the premium, modify the terms or conditions of coverage, or discontinue the insurance of loans. In no event shall this subdivision impose any obligation upon the retirement system to continue to insure loans of members upon the terms and conditions herein provided or upon any other terms or conditions.

f. The retirement system is authorized to establish such special funds as may be necessary to carry out the provisions of subdivisions d and e of this section.

g. Whenever a member of such a retirement system, for whom a loan is outstanding, becomes entitled to the return of his or her contributions because of withdrawal from such system or because of death, the amount of any loan outstanding on such date, including accrued interest as provided in subdivision d of this section, shall be construed to already have been returned to such member and the refund of contributions to which he shall then be entitled shall be the net amount of such contributions together with interest thereon.

h. Notwithstanding any general or special law to the contrary, whenever a member of the retirement system, for whom a loan is outstanding, retires, the retirement allowance payable without optional modification shall be reduced by a life annuity which is actuarially equivalent to the amount of the outstanding loan (all outstanding loans shall continue to accrue interest charges until retirement), such life annuity being calculated utilizing the interest rate on thirty year United States treasury bonds as of January first of the calendar year of the effective

date of retirement and the mortality tables for options available under section five hundred fourteen of this chapter.

i. The retirement system shall adopt such rules and regulations as it finds to be necessary in administering the provisions of this section.

j. The retirement system shall discharge any evidence of a loan to a member pursuant to this section upon the satisfaction of the obligation of the member thereunder.

k. The retirement system shall have no right to bring suit in any court against any member to enforce the amount due under this section, and the retirement system's sole remedy upon death, retirement or withdrawal shall be to offset the amount outstanding including interest from the member's account or other benefits payable to or on behalf of the member as provided in this section.

§ 2. Subdivision b of section 517-c of the retirement and social security law, as added by chapter 920 of the laws of 1990, is amended to read as follows:

b. A member of the New York state and local employees' retirement system, **the New York state and local police and fire retirement system,** the New York city employees' retirement system or the New York city board of education retirement system in active service who has credit for at least one year of member service may borrow, no more than once during each twelve month period, an amount not exceeding seventy-five percent of the total contributions made pursuant to section five hundred seventeen (including interest credited at the rate set forth in subdivision c of such section five hundred seventeen compounded annually) and not less than one thousand dollars.

§ 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.

Chapter 206 **Signed July 20, 2011**

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:

Section 1. Section 171-a of the tax law, as added by chapter 545 of the laws of 1978, is amended by adding a new subdivision 6-b to read as follows:

(6-b) Notwithstanding any provision of law to the contrary, the commissioner shall enter into a cooperative agreement with the state comptroller, which agreement shall provide for the utilization of information obtained pursuant to subdivision one of this section, for purposes of determining the amount a retired member of a retirement system or pension plan administered by the state or any of its political subdivisions who returns to public employment has earned for the purposes of sections one hundred two, two hundred eleven, two hundred twelve and four hundred two of the retirement and social security law.

§ 2. Paragraph 3 of subsection (e) of section 697 of the tax law, as amended by chapter 182 of the laws of 2010, is amended to read as follows:

(3) Nothing herein shall be construed to prohibit the department, its officers or employees from furnishing information to the office of temporary and disability assistance relating to the payment of the credit 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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ful employment under subsection (c) of section six hundred six of this article and the earned income credit under subsection (d) of section six hundred six of this article and the enhanced earned income credit under subsection (d-1) of section six hundred six of this article, or pursuant to a local law enacted by a city having a population of one million or more pursuant to subsection (f) of section thirteen hundred ten of this chapter, only to the extent necessary to calculate qualified state expenditures under paragraph seven of subdivision (a) of section four hundred nine of the federal social security act or to document the proper expenditure of federal temporary assistance for needy families funds under section four hundred three of such act. The office of temporary and disability assistance may redisclose such information to the United States department of health and human services only to the extent necessary to calculate such qualified state expenditures or to document the proper expenditure of such federal temporary assistance for needy families funds. Nothing herein shall be construed to prohibit the delivery by the commissioner to a commissioner of jurors, appointed pursuant to section five hundred four of the judiciary law, or, in counties within cities having a population of one million or more, to the county clerk of such county, of a mailing list of individuals to whom income tax forms are mailed by the commissioner for the sole purpose of compiling a list of prospective jurors as provided in article sixteen of the judiciary law. Provided, however, such delivery shall only be made pursuant to an order of the chief administrator of the courts, appointed pursuant to section two hundred ten of the judiciary law. No such order may be issued unless such chief administrator is satisfied that such mailing list is needed to compile a proper list of prospective jurors for the county for which such order is sought and that, in view of the responsibilities imposed by the various laws of the state on the department, it is reasonable to require the commissioner to furnish such list. Such order shall provide that such list shall be used for the sole purpose of compiling a list of prospective jurors and that such commissioner of jurors, or such county clerk, shall take all necessary steps to insure that the list is kept confidential and that there is no unauthorized use or disclosure of such list. Furthermore, nothing herein shall be construed to prohibit the delivery to a taxpayer or his or her duly authorized representative of a certified copy of any return or report filed in connection with his or her tax or to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the attorney general or other legal representatives of the state of the report or return of any taxpayer or of any employer filed under section one hundred seventy-one-h of this chapter, where such taxpayer or employer shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding under this chapter or under this chapter and article eighteen of the labor law has been recommended by the commissioner, the commissioner of labor with respect to unemployment insurance matters, or the attorney general or has been instituted, or the inspection of the reports or returns required under this article by the comptroller or duly designated officer or employee of the state department of audit and control, for purposes of the audit of a refund of any tax paid by a taxpayer under this article, or the furnishing to the state department of labor of unemployment insurance information obtained or derived from quarterly combined withholding, wage reporting and unemployment insurance returns required to be filed by employers pursuant to paragraph four of subsection (a) of section six hundred

seventy-four of this article, for purposes of administration of such department's unemployment insurance program, employment services program, federal and state employment and training programs, employment statistics and labor market information programs, worker protection programs, federal programs for which the department has administrative responsibility or for other purposes deemed appropriate by the commissioner of labor consistent with the provisions of the labor law, and redisclosure of such information in accordance with the provisions of sections five hundred thirty-six and five hundred thirty-seven of the labor law or any other applicable law, or the furnishing to the state office of temporary and disability assistance of information obtained or derived from New York state personal income tax returns as described in paragraph (b) of subdivision two of section one hundred seventy-one-g of this chapter for the purpose of reviewing support orders enforced pursuant to title six-A of article three of the social services law to aid in the determination of whether such orders should be adjusted, or the furnishing of information obtained from the reports required to be submitted by employers regarding newly hired or re-hired employees pursuant to section one hundred seventy-one-h of this chapter to the state office of temporary and disability assistance, the state department of health, the state department of labor and the workers' compensation board for purposes of administration of the child support enforcement program, verification of individuals' eligibility for one or more of the programs specified in subsection (b) of section eleven hundred thirty-seven of the federal social security act and for other public assistance programs authorized by state law, and administration of the state's employment security and workers' compensation programs, and to the national directory of new hires established pursuant to section four hundred fifty-three-A of the federal social security act for the purposes specified in such section, or the furnishing to the state office of temporary and disability assistance of the amount of an overpayment of income tax and interest thereon certified to the comptroller to be credited against past-due support pursuant to section one hundred seventy-one-c of this chapter and of the name and social security number of the taxpayer who made such overpayment, or the disclosing to the commissioner of finance of the city of New York, pursuant to section one hundred seventy-one-l of this chapter, of the amount of an overpayment and interest thereon certified to the comptroller to be credited against a city of New York tax warrant judgment debt and of the name and social security number of the taxpayer who made such overpayment, or the furnishing to the New York state higher education services corporation of the amount of an overpayment of income tax and interest thereon certified to the comptroller to be credited against the amount of a default in repayment of any education loan debt, including judgments, owed to the federal or New York state government that is being collected by the New York state higher education services corporation, and of the name and social security number of the taxpayer who made such overpayment, or the furnishing to the state department of health of the information required by paragraph (f) of subdivision two and subdivision two-a of section two thousand five hundred eleven of the public health law and by subdivision eight of section three hundred sixty-six-a and paragraphs (b) and (d) of subdivision two of section three hundred sixty-nine-ee of the social services law, or the furnishing to the state university of New York or the city university of New York respectively or the attorney general on behalf of such state or city university the amount of an overpayment of income tax and interest thereon certified to

the comptroller to be credited against the amount of a default in repayment of a state university loan pursuant to section one hundred seventy-one-e of this chapter and of the name and social security number of the taxpayer who made such overpayment, or the disclosing to a state agency, pursuant to section one hundred seventy-one-f of this chapter, of the amount of an overpayment and interest thereon certified to the comptroller to be credited against a past-due legally enforceable debt owed to such agency and of the name and social security number of the taxpayer who made such overpayment, or the furnishing of employee and employer information obtained through the wage reporting system, pursuant to section one hundred seventy-one-a of this chapter, as added by chapter five hundred forty-five of the laws of nineteen hundred seventy-eight, to the state office of temporary and disability assistance, the department of health or to the state office of the medicaid inspector general for the purpose of verifying eligibility for and entitlement to amounts of benefits under the social services law or similar law of another jurisdiction, locating absent parents or other persons legally responsible for the support of applicants for or recipients of public assistance and care under the social services law and persons legally responsible for the support of a recipient of services under section one hundred eleven-g of the social services law and, in appropriate cases, establishing support obligations pursuant to the social services law and the family court act or similar provision of law of another jurisdiction for the purpose of evaluating the effect on earnings of participation in employment, training or other programs designed to promote self-sufficiency authorized pursuant to the social services law by current recipients of public assistance and care and by former applicants and recipients of public assistance and care, (except that with regard to former recipients, information which relates to a particular former recipient shall be provided with client identifying data deleted), to the state office of temporary and disability assistance for the purpose of determining the eligibility of any child in the custody, care and custody or custody and guardianship of a local social services district or of the office of children and family services for federal payments for foster care and adoption assistance pursuant to the provisions of title IV-E of the federal social security act by providing information with respect to the parents, the stepparents, the child and the siblings of the child who were living in the same household as such child during the month that the court proceedings leading to the child's removal from the household were initiated, or the written instrument transferring care and custody of the child pursuant to the provisions of section three hundred fifty-eight-a or three hundred eighty-four-a of the social services law was signed, provided however that the office of temporary and disability assistance shall only use the information obtained pursuant to this subdivision for the purpose of determining the eligibility of such child for federal payments for foster care and adoption assistance pursuant to the provisions of title IV-E of the federal social security act, and to the state department of labor, or other individuals designated by the commissioner of labor, for the purpose of the administration of such department's unemployment insurance program, employment services program, federal and state employment and training programs, employment statistics and labor market information programs, worker protection programs, federal programs for which the department has administrative responsibility or for other purposes deemed appropriate by the commissioner of labor consistent with the provisions of the labor law, and redisclosure of such information in accordance with the

provisions of sections five hundred thirty-six and five hundred thirty-seven of the labor law, or the furnishing of information, which is obtained from the wage reporting system operated pursuant to section one hundred seventy-one-a of this chapter, as added by chapter five hundred forty-five of the laws of nineteen hundred seventy-eight, to the state office of temporary and disability assistance so that it may furnish such information to public agencies of other jurisdictions with which the state office of temporary and disability assistance has an agreement pursuant to paragraph (h) or (i) of subdivision three of section twenty of the social services law, and to the state office of temporary and disability assistance for the purpose of fulfilling obligations and responsibilities otherwise incumbent upon the state department of labor, under section one hundred twenty-four of the federal family support act of nineteen hundred eighty-eight, by giving the federal parent locator service, maintained by the federal department of health and human services, prompt access to such information as required by such act, or to the state department of health to verify eligibility under the child health insurance plan pursuant to subdivisions two and two-a of section two thousand five hundred eleven of the public health law, to verify eligibility under the medical assistance and family health plus programs pursuant to subdivision eight of section three hundred sixty-six-a and paragraphs (b) and (d) of subdivision two of section three hundred sixty-nine-ee of the social services law, and to verify eligibility for the program for elderly pharmaceutical insurance coverage under title three of article two of the elder law, or to the office of vocational and educational services for individuals with disabilities of the education department, the commission for the blind and visually handicapped and any other state vocational rehabilitation agency, for purposes of obtaining reimbursement from the federal social security administration for expenditures made by such office, commission or agency on behalf of disabled individuals who have achieved economic self-sufficiency or to the higher education services corporation for the purpose of assisting the corporation in default prevention and default collection of education loan debt, including judgments, owed to the federal or New York state government; provided, however, that such information shall be limited to the names, social security numbers, home and/or business addresses, and employer names of defaulted or delinquent student loan borrowers**, or to the office of the state comptroller for purposes of verifying the income of a retired member of a retirement system or pension plan administered by the state or any of its political subdivisions who returns to public employment**.

Provided, however, that with respect to employee information the office of temporary and disability assistance shall only be furnished with the names, social security account numbers and gross wages of those employees who are (A) applicants for or recipients of benefits under the social services law, or similar provision of law of another jurisdiction (pursuant to an agreement under subdivision three of section twenty of the social services law) or, (B) absent parents or other persons legally responsible for the support of applicants for or recipients of public assistance and care under the social services law or similar provision of law of another jurisdiction (pursuant to an agreement under subdivision three of section twenty of the social services law), or (C) persons legally responsible for the support of a recipient of services under section one hundred eleven-g of the social services law or similar provision of law of another jurisdiction (pursuant to an agreement under subdivision three of section twenty of the social services law), or (D)

employees about whom wage reporting system information is being furnished to public agencies of other jurisdictions, with which the state office of temporary and disability assistance has an agreement pursuant to paragraph (h) or (i) of subdivision three of section twenty of the social services law, or (E) employees about whom wage reporting system information is being furnished to the federal parent locator service, maintained by the federal department of health and human services, for the purpose of enabling the state office of temporary and disability assistance to fulfill obligations and responsibilities otherwise incumbent upon the state department of labor, under section one hundred twenty-four of the federal family support act of nineteen hundred eighty-eight, and, only if, the office of temporary and disability assistance certifies to the commissioner that such persons are such applicants, recipients, absent parents or persons legally responsible for support or persons about whom information has been requested by a public agency of another jurisdiction or by the federal parent locator service and further certifies that in the case of information requested under agreements with other jurisdictions entered into pursuant to subdivision three of section twenty of the social services law, that such request is in compliance with any applicable federal law. Provided, further, that where the office of temporary and disability assistance requests employee information for the purpose of evaluating the effects on earnings of participation in employment, training or other programs designed to promote self-sufficiency authorized pursuant to the social services law, the office of temporary and disability assistance shall only be furnished with the quarterly gross wages (excluding any reference to the name, social security number or any other information which could be used to identify any employee or the name or identification number of any employer) paid to employees who are former applicants for or recipients of public assistance and care and who are so certified to the commissioner by the commissioner of the office of temporary and disability assistance. Provided, further, that with respect to employee information, the department of health shall only be furnished with the information required pursuant to the provisions of paragraph (f) of subdivision two and subdivision two-a of section two thousand five hundred eleven of the public health law and subdivision eight of section three hundred sixty-six-a and paragraphs (b) and (d) of subdivision two of section three hundred sixty-nine-ee of the social services law, with respect to those individuals whose eligibility under the child health insurance plan, medical assistance program, and family health plus program is to be determined pursuant to such provisions and with respect to those members of any such individual's household whose income affects such individual's eligibility and who are so certified to the commissioner or by the department of health. Provided, further, that wage reporting information shall be furnished to the office of vocational and educational services for individuals with disabilities of the education department, the commission for the blind and visually handicapped and any other state vocational rehabilitation agency only if such office, commission or agency, as applicable, certifies to the commissioner that such information is necessary to obtain reimbursement from the federal social security administration for expenditures made on behalf of disabled individuals who have achieved self-sufficiency. Reports and returns shall be preserved for three years and thereafter until the commissioner orders them to be destroyed.

§ 3. This act shall take effect on the one hundred eightieth day after ir 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.

Chapter 365 **Signed August 3, 2011**

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:

Section 1. Notwithstanding any other provision of law to the contrary, the village of Southampton, in the county of Suffolk, a participating employer in the New York state and local police and fire retirement system, which previously elected to offer the optional retirement plan established pursuant to section 384-d of the retirement and social security law to police officers employed by such village, is hereby authorized to make participation in such plan available to Theodore Raffel, Jr., registration number 0A779322, a police officer employed by the village of Southampton, who, on the effective date of this act is covered under the provisions of section 375-i of the retirement and social security law, and who, for reasons not ascribable to his own negligence failed to make a timely application to participate in such optional retirement plan. The village of Southampton may so elect by filing with the state comptroller, on or before December 31, 2011, a resolution of its legislative body together with certification that such police officer did not bar himself from participation in such retirement plan as a result of his own negligence. Thereafter, such police officer may elect to be covered by the provisions of section 384-d of the retirement and social security law, and shall be entitled to the full 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:

Section 1. Subdivision m of section 384-d of the retirement and social security law is REPEALED and a new subdivision m is added to read as follows:

m. Notwithstanding any inconsistent provision of law, if the town board of the town of Southampton elects to make the benefits of this section available to the members of its police department, each member of such department shall be separated from service upon completion of twenty years of service, provided, however, that the town board may permit a member to continue in service on an annual basis after the completion of twenty years of service, but in no event shall such annual service be continued after a member has attained age fifty-five unless such member has not attained twenty years of service, except however, that members of such department who hold the rank of sergeant or higher within such department may be permitted by the town board to remain in service until the member has attained age sixty.

§ 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

Chapter 369 **Signed August 3, 2011**

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:

Section 1. Notwithstanding any other provision of law to the contrary, the village of Maybrook, in the county of Orange, a participating employer in the New York state and local police and fire retirement system, which previously elected to offer the optional twenty year retirement plan, established pursuant to section 384-d of the retirement and social security law, to police officers employed by such village, is hereby authorized to make participation in such plan available to Michael E. Maresca, a police officer employed by the village of Maybrook, who, for reasons not ascribable to his own negligence failed to make a timely application to participate in such optional twenty year retirement plan. The village of Maybrook may so elect by filing with the state comptroller, on or before December 31, 2011, a resolution of its board of trustees together with certification that such police officer did not bar himself from participation in such retirement plan as a result of his own negligence. Thereafter, such police officer may elect to be covered by the provisions of section 384-d of the retirement and social security law, and shall be entitled to the full rights and benefits associated with coverage under such section, by filing a request to that effect with the state comptroller on or before June 30, 2012.

§ 2. All past service costs associated with implementing the provisions of this act shall be borne by the village of Maybrook.

§ 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.

Chapter 372 **Signed August 3, 2011**

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. RAIA -- 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:

Section 1. Notwithstanding any other provision of law, Michelle Merlino, a member of the New York state and local employees' retirement system, who was employed on November 14, 2008, by Deer Park Union Free School District, who, for reasons not ascribable to her own negligence, did not file a membership application in such system until March 18, 2010, which gave her Tier V status instead of Tier IV status, where she would have been had she been able to file a membership application when she became a permanent employee on November 14, 2008 may be deemed to have become a member of the New York state and local employees' retirement system on November 14, 2008 if on or before December 31, 2011 she shall file with the state comptroller a written request to that effect. Upon the granting of such retroactive membership, Michelle Merlino shall not be granted a refund of any employee contribution made by her to the New York state and local employees' retirement system.

§ 2. Any past service costs incurred in implementing the provisions of this act shall be borne by the Deer Park Union Free School District.

§ 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.

Chapter 374 **Signed August 3, 2011**

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:

Section 1. Notwithstanding any other provision of law to the contrary, the town of East Greenbush, in the county of Rensselaer, a participating employer in the New York state and local police and fire retirement system, which offers the optional twenty year retirement plan established pursuant to section 384-d of the retirement and social security law to police officers employed by such town is hereby authorized to make participation in such plan available to Edward A. Miano, a police officer employed by the town of East Greenbush, who, for reasons not ascribable to his own negligence failed to make a timely application to participate in such optional twenty year retirement plan.

The town of East Greenbush may so elect by filing with the state comptroller, on or before December 31, 2011, a resolution of its governing body together with certification that such police officer did not bar himself from participation in such retirement plan as a result of his own negligence. Thereafter such police officer may elect to be covered by the provisions of section 384-d of the retirement and social security law, and shall be entitled to the full rights and benefits associated with coverage under such section for the service rendered with the town of East Greenbush only, by filing a request to that effect with the 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

§ 2. All past service costs associated with implementing the provisions of this act shall be borne by the town of East Greenbush and the past service costs associated with this act may be amortized over a period of five or ten years.

§ 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.

Chapter 375 **Signed August 3, 2011**

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 Assembly, do enact as follows:

Section 1. Subdivision a of section 70 of the retirement and social security law, as amended by chapter 207 of the laws of 1978, is amended to read as follows:

a. Any member may retire if he **or she** shall have attained at least the minimum retirement age while in service as a member, or while in federal service, or in the service of the United Nations or other international organizations of which the United States is a member, as a member continued pursuant to paragraph one of subdivision f of section forty of this article, or while entitled to make application for a vested retirement allowance pursuant to section seventy-six of this [~~chapter~~] **title**. Any such member desiring to retire shall execute and file with the comptroller an application for retirement, which shall specify the effective date of his **or her** retirement, which shall be not less than [~~thirty~~] **fifteen** nor more than ninety days subsequent to such date of filing. An application for service retirement, filed hereunder in accordance with the provisions of subdivision c of section sixty-two or subdivision f of section sixty-three of this [~~chapter~~] **article**, shall be processed in the regular manner, provided that if the application filed simultaneously therewith under either of such subdivisions is granted, then and in that event the retirement allowance granted in accordance with the provisions 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

§ 2. Subdivision a of section 370 of the retirement and social security law, as amended by chapter 570 of the laws of 1999, is amended to read as follows:

a. Any member may retire if he **or she** shall have attained at least the minimum retirement age while in service as a member, or while in federal service, or in the service of the United Nations or other international organizations of which the United States is a member, as a member continued pursuant to paragraph one of subdivision f of section three hundred forty of this article or while entitled to make application for a vested retirement allowance pursuant to section three hundred seventy-six of this [~~chapter~~] **title**. Any such member desiring to retire shall execute and file with the comptroller an application for retirement, which shall specify the effective date of his **or her** retirement, which shall be not less than [~~thirty~~] **fifteen** nor more than ninety days subsequent to such date of filing. An application for service retirement, filed hereunder in accordance with the provisions of subdivision c of section sixty-two or subdivision f of section sixty-three of this chapter, shall be processed in the regular manner, provided that if the application filed simultaneously therewith under either of such subdivisions is granted, then and in that event the retirement allowance granted in accordance with the provisions of this section shall be appropriately adjusted. Notwithstanding any other provision of law, any member who is eligible to retire and who has died while in active service, and who has filed an application for service retirement less than thirty days prior to death, shall be deemed to have retired and the member's designated beneficiary shall have the option to choose the benefit provided by service retirement rather than the death benefit, provided, however that if the designated beneficiary elects the service retirement benefit such person shall be required to choose an option under section three hundred ninety of this article.

§ 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.

Chapter 378 **Signed August 3, 2011**

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:

Section 1. Notwithstanding any other provision of law, Randy Prock, a member of the New York state and local employees' retirement system, who was employed on August 13, 2009, by the Department of Taxation and Finance as a temporary Tax Information Aid, who filed a membership application in such system on December 17, 2009, which should have given him Tier IV status but for reasons not ascribable to his own negligence and due to an administrative error, the application was not processed in the usual manner and therefore not processed, may be deemed to have become a member of the New York state and local employees' retirement system on December 17, 2009.

§ 2. Any past service costs incurred in implementing the provisions of this act shall be borne by the state.

§ 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

Chapter 387 **Signed August 3, 2011**

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

Chapter 399 **Signed August 15, 2011**

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

date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section four of this act sets forth the general effective date of this act.

PART A

Section 1. Paragraph (a) of subdivision 1 of section 73 of the public officers law, as amended by chapter 813 of the laws of 1987, is amended to read as follows:

(a) The term "compensation" shall mean any money, thing of value or financial benefit conferred in return for services rendered or to be rendered. With regard to matters undertaken by a firm, corporation or association, compensation shall mean net revenues, as defined in accordance with generally accepted accounting principles as defined by the [~~state~~] **joint commission on public** ethics [~~commission~~] or legislative ethics [~~committee~~] **commission** in relation to persons subject to their respective jurisdictions.

§ 2. Subdivision 2 of section 73 of the public officers law, as amended by chapter 813 of the laws of 1987, is amended to read as follows:

2. In addition to the prohibitions contained in subdivision seven [~~hereof~~] **of this section**, no statewide elected official, state officer or employee, member of the legislature or legislative employee shall receive, or enter into any agreement express or implied for, compensation for services to be rendered in relation to any case, proceeding, application, or other matter before any state agency, **or any executive order, or any legislation or resolution before the state legislature,** whereby his **or her** compensation is to be dependent or contingent upon any action by such agency **or legislature** with respect to any license, contract, certificate, ruling, decision, **executive order,** opinion, rate schedule, franchise, **legislation, resolution** or other benefit; provided, however, that nothing in this subdivision shall be deemed to prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

§ 3. Paragraph (a) of subdivision 6 of section 73 of the public officers law, as amended by chapter 813 of the laws of 1987, is amended to read as follows:

(a) Every legislative employee not subject to the provisions of section seventy-three-a of this chapter shall, on and after December fifteenth and before the following January fifteenth, in each year, file with the [~~legislative~~] **joint commission on public** ethics [~~committee established by section eighty of the legislative law~~] **and the legislative ethics commission** a financial disclosure statement of

(1) each financial interest, direct or indirect of himself, his spouse and his unemancipated children under the age of eighteen years in any activity which is subject to the jurisdiction of a regulatory agency or name of the entity in which the interest is had and whether such interest is over or under five thousand dollars in value.

(2) every office and directorship held by him in any corporation, firm or enterprise which is subject to the jurisdiction of a regulatory agency, including the name of such corporation, firm or enterprise.

(3) any other interest or relationship which he determines in his discretion might reasonably be expected to be particularly affected by legislative action or in the public interest should be disclosed.

§ 4. Every state agency, department, division, office, and board; every public benefit corporation, public authority and commission at least one of whose members is appointed by the governor; the state university of New York and the city university of New York, including all their constituent units except community colleges of the state university of New York; and the independent institutions operating statutory or contract colleges on behalf of the state, shall cooperate with the office of general services and supply to that office on a schedule and in a format determined by the office of general services in consultation with such governmental bodies, a list of all individuals, firms, or other entities (other than state or local governmental agencies) who have appeared before such governmental body in a representative capacity on behalf of a client or customer for purposes of: (a) procuring a state contract for real property, goods or services for such client; (b) representing such client or customer in a proceeding relating to rate making; (c) representing such client in a regulatory matter; (d) representing such client or customer in a judicial or quasi-judicial proceeding; or (e) representing such client or customer in the adoption or repeal of a rule or regulation. The office of general services shall create forms upon which such information shall be supplied and a database which shall collect and systemize the collection of such information. The office of general services shall make the database available and accessible to members of the public on a webpage subject to statutory confidentiality restrictions, and shall ensure that the information contained in the database is readily searchable and available for download. The database shall be known as "project sunlight".

§ 5. Section 73-a of the public officers law, as added by chapter 813 of the laws of 1987, paragraph (b) of subdivision 1 as amended by chapter 283 of the laws of 1996, subparagraphs (ii) and (iii) of paragraph (c) and paragraph (d) of subdivision 1, subparagraphs (v), (vi) and (vii) of paragraph (a) and paragraphs (e) and (g) of subdivision 2, paragraph 4, subparagraph (a) of paragraph 5, paragraphs 6, 9, 10, 11, subparagraph (b) of paragraph 12, paragraphs 13, 14, 15, 16, 17, 18 and 19 of subdivision 3 and subdivision 4 as amended and paragraph (l) of subdivision 1, subparagraph (viii) of paragraph (a) and paragraph (j) of subdivision 2 and the third and fourth undesignated paragraphs of paragraph 3 of subdivision 3 as added by chapter 242 of the laws of 1989, is amended to read as follows:

§ 73-a. Financial disclosure. 1. As used in this section:

(a) The term "statewide elected official" shall mean the governor, lieutenant governor, comptroller, or attorney general.

(b) The term "state agency" shall mean any state department, or division, board, commission, or bureau of any state department, any public benefit corporation, public authority or commission at least one of whose members is appointed by the governor, or the state university of New York or the city university of New York, including all their constituent units except community colleges of the state university of New York and the independent institutions operating statutory or contract colleges on behalf of the state.

(c) The term "state officer or employee" shall mean:

(i) heads of state departments and their deputies and assistants;

(ii) officers and employees of statewide elected officials, officers and employees of state departments, boards, bureaus, divisions, commis-

sions, councils or other state agencies, who receive annual compensation in excess of the filing rate established by paragraph (l) of this subdivision or who hold policy-making positions, as annually determined by the appointing authority and set forth in a written instrument which shall be filed with the [~~state~~] **joint commission on public** ethics [~~commission~~] established by section ninety-four of the executive law during the month of February, provided, however, that the appointing authority shall amend such written instrument after such date within thirty days after the undertaking of policy-making responsibilities by a new employee or any other employee whose name did not appear on the most recent written instrument; and

(iii) members or directors of public authorities, other than multistate authorities, public benefit corporations and commissions at least one of whose members is appointed by the governor, and employees of such authorities, corporations and commissions who receive annual compensation in excess of the filing rate established by paragraph (l) of this subdivision or who hold policy-making positions, as determined annually by the appointing authority and set forth in a written instrument which shall be filed with the [~~state~~] **joint commission on public** ethics [~~commission~~] established by section ninety-four of the executive law during the month of February, provided, however, that the appointing authority shall amend such written instrument after such date within thirty days after the undertaking of policy-making responsibilities by a new employee or any other employee whose name did not appear on the most recent written instrument.

(d) The term "legislative employee" shall mean any officer or employee of the legislature who receives annual compensation in excess of the filing rate established by paragraph (l) below or who is determined to hold a policy-making position by the appointing authority as set forth in a written instrument which shall be filed with the legislative **ethics commission and the joint commission on public** ethics [~~committee established by section eighty of the legislative law~~].

(d-1) A financial disclosure statement required pursuant to section seventy-three of this article and this section shall be deemed "filed" with the joint commission on public ethics upon its filing, in accordance with this section, with the legislative ethics commission for all purposes including, but not limited to, subdivision fourteen of section ninety-four of the executive law, subdivision nine of section eighty of the legislative law and subdivision four of this section.

(e) The term "spouse" shall mean the husband or wife of the reporting individual unless living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation or unless separated pursuant to: (i) a judicial order, decree or judgment, or (ii) a legally binding separation agreement.

(f) The term "relative" shall mean such individual's spouse, child, stepchild, stepparent, or any person who is a direct descendant of the grandparents of the reporting individual or of the reporting individual's spouse.

(g) The term "unemancipated child" shall mean any son, daughter, stepson or stepdaughter who is under age eighteen, unmarried and living in the household of the reporting individual.

(h) The term "political party chairman" shall have the same meaning as ascribed to such term by subdivision one of section seventy-three of this [~~chapter~~] **article**.

(i) The term "local agency" shall mean:

(i) any county, city, town, village, school district or district corporation, or any agency, department, division, board, commission or bureau thereof; and

(ii) any public benefit corporation or public authority not included in the definition of a state agency.

(j) The term "regulatory agency" shall have the same meaning as ascribed to such term by subdivision one of section seventy-three of this [~~chapter~~] **article**.

(k) The term "ministerial matter" shall have the same meaning as ascribed to such term by subdivision one of section seventy-three of this [~~chapter~~] **article**.

(l) The term "filing rate" shall mean the job rate of SG-24 as set forth in paragraph a of subdivision one of section one hundred thirty of the civil service law as of April first of the year in which an annual financial disclosure statement shall be filed.

(m) The term "lobbyist" shall have the same meaning as ascribed to such term in subdivision (a) of section one-c of the legislative law.

2. (a) Every statewide elected official, state officer or employee, member of the legislature, legislative employee and political party chairman and every candidate for statewide elected office or for member of the legislature shall file an annual statement of financial disclosure containing the information and in the form set forth in subdivision three [~~hereof~~] **of this section**. [~~Such statement shall be filed on or before the fifteenth day of May with respect to the preceding calendar year, except that~~] **On or before the fifteenth day of May with respect to the preceding calendar year: (1) every member of the legislature, every candidate for member of the legislature and legislative employee shall file such statement with the legislative ethics commission which shall provide such statement along with any requests for exemptions or deletions to the joint commission on public ethics for filing and rulings with respect to such requests for exemptions or deletions, on or before the thirtieth day of June; and (2) all other individuals required to file such statement shall file it with the joint commission on public ethics, except that**:

(i) a person who is subject to the reporting requirements of this subdivision and who timely filed with the internal revenue service an application for automatic extension of time in which to file his or her individual income tax return for the immediately preceding calendar or fiscal year shall be required to file such financial disclosure statement on or before May fifteenth but may, without being subjected to any civil penalty on account of a deficient statement, indicate with respect to any item of the disclosure statement that information with respect thereto is lacking but will be supplied in a supplementary statement of financial disclosure, which shall be filed on or before the seventh day after the expiration of the period of such automatic extension of time within which to file such individual income tax return, provided that failure to file or to timely file such supplementary statement of financial disclosure or the filing of an incomplete or deficient supplementary statement of financial disclosure shall be subject to the notice and penalty provisions of this section respecting annual statements of financial disclosure as if such supplementary statement were an annual statement;

(ii) a person who is required to file an annual financial disclosure statement with the [~~state~~] **joint commission on public** ethics [~~commission or with the legislative ethics committee~~], and who is granted an additional period of time within which to file such statement due to justi-

fiable cause or undue hardship, in accordance with required rules and regulations on the subject adopted pursuant to paragraph c of subdivision nine of section ninety-four of the executive law [~~or pursuant to paragraph c of subdivision eight of section eighty of the legislative law,~~] shall file such statement within the additional period of time granted; **and the legislative ethics commission shall notify the joint commission on public ethics of any extension granted pursuant to this paragraph;**

(iii) candidates for statewide office who receive a party designation for nomination by a state committee pursuant to section 6-104 of the election law shall file such statement within [~~seven~~] **ten** days after the date of the meeting at which they are so designated;

(iv) candidates for statewide office who receive twenty-five percent or more of the vote cast at the meeting of the state committee held pursuant to section 6-104 of the election law and who demand to have their names placed on the primary ballot and who do not withdraw within fourteen days after such meeting shall file such statement within [~~seven~~] **ten** days after the last day to withdraw their names in accordance with the provisions of such section of the election law;

(v) candidates for statewide office and candidates for member of the legislature who file party designating petitions for nomination at a primary election shall file such statement within [~~seven~~] **ten** days after the last day allowed by law for the filing of party designating petitions naming them as candidates for the next succeeding primary election;

(vi) candidates for independent nomination who have not been designated by a party to receive a nomination shall file such statement within [~~seven~~] **ten** days after the last day allowed by law for the filing of independent nominating petitions naming them as candidates in the next succeeding general or special election;

(vii) candidates who receive the nomination of a party for a special election shall file such statement within [~~seven~~] **ten** days after the date of the meeting of the party committee at which they are nominated; [~~and~~]

(viii) a candidate substituted for another candidate, who fills a vacancy in a party designation or in an independent nomination, caused by declination, shall file such statement within [~~seven~~] **ten** days after the last day allowed by law to file a certificate to fill a vacancy in such party designation or independent nomination[~~.~~]**;**

(ix) with respect to all candidates for member of the legislature, the legislative ethics commission shall within five days of receipt provide the joint commission on public ethics the statement filed pursuant to subparagraphs (v), (vi), (vii) and (viii) of this paragraph.

(b) As used in this subdivision, the terms "party", "committee" (when used in conjunction with the term "party"), "designation", "primary", "primary election", "nomination", "independent nomination" and "ballot" shall have the same meanings as those contained in section 1-104 of the election law.

(c) If the reporting individual is a senator or member of assembly, candidate for the senate or member of assembly or a legislative employee, such statement shall be filed with **both** the legislative ethics [~~committee~~] **commission** established by section eighty of the legislative law **and the joint commission on public ethics in accordance with paragraph (d-1) of subdivision one of this section**. If the reporting individual is a statewide elected official, candidate for statewide elected office, a state officer or employee or a political party chairman, such

statement shall be filed with the [~~state~~] **joint commission on public** ethics [~~commission~~] established by section ninety-four of the executive law.

(d) The [~~legislative ethics committee and the state~~] **joint commission on public** ethics [~~commission~~] shall obtain from the state board of elections a list of all candidates for statewide office and for member of the legislature, and from such list, shall determine and publish a list of those candidates who have not, within ten days after the required date for filing such statement, filed the statement required by this subdivision.

(e) Any person required to file such statement who commences employment after May fifteenth of any year and political party chairman shall file such statement within thirty days after commencing employment or of taking the position of political party chairman, as the case may be. **In the case of members of the legislature and legislative employees, such statements shall be filed with the legislative ethics commission within thirty days after commencing employment, and the legislative ethics commission shall provide such statements to the joint commission on public ethics within forty-five days of receipt.**

(f) A person who may otherwise be required to file more than one annual financial disclosure statement with both the [~~state ethics commission~~] **joint commission on public ethics** and the legislative ethics [~~committee~~] **commission** in any one calendar year may satisfy such requirement by filing one such statement with either body and by notifying the other body of such compliance.

(g) A person who is employed in more than one employment capacity for one or more employers certain of whose officers and employees are subject to filing a financial disclosure statement with the same ethics commission [~~or ethics committee~~], as the case may be, and who receives distinctly separate payments of compensation for such employment shall be subject to the filing requirements of this section if the aggregate annual compensation for all such employment capacities is in excess of the filing rate notwithstanding that such person would not otherwise be required to file with respect to any one particular employment capacity. A person not otherwise required to file a financial disclosure statement hereunder who is employed by an employer certain of whose officers or employees are subject to filing a financial disclosure statement with the [~~state ethics~~] **joint** commission **on public ethics** and who is also employed by an employer certain of whose officers or employees are subject to filing a financial disclosure statement with the legislative ethics [~~committee~~] **commission** shall not be subject to filing such statement with either such commission [~~or such committee~~] on the basis that his aggregate annual compensation from all such employers is in excess of the filing rate.

(h) A statewide elected official or member of the legislature, who is simultaneously a candidate for statewide elected office or member of the legislature, shall satisfy the filing deadline requirements of this subdivision by complying only with the deadline applicable to one who holds a statewide elected office or who holds the office of member of the legislature.

(i) A candidate whose name will appear on both a party designating petition and on an independent nominating petition for the same office or who will be listed on the election ballot for the same office more than once shall satisfy the filing deadline requirements of this subdivision by complying with the earliest applicable deadline only.

(j) A member of the legislature who is elected to such office at a special election prior to May fifteenth in any year shall satisfy the filing requirements of this subdivision in such year by complying with the earliest applicable deadline only.

(k) The joint commission on public ethics shall post for at least five years beginning for filings made on January first, two thousand thirteen the annual statement of financial disclosure and any amendments filed by each person subject to the reporting requirements of this subdivision who is an elected official on its website for public review within thirty days of its receipt of such statement or within ten days of its receipt of such amendment that reflects any corrections of deficiencies identified by the commission or by the reporting individual after the reporting individual's initial filing. Except upon an individual determination by the commission that certain information may be deleted from a reporting individual's annual statement of financial disclosure, none of the information in the statement posted on the commission's website shall be otherwise deleted.

3. The annual statement of financial disclosure shall contain the information and shall be in the form set forth hereinbelow:

ANNUAL STATEMENT OF FINANCIAL DISCLOSURE - (For calendar year _____)

1. Name _____
2. (a) Title of Position _____
   (b) Department, Agency or other Governmental Entity _____
   (c) Address of Present Office _____
   (d) Office Telephone Number _____
3. (a) Marital Status _____. If married, please give spouse's full name including maiden name where applicable.
   _____ .

   (b) List the names of all unemancipated children.

_____
_____
_____
_____
_____

Answer each of the following questions completely, with respect to calendar year _____, unless another period or date is otherwise specified. If additional space is needed, attach additional pages.

Whenever a "value" or "amount" is required to be reported herein, such value or amount shall be reported as being within one of the following Categories **in Table I or Table II of this subdivision as called for in the question**: [~~**Category A - under $5,000; Category B - $5,000 to under $20,000; Category C - $20,000 to under $60,000; Category D - $60,000 to under $100,000; Category E - $100,000 to under $250,000; and Category F - $250,000 or over.**~~] A reporting individual shall indicate the Category by letter only.

Whenever "income" is required to be reported herein, the term "income" shall mean the aggregate net income before taxes from the source identified.

The term "calendar year" shall mean the year ending the December 31st preceding the date of filing of the annual statement.

4. (a) List any office, trusteeship, directorship, partnership, or position of any nature, whether compensated or not, held by the reporting individual with any firm, corporation, association, partnership, or other organization other than the State of New York. Include compensated honorary positions; do NOT list membership or uncompensated honorary positions. If the listed entity was licensed by any state or local agency, was regulated by any state regulatory agency or local agency, or, as a regular and significant part of the business or activity of said entity, did business with, or had matters other than ministerial matters before, any state or local agency, list the name of any such agency.

Position	Organization	State or Local Agency

(b) List any office, trusteeship, directorship, partnership, or position of any nature, whether compensated or not, held by the spouse or unemancipated child of the reporting individual, with any firm, corporation, association, partnership, or other organization other than the State of New York. Include compensated honorary positions; do NOT list membership or uncompensated honorary positions. If the listed entity was licensed by any state or local agency, was regulated by any state regulatory agency or local agency, or, as a regular and significant part of the business or activity of said entity, did business with, or had matters other than ministerial matters before, any state or local agency, list the name of any such agency.

Position	Organization	State or Local Agency

5. (a) List the name, address and description of any occupation, employment (other than the employment listed under Item 2 above), trade, business or profession engaged in by the reporting individual. If such activity was licensed by any state or local agency, was regulated by any state regulatory agency or local agency, or, as a regular and significant part of the business or activity of said entity, did business with, or had matters other than ministerial matters before, any state or local agency, list the name of any such agency.

Position	Name & Address of Organization	Description	State or Local Agency

_____
_____
_____
_____
_____

(b) If the spouse or unemancipated child of the reporting individual was engaged in any occupation, employment, trade, business or profession which activity was licensed by any state or local agency, was regulated by any state regulatory agency or local agency, or, as a regular and significant part of the business or activity of said entity, did business with, or had matters other than ministerial matters before, any state or local agency, list the name, address and description of such occupation, employment, trade, business or profession and the name of any such agency.

Position	Name & Address of Organization	Description	State or Local Agency

6. List any interest, in EXCESS of $1,000, held by the reporting individual, such individual's spouse or unemancipated child, or partnership of which any such person is a member, or corporation, 10% or more of the stock of which is owned or controlled by any such person, whether vested or contingent, in any contract made or executed by a state or local agency and include the name of the entity which holds such interest and the relationship of the reporting individual or such individual's spouse or such child to such entity and the interest in such contract. Do NOT include bonds and notes. Do NOT list any interest in any such contract on which final payment has been made and all obligations under the contract except for guarantees and warranties have been performed, provided, however, that such an interest must be listed if there has been an ongoing dispute during the calendar year for which this statement is filed with respect to any such guarantees or warranties. Do NOT list any interest in a contract made or executed by a local agency after public notice and pursuant to a process for competitive bidding or a process for competitive requests for proposals.

Self, Spouse or Child	Entity Which Held Interest in Contract	Relationship to Entity and Interest in Contract	Contracting State or Local Agency	Category of Value of Contract **(In Table II)**

7. List any position the reporting individual held as an officer of any political party or political organization, as a member of any political party committee, or as a political party district leader. The term "party" shall have the same meaning as "party" in the election law. The term "political organization" means any party or independent body as defined in the election law or any organization that is affiliated with or a subsidiary of a party or independent body.

_____
_____
_____
_____
_____

8. (a) If the reporting individual practices law, is licensed by the department of state as a real estate broker or agent or practices a profession licensed by the department of education, **or works as a member or employee of a firm required to register pursuant to section one-e of the legislative law as a lobbyist,** give a general description of the principal subject areas of matters undertaken by such individual. Additionally, if such an individual practices with a firm or corporation and is a partner or shareholder of the firm or corporation, give a general description of principal subject areas of matters undertaken by such firm or corporation. [~~**Do not list the name of the individual clients, customers or patients.**~~]

_____
_____
_____
_____
_____

(b) **APPLICABLE ONLY TO NEW CLIENTS OR CUSTOMERS FOR WHOM SERVICES ARE PROVIDED ON OR AFTER JULY FIRST, TWO THOUSAND TWELVE, OR FOR NEW MATTERS FOR EXISTING CLIENTS OR CUSTOMERS WITH RESPECT TO THOSE SERVICES THAT ARE PROVIDED ON OR AFTER JULY FIRST, TWO THOUSAND TWELVE:**

If the reporting individual personally provides services to any person or entity, or works as a member or employee of a partnership or corporation that provides such services (referred to hereinafter as a "firm"), then identify each client or customer to whom the reporting individual personally provided services, or who was referred to the firm by the reporting individual, and from whom the reporting individual or his or her firm earned fees in excess of $10,000 during the reporting period for such services rendered in direct connection with:

(i) A proposed bill or resolution in the senate or assembly during the reporting period;

(ii) A contract in an amount totaling $50,000 or more from the state or any state agency for services, materials, or property;

(iii) A grant of $25,000 or more from the state or any state agency during the reporting period;

(iv) A grant obtained through a legislative initiative during the reporting period; or

(v) A case, proceeding, application or other matter that is not a ministerial matter before a state agency during the reporting period.

For purposes of this question, "referred to the firm" shall mean: having intentionally and knowingly taken a specific act or series of acts to intentionally procure for the reporting individual's firm or knowingly solicit or direct to the reporting individual's firm in whole or substantial part, a person or entity that becomes a client of that firm for the purposes of representation for a matter as defined in subparagraphs (i) through (v) of this paragraph, as the result of such procurement, solicitation or direction of the reporting individual. A reporting individual need not disclose activities performed while lawfully acting pursuant to paragraphs (c), (d), (e) and (f) of subdivision seven of section seventy-three of this article.

The disclosure requirement in this question shall not require disclosure of clients or customers receiving medical or dental services, mental health services, residential real estate brokering services, or insurance brokering services from the reporting individual or his or her firm. The reporting individual need not identify any client to whom he or she or his or her firm provided legal representation with respect to investigation or prosecution by law enforcement authorities, bankruptcy, or domestic relations matters. With respect to clients represented in other matters, where disclosure of a client's identity is likely to cause harm, the reporting individual shall request an exemption from the joint commission pursuant to paragraph (i) of subdivision nine of section ninety-four of the executive law. Only a reporting individual who first enters public office after July first, two thousand twelve, need not report clients or customers with respect to matters for which the reporting individual or his or her firm was retained prior to entering public office.

Client	**Nature of Services Provided**

(c) List the name, principal address and general description or the nature of the business activity of any entity in which the reporting individual or such individual's spouse had an investment in excess of $1,000 excluding investments in securities and interests in real property.

_____
_____
_____
_____
_____

9. List each source of gifts, EXCLUDING campaign contributions, in EXCESS of $1,000, received during the reporting period for which this statement is filed by the reporting individual or such individual's spouse or unemancipated child from the same donor, EXCLUDING gifts from a relative. INCLUDE the name and address of the donor. The term "gifts" does not include reimbursements, which term is defined in item 10. Indicate the value and nature of each such gift.

Self, Spouse or Child	Name of Donor	Address	Nature of Gift	Category of Value of Gift **(In Table I)**

10. Identify and briefly describe the source of any reimbursements for expenditures, EXCLUDING campaign expenditures and expenditures in connection with official duties reimbursed by the state, in EXCESS of $1,000 from each such source. For purposes of this item, the term "reimbursements" shall mean any travel-related expenses provided by nongovernmental sources and for activities related to the reporting individual's official duties such as, speaking engagements, conferences, or factfinding events. The term "reimbursements" does NOT include gifts reported under item 9.

Source	Description

11. List the identity and value, if reasonably ascertainable, of each interest in a trust, estate or other beneficial interest, including retirement plans **(**other than retirement plans of the state of New York or the city of New York**)**, and deferred compensation plans (e.g., 401, 403(b), 457, etc.) established in accordance with the internal revenue code, in which the REPORTING INDIVIDUAL held a beneficial interest in EXCESS of $1,000 at any time during the preceding year. Do NOT report interests in a trust, estate or other beneficial interest established by or for, or the estate of, a relative.

Identity	Category of Value* **(In Table II)**

* The value of such interest shall be reported only if reasonably ascertainable.

12. (a) Describe the terms of, and the parties to, any contract, promise, or other agreement between the reporting individual and any person, firm, or corporation with respect to the employment of such

individual after leaving office or position (other than a leave of absence).

_____
_____
_____
_____
_____

(b) Describe the parties to and the terms of any agreement providing for continuation of payments or benefits to the REPORTING INDIVIDUAL in EXCESS of $1,000 from a prior employer OTHER THAN the State. (This includes interests in or contributions to a pension fund, profit-sharing plan, or life or health insurance; buy-out agreements; severance payments; etc.)

_____
_____
_____
_____
_____

13. List below the nature and amount of any income in EXCESS of $1,000 from EACH SOURCE for the reporting individual and such individual's spouse for the taxable year last occurring prior to the date of filing. Nature of income includes, but is not limited to, all income (other than that received from the employment listed under Item 2 above) from compensated employment whether public or private, directorships and other fiduciary positions, contractual arrangements, teaching income, partnerships, honorariums, lecture fees, consultant fees, bank and bond interest, dividends, income derived from a trust, real estate rents, and recognized gains from the sale or exchange of real or other property. Income from a business or profession and real estate rents shall be reported with the source identified by the building address in the case of real estate rents and otherwise by the name of the entity and not by the name of the individual customers, clients or tenants, with the aggregate net income before taxes for each building address or entity. The receipt of maintenance received in connection with a matrimonial action, alimony and child support payments shall not be listed.

Self/ Spouse	Source	Nature	Category of Amount **(In Table I)**

14. List the sources of any deferred income (not retirement income) in EXCESS of $1,000 from each source to be paid to the reporting individual following the close of the calendar year for which this disclosure statement is filed, other than deferred compensation reported in item 11 hereinabove. Deferred income derived from the

practice of a profession shall be listed in the aggregate and shall identify as the source, the name of the firm, corporation, partnership or association through which the income was derived, but shall not identify individual clients.

Source	Category of Amount **(In Table I)**

15. List each assignment of income in EXCESS of $1,000, and each transfer other than to a relative during the reporting period for which this statement is filed for less than fair consideration of an interest in a trust, estate or other beneficial interest, securities or real property, by the reporting individual, in excess of $1,000, which would otherwise be required to be reported herein and is not or has not been so reported.

Item Assigned or Transferred	Assigned or Transferred to	Category of Value **(In Table I)**

16. List below the type and market value of securities held by the reporting individual or such individual's spouse from each issuing entity in EXCESS of $1,000 at the close of the taxable year last occurring prior to the date of filing, including the name of the issuing entity exclusive of securities held by the reporting individual issued by a professional corporation. Whenever an interest in securities exists through a beneficial interest in a trust, the securities held in such trust shall be listed ONLY IF the reporting individual has knowledge thereof except where the reporting individual or the reporting individual's spouse has transferred assets to such trust for his or her benefit in which event such securities shall be listed unless they are not ascertainable by the reporting individual because the trustee is under an obligation or has been instructed in writing not to disclose the contents of the trust to the reporting individual. Securities of which the reporting individual or the reporting individual's spouse is the owner of record but in which such individual or the reporting individual's spouse has no beneficial interest shall not be listed. Indicate percentage of ownership ONLY if the reporting person or the reporting person's spouse holds more than five percent (5%) of the stock of a corporation in which the stock is publicly traded or more than ten percent (10%) of the stock of a corporation in which the stock is NOT publicly traded. Also list securities owned for investment

purposes by a corporation more than fifty percent (50%) of the stock of which is owned or controlled by the reporting individual or such individual's spouse. For the purpose of this item the term "securities" shall mean mutual funds, bonds, mortgages, notes, obligations, warrants and stocks of any class, investment interests in limited or general partnerships and certificates of deposits (CDs) and such other evidences of indebtedness and certificates of interest as are usually referred to as securities. The market value for such securities shall be reported only if reasonably ascertainable and shall not be reported if the security is an interest in a general partnership that was listed in item 8 (a) or if the security is corporate stock, NOT publicly traded, in a trade or business of a reporting individual or a reporting individual's spouse.

Self/ Spouse	Issuing Entity	Type of Security	Percentage of corporate stock owned or controlled (if more than 5% of publicly traded stock, or more than 10% if stock not publicly traded, is held)	Category of Market Value as of the close of the taxable year last occurring prior to the filing of this statement **(In Table II)**

17. List below the location, size, general nature, acquisition date, market value and percentage of ownership of any real property in which any vested or contingent interest in EXCESS of $1,000 is held by the reporting individual or the reporting individual's spouse. Also list real property owned for investment purposes by a corporation more than fifty percent **(**50%**)** of the stock of which is owned or controlled by the reporting individual or such individual's spouse. Do NOT list any real property which is the primary or secondary personal residence of the reporting individual or the reporting individual's spouse, except where there is a co-owner who is other than a relative.

Self/ Spouse/ Corporation	Location Size	General Nature	Acquisition Date	Percentage of Ownership	Category of Market Value **(In Table II)**

_____
_____
_____

18. List below all notes and accounts receivable, other than from goods or services sold, held by the reporting individual at the close of the taxable year last occurring prior to the date of filing and other debts owed to such individual at the close of the taxable year last occurring prior to the date of filing, in EXCESS of $1,000, including the name of the debtor, type of obligation, date due and the nature of the collateral securing payment of each, if any, excluding securities reported in item 16 hereinabove. Debts, notes and accounts receivable owed to the individual by a relative shall not be reported.

Name of Debtor	Type of Obligation, Date Due, and Nature of Collateral, if any	Category of Amount **(In Table II)**

19. List below all liabilities of the reporting individual and such individual's spouse, in EXCESS of [~~**$5,000**~~] **$10,000** as of the date of filing of this statement, other than liabilities to a relative. Do NOT list liabilities incurred by, or guarantees made by, the reporting individual or such individual's spouse or by any proprietorship, partnership or corporation in which the reporting individual or such individual's spouse has an interest, when incurred or made in the ordinary course of the trade, business or professional practice of the reporting individual or such individual's spouse. Include the name of the creditor and any collateral pledged by such individual to secure payment of any such liability. A reporting individual shall not list any obligation to pay maintenance in connection with a matrimonial action, alimony or child support payments. Any loan issued in the ordinary course of business by a financial institution to finance educational costs, the cost of home purchase or improvements for a primary or secondary residence, or purchase of a personally owned motor vehicle, household furniture or appliances shall be excluded. If any such reportable liability has been guaranteed by any third person, list the liability and name the guarantor.

Name of Creditor or Guarantor	Type of Liability and Collateral, if any	Category of Amount **(In Table II)**

The requirements of law relating to the reporting of financial interests are in the public interest and no adverse inference of unethical or illegal conduct or behavior will be drawn merely from compliance with these requirements.

_____ _____

(Signature of Reporting Individual) Date (month/day/year)

TABLE I

Category A	**none**
Category B	**$ 1 to under $ 1,000**
Category C	**$ 1,000 to under $ 5,000**
Category D	**$ 5,000 to under $ 20,000**
Category E	**$ 20,000 to under $ 50,000**
Category F	**$ 50,000 to under $ 75,000**
Category G	**$ 75,000 to under $ 100,000**
Category H	**$ 100,000 to under $ 150,000**
Category I	**$ 150,000 to under $ 250,000**
Category J	**$ 250,000 to under $ 350,000**
Category K	**$ 350,000 to under $ 450,000**
Category L	**$ 450,000 to under $ 550,000**
Category M	**$ 550,000 to under $ 650,000**
Category N	**$ 650,000 to under $ 750,000**
Category O	**$ 750,000 to under $ 850,000**
Category P	**$ 850,000 to under $ 950,000**
Category Q	**$ 950,000 to under $1,050,000**
Category R	**$1,050,000 to under $1,150,000**
Category S	**$1,150,000 to under $1,250,000**
Category T	**$1,250,000 to under $1,350,000**
Category U	**$1,350,000 to under $1,450,000**
Category V	**$1,450,000 to under $1,550,000**
Category W	**$1,550,000 to under $1,650,000**
Category X	**$1,650,000 to under $1,750,000**
Category Y	**$1,750,000 to under $1,850,000**
Category Z	**$1,850,000 to under $1,950,000**
Category AA	**$1,950,000 to under $2,050,000**
Category BB	**$2,050,000 to under $2,150,000**
Category CC	**$2,150,000 to under $2,250,000**
Category DD	**$2,250,000 to under $2,350,000**
Category EE	**$2,350,000 to under $2,450,000**
Category FF	**$2,450,000 to under $2,550,000**
Category GG	**$2,550,000 to under $2,650,000**
Category HH	**$2,650,000 to under $2,750,000**
Category II	**$2,750,000 to under $2,850,000**
Category JJ	**$2,850,000 to under $2,950,000**
Category KK	**$2,950,000 to under $3,050,000**
Category LL	**$3,050,000 to under $3,150,000**
Category MM	**$3,150,000 to under $3,250,000**
Category NN	**$3,250,000 to under $3,350,000**
Category OO	**$3,350,000 to under $3,450,000**
Category PP	**$3,450,000 to under $3,550,000**
Category QQ	**$3,550,000 to under $3,650,000**
Category RR	**$3,650,000 to under $3,750,000**
Category SS	**$3,750,000 to under $3,850,000**
Category TT	**$3,850,000 to under $3,950,000**
Category UU	**$3,950,000 to under $4,050,000**

Category VV	$4,050,000 to under $4,150,000
Category WW	$4,150,000 to under $4,250,000
Category XX	$4,250,000 to under $4,350,000
Category YY	$4,350,000 to under $4,450,000
Category ZZ	$4,450,000 to under $4,550,000
Category AAA	$4,550,000 to under $4,650,000
Category BBB	$4,650,000 to under $4,750,000
Category CCC	$4,750,000 to under $4,850,000
Category DDD	$4,850,000 to under $4,950,000
Category EEE	$4,950,000 to under $5,050,000
Category FFF	$5,050,000 to under $5,150,000
Category GGG	$5,150,000 to under $5,250,000
Category HHH	$5,250,000 to under $5,350,000
Category III	$5,350,000 to under $5,450,000
Category JJJ	$5,450,000 to under $5,550,000
Category KKK	$5,550,000 to under $5,650,000
Category LLL	$5,650,000 to under $5,750,000
Category MMM	$5,750,000 to under $5,850,000
Category NNN	$5,580,000 to under $5,950,000
Category OOO	$5,950,000 to under $6,050,000
Category PPP	$6,050,000 to under $6,150,000
Category QQQ	$6,150,000 to under $6,250,000
Category RRR	$6,250,000 to under $6,350,000
Category SSS	$6,350,000 to under $6,450,000
Category TTT	$6,450,000 to under $6,550,000
Category UUU	$6,550,000 to under $6,650,000
Category VVV	$6,650,000 to under $6,750,000
Category WWW	$6,750,000 to under $6,850,000
Category XXX	$6,850,000 to under $6,950,000
Category YYY	$6,950,000 to under $7,050,000
Category ZZZ	$7,050,000 to under $7,150,000
Category AAAA	$7,150,000 to under $7,250,000
Category BBBB	$7,250,000 to under $7,350,000
Category CCCC	$7,350,000 to under $7,450,000
Category DDDD	$7,450,000 to under $7,550,000
Category EEEE	$7,550,000 to under $7,650,000
Category FFFF	$7,650,000 to under $7,750,000
Category GGGG	$7,750,000 to under $7,850,000
Category HHHH	$7,850,000 to under $7,950,000
Category IIII	$7,950,000 to under $8,050,000
Category JJJJ	$8,050,000 to under $8,150,000
Category KKKK	$8,150,000 to under $8,250,000
Category LLLL	$8,250,000 to under $8,350,000
Category MMMM	$8,350,000 to under $8,450,000
Category NNNN	$8,450,000 to under $8,550,000
Category OOOO	$8,550,000 to under $8,650,000
Category PPPP	$8,650,000 to under $8,750,000
Category QQQQ	$8,750,000 to under $8,850,000
Category RRRR	$8,850,000 to under $8,950,000
Category SSSS	$8,950,000 to under $9,050,000
Category TTTT	$9,050,000 to under $9,150,000
Category UUUU	$9,150,000 to under $9,250,000
Category VVVV	$9,250,000 to under $9,350,000
Category WWWW	$9,350,000 to under $9,450,000
Category XXXX	$9,450,000 to under $9,550,000
Category YYYY	$9,550,000 to under $9,650,000

Category ZZZZ	$9,650,000 to under $9,750,000
Category AAAAA	$9,750,000 to under $9,850,000
Category BBBBB	$9,850,000 to under $9,950,000
Category CCCCC	$9,950,000 to under $10,000,000
Category DDDDD	$10,000,000 or over

TABLE II

Category A	none
Category B	$ 1 to under $ 1,000
Category C	$ 1,000 to under $ 5,000
Category D	$ 5,000 to under $ 20,000
Category E	$ 20,000 to under $ 50,000
Category F	$ 50,000 to under $ 75,000
Category G	$ 75,000 to under $ 100,000
Category H	$ 100,000 to under $ 150,000
Category I	$ 150,000 to under $ 250,000
Category J	$ 250,000 to under $ 500,000
Category K	$ 500,000 to under $ 750,000
Category L	$ 750,000 to under $1,000,000
Category M	$1,000,000 to under $1,250,000
Category N	$1,250,000 to under $1,500,000
Category O	$1,500,000 to under $1,750,000
Category P	$1,750,000 to under $2,000,000
Category Q	$2,000,000 to under $2,250,000
Category R	$2,250,000 to under $2,500,000
Category S	$2,500,000 to under $2,750,000
Category T	$2,750,000 to under $3,000,000
Category U	$3,000,000 to under $3,250,000
Category V	$3,250,000 to under $3,500,000
Category W	$3,500,000 to under $3,750,000
Category X	$3,750,000 to under $4,000,000
Category Y	$4,000,000 to under $4,250,000
Category Z	$4,250,000 to under $4,500,000
Category AA	$4,500,000 to under $4,750,000
Category BB	$4,750,000 to under $5,000,000
Category CC	$5,000,000 to under $5,250,000
Category DD	$5,250,000 to under $5,500,000
Category EE	$5,500,000 to under $5,750,000
Category FF	$5,750,000 to under $6,000,000
Category GG	$6,000,000 to under $6,250,000
Category HH	$6,250,000 to under $6,500,000
Category II	$6,500,000 to under $6,750,000
Category JJ	$6,750,000 to under $7,000,000
Category KK	$7,000,000 to under $7,250,000
Category LL	$7,250,000 to under $7,500,000
Category MM	$7,500,000 to under $7,750,000
Category NN	$7,750,000 to under $8,000,000
Category OO	$8,000,000 to under $8,250,000
Category PP	$8,250,000 to under $8,500,000
Category QQ	$8,500,000 to under $8,750,000
Category RR	$8,750,000 to under $9,000,000
Category SS	$9,000,000 to under $9,250,000
Category TT	$9,250,000 to under $9,500,000
Category UU	$9,500,000 or over

4. A reporting individual who knowingly and wilfully fails to file an annual statement of financial disclosure or who knowingly and wilfully

with intent to deceive makes a false statement or gives information which such individual knows to be false on such statement of financial disclosure filed pursuant to this section shall be subject to a civil penalty in an amount not to exceed [~~ten~~] **forty** thousand dollars. Assessment of a civil penalty hereunder shall be made by the [~~state~~] **joint commission on public** ethics [~~commission~~] or by the legislative ethics [~~committee~~] **commission**, as the case may be, with respect to persons subject to their respective jurisdictions. The [~~state~~] **joint commission on public** ethics [~~commission~~] acting pursuant to subdivision [~~thirteen~~] **fourteen** of section ninety-four of the executive law or the legislative ethics [~~committee~~] **commission** acting pursuant to subdivision [~~twelve~~] **eleven** of section eighty of the legislative law, as the case may be, may, in lieu of **or in addition to** a civil penalty, refer a violation to the appropriate prosecutor and upon such conviction, but only after such referral, such violation shall be punishable as a class A misdemeanor. A civil penalty for false filing may not be imposed hereunder in the event a category of "value" or "amount" reported hereunder is incorrect unless such reported information is falsely understated. Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal may be imposed for a failure to file, or for a false filing, of such statement, except that the appointing authority may impose disciplinary action as otherwise provided by law. The [~~state~~] **joint commission on public** ethics [~~commission~~] and the legislative ethics [~~committee~~] **commission** shall each be deemed to be an agency within the meaning of article three of the state administrative procedure act and shall adopt rules governing the conduct of adjudicatory proceedings and appeals relating to the assessment of the civil penalties herein authorized. Such rules, which shall not be subject to the approval requirements of the state administrative procedure act, shall provide for due process procedural mechanisms substantially similar to those set forth in such article three but such mechanisms need not be identical in terms or scope. Assessment of a civil penalty shall be final unless modified, suspended or vacated within thirty days of imposition and upon becoming final shall be subject to review at the instance of the affected reporting individual in a proceeding commenced against the [~~state~~] **joint commission on public** ethics [~~commission or legislative ethics committee~~] **or the legislative ethics commission**, pursuant to article seventy-eight of the civil practice law and rules.

5. Nothing contained in this section shall be construed as precluding any public authority or public benefit corporation from exercising any authority or power now or hereafter existing to require any of its members, directors, officers or employees to file financial disclosure statements with such public authority or public benefit corporation that are the same as, different from or supplemental to any of the requirements contained herein and to provide only for internal employment discipline for any violation arising out of such internal filing.

6. Notwithstanding any other provision of law or any professional disciplinary rule to the contrary, the disclosure of the identity of any client or customer on a reporting individual's annual statement of financial disclosure shall not constitute professional misconduct or a ground for disciplinary action of any kind, or form the basis for any civil or criminal cause of action or proceeding.

§ 6. Section 94 of the executive law, as added by chapter 813 of the laws of 1987, the section heading and subdivisions 1, 2, 3, 4, 5, 6, 7 and 8 as amended by section 2, subdivisions 9, 10, 11, 12, 13, 14, 16 and 17 as amended and subdivisions 13-a, 16-a and 18 as added by section

2-a, paragraph (l) of subdivision 9 as amended by section 3, paragraph (c) of subdivision 12 as amended by section 4, subdivision 15 as amended by section 5, and paragraphs (a) and (b) of subdivision 17 as amended by section 6 of chapter 14 of the laws of 2007, is amended to read as follows:

§ 94. [~~Commission~~] **Joint commission** on public [~~integrity~~] **ethics**; functions, powers and duties; review of financial disclosure statements; advisory opinions; investigation and enforcement.

1. There is established within the department of state a **joint** commission on public [~~integrity~~] **ethics** which shall consist of [~~thirteen~~] **fourteen** members and shall have and exercise the powers and duties set forth in this section [~~only~~] with respect to statewide elected officials**, members of the legislature and employees of the legislature,** and state officers and employees, as defined in sections seventy-three and seventy-three-a of the public officers law, candidates for statewide elected office **and for the senate or assembly**, and the political party chairman as that term is defined in section seventy-three-a of the public officers law, lobbyists and the clients of lobbyists as such terms are defined in article one-A of the legislative law, and individuals who have formerly held such positions, were lobbyists or clients of lobbyists, as such terms are defined in article one-A of the legislative law, or who have formerly been such candidates. This section shall not [~~revoke or rescind~~] **be deemed to have revoked or rescinded** any regulations or advisory opinions issued by **the legislative ethics commission, the commission on public integrity,** the state ethics commission and the temporary lobbying commission in effect upon the effective date of [~~a~~] chapter **fourteen** of the laws of two thousand seven which amended this section to the extent that such regulations or opinions are not inconsistent with any law of the state of New York, but such regulations and opinions shall apply only to matters over which such commissions had jurisdiction at the time such regulations and opinions were promulgated or issued. The commission shall undertake a comprehensive review of all such regulations and opinions, which will address the consistency of such regulations and opinions among each other and with the new statutory language**, and of the effectiveness of the existing laws, regulations, guidance and ethics enforcement structure to address the ethics of covered public officials and related parties**. **Such review shall be conducted with the legislative ethics commission and, to the extent possible, the report's findings shall reflect the full input and deliberations of both commissions after joint consultation.** The commission shall, before [~~April first, two thousand eight~~] **February first, two thousand fifteen**, report to the governor and legislature regarding such review and shall propose any regulatory **or statutory** changes and issue any advisory opinions necessitated by such review.

2. The members of the commission shall be appointed [~~by the governor provided, however, that one member shall be appointed on the nomination of the comptroller, one member shall be appointed on the nomination of the attorney general, one member~~] **as follows: three members** shall be appointed [~~on the nomination of~~] **by** the temporary president of the senate, [~~one member~~] **three members** shall be appointed [~~on the nomination of~~] **by** the speaker of the assembly, one member shall be appointed [~~on the nomination of~~] **by** the minority leader of the senate, [~~and~~] one member shall be appointed [~~on the nomination of~~] **by** the minority leader of the assembly**, and six members shall be appointed by the governor and the lieutenant governor. In the event that a vacancy arises with respect to a member of the commission first appointed pursuant to the**

chapter of the laws of two thousand eleven which amended this subdivision by a legislative leader, the legislative leaders of the same political party in the same house shall appoint a member to fill such vacancy irrespective of whether that legislative leader's political party is in the majority or minority. Of the [~~seven~~] members appointed by the governor [~~without prior nomination, no more than four members shall belong to the same political party and no members shall be public officers or employees or hold any public office, elected or appointed. No member shall be a member of the legislature, a candidate for member of the legislature, an employee of the legislature, a political party chairman as defined in paragraph (k) of subdivision one of section seventy-three of the public officers law, or a lobbyist as defined in subdivision (a) of section one-c of the legislative law~~] **and the lieutenant governor, at least three members shall be and shall have been for at least three years enrolled members of the major political party in which the governor is not enrolled. In the event of a vacancy in a position previously appointed by the governor and lieutenant governor, the governor and lieutenant governor shall appoint a member of the same political party as the member that vacated that position. Prior to making their respective appointments, the governor and the lieutenant governor and the legislative leaders shall solicit and receive recommendations for appointees from the attorney general and the comptroller of the state of New York, which recommendations shall be fully and properly considered but shall not be binding.**

No individual shall be eligible for appointment as a member of the commission who currently or within the last three years:

(i) is or has been registered as a lobbyist in New York state;

(ii) is or has been a member of the New York state legislature or a statewide elected official or a commissioner of an executive agency appointed by the governor; or

(iii) is or has been a political party chairman, as defined in paragraph (k) of subdivision one of section seventy-three of this article.

No individual shall be eligible for appointment as a member of the commission who currently or within the last year is or has been a state officer or employee or legislative employee as defined in section seventy-three of the public officers law.

3. Members of the commission shall serve for terms of five years; provided, however, that of the members first appointed [~~without prior nomination~~] **by the governor and lieutenant governor**, one shall serve for one year, one shall serve for two years, one shall serve for three years, and one shall serve for four years, as designated by the governor; the members first appointed [~~on the nominations of the comptroller and~~] **by** the temporary president of the senate **and by the speaker of the assembly** shall serve for four years and the members first appointed [~~on the nominations of the attorney general and the speaker of~~] **by the minority leaders of the senate and** the assembly shall serve for two years.

4. The governor shall designate the chairman of the commission from among the members thereof, who shall serve as chairman at the pleasure of the governor. The chairman or any [~~seven~~] **eight** members of the commission may call a meeting.

5. Any vacancy occurring on the commission shall be filled within [~~sixty~~] **thirty** days of its occurrence[~~, by the governor,~~] in the same manner as the member whose vacancy is being filled was appointed. A person appointed to fill a vacancy occurring other than by expiration of

a term of office shall be appointed for the unexpired term of the member he **or she** succeeds.

6. [~~Seven~~] **Eight** members of the commission shall constitute a quorum, and the commission shall have power to act by majority vote of the total number of members of the commission without vacancy **except where the commission acts pursuant to subdivision thirteen, subdivision fourteen-a or subdivision fourteen-b of this section**.

7. Members of the commission may be removed by the [~~governor~~] **appointing authority solely** for substantial neglect of duty, gross misconduct in office, **violation of the confidentiality restrictions in subdivision nine-a of this section,** inability to discharge the powers or duties of office or violation of this section, after written notice and opportunity for a reply.

8. [~~The members of the commission shall not receive compensation but shall be reimbursed for reasonable expenses incurred in the performance of their official duties~~] **The members of the joint commission shall receive a per diem allowance in the sum of three hundred dollars for each day actually spent in the performance of his or her duties under this article, and, in addition thereto, shall be reimbursed for all reasonable expenses actually and necessarily incurred by him or her in the performance of his or her duties under this article**.

9. The commission shall:

(a) Appoint an executive director who shall act in accordance with the policies of the commission. **The appointment and removal of the executive director shall be made solely by a vote of a majority of the commission, which majority shall include at least one member appointed by the governor from each of the two major political parties, and one member appointed by a legislative leader from each of the two major political parties.** The commission may delegate authority to the executive director to act in the name of the commission between meetings of the commission provided such delegation is in writing [~~and~~]**,** the specific powers to be delegated are enumerated**, and the commission shall not delegate any decisions specified in this section that require a vote of the commission. The executive director shall be appointed without regard to political affiliation and solely on the basis of fitness to perform the duties assigned by this article, and shall be a qualified, independent professional. The commission may remove the executive director for neglect of duty, misconduct in office, violation of the confidentiality restrictions in subdivision nine-a of this section, or inability or failure to discharge the powers or duties of office, including the failure to follow the lawful instructions of the commission**;

(b) Appoint such other staff as are necessary to carry out its duties under this section;

(b-1) Review and approve a staffing plan provided and prepared by the executive director which shall contain, at a minimum, a list of the various units and divisions as well as the number of positions in each unit, titles and their duties, and salaries, as well as the various qualifications for each position including, but not limited to, education and prior experience for each position.

(c) Adopt, amend, and rescind rules and regulations to govern procedures of the commission, which shall include, but not be limited to, the procedure whereby a person who is required to file an annual financial disclosure statement with the commission may request an additional period of time within which to file such statement, **other than members of the legislature, candidates for members of the legislature and legisla-**

tive employees, due to justifiable cause or undue hardship; such rules or regulations shall provide for a date beyond which in all cases of justifiable cause or undue hardship no further extension of time will be granted;

(d) Adopt, amend, and rescind rules and regulations to assist appointing authorities in determining which persons hold policy-making positions for purposes of section seventy-three-a of the public officers law;

(d-1) Adopt, amend and rescind rules and regulations defining the permissible use of and promoting the proper use of public service announcements;

(e) Make available forms for annual statements of financial disclosure required to be filed pursuant to section seventy-three-a of the public officers law;

(f) Review financial disclosure statements in accordance with the provisions of this section, provided however, that the commission may delegate all or part of this review function to the executive director who shall be responsible for completing staff review of such statements in a manner consistent with the terms of the commission's delegation;

(g) Receive complaints and referrals alleging violations of section seventy-three, seventy-three-a or seventy-four of the public officers law, article one-A of the legislative law or section one hundred seven of the civil service law;

(h) Permit any person [~~subject to the jurisdiction of the commission~~] who is required to file a financial disclosure statement **with the joint commission on public ethics** to request **that** the commission [~~to~~] delete from the copy thereof made available for public inspection and copying one or more items of information which may be deleted by the commission upon a finding by the commission that the information which would otherwise be required to be made available for public inspection and copying will have no material bearing on the discharge of the reporting person's official duties. If such request for deletion is denied, the commission, in its notification of denial, shall inform the person of his or her right to appeal the commission's determination pursuant to its rules governing adjudicatory proceedings and appeals adopted pursuant to subdivision [~~thirteen~~] **fourteen** of this section;

(i) Permit any person [~~subject to the jurisdiction of the commission~~] who is required to file a financial disclosure statement **with the joint commission on public ethics** to request an exemption from any requirement to report one or more items of information which pertain to such person's spouse or unemancipated children which item or items may be exempted by the commission upon a finding by the commission that the reporting individual's spouse, on his or her own behalf or on behalf of an unemancipated child, objects to providing the information necessary to make such disclosure and that the information which would otherwise be required to be reported will have no material bearing on the discharge of the reporting person's official duties. If such request for exemption is denied, the commission, in its notification of denial, shall inform the person of his or her right to appeal the commission's determination pursuant to its rules governing adjudicatory proceedings and appeals adopted pursuant to subdivision [~~thirteen~~] **fourteen** of this section;

(i-1) Permit any person required to file a financial disclosure statement to request an exemption from any requirement to report the identity of a client pursuant to question 8(b) in such statement based upon an exemption set forth in that question. The reporting individual need not

seek an exemption to refrain from disclosing the identity of any client with respect to any matter he or she or his or her firm provided legal representation to the client in connection with an investigation or prosecution by law enforcement authorities, bankruptcy, or domestic relations matters; in addition, clients or customers receiving medical or dental services, mental health services, residential real estate brokering services, or insurance brokering services need not be disclosed.

(j) Advise and assist any state agency in establishing rules and regulations relating to possible conflicts between private interests and official duties of present or former statewide elected officials and state officers and employees;

(k) Permit any person who has not been determined by his or her appointing authority to hold a policy-making position but who is otherwise required to file a financial disclosure statement to request an exemption from such requirement in accordance with rules and regulations governing such exemptions. Such rules and regulations shall provide for exemptions to be granted either on the application of an individual or on behalf of persons who share the same job title or employment classification which the commission deems to be comparable for purposes of this section. Such rules and regulations may permit the granting of an exemption where, in the discretion of the commission, the public interest does not require disclosure and the applicant's duties do not involve the negotiation, authorization or approval of:

(i) contracts, leases, franchises, revocable consents, concessions, variances, special permits, or licenses as defined in section seventy-three of the public officers law;

(ii) the purchase, sale, rental or lease of real property, goods or services, or a contract therefor;

(iii) the obtaining of grants of money or loans; or

(iv) the adoption or repeal of any rule or regulation having the force and effect of law;

(l) Prepare an annual report to the governor and legislature summarizing the activities of the commission during the previous year and recommending any changes in the laws governing the conduct of persons subject to the jurisdiction of the commission, or the rules, regulations and procedures governing the commission's conduct. Such report shall include: (i) a listing by assigned number of each complaint and referral received which alleged a possible violation within its jurisdiction, including the current status of each complaint, and (ii) where a matter has been resolved, the date and nature of the disposition and any sanction imposed, subject to the confidentiality requirements of this section, provided, however, that such annual report shall not contain any information for which disclosure is not permitted pursuant to subdivision [~~seventeen~~] **nineteen** of this section; [~~and~~]

(m) Determine a question common to a class or defined category of persons or items of information required to be disclosed, where determination of the question will prevent undue repetition of requests for exemption or deletion or prevent undue complication in complying with the requirements of such section[~~.~~]**; and**

(n) Promulgate guidelines for the commission to conduct a program of random reviews, to be carried out in the following manner: (i) annual statements of financial disclosure shall be selected for review in a manner pursuant to which the identity of any particular person whose statement is selected is unknown to the commission and its staff prior to its selection; (ii) such review shall include a preliminary examina-

tion of the selected statement for internal consistency, a comparison with other records maintained by the commission, including previously filed statements and requests for advisory opinions, and examination of relevant public information; (iii) upon completion of the preliminary examination, the commission shall determine whether further inquiry is warranted, whereupon it shall notify the reporting individual in writing that the statement is under review, advise the reporting individual of the specific areas of inquiry, and provide the reporting individual with the opportunity to provide any relevant information related to the specific areas of inquiry, and the opportunity to file amendments to the selected statement on forms provided by the commission; and (iv) if thereafter sufficient cause exists, the commission shall take additional actions, as appropriate and consistent with law.

9-a. (a) When an individual becomes a commissioner or staff of the commission, that individual shall be required to sign a non-disclosure statement.

(b) Except as otherwise required or provided by law, testimony received or any other information obtained by a commissioner or staff of the commission shall not be disclosed by any such individual to any person or entity outside the commission during the pendency of any matter. Any confidential communication to any person or entity outside the commission related to the matters before the commission may occur only as authorized by the commission.

(c) The commission shall establish procedures necessary to prevent the unauthorized disclosure of any information received by any member of the commission or staff of the commission. Any breaches of confidentiality shall be investigated by the inspector general and appropriate action shall be taken. Any commissioner or person employed by the commission who intentionally and without authorization releases confidential information received by the commission shall be guilty of a class A misdemeanor.

9-b. During the period of his or her service as a commissioner of the commission, each commissioner shall refrain from making, or soliciting from other persons, any contributions to candidates for election to the offices of governor, lieutenant governor, member of the assembly or the senate, attorney general or state comptroller.

10. The commission shall prepare materials and design and administer an ethics training program for individuals subject to the financial disclosure requirements of section seventy-three-a of the public officers law with respect to the provisions of sections seventy-three, seventy-three-a, and seventy-four of the public officers law and any other law, administrative regulation, or internal policy that is of relevance to the ethical conduct of such individuals in public service, as follows:

(a) The commission shall develop and administer a comprehensive ethics training course and shall designate and train instructors to conduct such training. Such course shall be designed as a two-hour program and shall include practical application of the material covered and a question-and-answer participatory segment. Unless the commission grants an extension or waiver for good cause shown, all individuals subject to the financial disclosure requirements of section seventy-three-a of the public officers law shall complete such course within two years of the effective date of the chapter of the laws of two thousand eleven which amended this section, or for those individuals elected or appointed after the effective date of the chapter of the laws of two thousand eleven which amended this section, within two years of becoming subject

to the financial disclosure requirements of section seventy-three-a of the public officers law.

(b) The commission shall develop and administer an online ethics orientation course and shall notify all individuals newly subject to the financial disclosure requirements of section seventy-three-a of the public officers law of such course, which shall be completed by such individuals within three months of becoming subject to such requirements, unless the commission grants an extension or waiver for good cause shown. Individuals who have completed the comprehensive ethics training course shall not be required to complete the online ethics orientation course.

(c) The commission shall develop and administer an ethics seminar or ethics seminars for individuals who have previously completed the comprehensive ethics training course. Such seminars shall be designed as ninety-minute programs and shall include any changes in law, regulation, or policy or in the interpretation thereof, practical application of the material covered, and a question-and-answer segment. Unless the commission grants an extension or waiver for good cause shown, such individuals shall be scheduled to attend a seminar at least once every three years after having completed the comprehensive ethics training course. In lieu of attending an ethics seminar, such individuals may complete a subsequent comprehensive ethics training program.

(d) The provisions of this subdivision shall be applicable to the legislature except to the extent that an ethics training program is otherwise established by the assembly or senate for their respective members and employees and such program meets or exceeds each of the requirements set forth in this section.

(e) On an annual basis, the joint commission in coordination with the legislative ethics commission shall determine the status of compliance with these training requirements by each state agency and by the senate and the assembly. Such determination shall include aggregate statistics regarding participation in such training, and shall be reported to the governor and the legislature in writing.

11. The commission, or the executive director and staff of the commission if responsibility therefor has been delegated, shall inspect all financial disclosure statements filed with the commission to ascertain whether any person subject to the reporting requirements of section seventy-three-a of the public officers law has failed to file such a statement, has filed a deficient statement or has filed a statement which reveals a possible violation of section seventy-three, seventy-three-a or seventy-four of the public officers law.

[~~11.~~] **12.** If a person required to file a financial disclosure statement with the commission has failed to file a disclosure statement or has filed a deficient statement, the commission shall notify the reporting person in writing, state the failure to file or detail the deficiency, provide the person with a fifteen day period to cure the deficiency, and advise the person of the penalties for failure to comply with the reporting requirements. Such notice shall be confidential. If the person fails to make such filing or fails to cure the deficiency within the specified time period, the commission shall send a notice of delinquency: (a) to the reporting person; (b) in the case of a statewide elected official**, member of the legislature, or a legislative employee**, to the temporary president of the senate and the speaker of the assembly; and (c) in the case of a state officer or employee, to the appointing authority for such person. Such notice of delinquency may be sent at any time during the reporting person's service as a statewide elected offi-

cial, state officer or employee, **member of the assembly or the senate, or a legislative employee or a** political party chair or while a candidate for statewide office, or within one year after termination of such service or candidacy. The jurisdiction of the commission, when acting pursuant to subdivision [~~thirteen~~] **fourteen** of this section with respect to financial disclosure, shall continue notwithstanding that the reporting person separates from state service, or ceases to hold **public or political party** office [~~as a statewide elected official or political party chair~~], or ceases to be a candidate, provided the commission notifies such person of the alleged failure to file or deficient filing pursuant to this subdivision.

[~~12.~~] **13.** (a) **Investigations.** If the commission receives a sworn complaint alleging a violation of section seventy-three, seventy-three-a**,** or seventy-four of the public officers law, section one hundred seven of the civil service law or article one-A of the legislative law by a person or entity subject to the jurisdiction of the commission **including members of the legislature and legislative employees and candidates for member of the legislature**, or if a reporting individual has filed a statement which reveals a possible violation of these provisions, or if the commission determines on its own initiative to investigate a possible violation, the commission shall notify the individual in writing, describe the possible or alleged violation of such laws and provide the person with a fifteen day period in which to submit a written response setting forth information relating to the activities cited as a possible or alleged violation of law. [~~If the commission thereafter makes a determination that further inquiry is justified, it shall give the individual an opportunity to be heard.~~] **The commission shall, within forty-five calendar days after a complaint or a referral is received or an investigation is initiated on the commission's own initiative, vote on whether to commence a full investigation of the matter under consideration to determine whether a substantial basis exists to conclude that a violation of law has occurred. The staff of the joint commission shall provide to the members prior to such vote information regarding the likely scope and content of the investigation, and a subpoena plan, to the extent such information is available. Such investigation shall be conducted if at least eight members of the commission vote to authorize it. Where the subject of such investigation is a member of the legislature or a legislative employee or a candidate for member of the legislature, at least two of the eight or more members who so vote to authorize such an investigation must have been appointed by a legislative leader or leaders from the major political party in which the subject of the proposed investigation is enrolled if such person is enrolled in a major political party. Where the subject of such investigation is a state officer or state employee, at least two of the eight or more members who so vote to authorize such an investigation must have been appointed by the governor and lieutenant governor. Where the subject of such investigation is a statewide elected official or a direct appointee of such an official, at least two of the eight or more members who so vote to authorize such an investigation must have been appointed by the governor and lieutenant governor and be enrolled in the major political party in which the subject of the proposed investigation is enrolled, if such person is enrolled in a major political party.**

(b) Substantial basis investigation. Upon the affirmative vote of not less than eight commission members to commence a substantial basis investigation, written notice of the commission's decision shall be

provided to the individual who is the subject of such substantial basis investigation. Such written notice shall include a copy of the commission's rules and procedures and shall also include notification of such individual's right to be heard within thirty calendar days of the date of the commission's written notice. The commission shall also inform the individual of its rules regarding the conduct of adjudicatory proceedings and appeals and the other due process procedural mechanisms available to such individual. If the commission determines at any stage [~~**of the proceeding,**~~] that there is no violation or that any potential conflict of interest violation has been rectified, it shall so advise the individual and the complainant, if any. All of the foregoing proceedings shall be confidential.

[~~**(b) If the commission determines that there is reasonable cause to believe that a violation has occurred, it shall send a notice of reasonable cause: (i) to the reporting person; (ii) to the complainant if any; (iii) in the case of a statewide elected official, to the temporary president of the senate and the speaker of the assembly; and (iv) in the case of a state officer or employee, to the appointing authority for such person.**~~]

(c) The jurisdiction of the commission when acting pursuant to this section shall continue notwithstanding that a statewide elected official or a state officer or employee **or member of the legislature or legislative employee** separates from state service, or a political party chair ceases to hold such office, or a candidate ceases to be a candidate, or a lobbyist or client of a lobbyist ceases to act as such, provided that the commission notifies such individual or entity of the alleged violation of law pursuant to paragraph (a) of this subdivision within one year from his or her separation from state service or his or her termination of party service or candidacy, or from his, her or its last report filed pursuant to article one-A of the legislative law. Nothing in this section shall serve to limit the jurisdiction of the commission in enforcement of subdivision eight of section seventy-three of the public officers law.

[~~**13.**~~] **14.** An individual subject to the jurisdiction of the commission who knowingly and intentionally violates the provisions of subdivisions two through [~~**five**~~] **five-a**, seven, eight, twelve or fourteen through seventeen of section seventy-three of the public officers law, section one hundred seven of the civil service law, or a reporting individual who knowingly and wilfully fails to file an annual statement of financial disclosure or who knowingly and wilfully with intent to deceive makes a false statement or fraudulent omission or gives information which such individual knows to be false on such statement of financial disclosure filed pursuant to section seventy-three-a of the public officers law shall be subject to a civil penalty in an amount not to exceed forty thousand dollars and the value of any gift, compensation or benefit received as a result of such violation. An individual who knowingly and intentionally violates the provisions of paragraph **a,** b, c, d**, e, g,** or i of subdivision three of section seventy-four of the public officers law shall be subject to a civil penalty in an amount not to exceed ten thousand dollars and the value of any gift, compensation or benefit received as a result of such violation. [~~**An individual who knowingly and intentionally violates the provisions of paragraph a, e or g of subdivision three of section seventy-four of the public officers law shall be subject to a civil penalty in an amount not to exceed the value of any gift, compensation or benefit received as a result of such violation.**~~] An individual subject to the jurisdiction of the commission who knowing-

ly and willfully violates article one-A of the legislative law shall be subject to civil penalty as provided for in that article. [~~Assessment~~] **Except with respect to members of the legislature and legislative employees, assessment** of a civil penalty hereunder shall be made by the commission with respect to persons subject to its jurisdiction. **With respect to a violation of any law other than sections seventy-three, seventy-three-a, and seventy-four of the public officers law, where the commission finds sufficient cause by a vote held in the same manner as set forth in paragraph (b) of subdivision thirteen of this section, it shall refer such matter to the appropriate prosecutor for further investigation.** In assessing the amount of the civil penalties to be imposed, the commission shall consider the seriousness of the violation, the amount of gain to the individual and whether the individual previously had any civil or criminal penalties imposed pursuant to this section, and any other factors the commission deems appropriate. [~~For~~] **Except with respect to members of the legislature and legislative employees, for** a violation of this subdivision, other than for conduct which constitutes a violation of section one hundred seven of the civil service law, subdivisions twelve or fourteen through seventeen of section seventy-three or section seventy-four of the public officers law or article one-A of the legislative law, the commission [~~may, in lieu of a civil penalty,~~] **may, in lieu of or in addition to a civil penalty,** refer a violation to the appropriate prosecutor and upon such conviction, such violation shall be punishable as a class A misdemeanor. A civil penalty for false filing may not be imposed hereunder in the event a category of "value" or "amount" reported hereunder is incorrect unless such reported information is falsely understated. Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal may be imposed for a failure to file, or for a false filing, of such statement, or a violation of **subdivision six of** section seventy-three of the public officers law, except that the appointing authority may impose disciplinary action as otherwise provided by law. The commission may refer violations of this subdivision to the appointing authority for disciplinary action as otherwise provided by law. The commission shall be deemed to be an agency within the meaning of article three of the state administrative procedure act and shall adopt rules governing the conduct of adjudicatory proceedings and appeals taken pursuant to a proceeding commenced under article seventy-eight of the civil practice law and rules relating to the assessment of the civil penalties herein authorized and commission denials of requests for certain deletions or exemptions to be made from a financial disclosure statement as authorized in paragraph (h) or paragraph (i) of subdivision nine of this section. Such rules, which shall not be subject to the approval requirements of the state administrative procedure act, shall provide for due process procedural mechanisms substantially similar to those set forth in article three of the state administrative procedure act but such mechanisms need not be identical in terms or scope. Assessment of a civil penalty or commission denial of such a request shall be final unless modified, suspended or vacated within thirty days of imposition, with respect to the assessment of such penalty, or unless such denial of request is reversed within such time period, and upon becoming final shall be subject to review at the instance of the affected reporting individuals in a proceeding commenced against the commission, pursuant to article seventy-eight of the civil practice law and rules.

[~~13-a. If the commission has a reasonable basis to believe that any person subject to the jurisdiction of the legislative ethics commission~~

~~may have violated any provisions of section seventy-three or seventy-four of the public officers law, it shall refer such violation to the legislative ethics commission unless the commission determines that such a referral would compromise the prosecution or confidentiality of its investigations and, if so, shall make such a referral as soon as practicable. The referral by the commission to the legislative ethics commission shall include any information relating thereto coming into the custody or under the control of the commission at any time prior or subsequent to the time of the referral.~~

~~14.~~] 14-a. The joint commission on public ethics shall have jurisdiction to investigate, but shall have no jurisdiction to impose penalties upon members of or candidates for member of the legislature or legislative employees for any violation of the public officers law. If, after its substantial basis investigation, by a vote of at least eight members, two of whom are enrolled members of the investigated individual's political party if the individual is enrolled in a major political party and were appointed by a legislative leader of such political party, the joint commission on public ethics has found a substantial basis to conclude that a member of the legislature or a legislative employee or candidate for member of the legislature has violated any provisions of such laws, it shall present a written report to the legislative ethics commission, and deliver a copy of the report to the individual who is the subject of the report. Such written report shall include:

(a) the commission's findings of fact and any evidence addressed in such findings; conclusions of law and citations to any relevant law, rule, opinion, regulation or standard of conduct upon which it relied; and

(b) a determination that a substantial basis exists to conclude that a violation has occurred, and the reasons and basis for such determination.

The joint commission shall also separately provide to the legislative ethics commission copies of additional documents or other evidence considered including evidence that may contradict the joint commission's findings, the names of and other information regarding any additional witnesses, and any other materials. With respect to a violation of any law other than sections seventy-three, seventy-three-a, and seventy-four of the public officers law, where the joint commission finds sufficient cause by a vote held in the same manner as set forth in paragraph (b) of subdivision thirteen of this section, it shall refer such matter to the appropriate prosecutor.

14-b. With respect to the investigation of any individual who is not a member of the legislature or a legislative employee or candidate for member of the legislature, if after its investigation the joint commission has found a substantial basis to conclude that the individual has violated the public officers law or the legislative law, the joint commission shall send a substantial basis investigation report containing its findings of fact and conclusions of law to the individual. With respect to an individual who is a statewide elected official or a direct appointee of such an official, no violation may be found unless the majority voting in support of such a finding includes at least two members appointed by the governor and lieutenant governor and enrolled in the individual's major political party, if he or she is enrolled in a major political party. Where the subject of such investigation is a state officer or employee who is not a direct appointee of a statewide elected official, at least two of the eight or more members who vote to

issue a substantial basis investigation report must have been appointed by the governor and lieutenant governor. The commission shall release such report publicly within forty-five days of its issuance.

14-c. With respect to an investigation of a lobbyist, if after its investigation the joint commission has found a substantial basis to conclude that the lobbyist has violated the legislative law, the joint commission shall issue a substantial basis investigation report containing its findings of fact and conclusions of law to the lobbyist and shall make public such report within forty-five days of its issuance.

15. A copy of any notice of delinquency or [~~notice of reasonable cause sent pursuant to subdivisions eleven and twelve of this section~~] **substantial basis investigation report** shall be included in the reporting person's file and be available for public inspection and copying **pursuant to the provisions of this section**.

[~~15.~~] **16.** Upon written request from any person who is subject to the jurisdiction of the commission and the requirements of sections seventy-three, seventy-three-a or seventy-four of the public officers law, **other than members of the legislature, candidates for member of the legislature and employees of the legislature,** the commission shall render **written** advisory opinions on the requirements of said provisions. An opinion rendered by the commission, until and unless amended or revoked, shall be binding on the commission in any subsequent proceeding concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such opinion may also be relied upon by such person, and may be introduced and shall be a defense, in any criminal or civil action. Such requests shall be confidential but the commission may publish such opinions provided that the name of the requesting person and other identifying details shall not be included in the publication.

[~~16.~~] **17.** In addition to any other powers and duties specified by law, the commission shall have the power and duty to:

(a) Promulgate rules concerning restrictions on outside activities and limitations on the receipt of gifts and honoraria by persons subject to its jurisdiction, provided, however, a violation of such rules in and of itself shall not be punishable pursuant to subdivision [~~thirteen~~] **fourteen** of this section unless the conduct constituting the violation would otherwise constitute a violation of this section; and

(b) [~~Conduct training programs in cooperation with the governor's office of employee relations to provide education to individuals subject to its jurisdiction; and~~

~~(c)~~] Administer and enforce all the provisions of this section; and

[~~(d)~~] **(c)** Conduct any investigation necessary to carry out the provisions of this section. Pursuant to this power and duty, the commission may administer oaths or affirmations, subpoena witnesses, compel their attendance and require the production of any books or records which it may deem relevant or material;

[~~16-a.~~] **18.** Within one hundred twenty days of the effective date of this subdivision, the commission shall create and thereafter maintain a publicly accessible website which shall set forth the procedure for filing a complaint with the commission, and which shall contain the documents identified in subdivision [~~seventeen~~] **nineteen** of this section, other than financial disclosure statements[~~,~~] **filed by state officers or employees or legislative employees,** and any other records or information which the commission determines to be appropriate.

[~~17.~~] **19.** (a) Notwithstanding the provisions of article six of the public officers law, the only records of the commission which shall be available for public inspection and copying are:

(1) the information set forth in an annual statement of financial disclosure filed pursuant to section seventy-three-a of the public officers law except [~~the categories of value or amount, which shall remain confidential, and any other item of~~] information deleted pursuant to paragraph (h) of subdivision nine of this section;

(2) notices of delinquency sent under subdivision [~~eleven~~] **twelve** of this section;

(3) [~~notices of reasonable cause sent under paragraph (b) of subdivision twelve of this section;~~

~~(4)~~] notices of civil assessments imposed under this section which shall include a description of the nature of the alleged wrongdoing, the procedural history of the complaint, the findings and determinations made by the commission, and any sanction imposed;

[~~(5)~~] **(4)** the terms of any settlement or compromise of a complaint or referral which includes a fine, penalty or other remedy; [~~and~~

~~(6)~~] **(5)** those required to be held or maintained publicly available pursuant to article one-A of the legislative law[~~.~~]**; and**

(6) substantial basis investigation reports issued by the commission pursuant to subdivision fourteen-a or fourteen-b of this section. With respect to reports concerning members of the legislature or legislative employees or candidates for member of the legislature, the joint commission shall not publicly disclose or otherwise disseminate such reports except in conformance with the requirements of paragraph (b) of subdivision nine of section eighty of the legislative law.

(b) Notwithstanding the provisions of article seven of the public officers law, no meeting or proceeding, including any such proceeding contemplated under paragraph (h) or (i) of subdivision nine of this section, of the commission shall be open to the public, except if expressly provided otherwise by the commission or as is required by article one-A of the legislative law.

(c) Pending any application for deletion or exemption to the commission, all information which is the subject or a part of the application shall remain confidential. Upon an adverse determination by the commission, the reporting individual may request, and upon such request the commission shall provide, that any information which is the subject or part of the application remain confidential for a period of thirty days following notice of such determination. In the event that the reporting individual resigns his office and holds no other office subject to the jurisdiction of the commission, the information shall not be made public and shall be expunged in its entirety.

[~~18~~] **20**. If any part or provision of this section or the application thereof to any person or organization is adjudged by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such judgment shall not affect or impair any other part or provision or the application thereof to any other person or organization, but shall be confined in its operation to such part or provision.

§ 7. Section 1-d of the legislative law is amended by adding a new subdivision (h) to read as follows:

(h) provide an online ethics training course for individuals registered as lobbyists pursuant to section one-e of this article. The curriculum for the course shall include, but not be limited to, explanations and discussions of the statutes and regulations of New York concerning ethics in the public officers law, the election law, the

legislative law, summaries of advisory opinions, underlying purposes and principles of the relevant laws, and examples of practical application of these laws and principles. The commission shall prepare those methods and materials necessary to implement the curriculum. Each individual registered as a lobbyist pursuant to section one-e of this article shall complete such training course at least once in any three-year period during which he or she is registered as a lobbyist.

§ 7-a. Subdivision (c) of section 1-e of the legislative law is amended by adding a new paragraph 8 to read as follows:

(8) (i) the name and public office address of any statewide elected official, state officer or employee, member of the legislature or legislative employee and entity with whom the lobbyist has a reportable business relationship;

(ii) a description of the general subject or subjects of the transactions between the lobbyist or lobbyists and the statewide elected official, state officer or employee, member of the legislature or legislative employee and entity; and

(iii) the compensation, including expenses, to be paid and paid by virtue of the business relationship.

§ 7-b. Subdivision (b) of section 1-j of the legislative law is amended by adding a new paragraph 6 to read as follows:

(6) (i) the name and public office address of any statewide elected official, state officer or employee, member of the legislature or legislative employee and entity with whom the client of a lobbyist has a reportable business relationship;

(ii) a description of the general subject or subjects of the transactions between the client of a lobbyist and the statewide elected official, state officer or employee, member of the legislature or legislative employee and entity; and

(iii) the compensation, including expenses, to be paid and paid by virtue of the business relationship.

§ 8. Section 1-c of the legislative law is amended by adding a new subdivision (w) to read as follows:

(w) The term "reportable business relationship" shall mean a relationship in which compensation is paid by a lobbyist or by a client of a lobbyist, in exchange for any goods, services or anything of value, the total value of which is in excess of one thousand dollars annually, to be performed or provided by or intended to be performed or provided by (i) any statewide elected official, state officer, state employee, member of the legislature or legislative employee, or (ii) any entity in which the lobbyist or the client of a lobbyist knows or has reason to know the statewide elected official, state officer, state employee, member of the legislature or legislative employee is a proprietor, partner, director, officer or manager, or owns or controls ten percent or more of the stock of such entity (or one percent in the case of a corporation whose stock is regularly traded on an established securities exchange).

§ 9. Section 80 of the legislative law, as amended by chapter 14 of the laws of 2007, is amended to read as follows:

§ 80. Legislative ethics commission; functions, powers and duties; review of financial disclosure statements; advisory opinions; [~~investigation and enforcement~~] **imposition of penalties or other enforcement actions**. 1. There is established a legislative ethics commission which shall consist of nine members. Four members shall be members of the legislature and shall be appointed as follows: one by the temporary president of the senate, one by the speaker of the assembly, one by the

minority leader of the senate and one by the minority leader of the assembly. The remaining five members shall not be present or former members of the legislature, candidates for member of the legislature, employees of the legislature, political party chairmen as defined in paragraph (k) of subdivision one of section seventy-three of the public officers law, or lobbyists, as defined in section one-c of this chapter, or persons who have been employees of the legislature, political party chairmen as defined in paragraph (k) of subdivision one of section seventy-three of the public officers law, or lobbyists, as defined in section one-c of this chapter in the previous five years, and shall be appointed as follows: one by the temporary president of the senate, one by the speaker of the assembly, one by the minority leader of the senate, one by the minority leader of the assembly, and one jointly by the speaker of the assembly and majority leader of the senate. The commission shall serve as described in this section and have and exercise the powers and duties set forth in this section only with respect to members of the legislature, legislative employees as defined in section seventy-three of the public officers law, candidates for member of the legislature and individuals who have formerly held such positions or who have formerly been such candidates.

2. Members of the legislature who serve on the commission shall each have a two year term concurrent with their legislative terms of office. The members of the commission who are not members of the legislature and who are first appointed by the temporary president of the senate, speaker of the assembly, minority leader of the senate, and minority leader of the assembly shall serve one, two, three and four year terms, respectively. The member of the commission first appointed jointly by the **temporary** president of the senate and speaker of the assembly shall serve a four year term. Each member of the commission who is not a member of the legislature shall be appointed thereafter for a term of four years.

3. The temporary president of the senate and the speaker of the assembly shall each designate one member of the commission as a co-chairperson thereof. The commission shall meet at least bi-monthly and at such additional times as may be called for by the co-chairpersons jointly or any five members of the commission.

4. Any vacancy occurring on the commission shall be filled within thirty days by the appointing authority.

5. Five members of the commission shall constitute a quorum, and the commission shall have power to act by majority vote of the total number of members of the commission without vacancy.

6. The members of the commission **who are not members of the legislature** shall be reimbursed for reasonable expenses [~~incurred~~] **and receive a per diem allowance in the sum of three hundred dollars for each day spent** in the performance of their official duties.

7. The commission shall:

a. Appoint an executive director who shall act in accordance with the policies of the commission**, provided that the commission may remove the executive director for neglect of duty, misconduct in office, or inability or failure to discharge the powers or duties of office**;

b. Appoint such other staff as are necessary to assist it to carry out its duties under this section;

c. Adopt, amend, and rescind policies, rules and regulations consistent with this section to govern procedures of the commission which shall not be subject to the promulgation and hearing requirements of the state administrative procedure act;

d. Administer the provisions of this section;

e. Specify the procedures whereby a person who is required to file an annual financial disclosure statement with the commission may request an additional period of time within which to file such statement, due to justifiable cause or undue hardship; such rules or regulations shall provide for a date beyond which in all cases of justifiable cause or undue hardship no further extension of time will be granted;

f. Promulgate guidelines to assist appointing authorities in determining which persons hold policy-making positions for purposes of section seventy-three-a of the public officers law and may promulgate guidelines to assist firms, associations and corporations in separating affected persons from net revenues for purposes of subdivision ten of section seventy-three of the public officers law, and promulgate guidelines to assist any firm, association or corporation in which any present or former statewide elected official, state officer or employee, member of the legislature or legislative employee, or political party chairman is a member, associate, retired member, of counsel or shareholder, in complying with the provisions of subdivision ten of section seventy-three of the public officers law with respect to the separation of such present or former statewide elected official, state officer or employee, member of the legislature or legislative employee, or political party chairman from the net revenues of the firm, association or corporation. Such firm, association or corporation shall not be required to adopt the procedures contained in the guidelines to establish compliance with subdivision ten of section seventy-three of the public officers law, but if such firm, association or corporation does adopt such procedures, it shall be deemed to be in compliance with such subdivision ten;

g. Make available forms for financial disclosure statements required to be filed pursuant to subdivision six of section seventy-three and section seventy-three-a of the public officers law **as provided by the joint commission on public ethics**;

h. Review financial disclosure statements in accordance with the provisions of this section, provided however, that the commission may delegate all or part of the review function relating to financial disclosure statements filed by legislative employees pursuant to sections seventy-three and seventy-three-a of the public officers law to the executive director who shall be responsible for completing staff review of such statements in a manner consistent with the terms of the commission's delegation;

i. [~~**Permit any person required to file a financial disclosure statement to request the commission to delete from the copy thereof made available for public inspection and copying one or more items of information, which may be deleted by the commission upon a finding that the information which would otherwise be required to be disclosed will have no material bearing on the discharge of the reporting person's official duties;**~~

~~**j. Permit any person required to file a financial disclosure statement to request an exemption from any requirement to report one or more items of information which pertain to such person's spouse or unemancipated children which item or items may be exempted by the commission upon a finding that the reporting individual's spouse, on his or her own behalf or on behalf of an unemancipated child, objects to providing the information necessary to make such disclosure and that the information which would otherwise be required to be reported will have no material bearing on the discharge of the reporting person's official duties;**~~

~~k. Advise and assist the legislature in establishing rules and regulations relating to possible conflicts between private interests and official duties of present members of the legislature and legislative employees;~~

~~l. Receive and act on complaints regarding persons subject to its jurisdiction alleging a possible violation of section seventy-three, seventy-three-a or seventy-four of the public officers law, and conduct such investigations and proceedings as are authorized and necessary to carry out the provisions of this section. In connection with such investigations, the commission may administer oaths or affirmations, subpoena witnesses, compel their attendance and require the production of any books or records which it may deem relevant or material;~~

~~m. Accept and act upon, as if it were a sworn complaint, any referral from another state oversight body indicating that a violation of section seventy-three or seventy-four of the public officers law may have occurred involving persons subject to the jurisdiction of the commission;~~

~~n.~~] Upon written request from any person who is subject to the jurisdiction of the commission and the requirements of sections seventy-three, seventy-three-a and seventy-four of the public officers law, render formal advisory opinions on the requirements of said provisions. A formal **written** opinion rendered by the commission, until and unless amended or revoked, shall be binding on the **legislative ethics** commission in any subsequent proceeding concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such opinion may also be relied upon by such person, and may be introduced and shall be a defense in any criminal or civil action**. The joint commission on public ethics shall not investigate an individual for potential violations of law based upon conduct approved and covered in its entirety by such an opinion, except that such opinion shall not prevent or preclude an investigation of and report to the legislative ethics commission concerning the conduct of the person who obtained it by the joint commission on public ethics for violations of section seventy-three, seventy-three-a or seventy-four of the public officers law to determine whether the person accurately and fully represented to the legislative ethics commission the facts relevant to the formal advisory opinion and whether the person's conduct conformed to those factual representations. The joint commission shall be authorized and shall have jurisdiction to investigate potential violations of the law arising from conduct outside of the scope of the terms of the advisory opinion**; **and**

[~~o.~~] **j.** Issue and publish generic advisory opinions covering questions frequently posed to the commission, or questions common to a class or defined category of persons, or that will tend to prevent undue repetition of requests or undue complication, and which are intended to provide general guidance and information to persons subject to the commission's jurisdiction;

[~~p.~~] **k.** Develop educational materials and training with regard to legislative ethics for members of the legislature and legislative employees **including an online ethics orientation course for newly-hired employees and, as requested by the senate or the assembly, materials and training in relation to a comprehensive ethics training program**; and

[~~q.~~] **l.** Prepare an annual report to the governor and legislature summarizing the activities of the commission during the previous year and recommending any changes in the laws governing the conduct of persons subject to the jurisdiction of the commission, or the rules,

regulations and procedures governing the commission's conduct. Such report shall include: (i) a listing by assigned number of each complaint and [~~referral~~] **report** received **from the joint commission on public ethics** which alleged a possible violation within its jurisdiction, including the current status of each complaint, and (ii) where a matter has been resolved, the date and nature of the disposition and any sanction imposed, subject to the confidentiality requirements of this section. Such annual report shall not contain any information for which disclosure is not permitted pursuant to subdivision [~~fourteen~~] **twelve** of this section.

8. [~~The commission, or the executive director and staff of the commission if responsibility regarding such financial disclosure statements filed by legislative employees has been delegated, shall inspect all financial disclosure statements filed with the commission to ascertain whether any person subject to the reporting requirements of subdivision six of section seventy-three or section seventy-three-a of the public officers law has failed to file such a statement, has filed a deficient statement or has filed a statement which reveals a possible violation of section seventy-three, seventy-three-a or seventy-four of the public officers law.~~

~~9. If a person required to file a financial disclosure statement with the commission has failed to file a financial disclosure statement or has filed a deficient statement, the commission shall notify the reporting person in writing, state the failure to file or detail the deficiency, provide the person with a fifteen day period to cure the deficiency, and advise the person of the penalties for failure to comply with the reporting requirements. Such notice shall be confidential. If the person fails to make such filing or fails to cure the deficiency within the specified time period, the commission shall send a notice of delinquency: (a) to the reporting person; (b) in the case of a senator, to the temporary president of the senate, and if a member of assembly, to the speaker of the assembly; and (c) in the case of a legislative employee, to the appointing authority for such person and to the temporary president of the senate and/or the speaker of the assembly, as the case may be, who has jurisdiction over such appointing authority. Such notice of delinquency may be sent at any time during the reporting person's service as a member of the legislature or legislative employee or while a candidate for member of the legislature, or within one year after separation from such service or the termination of such candidacy. The jurisdiction of the commission, when acting pursuant to subdivision eleven of this section with respect to financial disclosure, shall continue notwithstanding that the reporting person separates from state service or terminates his or her candidacy, provided the commission notifies such person of the alleged failure to file or deficient filing pursuant to this subdivision.~~

~~10. a. If a reporting person has filed a statement which reveals a possible violation of section seventy-three, seventy-three-a or seventy-four of the public officers law, or the commission receives a referral from another state oversight body, or the commission receives a sworn complaint alleging such a violation by a reporting person or a legislative employee subject to the provisions of such laws, or if the commission determines on its own initiative to investigate a possible violation by a reporting person or a legislative employee subject to the provisions of such laws, the commission shall notify the reporting person in writing, describe the possible or alleged violation thereof and provide the person with a fifteen day period in which to submit a~~

~~written response setting forth information relating to the activities cited as a possible or alleged violation of law. If the commission thereafter makes a determination that further inquiry is justified, it shall give the reporting person an opportunity to be heard. The commission shall also inform the reporting individual of its rules regarding the conduct of adjudicatory proceedings and appeals and the due process procedural mechanisms available to such individual. If the commission determines at any stage of the proceeding, that there is no violation or that any potential conflict of interest violation has been rectified, it shall so advise the reporting person and the complainant, if any. All of the foregoing proceedings shall be confidential.~~

~~b. If the commission determines that there is reasonable cause to believe that a violation has occurred, it shall send a notice of reasonable cause: (i) to the reporting person; (ii) to the complainant if any; (iii) in the case of a senator, to the temporary president of the senate, and if a member of the assembly, to the speaker of the assembly; and (iv) in the case of a legislative employee, to the appointing authority for such person and to the temporary president of the senate and/or the speaker of the assembly, as the case may be, who has jurisdiction over such appointing authority.~~

~~c.~~] The jurisdiction of the commission **to impose penalties** when acting pursuant to this section shall continue notwithstanding that a member of the legislature or a legislative employee separates from state service, or a candidate for member of the legislature ceases to be a candidate, provided that [~~the commission notifies~~] such individual **has been notified** of the alleged violation of law [~~pursuant to paragraph a of this subdivision~~] within one year from his or her separation from state service or the termination of his or her candidacy. [~~Nothing in this section shall serve to limit the jurisdiction of the commission in enforcement of subdivision eight of section seventy-three of the public officers law.~~

~~11.~~] **9. (a)** An individual subject to the jurisdiction of the commission **with respect to the imposition of penalties** who knowingly and intentionally violates the provisions of subdivisions two through [~~five~~] **five-a**, seven, eight, twelve, fourteen or fifteen of section seventy-three of the public officers law or a reporting individual who knowingly and wilfully fails to file an annual statement of financial disclosure or who knowingly and wilfully with intent to deceive makes a false statement or gives information which such individual knows to be false on such statement of financial disclosure filed pursuant to section seventy-three-a of the public officers law shall be subject to a civil penalty in an amount not to exceed forty thousand dollars and the value of any gift, compensation or benefit received as a result of such violation. Any such individual who knowingly and intentionally violates the provisions of paragraph **a,** b, c, d, **e, g,** or i of subdivision three of section seventy-four of the public officers law shall be subject to a civil penalty in an amount not to exceed ten thousand dollars and the value of any gift, compensation or benefit received as a result of such violation. [~~Any such individual who knowingly and intentionally violates the provisions of paragraph a, e or g of subdivision three of section seventy-four of the public officers law shall be subject to a civil penalty in an amount equal to the value of any gift, compensation or benefit received as a result of such violation.~~] Assessment of a civil penalty hereunder shall be made by the commission with respect to persons subject to its jurisdiction. In assessing the amount of the civil penalties to be imposed, the commission shall consider the seri-

ousness of the violation, the amount of gain to the individual and whether the individual previously had any civil or criminal penalties imposed pursuant to this section, and any other factors the commission deems appropriate. For a violation of this section, other than for conduct which constitutes a violation of subdivision twelve, fourteen or fifteen of section seventy-three or section seventy-four of the public officers law, the legislative ethics commission may, in lieu of **or in addition to** a civil penalty, refer a violation to the appropriate prosecutor and upon such conviction, but only after such referral, such violation shall be punishable as a class A misdemeanor. **Where the commission finds sufficient cause, it shall refer such matter to the appropriate prosecutor.** A civil penalty for false filing may not be imposed hereunder in the event a category of "value" or "amount" reported hereunder is incorrect unless such reported information is falsely understated. Notwithstanding any other provision of law to the contrary, no other penalty, civil or criminal may be imposed for a failure to file, or for a false filing, of such statement, or a violation of **subdivision six of** section seventy-three of the public officers law, except that the appointing authority may impose disciplinary action as otherwise provided by law. The legislative ethics commission shall be deemed to be an agency within the meaning of article three of the state administrative procedure act and shall adopt rules governing the conduct of adjudicatory proceedings and appeals taken pursuant to a proceeding commenced under article seventy-eight of the civil practice law and rules relating to the assessment of the civil penalties herein authorized [~~**and commission denials of requests for certain deletions or exemptions to be made from a financial disclosure statement as authorized in paragraph i or paragraph j of subdivision seven of this section**~~]. Such rules, which shall not be subject to the promulgation and hearing requirements of the state administrative procedure act, shall provide for due process procedural mechanisms substantially similar to those set forth in such article three but such mechanisms need not be identical in terms or scope. Assessment of a civil penalty [~~**or commission denial of such a deletion or exemption request**~~] shall be final unless modified, suspended or vacated within thirty days of imposition, with respect to the assessment of such penalty, or unless such denial of request is reversed within such time period, and upon becoming final shall be subject to review at the instance of the affected reporting individuals in a proceeding commenced against the legislative ethics commission, pursuant to article seventy-eight of the civil practice law and rules.

[~~**12.**~~] **(b) Not later than forty-five calendar days after receipt from the joint commission on public ethics of a written substantial basis investigation report and any supporting documentation or other materials regarding a matter before the commission pursuant to subdivision fourteen-a of section ninety-four of the executive law, unless requested by a law enforcement agency to suspend the commission's action because of an ongoing criminal investigation, the legislative ethics commission shall make public such report in its entirety; provided, however, that the commission may withhold such information for not more than one additional period of the same duration or refer the matter back to the joint commission on public ethics once for additional investigation, in which case the legislative ethics commission shall, upon the termination of such additional period or upon receipt of a new report by the joint commission on public ethics after such additional investigation, make public the written report and publish it on the commission's website.**

If the legislative ethics commission fails to make public the written report received from the joint commission in accordance with this paragraph, the joint commission shall release such report publicly promptly and in any event no later than ten days after the legislative ethics commission is required to release such report. The legislative ethics commission shall not refer the matter back to the joint commission on public ethics for additional investigation more than once. If the commission refers the matter back to the joint commission for additional fact-finding, the joint commission's original report shall remain confidential.

10. Upon receipt of a written report from the joint commission on public ethics pursuant to subdivision fourteen-a of section seventy-three of the public officers law, the legislative ethics commission shall commence its review of the matter addressed in such report. No later than ninety days after receipt of such report, the legislative ethics commission shall dispose of the matter by making one or more of the following determinations:

a. whether the legislative ethics commission concurs with the joint commission's conclusions of law and the reasons therefor;

b. whether and which penalties have been assessed pursuant to applicable law or rule and the reasons therefor; and

c. whether further actions have been taken by the commission to punish or deter the misconduct at issue and the reasons therefor.

The commission's disposition shall be reported in writing and published on its website no later than ten days after such disposition unless requested by a law enforcement agency to suspend the commission's action because of an ongoing criminal investigation.

11. If the commission has a reasonable basis to believe that any person subject to the jurisdiction of another state oversight body may have violated section seventy-three or seventy-four of the public officers law, section one hundred seven of the civil service law, or article one-A of this chapter, it shall refer such violation to such oversight body unless the commission determines that such a referral would compromise the prosecution or confidentiality of its [~~investigations~~] **proceedings** and, if so, shall make such a referral as soon as practicable. The referral by the commission shall include any information relating thereto coming into the custody or under the control of the commission at any time prior or subsequent to the time of the referral.

[~~13. A copy of any notice of delinquency or notice of reasonable cause sent pursuant to subdivisions nine and ten of this section shall be included in the reporting person's file and be available for public inspection and copying.~~

~~14.~~] **12.** a. Notwithstanding the provisions of article six of the public officers law, the only records of the commission which shall be available for public inspection and copying are:

(1) [~~the information set forth in an annual statement of financial disclosure filed pursuant to section seventy-three-a of the public officers law except the categories of value or amount which shall be confidential, and any other item of information deleted pursuant to paragraph i of subdivision seven of this section;~~

~~(2) financial disclosure statements filed pursuant to subdivision six of section seventy-three of the public officers law;~~

~~(3) notices of delinquency sent under subdivision nine of this section;~~

~~(4) notices of reasonable cause sent under paragraph b of subdivision ten of this section;~~

~~(5) notices of civil assessment imposed under this section which shall include a description of the nature of the alleged wrongdoing, the procedural history of the complaint, the findings and determinations made by the commission, and any sanction imposed;~~

~~(6)~~] the terms of any settlement or compromise of a complaint or referral **or report** which includes a fine, penalty or other remedy **reached after the commission has received a report from the joint commission on public ethics pursuant to subdivision fourteen-a of section ninety-four of the executive law**;

[~~(7)~~] **(2)** generic advisory opinions; [~~and~~

~~(8)~~] **(3)** all reports required by this section[~~.~~]**; and**

(4) all reports received from the joint commission on public ethics pursuant to subdivision fourteen-a of section ninety-four of the executive law and in conformance with paragraph (b) of subdivision nine-b of this section.

b. Notwithstanding the provisions of article seven of the public officers law, no meeting or proceeding of the commission shall be open to the public, except if expressly provided otherwise by this section or the commission.

[~~15.~~] **13.** Within one hundred twenty days of the effective date of this subdivision, the commission shall create and thereafter maintain a publicly accessible website which shall set forth the procedure for filing a complaint with the **joint** commission **on public ethics**, and which shall contain [~~the documents identified in subdivision fourteen of this section, other than financial disclosure statements, and~~] any other records or information which the commission determines to be appropriate.

[~~16.~~] **14.** This section shall not revoke or rescind any policies, rules, regulations or advisory opinions issued by the legislative ethics committee in effect upon the effective date of this subdivision, to the extent that such regulations or opinions are not inconsistent with any laws of the state of New York. The legislative ethics commission shall undertake a comprehensive review of all such policies, rules, regulations or advisory opinions which will address the consistency of such policies, rules, regulations or advisory opinions with the laws of the state of New York. The legislative ethics commission shall, before April first, two thousand eight, report to the governor and legislature regarding such review and shall propose any regulatory changes and issue any advisory opinions necessitated by such review.

[~~17.~~] **15.** Separability clause. If any part or provision of this section or the application thereof to any person is adjudged by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such judgment shall not affect or impair any other part or provision or the application thereof to any other person, but shall be confined to such part or provision.

§ 10. Paragraph (h) of subdivision 8 of section 73 of the public officers law, as added by chapter 514 of the laws of 2002, is amended to read as follows:

(h) Notwithstanding the provisions of subparagraphs (i) and (ii) of paragraph (a) of this subdivision, a former state officer or employee may contract individually, or as a member or employee of a firm, corporation or association, to render services to any state agency when the agency head certifies in writing to the [~~state ethics~~] **joint** commission **on public ethics** that the services of such former officer or employee are required in connection with the agency's response to a disaster

emergency declared by the governor pursuant to section twenty-eight of the executive law.

§ 11. The opening paragraph of subdivision 8-a of section 73 of the public officers law, as amended by chapter 357 of the laws of 2001, is amended to read as follows:

The provisions of subparagraphs (i) and (ii) of paragraph (a) of subdivision eight of this section shall not apply to any such former state officer or employee engaged in any of the specific permitted activities defined in this subdivision that are related to any civil action or proceeding in any state or federal court, provided that the attorney general has certified in writing to the [~~state ethics~~] **joint** commission **on public ethics**, with a copy to such former state officer or employee, that the services are rendered on behalf of the state, a state agency, state officer or employee, or other person or entity represented by the attorney general, and that such former state officer or employee has expertise, knowledge or experience which is unique or outstanding in a field or in a particular matter or which would otherwise be generally unavailable at a comparable cost to the state, a state agency, state officer or employee, or other person or entity represented by the attorney general in such civil action or proceeding. In those instances where a state agency is not represented by the attorney general in a civil action or proceeding in state or federal court, a former state officer or employee may engage in permitted activities provided that the general counsel of the state agency, after consultation with the [~~state ethics~~] **joint** commission **on public ethics**, provides to the [~~state ethics~~] **joint** commission **on public ethics** a written certification which meets the requirements of this subdivision. For purposes of this subdivision the term "permitted activities" shall mean generally any activity performed at the request of the attorney general or the attorney general's designee, or in cases where the state agency is not represented by the attorney general, the general counsel of such state agency, including without limitation:

§ 12. Subdivision 8-b of section 73 of the public officers law, as added by chapter 523 of the laws of 2004, is amended to read as follows:

8-b. Notwithstanding the provisions of subparagraphs (i) and (ii) of paragraph (a) of subdivision eight of this section, a former state officer or employee may contract individually, or as a member or employee of a firm, corporation or association, to render services to any state agency if, prior to engaging in such service, the agency head certifies in writing to the [~~state ethics~~] **joint** commission **on public ethics** that such former officer or employee has expertise, knowledge or experience with respect to a particular matter which meets the needs of the agency and is otherwise unavailable at a comparable cost. Where approval of the contract is required under section one hundred twelve of the state finance law, the comptroller shall review and consider the reasons for such certification. The [~~state ethics~~] **joint** commission **on public ethics** must review and approve all certifications made pursuant to this subdivision.

§ 13. Subdivision 10 of section 73 of the public officers law, as amended by chapter 813 of the laws of 1987, is amended to read as follows:

10. Nothing contained in this section, the judiciary law, the education law or any other law or disciplinary rule shall be construed or applied to prohibit any firm, association or corporation, in which any present or former statewide elected official, state officer or employee, or political party chairman, member of the legislature or legislative

employee is a member, associate, retired member, of counsel or shareholder, from appearing, practicing, communicating or otherwise rendering services in relation to any matter before, or transacting business with a state agency, or a city agency with respect to a political party chairman in a county wholly included in a city with a population of more than one million, otherwise proscribed by this section, the judiciary law, the education law or any other law or disciplinary rule with respect to such official, member of the legislature or officer or employee, or political party chairman, where such statewide elected official, state officer or employee, member of the legislature or legislative employee, or political party chairman does not share in the net revenues, as defined in accordance with generally accepted accounting principles by the [~~state~~] **joint commission on public** ethics [~~commission~~] or by the legislative ethics committee in relation to persons subject to their respective jurisdictions, resulting therefrom, or, acting in good faith, reasonably believed that he or she would not share in the net revenues as so defined; nor shall anything contained in this section, the judiciary law, the education law or any other law or disciplinary rule be construed to prohibit any firm, association or corporation in which any present or former statewide elected official, member of the legislature, legislative employee, full-time salaried state officer or employee or state officer or employee who is subject to the provisions of section seventy-three-a of this [~~chapter~~] **article** is a member, associate, retired member, of counsel or shareholder, from appearing, practicing, communicating or otherwise rendering services in relation to any matter before, or transacting business with, the court of claims, where such statewide elected official, member of the legislature, legislative employee, full-time salaried state officer or employee or state officer or employee who is subject to the provisions of section seventy-three-a of this [~~chapter~~] **article** does not share in the net revenues, as defined in accordance with generally accepted accounting principles by the [~~state~~] **joint commission on public** ethics [~~commission~~] or by the legislative ethics committee in relation to persons subject to their respective jurisdictions, resulting therefrom, or, acting in good faith, reasonably believed that he or she would not share in the net revenues as so defined.

§ 14. Transfer of records. The state commission on public integrity, shall deliver to the joint commission on public ethics all books, papers, records, and property as requested by the joint commission.

§ 15. Continuity of authority. For the purpose of succession to all functions, powers, duties and obligations transferred and assigned to, devolved upon and assumed by it pursuant to this act, the joint commission on public ethics shall be deemed and held to constitute the continuation of the state commission on public integrity.

§ 16. Completion of unfinished business. Any business or other matter undertaken or commenced by the state commission on public integrity or the legislative ethics commission pertaining to or connected with the functions, powers, obligations and duties hereby transferred and assigned to the joint commission on public ethics, and pending on the effective date of this act may be conducted and completed by the joint commission on public ethics in the same manner and under the same terms and conditions and with the same effect as if conducted and completed by the former state commission on public integrity or the legislative ethics commission.

§ 17. Terms occurring in laws, contracts and other documents. Whenever the state commission on public integrity is referred to or designated in

any law, contract or documents pertaining solely to those functions, powers, obligations and duties hereby transferred and assigned to the joint commission on public ethics, such reference or designation shall be deemed to refer to the joint commission on public ethics as created by this act.

§ 18. Existing rights and remedies preserved. No existing right or remedy of any character shall be lost, impaired or affected by reason of this act.

§ 19. Pending actions and proceedings. No action or proceeding pending at the time when this act shall take effect, brought by or against the state commission on public integrity shall be affected by this act, but the same may be prosecuted or defended in the name of the joint commission on public ethics and upon application to the court, the joint commission on public ethics shall be substituted as a party.

§ 20. Notwithstanding any contrary provision of the state finance law, transfer of appropriations heretofore made to the state commission on public integrity, all appropriations or reappropriations for the functions herein transferred heretofore made to the state commission on public integrity, or segregated pursuant to law, to the extent of remaining unexpended or unencumbered balances thereof, whether allocated or unallocated and whether obligated or unobligated, are hereby transferred to the joint commission on public ethics to the extent necessary to carry out its functions, powers and duties subject to the approval of the director of the budget for the same purposes for which originally appropriated or reappropriated and shall be payable on vouchers certified or approved by the joint commission on public ethics on audit and warrant of the comptroller.

§ 21. No later than June 1, 2014, the governor and the legislative leaders shall jointly appoint a review commission to review and evaluate the activities and performance of the joint commission on public ethics and the legislative ethics commission in implementing the provisions of this act. On or before March 1, 2015, the review commission shall report to the governor and the legislature on its review and evaluation which report shall include any administrative and legislative recommendations on strengthening the administration and enforcement of the ethics law in New York state. The review commission shall be comprised of eight members and the governor and the legislative leaders shall jointly designate a chair from among the members.

§ 22. This act shall take effect immediately, provided that:

1. the state commission on public integrity shall continue to accept filings and provide records as otherwise required but shall not otherwise investigate, discipline or provide advisory opinions;

2. the joint commission on public ethics shall be fully operational on or before the one hundred twentieth day after this act shall have become a law and until such time as it becomes operational (a) the state commission on public integrity shall deposit all records in its possession with the inspector general and (b) the legislative ethics commission shall continue to exercise such functions, powers, obligations and duties to be transferred to the joint commission on public ethics; and

3. section four of this act, the amendments to subdivision 3 of section 73-a of the public officers law made by section five of this act, paragraph (i-1) of subdivision 9 of section 94 of the executive law, as added by section six of this act, and the amendments to subparagraph 1 of paragraph (a) of subdivision 19 of section 94 of the execu-

tive law, made by section six of this act, shall take effect January 1, 2013.

PART B

Section 1. Subdivision (c) of section 1-h of the legislative law is amended by adding a new paragraph 4 to read as follows:

(4) Any lobbyist registered pursuant to section one-e of this article whose lobbying activity is performed on its own behalf and not pursuant to retention by a client:

(i) that has spent over fifty thousand dollars for reportable compensation and expenses for lobbying either during the calendar year, or during the twelve-month period, prior to the date of this bi-monthly report, and

(ii) at least three percent of whose total expenditures during the same period were devoted to lobbying in New York

shall report to the commission the names of each source of funding over five thousand dollars from a single source that were used to fund the lobbying activities reported and the amounts received from each identified source of funding.

This disclosure shall not require disclosure of the sources of funding whose disclosure, in the determination of the commission based upon a review of the relevant facts presented by the reporting lobbyist, may cause harm, threats, harassment, or reprisals to the source or to individuals or property affiliated with the source. The reporting lobbyist may appeal the commission's determination and such appeal shall be heard by a judicial hearing officer who is independent and not affiliated with or employed by the commission, pursuant to regulations promulgated by the commission. The reporting lobbyist shall not be required to disclose the sources of funding that are the subject of such appeal pending final judgment on appeal.

The disclosure shall not apply to:

(i) any corporation registered pursuant to article seven-A of the executive law that is qualified as an exempt organization by the United States Department of the Treasury under I.R.C. § 501(c)(3);

(ii) any corporation registered pursuant to article seven-A of the executive law that is qualified as an exempt organization by the United States Department of the Treasury under I.R.C. § 501(c)(4) and whose primary activities concern any area of public concern determined by the commission to create a substantial likelihood that application of this disclosure requirement would lead to harm, threats, harassment, or reprisals to a source of funding or to individuals or property affiliated with such source, including but not limited to the area of civil rights and civil liberties and any other area of public concern determined pursuant to regulations promulgated by the commission to form a proper basis for exemption on this basis from this disclosure requirement; or

(iii) any governmental entity.

The joint commission on public ethics shall promulgate regulations to implement these requirements.

§ 2. Subdivision (c) of section 1-j of the legislative law is amended by adding a new paragraph 4 to read as follows:

(4) Any client of a lobbyist that is required to file a semi-annual report and:

(i) that has spent over fifty thousand dollars for reportable compensation and expenses for lobbying either during the calendar year, or

during the twelve-month period, prior to the date of this semi-annual report, and

(ii) at least three percent of whose total expenditures during the same period were devoted to lobbying in New York

shall report to the commission the names of each source of funding over five thousand dollars from a single source that were used to fund the lobbying activities reported and the amounts received from each identified source of funding.

This disclosure shall not require disclosure of the sources of funding whose disclosure, in the determination of the commission based upon a review of the relevant facts presented by the reporting client or lobbyist, may cause harm, threats, harassment, or reprisals to the source or to individuals or property affiliated with the source. The reporting lobbyist may appeal the commission's determination and such appeal shall be heard by a judicial hearing officer who is independent and not affiliated with or employed by the commission, pursuant to regulations promulgated by the commission. The reporting lobbyist shall not be required to disclose the sources of funding that are the subject of such appeal pending final judgment on appeal.

The disclosure shall not apply to:

(i) any corporation registered pursuant to article seven-A of the executive law that is qualified as an exempt organization by the United States Department of the Treasury under I.R.C. § 501(c)(3);

(ii) any corporation registered pursuant to article seven-A of the executive law that is qualified as an exempt organization by the United States Department of the Treasury under I.R.C. § 501(c)(4) and whose primary activities concern any area of public concern determined by the commission to create a substantial likelihood that application of this disclosure requirement would lead to harm, threats, harassment, or reprisals to a source of funding or to individuals or property affiliated with such source, including but not limited to the area of civil rights and civil liberties and any other area of public concern determined pursuant to regulations promulgated by the commission to form a proper basis for exemption on this basis from this disclosure requirement; or

(iii) any governmental entity.

The joint commission on public ethics shall promulgate regulations to implement these requirements.

§ 3. This act shall take effect June 1, 2012.

PART C

Section 1. The retirement and social security law is amended by adding a new article 3-B to read as follows:

ARTICLE 3-B

PENSION FORFEITURE FOR PUBLIC OFFICIALS

Section 156. Definitions.

157. Pension forfeiture.

158. Pension contributions returned.

159. Miscellaneous.

§ 156. Definitions. The following words and phrases, as used in this article, shall have the following meanings, unless a different meaning is plainly required by the context:

1. "Crime related to public office" shall mean any of the following criminal offenses whether committed in this state or in any other jurisdiction by a public official through the use of his or her public office

or by the individual representing that he or she was acting with the authority of any governmental entity, and acting as a public official:

(a) a felony for committing, aiding or abetting a larceny of public funds from the state or a municipality;

(b) a felony committed in direct connection with service as a public official; or

(c) a felony committed by such person who, with the intent to defraud, realizes or obtains, or attempts to realize or obtain, a profit, gain or advantage for himself or herself or for some other person, through the use or attempted use of the power, rights, privileges or duties of his or her position as a public official.

2. "Chief administrator of the retirement system" shall mean the comptroller of the state of New York with respect to the New York state and local employees' retirement system and the boards of trustees with respect to the other public retirement systems and pension funds of the state and the city of New York.

3. "Defendant" shall mean a state or local officer against whom a forfeiture action is commenced.

4. "Dependent person" shall mean and include:

(a) any child of a public official or other person for whom such person is legally responsible to provide support;

(b) any present or former spouse or domestic partner of a public official;

(c) any family or household member of a public official, regardless of such person's age, where such person has a disability, as defined in subdivision twenty-one of section two hundred ninety-two of the executive law; and

(d) any person to whom a public official has provided support.

5. "Pension" shall mean the annual allowance for life, payable in monthly installments, derived from contributions made by a public official to the appropriate pension accumulation fund of a retirement system pursuant to applicable law.

6. (a) "Public official" shall mean any of the following individuals who were not members of any retirement system prior to the effective date of the chapter of the laws of two thousand eleven which added this article but who have become members of a covered retirement system on or after the effective date of the chapter of the laws of two thousand eleven which added this article:

(i) the governor, lieutenant governor, comptroller or attorney general;

(ii) members of the state legislature;

(iii) state officers and employees including:

(A) heads of state departments and their deputies and assistants other than members of the board of regents of the university of the state of New York who receive no compensation or are compensated on a per diem basis;

(B) officers and employees of statewide elected officials;

(C) officers and employees of state departments, boards, bureaus, divisions, commissions, councils or other state agencies; and

(D) members or directors of public authorities, other than multi-state authorities, public benefit corporations and commissions at least one of whose members is appointed by the governor, and employees of such authorities, corporations and commissions;

(iv) judges, justices and employees of the unified court system;

(v) officers and employees of the legislature; and

(vi) paid municipal officers and employees including an officer or employee of a municipality, paid members of any administrative board, commission or other agency thereof and in the case of a county, shall be deemed to also include any officer or employee paid from county funds.

(b) A person who receives no compensation or is compensated on a per diem basis for his or her duties as a public official shall not be deemed a public official pursuant to this subdivision.

7. "Retirement system" shall mean the New York state and local employees' retirement system, and the New York city employees' retirement system.

§ 157. Pension forfeiture. 1. Notwithstanding any other law to the contrary, it shall be a term and condition of membership for every public official who becomes a member of any retirement system on or after the effective date of the chapter of the laws of two thousand eleven which added this article, that such public official's rights to a pension in a retirement system that accrue in such retirement system after his or her date of initial membership in the retirement system shall be subject to the provisions of this article.

2. In the case of a public official who stands convicted, by plea of nolo contendere or plea of guilty to, or by conviction after trial, of any crime related to public office, an action may be commenced in supreme court of the county in which such public official was convicted of such felony crime, by the district attorney having jurisdiction over such crime, or by the attorney general if the attorney general brought the criminal charge which resulted in such conviction, for an order to reduce or revoke the pension to which such public official is otherwise entitled for service as a public official. Such complaint shall specify with particularity which category of felony pursuant to subdivision one of section one hundred fifty-six of this article the defendant has committed, and all other facts that are alleged to qualify such crime as a felony crime related to public office subject to pension reduction or revocation pursuant to this article, and the amount of pension reduction or revocation requested. Such action shall be commenced within six months after such conviction.

3. Before commencing an action described in subdivision two of this section, the district attorney or the attorney general, as the case may be, shall serve written notice on the chief administrator of the defendant's retirement system stating that he or she has reason to believe that the person convicted committed the crime related to public office in the performance of or failure to perform the public official's duties and responsibilities. Such notice shall specify with particularity which category of felony pursuant to subdivision one of section one hundred fifty-six of this article the defendant has committed. Within twenty days after receipt of such notice, the chief administrator of the defendant's retirement system shall submit a notice of applicability to the district attorney or the attorney general as the case may be. The notice of applicability shall contain a statement specifying whether the person convicted is or has been a member or retired member of a retirement system and shall describe the portion of such rights and benefits to which such person is or will be entitled to solely from service as such a public official.

4. No forfeiture action may be commenced by the district attorney or the attorney general until such district attorney or the attorney general, as the case may be, has received and served on the defendant the notice of applicability as set forth in subdivision three of this section.

5. The district attorney or the attorney general, or any interested party, may seek, or the court on its own motion may order, that some or all of the pension that would otherwise be reduced or revoked pursuant to this article be paid for the benefit of any dependent persons, as may be in the interests of justice.

6. The defendant shall have the right to a hearing.

7. The burden of proof shall be upon the district attorney or the attorney general, as the case may be, to prove by clear and convincing evidence the facts necessary to establish a claim of pension forfeiture. The district attorney or the attorney general as the case may be must, at the time of the hearing, prove by clear and convincing evidence that the defendant knowingly and intentionally committed the crime related to public office.

8. In determining whether the pension shall be reduced or revoked, the supreme court shall consider and make findings of fact and conclusions of law that include, but shall not be limited to, a consideration of the following factors:

(a) Whether the defendant stands convicted of such a felony of a crime related to public office, and the specific paragraph or paragraphs of subdivision one of section one hundred fifty-six of this article that have been proven or not proven;

(b) The severity of the crime related to public office of which the defendant stands convicted;

(c) The amount of monetary loss suffered by such state or municipality as a result of such crime related to public office;

(d) The degree of public trust reposed in the public official by virtue of the person's position as a public official;

(e) If the crime related to public office was part of a fraudulent scheme against the state or a municipality, the role of the public official in such fraudulent scheme against such state or a municipality;

(f) The defendant's criminal history, if any;

(g) The impact of forfeiture, in whole or in part, on defendant's dependents, present or former spouses, or domestic partners;

(h) The proportionality of forfeiture of all or part of the pension to the crime committed; and

(i) Any such other factors as, in the judgment of the supreme court, justice may require.

9. At any time during the pendency of a forfeiture action, the court may dismiss the action if it finds that such relief is warranted by the existence of some compelling factor, consideration or circumstance or other information or evidence which demonstrates that forfeiture would not serve the ends of justice. The court may order that some or all of the reduced or revoked pension be paid to satisfy the terms of any existing order for the payment of maintenance, child support or restitution or for the benefit of any dependent persons, as may be in the interests of justice, after taking into consideration the financial needs and resources available for support of such persons.

10. Upon a finding by the court by clear and convincing evidence that the defendant knowingly and intentionally committed a crime related to public office, the court may issue an order to the appropriate retirement system to reduce or revoke the defendant's pension to which he or she is otherwise entitled as such a public official. All orders and findings made by the court pursuant to this section shall be served by the attorney general or the district attorney, as the case may be upon the chief administrator of the defendant's retirement system and the defendant.

11. The court shall issue a written decision including findings of fact and conclusions of law that are the basis for any order issued pursuant to this section.

12. Upon a final determination that reverses or vacates the conviction or convictions of a crime related to public office, or reduces such crime to a violation, misdemeanor or other criminal act that is not a crime related to public office, the public official, or if he or she shall be deceased, his or her estate, shall have such pension retroactively restored upon application to the court with jurisdiction over the forfeiture action. Such court, upon finding that such a final determination has occurred, shall issue an order retroactively restoring such pension, together with such other relief deemed appropriate.

13. A final judgment entered pursuant to this article may be appealed pursuant to subdivision (a) of section fifty-seven hundred one and section fifty-six hundred two of the civil practice law and rules.

14. Except as otherwise provided by this article, the civil practice law and rules shall govern the procedure in all actions commenced pursuant to this article, except where the action is specifically regulated by any inconsistent provisions herein.

§ 158. Pension contributions returned. 1. Any public official whose pension is reduced or revoked pursuant to this article shall be entitled to a return of his or her contribution paid into the relevant retirement system, without interest.

2. Notwithstanding the provisions of subdivision one of this section, no payments in return of contributions shall be made or ordered unless and until the supreme court determines that the public official whose pension has been reduced or revoked has satisfied in full any judgments or orders rendered by any court of competent jurisdiction for the payment of restitution to the state or a municipality for losses incurred as a result of such crime related to public office. If the supreme court determines that such public official whose pension is to be reduced or revoked has failed to satisfy any outstanding judgment or order of restitution rendered by a court of competent jurisdiction, it may order that any funds otherwise due to such public official as a return of contribution, or any portion thereof, be paid in satisfaction of such judgment or order.

§ 159. Miscellaneous. The remedies provided for in this article are not intended to substitute for, limit or supersede the lawful authority of any public officer, agency or other person to enforce any other right or remedy provided for by law.

§ 2. The criminal procedure law is amended by adding a new section 220.51 to read as follows:

§ 220.51 Notice before entry of plea or trial involving a public official.

Prior to trial, and before accepting a defendant's plea to a count or counts of an indictment or a superior court information charging a felony offense, the court must individually advise the defendant, on the record, that if at the time of the alleged felony crime the defendant was a public official, as defined in subdivision six of section one hundred fifty-six of the retirement and social security law, the defendant's plea of guilty and the court's acceptance thereof or conviction after trial may result in proceedings for the reduction or revocation of such defendant's pension pursuant to article three-B of the retirement and social security law.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law and shall only apply to acts committed by public officials on or after such date.

PART D

Section 1. Paragraph (i) of subdivision (c) and subdivision (j) of section 1-c of the legislative law, paragraph (i) of subdivision (c) as added by chapter 1 of the laws of 2005 and subdivision (j) as added by chapter 14 of the laws of 2007, are amended to read as follows:

(i) the passage or defeat of any legislation **or resolution** by either house of the state legislature **including but not limited to the introduction or intended introduction of such legislation or resolution** or approval or disapproval of any legislation by the governor;

(j) The term "gift" shall mean anything of more than nominal value given to a public official in any form including, but not limited to money, service, loan, travel, lodging, meals, refreshments, entertainment, discount, forbearance, or promise, having a monetary value. The following are excluded from the definition of a gift:

(i) complimentary attendance, including food and beverage, at bona fide charitable or political events[~~**, and food and beverage of a nominal value offered other than as part of a meal**~~];

(ii) complimentary attendance, food and beverage offered by the sponsor of [~~**an event that is**~~] **a** widely attended [~~**or was in good faith intended to be widely attended, when attendance at the event is related to the attendee's duties or responsibilities as a public official or allows the public official to perform a ceremonial function appropriate to his or her position**~~] **event. The term "widely attended event" shall mean an event: (A) which at least twenty-five individuals other than members, officers, or employees from the governmental entity in which the public official serves attend or were, in good faith, invited to attend, and (B) which is related to the attendee's duties or responsibilities or which allows the public official to perform a ceremonial function appropriate to his or her position. For the purposes of this exclusion, a public official's duties or responsibilities shall include but not be limited to either (1) attending an event or a meeting at which a speaker or attendee addresses an issue of public interest or concern as a significant activity at such event or meeting; or (2) for elected public officials, or their staff attending with or on behalf of such elected officials, attending an event or a meeting at which more than one-half of the attendees, or persons invited in good faith to attend, are residents of the county, district or jurisdiction from which the elected public official was elected**;

(iii) awards, plaques, and other ceremonial items which are publicly presented, or intended to be publicly presented, in recognition of public service, provided that the item or items are of the type customarily bestowed at such or similar ceremonies and are otherwise reasonable under the circumstances, and further provided that the functionality of such items shall not determine whether such items are permitted under this paragraph;

(iv) an honorary degree bestowed upon a public official by a public or private college or university;

(v) promotional items having no substantial resale value such as pens, mugs, calendars, hats, and t-shirts which bear an organization's name, logo, or message in a manner which promotes the organization's cause;

(vi) goods and services, or discounts for goods and services, offered to the general public or a segment of the general public defined on a basis other than status as a public official and offered on the same terms and conditions as the goods or services are offered to the general public or segment thereof;

(vii) gifts from a family member, member of the same household, or person with a personal relationship with the public official, including invitations to attend personal or family social events, when the circumstances establish that it is the family, household, or personal relationship that is the primary motivating factor; in determining motivation, the following factors shall be among those considered: (A) the history and nature of the relationship between the donor and the recipient, including whether or not items have previously been exchanged; (B) whether the item was purchased by the donor; and (C) whether or not the donor at the same time gave similar items to other public officials; the transfer shall not be considered to be motivated by a family, household, or personal relationship if the donor seeks to charge or deduct the value of such item as a business expense or seeks reimbursement from a client;

(viii) contributions reportable under article fourteen of the election law**, including contributions made in violation of that article of the election law**;

(ix) travel reimbursement or payment for transportation, meals and accommodations for an attendee, panelist or speaker at an informational event **or informational meeting** when such reimbursement or payment is made by a governmental entity or by an in-state accredited public or private institution of higher education that hosts the event on its campus, provided, however, that the public official may only accept lodging from an institution of higher education: (A) at a location on or within close proximity to the host campus; and (B) for the night preceding and the nights of the days on which the attendee, panelist or speaker actually attends the event **or meeting**;

(x) provision of local transportation to inspect or tour facilities, operations or property [~~owned or operated by the entity providing such transportation~~] **located in New York state**, provided, however, **that such inspection or tour is related to the individual's official duties or responsibilities and** that payment or reimbursement [~~of~~] **for expenses for** lodging[~~, meals~~] or travel expenses to and from the locality where such facilities, operations or property are located shall be considered to be gifts unless otherwise permitted under this subdivision; [~~and~~]

(xi) meals or refreshments when participating in a professional or educational program and the meals or refreshments are provided to all participants**; and**

(xii) food or beverage valued at fifteen dollars or less.

§ 2. This act shall take effect immediately.

PART E

Section 1. The state board of elections shall, no later than January 1, 2012, issue regulations setting forth and implementing the requirements under existing law for individuals, organizations, corporations, political committees, or any other entities to disclose independent expenditures made for advertisements or any other type of advocacy that expressly identifies a political candidate or ballot proposal. Such regulations shall require such disclosure to the fullest extent of the law.

§ 2. Section 14-106 of the election law, as amended by chapter 8 of the laws of 1978, is amended to read as follows:

§ 14-106. Political [~~advertisements and literature~~] **communication**. The statements required to be filed under the provisions of this article next succeeding a primary, general or special election shall be accompanied by a [~~facsimile or~~] copy of all **broadcast, cable or satellite schedules and scripts, internet, print and other types of** advertisements, pamphlets, circulars, flyers, brochures, letterheads and other printed matter purchased or produced [~~and a schedule of all radio or television time, and scripts used therein~~], purchased in connection with such election by or under the authority of the person filing the statement or the committee or the person on whose behalf it is filed, as the case may be. Such [~~facsimiles,~~] copies, schedules and scripts shall be preserved by the officer with whom or the board with which it is required to be filed for a period of one year from the date of filing thereof.

§ 3. Section 14-126 of the election law, as amended by chapter 8 of the laws of 1978, subdivision 1 as amended by chapter 128 of the laws of 1994 and subdivisions 2, 3 and 4 as redesignated by chapter 9 of the laws of 1978, is amended to read as follows:

§ 14-126. Violations; penalties. 1. Any person who fails to file a statement required to be filed by this article shall be subject to a civil penalty, not in excess of [~~five hundred~~] **one thousand** dollars, to be recoverable in a special proceeding or civil action to be brought by the state board of elections or other board of elections. **Any person who, three or more times within a given election cycle for such term of office, fails to file a statement or statements required to be filed by this article, shall be subject to a civil penalty, not in excess of ten thousand dollars, to be recoverable as provided for in this subdivision.**

2. **Any person who, acting as or on behalf of a candidate or political committee, under circumstances evincing an intent to violate such law, unlawfully accepts a contribution in excess of a contribution limitation established in this article, shall be required to refund such excess amount and shall be subject to a civil penalty equal to the excess amount plus a fine of up to ten thousand dollars, to be recoverable in a special proceeding or civil action to be brought by the state board of elections.**

3. Any person who knowingly and willfully fails to file a statement required to be filed by this article within ten days after the date provided for filing such statement or any person who knowingly and willfully violates any other provision of this article shall be guilty of a misdemeanor.

[~~3.~~] **4.** Any person who knowingly and willfully contributes, accepts or aids or participates in the acceptance of a contribution in an amount exceeding an applicable maximum specified in this article shall be guilty of a misdemeanor.

[~~4.~~] **5.** Any person who shall, acting on behalf of a candidate or political committee, knowingly and willfully solicit, organize or coordinate the formation of activities of one or more unauthorized committees, make expenditures in connection with the nomination for election or election of any candidate, or solicit any person to make any such expenditures, for the purpose of evading the contribution limitations of this article, shall be guilty of a class E felony.

§ 4. Section 16-100 of the election law is amended to read as follows:

§ 16-100. Jurisdiction; supreme court, county court. 1. The supreme court is vested with jurisdiction to summarily determine any question of

law or fact arising as to any subject set forth in this article, which shall be construed liberally.

2. The county court is vested with jurisdiction to summarily determine any question of law or fact except proceedings as to a nomination or election at a primary election or a nomination at a judicial convention, proceedings as to the casting and canvass of ballots [~~and~~], proceedings for examination or preservation of ballots **and proceedings to enforce the provisions of article fourteen of this chapter.**

§ 5. The election law is amended by adding a new section 16-120 to read as follows:

§ 16-120. Enforcement proceedings. 1. The supreme court or a justice thereof, in a proceeding instituted by the state board of elections, may impose a civil penalty, as provided for in subdivisions one and two of section 14-126 of this chapter.

2. Upon proof that a violation of article fourteen of this chapter, as provided in subdivision one of this section, has occurred, the court may impose a civil penalty, pursuant to subdivisions one and two of section 14-126 of this chapter, after considering, among other factors, the severity of the violation or violations, whether the subject of the violation made a good faith effort to correct the violation and whether the subject of the violation has a history of similar violations. All such determinations shall be made on a fair and equitable basis without regard to the status of the candidate or political committee.

§ 6. Separability clause. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 7. This act shall take effect immediately.

§ 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 4. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through E of this act shall be as specifically set forth in the last section of such Parts.

Chapter 414 **Signed August 17, 2011**

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:

Section 1. Notwithstanding any other provision of law to the contrary, the town of North Greenbush, a participating employer in the New York state and local police and fire retirement system, which previously elected to offer the optional twenty year retirement plan, established pursuant to section 384-d of the retirement and social security law, to police officers employed by such town, is hereby authorized to make participation in such plan available to Kate Anslow, Joseph Farrell, Lisa Giddings-Fumarola, Michael Merola, Randy Pastore, Douglas Pinzer and Clifford Ruschmeyer, police officers employed by the town of North Greenbush, who, for reasons not ascribable to their own negligence, failed to make a timely application to participate in such optional twenty year retirement plan. The town of North Greenbush may so elect by filing with the state comptroller, on or before December 31, 2011, a resolution of its local legislative body together with certification that such police officers did not bar themselves from participation in such retirement plan as a result of their own negligence. Thereafter, such police officers may elect to be covered by the provisions of section 384-d of the retirement and social security law, and shall be 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.

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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.

Chapter 434 **Signed August 17, 2011**

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:

Section 1. Notwithstanding any other provision of law to the contrary, the city of Newburgh, in the county of Orange, a participating employer in the New York state and local police and fire retirement system, which previously elected to offer the optional twenty year retirement plan, established pursuant to section 384-d of the retirement and social security law, to police officers and firefighters employed by such city, is hereby authorized to make participation in such plan available to Daniel Cameron, Lorenzo D'Angelico, John Jenerose, Matthew M. Kirwan and Kevin Romero, police officers, and Robert Bain Jr., Mark Bethea and William Wiseman, firefighters employed by the city of Newburgh, who, for reasons not ascribable to their own negligence failed to make timely applications to participate in such optional twenty year retirement plan.

The city of Newburgh may so elect by filing with the state comptroller, on or before December 31, 2011, a resolution of its governing body together with certification that such police officers and firefighters did not bar themselves from participation in such retirement plan as a result of their own negligence. Thereafter, such police officers and firefighters may elect to be covered by the provisions of section 384-d of the retirement and social security law, and shall be entitled to the full rights and benefits associated with coverage under such section, by filing a request to that effect with the state comptroller 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

§ 2. All past service costs associated with implementing the provisions of this act shall be borne by the city of Newburgh over a period of ten years.

§ 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.

Chapter 447 **Signed August 17, 2011**

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:

Section 1. Subdivision aa of section 555 of the retirement and social security law, as added by chapter 165 of the laws of 1995, is amended to read as follows:

aa. At the time of the filing of an application pursuant to this section, the member must:

1. Have at least ten years of total service credit, and

2. Actually be in service upon which his or her membership is based, or, have been discontinued from service, either voluntarily or involuntarily, for not more than ninety days, providing the member was disabled prior to such discontinuance.

An application for disability retirement shall not be disapproved on the basis of a deputy sheriff having failed to engage directly in criminal law enforcement activities that aggregate fifty per centum of a deputy sheriff's service 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 and further provided the deputy sheriff was certified as so engaged in criminal law enforcement activities by the county sheriff for the calendar year preceding the onset of the disability.

After the filing of such an application, such member shall be given one or more medical examinations. If the comptroller determines that the member is physically or mentally incapacitated for the performance of duty and ought to be retired for ordinary disability, he or she shall be

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LBD11832-02-1

so retired. Such retirement shall be effective as of a date approved by the comptroller.

§ 2. Subdivision a of section 556 of the retirement and social security law, as amended by chapter 489 of the laws of 2008, is amended to read as follows:

a. A member shall be entitled to an accidental disability retirement allowance if, at the time application therefor is filed, he or she is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of an accident not caused by his or her own willful negligence sustained in such service and while actually a member of the retirement system, and

2. Actually in service upon which his or her membership is based. However, in a case where a member is discontinued from service subsequent to the accident, either voluntarily or involuntarily, and provided that the member meets the requirements of paragraph one of this subdivision, application may be made either (a) by a vested member incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter at any time, or (b) not later than two years after the member is first discontinued from service and provided that the member meets the requirements of paragraph one of this subdivision.

An application for disability retirement shall not be disapproved on the basis of a deputy sheriff having failed to engage directly in criminal law enforcement activities that aggregate fifty per centum of a deputy sheriff's service 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 and further provided the deputy sheriff was certified as so engaged in criminal law enforcement activities by the county sheriff at the time the accident is alleged to have occurred.

§ 3. Subdivision b of section 558 of the retirement and social security law, as added by chapter 165 of the laws of 1995, paragraph 2 as amended by chapter 489 of the laws of 2008, is amended to read as follows:

b. Eligibility. A member shall be entitled to retirement for disability incurred in the performance of duty if, at the time application therefor is filed, he or she is:

1. Physically or mentally incapacitated for performance of duty as the natural and proximate result of a disability not caused by his or her own willful negligence sustained in such service and while actually a member of the retirement system, and

2. Actually in service upon which his or her membership is based. However, in a case where a member is discontinued from service, and provided that the member meets the requirements of paragraph one of this subdivision, application may be made, either (a) by a vested member incapacitated as the result of a qualifying World Trade Center condition as defined in section two of this chapter at any time, or (b) not later than two years after the member is discontinued from service and provided that the member meets the requirements of subdivision a of this section and this subdivision.

An application for disability retirement shall not be disapproved on the basis of a deputy sheriff having failed to engage directly in criminal law enforcement activities that aggregate fifty per centum of a deputy sheriff's service 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 and further provided the deputy sheriff was certified as so engaged in criminal law enforcement activities by

the county sheriff at the time the physical or mental incapacitation for the performance of duty is alleged to have occurred.

§ 4. This act shall take effect immediately and shall apply to all applications filed pursuant to section 555, 556 or 558 of the retirement 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.

Chapter 477 **Signed August 17, 2011**

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:

Section 1. Paragraph a of section 11.00 of the local finance law is amended by adding a new subdivision 105 to read as follows:

105. Payments by the town of East Hampton, county of Suffolk to employees upon separation from employment, as may be approved by the town and including, but not limited to, cash payment for separation incentives and/or payment of the monetary value of accrued and accumulated but unused and unpaid sick leave, personal leave, holiday leave, vacation time, time allowances granted in lieu of overtime compensation and any other forms of payment required to be paid to such employees upon separation from employment, ten years.

§ 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

Chapter 482 **Signed August 17, 2011**

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:

Section 1. Paragraph a of section 11.00 of the local finance law is amended by adding a new subdivision 105 to read as follows:

105. Payments by the town of Stony Point to or for the benefit of employees upon separation from employment, as may be approved by the town and including, but not limited to, cash payment for separation incentives and/or payment of the monetary value of accrued and accumulated but unused and unpaid sick leave, personal leave, holiday leave, vacation time, time allowances granted in lieu of overtime compensation, premiums or contributions with respect to health, dental and vision care insurance plans for the fiscal year in which such separation occurs, and any other forms of payment required to be paid to or for the benefit of such employees in connection with the separation from employment, ten years.

§ 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

Chapter 483 **Signed August 17, 2011**

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

Chapter 491 **Signed August 17, 2011**

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 Assembly, do enact as follows:

Section 1. This act enacts into law legislation necessary to implement collective bargaining agreements, to make changes to an existing collective bargaining agreement, and to implement changes to salary and benefits for certain state officers and employees excluded from collective negotiating units. Each component is wholly contained within a Part identified as Parts A through B. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section

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LBD12077-02-1

"of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section two of this act sets forth the general severability clause applying to this act. Section three of this act sets forth the general effective date of this act.

PART A

COLLECTIVE BARGAINING AGREEMENT BETWEEN
THE STATE OF NEW YORK AND THE CIVIL SERVICE
EMPLOYEES ASSOCIATION, INC. FOR 2011-2016

Section 1. Subparagraphs 1, 2, 3 and 4 of paragraph a of subdivision 1 of section 130 of the civil service law are REPEALED and three new subparagraphs 1, 2 and 3 are added to read as follows:

(1) Effective April first, two thousand ten for officers and employees on the administrative payroll and effective March twenty-fifth, two thousand ten for officers and employees on the institutional payroll:

SG	HR	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	JR	INCR
1	22041	22785	23529	24273	25017	25761	26505	27249	744
2	22883	23663	24443	25223	26003	26783	27563	28343	780
3	24025	24840	25655	26470	27285	28100	28915	29730	815
4	25074	25937	26800	27663	28526	29389	30252	31115	863
5	26274	27178	28082	28986	29890	30794	31698	32602	904
6	27744	28683	29622	30561	31500	32439	33378	34317	939
7	29278	30263	31248	32233	33218	34203	35188	36173	985
8	30928	31951	32974	33997	35020	36043	37066	38089	1023
9	32653	33722	34791	35860	36929	37998	39067	40136	1069
10	34521	35642	36763	37884	39005	40126	41247	42368	1121
11	36523	37700	38877	40054	41231	42408	43585	44762	1177
12	38612	39830	41048	42266	43484	44702	45920	47138	1218
13	40903	42177	43451	44725	45999	47273	48547	49821	1274
14	43270	44596	45922	47248	48574	49900	51226	52552	1326
15	45781	47163	48545	49927	51309	52691	54073	55455	1382
16	48346	49792	51238	52684	54130	55576	57022	58468	1446
17	51067	52595	54123	55651	57179	58707	60235	61763	1528
18	54018	55614	57210	58806	60402	61998	63594	65190	1596
19	56912	58587	60262	61937	63612	65287	66962	68637	1675
20	59889	61630	63371	65112	66853	68594	70335	72076	1741
21	63101	64924	66747	68570	70393	72216	74039	75862	1823
22	66484	68389	70294	72199	74104	76009	77914	79819	1905
23	70038	72026	74014	76002	77990	79978	81966	83954	1988
24	73850	75908	77966	80024	82082	84140	86198	88256	2058
25	77931	80080	82229	84378	86527	88676	90825	92974	2149

(2) Effective March twenty-seven, two thousand fourteen for officers and employees on the administrative payroll and effective April three, two thousand fourteen for officers and employees on the institutional payroll:

SG	HR	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	JR	INCR
1	22482	23241	24000	24759	25518	26277	27036	27795	759
2	23341	24137	24933	25729	26525	27321	28117	28913	796
3	24506	25337	26168	26999	27830	28661	29492	30323	831
4	25575	26455	27335	28215	29095	29975	30855	31735	880
5	26799	27721	28643	29565	30487	31409	32331	33253	922
6	28299	29257	30215	31173	32131	33089	34047	35005	958

7	29864	30869	31874	32879	33884	34889	35894	36899	1005
8	31547	32590	33633	34676	35719	36762	37805	38848	1043
9	33306	34396	35486	36576	37666	38756	39846	40936	1090
10	35211	36354	37497	38640	39783	40926	42069	43212	1143
11	37253	38454	39655	40856	42057	43258	44459	45660	1201
12	39384	40626	41868	43110	44352	45594	46836	48078	1242
13	41721	43020	44319	45618	46917	48216	49515	50814	1299
14	44135	45488	46841	48194	49547	50900	52253	53606	1353
15	46697	48107	49517	50927	52337	53747	55157	56567	1410
16	49313	50788	52263	53738	55213	56688	58163	59638	1475
17	52088	53647	55206	56765	58324	59883	61442	63001	1559
18	55098	56726	58354	59982	61610	63238	64866	66494	1628
19	58050	59759	61468	63177	64886	66595	68304	70013	1709
20	61087	62863	64639	66415	68191	69967	71743	73519	1776
21	64363	66222	68081	69940	71799	73658	75517	77376	1859
22	67814	69757	71700	73643	75586	77529	79472	81415	1943
23	71439	73467	75495	77523	79551	81579	83607	85635	2028
24	75327	77426	79525	81624	83723	85822	87921	90020	2099
25	79490	81682	83874	86066	88258	90450	92642	94834	2192

(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:

SG	HR	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	JR	INCR
1	22932	23706	24480	25254	26028	26802	27576	28350	774
2	23808	24620	25432	26244	27056	27868	28680	29492	812
3	24996	25844	26692	27540	28388	29236	30084	30932	848
4	26087	26985	27883	28781	29679	30577	31475	32373	898
5	27335	28275	29215	30155	31095	32035	32975	33915	940
6	28865	29842	30819	31796	32773	33750	34727	35704	977
7	30461	31486	32511	33536	34561	35586	36611	37636	1025
8	32178	33242	34306	35370	36434	37498	38562	39626	1064
9	33972	35084	36196	37308	38420	39532	40644	41756	1112
10	35915	37081	38247	39413	40579	41745	42911	44077	1166
11	37998	39223	40448	41673	42898	44123	45348	46573	1225
12	40172	41439	42706	43973	45240	46507	47774	49041	1267
13	42555	43880	45205	46530	47855	49180	50505	51830	1325
14	45018	46398	47778	49158	50538	51918	53298	54678	1380
15	47631	49069	50507	51945	53383	54821	56259	57697	1438
16	50299	51804	53309	54814	56319	57824	59329	60834	1505
17	53130	54720	56310	57900	59490	61080	62670	64260	1590
18	56200	57861	59522	61183	62844	64505	66166	67827	1661
19	59211	60954	62697	64440	66183	67926	69669	71412	1743
20	62309	64120	65931	67742	69553	71364	73175	74986	1811
21	65650	67546	69442	71338	73234	75130	77026	78922	1896
22	69170	71152	73134	75116	77098	79080	81062	83044	1982
23	72868	74937	77006	79075	81144	83213	85282	87351	2069
24	76834	78975	81116	83257	85398	87539	89680	91821	2141
25	81080	83316	85552	87788	90024	92260	94496	96732	2236

§ 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

terms of such agreement [~~and for a duration provided by such agreement and pursuant to rules and regulations as may be established by the president. Such increase in state cost shall only apply during the period of eligibility provided by such agreement and shall not be applied during retirement~~]. **The president, with the approval of the director of the budget, may extend the modified state cost of premium or subscription charges for employees or retirees not subject to an agreement referenced above and shall promulgate the necessary rules or regulations to implement this provision.**

§ 3. Subdivision 2 of section 208 of the civil service law, as amended by section 3 of part A of chapter 10 of the laws of 2008, is amended to read as follows:

2. An employee organization certified or recognized pursuant to this article shall be entitled to unchallenged representation status until seven months prior to the expiration of a written agreement between the public employer and said employee organization determining terms and conditions of employment. For the purposes of this subdivision, (a) any such agreement for a term covering other than the fiscal year of the public employer shall be deemed to expire with the fiscal year ending immediately prior to the termination date of such agreement, (b) any such agreement having a term in excess of three years shall be treated as an agreement for a term of three years, provided, however, any such agreement between the state and an employee organization representing employees in the executive or judicial branches which commences in the calendar year two thousand [~~seven~~] **eleven** having a term in excess of three years shall be treated as an agreement for a term certain specified in such agreement but in no event for a term greater than four years, **and** (c) extensions of any such agreement shall not extend the period of unchallenged representation status[~~, and (d) notwithstanding any provision of law to the contrary, the interest arbitration award issued pursuant to the provisions of paragraph (e) of subdivision four of section two hundred nine of this article binding the executive branch of the state of New York and the employee organization which represents the collective negotiating unit consisting of troopers and the unit consisting of commissioned and non-commissioned officers in the division of state police, covering a period commencing April first, nineteen hundred ninety-nine, shall be treated as a written agreement for the term specified in such award solely for the representation purposes of this section~~].

§ 4. Paragraph (e) of subdivision 3 of section 130 of the civil service law, as amended by section 4 of part A of chapter 10 of the laws of 2008, is amended to read as follows:

(e) [~~(i) Prior to April first, two thousand ten, and notwithstanding any inconsistent provision of law, officers and employees to whom paragraph a of subdivision one of this section applies who, on or after April first, nineteen hundred eighty-seven, on their anniversary date have five or more years of continuous service as defined by paragraph (c) of this subdivision at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade, but below the first longevity step and whose performance for the most recent rating period was rated at least "satisfactory" or its equivalent, shall have their basic annual salary increased to the first longevity step or shall have their basic annual salary as otherwise effective increased by seven hundred fifty dollars, or by eight hundred seventy-five dollars on or after April first, two thousand seven; or by one thousand dollars on or after April first, two thousand eight; or by one thousand one hundred twenty-five dollars on or after April first, two thousand nine or as much~~

~~of that amount as will not result in the new basic annual salary exceeding the step two longevity step. Notwithstanding any inconsistent provision of law, officers and employees to whom paragraph a of subdivision one of this section apply who, on or after April first, nineteen hundred eighty-seven, on their anniversary date have ten or more years of continuous service as defined by paragraph (c) of this subdivision at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade, but below the second longevity step and whose performance for the most recent rating period was rated at least "satisfactory" or its equivalent, shall have their basic annual salary increased to the second longevity step as found in paragraph a of subdivision one of this section. Such increases to longevity steps by eligible officers or employees shall become effective on the first day of the payroll period which next begins following the anniversary date which satisfies the prescribed service requirements. For the purposes of this paragraph the term continuous service as defined by paragraph (c) of this subdivision for employees in the division of military and naval affairs unit shall refer to uninterrupted service in the civilian service of the division of military and naval affairs.~~

~~(ii) Officers~~] **Where, and to the extent that, an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter on behalf of officers and employees serving in positions in the administrative services unit, institutional services unit, operational services unit or military and naval affairs unit so provides officers** and employees to whom paragraph a of subdivision one of this section applies who, on or after April first, two thousand [~~ten~~] **eleven**, on their anniversary date have five or more years**, but less than ten years,** of continuous service as defined by paragraph (c) of this subdivision at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade, shall receive a lump sum payment in the amount of one thousand two hundred fifty dollars. [~~Officers~~] **Where, and to the extent that, an agreement between the state and an employee organization entered into pursuant to article fourteen of this chapter on behalf of officers and employees serving in positions in the administrative services unit, institutional services unit, operational services unit or military and naval affairs unit so provides officers** and employees to whom paragraph a of subdivision one of this section applies who, on or after April first, two thousand [~~ten~~] **eleven**, on their anniversary date have ten or more years of continuous service as defined by paragraph (c) of this subdivision at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade shall receive a lump sum payment in the amount of two thousand five hundred dollars.

Such lump sum payment shall be in addition to and not part of the employee's basic annual salary, provided however that any amount payable by this paragraph shall be included as compensation for overtime and retirement purposes.

Such lump sum payment shall be payable in April of each fiscal year, or as soon as practicable thereafter, for those eligible employees who have achieved five or more, or ten or more years of continuous service as defined by paragraph (c) of this subdivision at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade during the period October first through March thirty-first of the previous fiscal year. Such payment shall be payable in October of each fiscal year, or as soon as practicable thereafter, for those eligible employees who have achieved five or more, or ten or more years of

continuous service as defined by paragraph (c) of this subdivision at a basic annual salary rate equal to or in excess of the job rate or maximum salary of their salary grade during the period April first through September thirtieth of that same fiscal year. [~~All compensation already included in an employee's basic annual salary pursuant to subparagraph (i) of this paragraph shall remain included in such basic annual salary.~~]

§ 5. Subdivision 12-d of section 8 of the state finance law, as amended by section 5 of part A of chapter 10 of the laws of 2008, is amended to read as follows:

12-d. Notwithstanding any inconsistent provision of the court of claims act, examine, audit and certify for payment any claim submitted and approved by the head of a state department or agency, other than a department or agency specified in subdivision twelve of this section, for personal property of an employee damaged or destroyed in the course of the performance of official duties without fault on his part by an inmate, patient or client of such department or agency after March thirty-first, two thousand [~~seven~~] **eleven** and prior to April first, two thousand [~~eleven~~] **sixteen**, provided no such claim may be certified for payment to an officer or employee who is in a collective negotiating unit until the director of employee relations shall deliver to the comptroller a [~~certificate~~] **letter** that there is in effect with respect to such negotiating unit a written collectively negotiated agreement with the state pursuant to article fourteen of the civil service law which provides therefor. Payment of any such claim shall not exceed the sum of three hundred dollars. No person submitting a claim under this subdivision shall have any claim for damages to such personal property approved pursuant to the provision of subdivision four of section five hundred thirty of the labor law or any other applicable provision of law.

§ 6. Subdivision 12-e of section 8 of the state finance law, as amended by section 6 of part A of chapter 10 of the laws of 2008, is amended to read as follows:

12-e. Notwithstanding any inconsistent provision of the court of claims act, where, and to the extent that, an agreement between the state and an employee organization entered into pursuant to article fourteen of the civil service law on behalf of officers and employees serving in positions in the professional, scientific and technical services unit, administrative services unit, institutional services unit, operational services **unit or** and military and naval affairs unit so provides, examine, audit and certify for payment any claim submitted and approved by the head of a state department or agency for personal property of an officer or employee damaged or destroyed in the actual performance of official duties without fault or negligence of the officer or employee other than a claim specified and covered by subdivision twelve or twelve-d of this section after March thirty-first, two thousand [~~seven~~] **eleven** and before April first, two thousand [~~eleven~~] **sixteen**. Payment of such claim shall not exceed the sum of three hundred fifty dollars. Where an agreement between the state and such employee organization entered into pursuant to article fourteen of the civil service law provides for payment to be made to officers and employees by a state department or agency, such payments for claims not in excess of the amount specified in subdivision three of section one hundred fifteen of this chapter may be made from a petty cash account established pursuant to section one hundred fifteen of this chapter and in the manner prescribed therein and pursuant to regulations of the comptroller. No person submitting a claim under this subdivision shall have any claim for damages to such personal property approved pursuant to the provisions of subdivision four of

section five hundred thirty of the labor law or any other applicable provision of law.

§ 7. Section 200 of the state finance law is amended by adding a new subdivision 5 to read as follows:

5. Notwithstanding any law to the contrary, by agreement between the state and an employee organization entered into pursuant to article fourteen of the civil service law, or by an interest arbitration award binding the state and an employee organization pursuant to article fourteen of the civil service law, or by the director of budget for state officers and employees in the executive branch who are in positions which are not in collective negotiating units, plans may be established to reduce the basic annual salary, hourly rate or per diem for any employee within the purview of such agreement, interest arbitration award, or the budget director's authority. Any plan or plans established under this section will be implemented when the budget director notifies the director of the governor's office of employee relations and delivers such plan or plans to the comptroller, at which point the comptroller will take the necessary actions to reduce, restore, or repay compensation, provided however, that the comptroller must take such actions wholly within the fiscal year that such plan requires. After the cessation of such plan, the comptroller shall restore such salary, hourly rate or per diem to the amount in effect immediately before the commencement of such plan.

§ 8. Subdivision 1 of section 135 of the civil service law is amended adding a new paragraph (d) to read as follows:

(d) payments made pursuant to a collective bargaining agreement negotiated pursuant to article fourteen of this chapter or regulations promulgated by the president pursuant to subdivision three of section one hundred sixty-three of this chapter permitting payment to an employee or officer in exchange for the employee's election to withdraw from the health insurance plan established pursuant to article eleven of this chapter. Such payments shall not be considered part of an employee's basic annual salary and shall not be considered compensation for the purposes of overtime calculation or retirement.

§ 9. Compensation for certain state officers and employees in collective negotiating units. 1. The provisions of this section shall apply, except as otherwise stated in this section, to all full-time officers and employees in the collective negotiating units designated as the administrative services unit, the institutional services unit, the operational services unit, or the division of military and naval affairs unit established pursuant to article 14 of the civil service law.

2. (a) Effective March 28, 2013 for officers and employees on the administrative payroll and effective April 4, 2013 for officers and employees on the institutional payroll pursuant to article 14 of the civil service law a lump sum payment of $775 shall be made to each employee in such units in full-time annual salaried employment status who was (i) active on the date of ratification of the agreement between the state and the negotiating unit covering such employee 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 March 28, 2013 for officers and employees on the administrative payroll and on April 4, 2013 for officers and employees on the institutional payroll. 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 such date, 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.

(b) Effective March 27, 2014 for officers and employees on the administrative payroll and effective April 3, 2014 for officers and employees on the institutional payroll pursuant to article 14 of the civil service law a lump sum payment of $225 shall be made to each employee in such units in full-time annual salaried employment status who was (i) active on the date of ratification of the agreement between the state and the negotiating unit covering such employee 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 March 28, 2013 for officers and employees on the administrative payroll and April 4, 2013 for officers and employees on the institutional payroll. Such lump sum shall be considered salary for final average salary retirement purposes but shall not become part of basic annual salary.

3. Effective March 27, 2014 for officers and employees on the administrative payroll and effective April 3, 2014 for officers and employees on the institutional payroll, the basic annual salary of officers and employees in full-time annual salaried employment status on the day before such payroll period shall be increased by two percent adjusted to the nearest whole dollar amount.

4. Effective March 26, 2015 for officers and employees on the administrative payroll and effective April 2, 2015 for officers and employees on the institutional payroll, the basic annual salary of officers and employees in full-time annual salaried employment status on the day before such payroll period shall be increased by two percent adjusted to the nearest whole dollar amount.

5. Notwithstanding the provisions of subdivisions three and four of this section, if the basic annual salary of an officer or employee to whom the provisions of this section apply is identical with the hiring rate, step one, two, three, four, five, six or job rate of the salary grade of his or her position on the effective dates of the increases provided in these subdivisions, such basic annual salary shall be increased to the hiring rate, step one, two, three, four, five, six or job rate, respectively, of such salary grade as contained in the appropriate salary schedules in subparagraphs 2 and 3 of paragraph a of subdivision 1 of section 130 of the civil service law, as added by section one of this act, to take effect on the dates provided in subparagraphs 2 and 3, respectively. The increases in basic annual salary provided by this subdivision shall be in lieu of any increase in basic annual salary provided for in subdivisions three and four of this section.

6. Payments pursuant to the provisions of subdivision 6 of section 131 of the civil service law for full-time annual salaried officers and employees entitled to such payments to whom the provisions of this section apply shall be payable in accordance with the terms of an agreement reached pursuant to article 14 of the civil service law between the state and an employee organization representing employees subject to the provisions of this section.

7. If an unencumbered position is one which if encumbered, would be subject to the provisions of this section, the salary of such position shall be increased by the salary increase amounts specified in this section. If a position is created, and filled by the appointment of an officer or employee who is subject to the provisions of this section, the salary otherwise provided for such position shall be increased in the same manner as though such position had been in existence but unencumbered.

8. The increases in salary provided in subdivisions three and four of this section, and also the payments provided in subdivision two of this section, shall apply on a prorated basis to officers and employees, otherwise eligible to receive an increase in salary, who are paid on an hourly or per diem basis, employees serving on a part-time or seasonal basis and employees paid on any basis other than at an annual salary rate. Notwithstanding the foregoing, the provisions of subdivision six of this section shall not apply to employees serving on an hourly, per diem, or seasonal basis, except as determined by the director of the budget.

9. In order to provide for the officers and employees to whom this section applies who are not allocated to salary grades, but are paid on an annual basis, increases and payments pursuant to subdivision six of this section in proportion to those provided to persons to whom this section applies who are allocated to salary grades, the director of the budget is authorized to add appropriate adjustments and/or payments to the compensation which such officers and employees are otherwise entitled to receive. The director of the budget shall issue certificates which shall contain schedules of positions and the salaries and/or payments thereof for which adjustments and/or payments are made pursuant to the provisions of this subdivision, and a copy of each such certificate shall be filed with the state comptroller, the state department of civil service, the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

10. Notwithstanding any other provision of this section, the provisions of this section shall not apply to officers or employees paid on a fee schedule basis.

11. Notwithstanding any other provision of this section, any increase in compensation for any officer or employee appointed to a lower graded position from a redeployment list pursuant to subdivision 1 of section 79 of the civil service law who continues to receive his or her former salary pursuant to such subdivision shall be determined on the basis of such lower graded position provided, however, that the increases in salary provided in this section shall not cause such officer's or employee's salary to exceed the job rate of such lower graded position.

12. Notwithstanding any of the foregoing provisions of this section or of any law to the contrary, the director of the budget may reduce the salary of any position which is vacant or which becomes vacant, so long as the position, if encumbered, would be subject to the provisions of this section. The director of the budget does not need to provide a reason for such reduction.

13. Notwithstanding any of the foregoing provisions of this section or of any law to the contrary, any increase in compensation may be withheld in whole or in part from any employee to whom the provisions of this section are applicable when, in the opinion of the director of the budget and the director of employee relations, such increase is not warranted or is not appropriate for any reason.

§ 10. Compensation for certain employees of the contract colleges at Cornell and Alfred universities. 1. During the period April 1, 2011 to March 31, 2016, the basic annual salaries of positions in the nonprofessional service, except those positions in the Cornell service and maintenance unit which are subject to the terms of a collective bargaining agreement between Cornell University and the employee organization representing employees in such positions and except those positions in the Alfred service and maintenance unit which are subject to the terms of a collective bargaining agreement between Alfred University and the employee organization representing employees in such positions, in insti-

tutions under the management and control of Cornell and Alfred universities as representatives of the board of trustees of the state university may be increased pursuant to plans approved by the state university trustees. Such plans may include new salary schedules which shall supersede the salary schedules then in effect applicable to such employees. Such increases in basic annual salary rates, exclusive of performance advancement payments or merit recognition payments, shall not exceed in the aggregate the payments provided in subdivisions two, three, and four of section nine of this act, for incumbents of positions subject to this subdivision. Such plans may provide, within the appropriations available therefor, an amount for distribution in whole or in part for meritorious service by Cornell and Alfred universities, in their discretion, with the approval of the state university trustees to the incumbents of such positions.

2. For the purposes of this section, the basic annual salary of employees is that salary which is obtained through direct appropriation of state moneys for the purpose of paying wages. Nothing in this section shall prevent payment of additional amounts to incumbents of such positions in the nonprofessional service in addition to the basic annual salary; provided, however, that the amounts required for such additional payment, and the cost of fringe benefits attributable to such payment, as determined by the comptroller, are made available to the state in accordance with the procedures established by the state university for such purposes.

3. Notwithstanding the foregoing provisions of this section, any increase in compensation provided by this section may be withheld in whole or in part from any officer or employee when, in the opinion of the director of the budget, such withholding is necessary to reflect the job performance of such officer or employee, or to maintain appropriate salary relationships among officers or employees of the state, or to reduce state expenditures to acceptable levels, or when such increase is not warranted or is not appropriate for any reason and the salary of such officer or employee is set at the discretion of the appointing authority.

4. Notwithstanding the foregoing provisions of this subdivision or act or any other provision of law, rule or regulation to the contrary, the contract colleges at Cornell and Alfred universities are authorized to provide for a procedure for the repayment of salaries withheld from incumbents of positions subject to this subdivision as described in subdivision one of this section, pursuant to subdivision 2-a of section 200 of the state finance law in lieu of the lump sum payment authorized by subparagraph 3 of paragraph (a) of subdivision 2-a of section 200 of the state finance law, subject to the approval of the state university trustees. Further, Cornell and Alfred universities are authorized to provide that the salary of employees newly hired on or after September 1, 1992 shall not be subject to the provisions of subdivision 2-a of section 200 of the state finance law.

§ 11. Location compensation for certain state officers and employees in collective negotiating units. Notwithstanding any inconsistent provisions of law, full-time annual salaried officers and employees, as well as non-annual salaried seasonal officers and employees who shall receive the compensation provided for pursuant to this section on a prorated basis, except non-annual salaried officers and employees who are not seasonal, in the collective negotiating units designated as the administrative services unit, the institutional services unit, the operational services unit, or the division of military and naval affairs unit established pursuant to article 14 of the civil service law, whose prin-

cipal place of employment or, in the case of a field employee, whose official station as determined in accordance with the regulations of the comptroller is located (1) in the county of Monroe and who were eligible to receive location pay on March 31, 1985, shall receive location pay at the rate of $200 per year provided they continue to be otherwise eligible or (2) in the city of New York, or in the county of Rockland, Westchester, Nassau or Suffolk shall, effective April 1, 2011, continue to receive a downstate adjustment at the annual rate of $3,026 (3) in the county of Dutchess, Putnam or Orange shall, effective April 1, 2011, continue to receive a mid-Hudson adjustment at the annual rate of $1,513. Such location payments shall be in addition to and shall not be a part of an officer's or employee's basic annual salary, and shall not affect or impair any performance advancements or other rights or benefits to which an officer or employee may be entitled by law, provided, however, that location payments shall be included as compensation for purposes of computation of overtime pay and for retirement purposes. For the sole purpose of continuing eligibility for location pay in Monroe county, an officer or employee previously eligible to receive location pay on March 31, 1985 who is on an approved leave of absence or participates in an employer program to reduce to part-time service during summer months shall continue to be eligible for said location pay upon return to full-time state service in Monroe county.

§ 12. Continuation of location compensation for certain officers and employees of the Hudson Valley developmental disabilities services office. 1. Notwithstanding any law, rule or regulation to the contrary, any officer or employee of the Hudson Valley developmental disabilities services office represented in the collective negotiating units designated as the administrative services unit, the institutional services unit or the operational services unit, who is receiving location pay pursuant to section 5 of chapter 174 of the laws of 1993 shall continue to receive such location pay under the conditions and at the rates specified by such section.

2. Notwithstanding any law, rule or regulation to the contrary, any officer or employee of the Hudson Valley developmental disabilities services office represented in the collective negotiating units designated as the administrative services unit, the institutional services negotiating unit or the operational services negotiating unit, who is receiving location pay pursuant to subdivision 2 of section 9 of chapter 315 of the laws of 1995 shall continue to receive such location pay under the conditions and at the rates specified by such subdivision.

3. Notwithstanding section eleven of this act or any other law, rule or regulation to the contrary, any officer or employee of the Hudson Valley developmental disabilities services office represented in the collective negotiating units designated as the administrative services unit, the institutional services unit or the operational services unit, who is receiving location pay pursuant to such section eleven shall continue to be eligible for such location pay if such officer's or employee's principal place of employment is changed to a location outside of the county of Rockland as the result of a reduction or redeployment of staff, provided, however, that such officer or employee is reassigned to or otherwise appointed or promoted to a different position at another work location within the Hudson Valley developmental disabilities services office located outside of the county of Rockland. The rate of such continued location pay shall not exceed the rates such officer or employee is receiving on the date of such reassignment, appointment or promotion.

§ 13. Notwithstanding any law, rule or regulation to the contrary, certain full-time employees of the office for people with developmental disabilities in the collective negotiating unit designated as the institutional services unit who are required to sleep over at their work site shall continue to receive inconvenience pay pursuant to section 17 of chapter 333 of the laws of 1969 as amended, in accordance with and subject to the conditions established by the terms of a negotiated agreement between the state and an employee organization representing such unit and the resolution of a contract grievance bearing identification number 98-04-448.

§ 14. Additional compensation for certain employees in recognition of pre-shift briefing. 1. In recognition of the general requirement for full-time employees of the state in the collective negotiating unit designated as the division of military and naval affairs unit, established pursuant to article 14 of the civil service law, to assemble for briefing prior to the commencement of duties, each such employee shall receive additional compensation at the rate of $60 per biweekly payroll period in accordance with the terms of a collectively negotiated agreement between the state and an employee organization representing such employees pursuant to article 14 of the civil service law. Such additional compensation shall be paid in addition to and shall not be a part of the employee's basic annual salary. Notwithstanding the foregoing provisions of this section, or of any other law, such additional compensation as added by this section shall be in lieu of the continuation of any other additional compensation for such employees paid prior to June 2, 1988, in recognition of pre-shift briefing.

2. Notwithstanding any inconsistent provisions of law, effective April 1, 2011, where and to the extent that, an agreement between the state and an employee organization entered into pursuant to article 14 of the civil service law so provides, in recognition of the general requirement that certain full-time employees of the state in the collective negotiating unit designated as the institutional services unit, established pursuant to article 14 of the civil service law, in the employ of the office of children and family services, to assemble for briefing prior to the commencement of duties, each such employee shall receive additional compensation in the amount of $4.80, or one-quarter hour of their overtime rate, whichever is higher, when they are required to and actually assemble for such briefing. Such additional compensation shall be paid in addition to and shall not be a part of the employee's basic annual salary.

§ 15. Assignment to duty pay. Notwithstanding any inconsistent provisions of law, effective April 1, 2011, where and to the extent that, an agreement between the state and an employee organization entered into pursuant to article 14 of the civil service law so provides, an assignment to duty lump sum shall be paid each year to an employee who is serving in a particular assignment deemed qualified pursuant to such agreement. Such payment shall be in an amount negotiated for those employees assigned to qualifying work assignments and who work such assignments for the minimum periods of time in a year provided in the negotiated agreement. Assignment to duty pay shall not be paid in any year an employee does not meet the minimum period of time in such qualifying assignment required by the agreement or upon cessation of the assignment to duty program on March 30, 2016 unless an extension is negotiated by the parties. Such lump sum shall be considered salary only for final average salary retirement purposes.

§ 16. Long term seasonal employees. Notwithstanding any inconsistent provisions of law, effective April 1, 2011, where and to the extent that, an agreement between the state and an employee organization entered into pursuant to article 14 of the civil service law so provides, a lump sum shall be paid each year to an employee who is serving in a qualifying long term seasonal position. Such payment shall be in an amount negotiated and pursuant to negotiated qualifying criteria and shall be considered salary only for final average salary retirement purposes. Such benefit shall be available until March 30, 2016.

§ 17. In recognition of the specific requirements for winter maintenance activity for full-time employees of the state department of transportation in the collective negotiating unit designated as the operational services unit, established pursuant to article 14 of the civil service law, and to the extent the terms of a negotiated agreement between the state and an employee organization representing such unit entered into pursuant to article 14 of the civil service law so provides, such employees shall receive payments for winter maintenance shifts and call-out responses if otherwise eligible and in accordance with such negotiated agreement.

§ 18. Subdivision 2 of section 17 of 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, as amended by chapter 214 of the laws of 2009, is amended to read as follows:

2. Any employee subject to this section who is required to work a tour of duty which includes four or more hours between the hours of six p.m. and six a.m., exclusive of any hours for which he or she receives overtime compensation, shall be entitled to inconvenience pay for such tour of duty in an amount equal to the daily rate equivalent of four hundred dollars per year, unless a higher daily rate is authorized under the terms of a collective negotiated agreement between the state and an employee organization pursuant to article 14 of the civil service law, or is authorized by the director of the budget for employees excluded from negotiating rights under article 14 of the civil service law, in which case such daily rate may be up to five hundred seventy-five dollars per year, **shall continue** effective April 2, [~~2007~~] **2011**. The provisions of this subdivision shall apply on a prorated basis to officers and employees serving on a seasonal basis in the collective negotiating units designated as the administrative services unit, the institutional services unit, the operational services unit, and the division of military and naval affairs unit, and officers and employees excluded from collective negotiating units established pursuant to article 14 of the civil service law.

§ 19. Notwithstanding any inconsistent provision of law, where and to the extent that any agreement between the state and an employee organization entered into pursuant to article 14 of the civil service law so provides on behalf of employees in the collective negotiating units designated as the administrative, institutional, operational services negotiating units or the military and naval affairs negotiating unit established pursuant to article 14 of the civil service law, the state shall contribute an amount designated in such agreement and for the period covered by such agreement to the accounts of such employees enrolled for dependent care deductions pursuant to subdivision 7 of section 201-a of the state finance law. Such amounts shall be from funds appropriated in this act and shall not be part of basic annual salary for overtime or retirement purposes.

§ 20. Notwithstanding any provision of law to the contrary, the appropriations contained in this act shall be available to the state for the payment and publication of grievance and arbitration settlements and awards pursuant to articles 33 and 34 of the collective negotiating agreement between the state and the employee organization representing the collective negotiating units designated as the administrative services unit, the institutional services unit, the operational services unit or the division of military and naval affairs unit established pursuant to article 14 of the civil service law.

§ 21. During the period April 2, 2011 through April 1, 2016, there shall be a statewide labor-management committee continued and administered pursuant to the terms of the agreement negotiated between the state and an employee organization representing employees in the collective negotiating units designated as the administrative services unit, the institutional services unit, the operational services unit or the division of military and naval affairs unit established pursuant to article 14 of the civil service law which shall, after April 2, 2011, have the responsibility of studying and making recommendations concerning the major issues of productivity, the quality of work life and implementing the agreements reached.

§ 22. The salary increases, salary deductions, salary reductions, benefit modifications, and any other modifications to terms and conditions of employment provided for by this act for state employees in the collective negotiating units designated as the administrative services unit, the institutional services unit, the operational services unit or the division of military and naval affairs unit established pursuant to article 14 of the civil service law shall not be implemented until the director of employee relations shall have delivered to the director of the budget and the comptroller a letter certifying that there is in effect with respect to such negotiating units collectively negotiated agreements, ratified by the membership, which provide for such increases, deductions, reductions and modifications.

§ 23. Use of appropriations. The comptroller is authorized to pay any amounts required during the fiscal years commencing April 1, 2011 by the foregoing provisions of this act for any state department or agency from any appropriation or other funds available to such state department or agency for personal service or for other related employee benefits during such fiscal year. To the extent that such appropriations in any fund are insufficient to accomplish the purposes herein set forth, the director of the budget is authorized to allocate to the various departments and agencies, from any appropriations available in any fund, the amounts necessary to pay such amounts.

§ 24. Effect of participation in special annuity program. No officer or employee participating in a special annuity program pursuant to the provisions of article 8-C of the education law shall, by reason of an increase in compensation pursuant to this act, suffer any reduction of the salary adjustment to which he or she would otherwise be entitled by reason of participation in such program, and such salary adjustment shall be based upon the salary of such officer or employee without regard to the reduction authorized by such article.

§ 25. The several amounts as hereinafter set forth, or so much thereof as may be necessary, are hereby appropriated from the fund so designated for use by any state department or agency for the fiscal year beginning April 1, 2011 to supplement appropriations from each respective fund available for personal service, other than personal service and fringe benefits, and to carry out the provisions of this act. No money shall be

available for expenditure from this appropriation until a certificate of approval has been issued by the director of the budget and a copy of such certificate or any amendment thereto has been filed with the state comptroller, the chair of the senate finance committee and the chair of the assembly ways and means committee.

ALL STATE DEPARTMENTS AND AGENCIES
SPECIAL PAY BILLS

General Fund / State Operations
State Purposes Account - 003

Nonpersonal Service

Joint committee on health benefits 1,331,000
Employee training and development 10,714,000
Safety and health maintenance committee 637,000
Employment security committee 525,000
Family Benefits Committee 2,582,000
Discipline 381,000
Employee assistance program 648,000
Statewide performance rating committee 41,000
Property damage 32,000
Work related clothing (operational services unit) 1,071,000
Tool allowance (operational services unit) 77,000
Tool insurance (operational services unit) 26,000
Uniform allowance (institutional services unit) 430,000
Work related clothing (institutional services unit) 80,000
Contract Administration 400,000

§ 26. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 2, 2011. Appropriations made by this act shall remain in full force and effect for liabilities incurred through March 31, 2012.

REPEAL NOTE.--Subparagraphs 1, 2, 3, and 4 of paragraph a of subdivision 1 of section 130 of the civil service law, repealed by section one of this act, provided salary schedules for state employees in the administrative services unit, the operational services unit, the institutional services unit and the division of military and naval affairs and are replaced by revised salary schedules in new subparagraphs 1, 2, and 3.

PART B

SALARIES AND BENEFITS FOR CERTAIN STATE
OFFICERS AND EMPLOYEES EXCLUDED FROM
COLLECTIVE NEGOTIATING UNITS FOR 2011-2016

Section 1. Paragraph d of subdivision 1 of section 130 of the civil service law is REPEALED and a new paragraph d is added to read as follows:

d. Salary grades for positions in the competitive, non-competitive and labor classes of the classified service of the state of New York desig-

nated managerial or confidential pursuant to article fourteen of this chapter, civilian state employees of the division of military and naval affairs of the executive department whose positions are not in, or are excluded from representation rights in, any recognized or certified negotiating unit, and those excluded from representation rights under article fourteen of this chapter pursuant to rules or regulations of the public employment relations board shall be as follows on the effective dates indicated:

(1) Effective April first, two thousand eleven:

GRADE	HIRING RATE	JOB RATE
M/C 3	$22,547	$28,824
M/C 4	$23,542	$30,132
M/C 5	$24,955	$31,594
M/C 6	$26,014	$33,215
M/C 7	$27,514	$35,013
M/C 8	$29,024	$36,818
M/C 9	$30,682	$38,776
M/C 10	$32,335	$40,927
M/C 11	$34,296	$43,200
M/C 12	$36,106	$45,466
M/C 13	$38,208	$47,991
M/C 14	$40,477	$50,631
M/C 15	$42,729	$53,366
M/C 16	$45,138	$56,212
M/C 17	$47,698	$59,312
M/C 18	$47,952	$59,504
M/C 19	$50,524	$62,597
M/C 20	$53,099	$65,737
M/C 21	$55,963	$69,132
M/C 22	$58,971	$72,765
M/C 23	$61,993	$77,454
M 1	$66,914	$84,581
M 2	$74,210	$93,803
M 3	$82,363	$104,080
M 4	$91,096	$114,961
M 5	$101,149	$127,794
M 6	$111,992	$140,864
M 7	$123,446	$152,886
M 8	$104,082+	

(2) Effective April first, two thousand fourteen:

GRADE	HIRING RATE	JOB RATE
M/C 3	$22,998	$29,400
M/C 4	$24,013	$30,735
M/C 5	$25,454	$32,226
M/C 6	$26,534	$33,879
M/C 7	$28,064	$35,713
M/C 8	$29,604	$37,554
M/C 9	$31,296	$39,552
M/C 10	$32,982	$41,746
M/C 11	$34,982	$44,064
M/C 12	$36,828	$46,375
M/C 13	$38,972	$48,951
M/C 14	$41,287	$51,644
M/C 15	$43,584	$54,433
M/C 16	$46,041	$57,336
M/C 17	$48,652	$60,498

M/C 18	$48,911	$60,694
M/C 19	$51,534	$63,849
M/C 20	$54,161	$67,052
M/C 21	$57,082	$70,515
M/C 22	$60,150	$74,220
M/C 23	$63,233	$79,003
M 1	$68,252	$86,273
M 2	$75,694	$95,679
M 3	$84,010	$106,162
M 4	$92,918	$117,260
M 5	$103,172	$130,350
M 6	$114,232	$143,681
M 7	$125,915	$155,944
M 8	$106,164+	

(3) Effective April first, two thousand fifteen:

GRADE	HIRING RATE	JOB RATE
M/C 3	$23,458	$29,988
M/C 4	$24,493	$31,350
M/C 5	$25,963	$32,871
M/C 6	$27,065	$34,557
M/C 7	$28,625	$36,427
M/C 8	$30,196	$38,305
M/C 9	$31,922	$40,343
M/C 10	$33,642	$42,581
M/C 11	$35,682	$44,945
M/C 12	$37,565	$47,303
M/C 13	$39,751	$49,930
M/C 14	$42,113	$52,677
M/C 15	$44,456	$55,522
M/C 16	$46,962	$58,483
M/C 17	$49,625	$61,708
M/C 18	$49,889	$61,908
M/C 19	$52,565	$65,126
M/C 20	$55,244	$68,393
M/C 21	$58,224	$71,925
M/C 22	$61,353	$75,704
M/C 23	$64,498	$80,583
M 1	$69,617	$87,998
M 2	$77,208	$97,593
M 3	$85,690	$108,285
M 4	$94,776	$119,605
M 5	$105,235	$132,957
M 6	$116,517	$146,555
M 7	$128,433	$159,063
M 8	$108,287+	

§ 2. Subdivision 1 of section 19 of the correction law is REPEALED and a new subdivision 1 is added to read as follows:

1. This section shall apply to each superintendent of a correctional facility appointed on or after August ninth, nineteen hundred seventy-five and any superintendent heretofore appointed who elects to be covered by the provisions thereof by filing such election with the commissioner.

a. The salary schedule for superintendents of a correctional facility with an inmate population capacity of four hundred or more inmates shall be as follows:

Effective April first, two thousand eleven:

Hiring Rate	Job Rate
$105,913	$144,535

Effective April first, two thousand fourteen:

Hiring Rate	Job Rate
$108,031	$147,426

Effective April first, two thousand fifteen:

Hiring Rate	Job Rate
$110,192	$150,375

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:

Hiring Rate	Job Rate
$82,363	$104,081

Effective April first, two thousand fourteen:

Hiring Rate	Job Rate
$84,010	$106,163

Effective April first, two thousand fifteen:

Hiring Rate	Job Rate
$85,690	$108,286

§ 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.

(b) Effective April 1, 2014, for officers and employees to whom the provisions of this subdivision apply, a lump sum payment of $225 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.

4. If an unencumbered position is one that, if encumbered, would be subject to the provisions of this section, the salary of such position shall be increased by the salary increase amounts specified in this section. If a position is created and is filled by the appointment of an officer or employee who is subject to the provisions of this section, the salary otherwise provided for such position shall be increased in the same manner as though such position had been in existence but unencumbered.

5. The increases in salary and the lump sum payment payable pursuant to this section shall apply on a prorated basis in accordance with guidelines issued by the director of the budget to officers and employees otherwise eligible to receive an increase in salary or the lump sum payment pursuant to this act who are paid on an hourly or per diem basis, employees serving on a part-time or seasonal basis, and employees paid on any basis other than at an annual salary rate.

6. Notwithstanding any of the foregoing provisions of this section, the provisions of this section shall not apply to the following except as otherwise provided by law:

(a) officers or employees paid on a fee schedule basis;

(b) officers or employees whose salaries are prescribed by section 40, 60, or 169 of the executive law;

(c) officers or employees in collective negotiating units established pursuant to article 14 of the civil service law.

7. Officers and employees to whom the provisions of this section apply who are incumbents of positions that are not allocated to salary grades specified in paragraph d of subdivision 1 of section 130 of the civil service law and whose salary is not prescribed in any other statute shall receive the salary increases and the lump sum payment specified in subdivisions two and three of this section.

8. In order to provide for the officers and employees to whom this section applies who are not allocated to salary grades performance advancements, merit awards, longevity payments and in lieu payments, and special achievement awards in proportion to those provided to persons to whom this section applies who are allocated to salary grades, the director of the budget is authorized to add appropriate adjustments to the compensation that such officers and employees are otherwise entitled to receive. The director of the budget shall issue certificates that shall contain schedules of positions and the salaries or payments thereof for which adjustments or payments are made pursuant to the provisions of this subdivision, and a copy of each such certificate shall be filed with the state comptroller, the department of civil service, the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

9. Notwithstanding any of the foregoing provisions of this section, any increase in compensation for any officer or employee appointed to a lower graded position from a redeployment list pursuant to subdivision 1 of section 79 of the civil service law who continues to receive his or her former salary pursuant to such subdivision shall be determined on

the basis of such lower graded position provided, however, that the increases in salary provided in subdivision two of this section shall not cause such officer's or employee's salary to exceed the job rate of any such lower graded position at salary grade.

10. Notwithstanding any of the foregoing provisions of this section or of any law to the contrary, the director of the budget may reduce the salary of any position which is vacant or which becomes vacant, so long as the position, if encumbered, would be subject to the provisions of this section. The director of the budget does not need to provide a reason for such reduction.

§ 4. Compensation for certain state officers and employees in the division of state police. 1. The provisions of this section shall apply to officers and employees whose salaries are provided for by paragraph (a) of subdivision 1 of section 215 of the executive law.

2. (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. 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.

(b) Effective April 1, 2014, for officers and employees to whom the provisions of this subdivision apply, a lump sum payment of $225 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.

4. The increases in salary and the lump sum payments payable pursuant to this section shall apply on a prorated basis in accordance with guidelines issued by the director of the budget to officers and employees otherwise eligible to receive an increase in salary or the lump sum payment pursuant to this act who are paid on an hourly or per diem basis, employees serving on a part-time or seasonal basis, and employees paid on any basis other than at an annual salary rate.

5. Notwithstanding any of the foregoing provisions of this section, any increase in compensation for any officer or employee appointed to a lower graded position from a redeployment list pursuant to subdivision 1 of section 79 of the civil service law who continues to receive his or her former salary pursuant to such subdivision shall be determined on the basis of such lower graded position provided, however, that the increases in salary provided in subdivision two of this section shall

not cause such officer's or employee's salary to exceed the job rate of any such lower graded position at salary grade.

§ 5. Compensation for certain state employees in the state university and certain employees of contract colleges at Cornell and Alfred universities.

1. Effective April 1, 2014 and April 1, 2015, the basic annual salary of incumbents of positions in the professional service in the state university that are designated, stipulated, or excluded from negotiating units as managerial or confidential as defined pursuant to article 14 of the civil service law, may be increased pursuant to plans approved by the state university trustees. Such increases in basic annual salary rates shall not exceed in the aggregate two percent of the total basic annual salary rates in effect on March 31, 2014 and two percent of the total basic annual salary rates in effect on March 31, 2015.

2. Effective April 1, 2014 and April 1, 2015, the basic annual salary of incumbents of positions in the institutions under the management and control of Cornell and Alfred universities as representatives of the board of trustees of the state university that, in the opinion of the director of employee relations, would be designated managerial or confidential were they subject to article 14 of the civil service law may be increased pursuant to plans approved by the state university trustees. Such increases in basic annual salary rates shall not exceed in the aggregate two percent of the total basic annual salary rates in effect on March 31, 2014 and two percent of the total basic annual salary rates in effect on March 31, 2015.

3. (a) (i) Effective April 1, 2013, the state university trustees, at their discretion, may provide to incumbents of positions in the professional service in the state university that are designated, stipulated, or excluded from negotiating units as managerial or confidential as defined pursuant to article 14 of the civil service law, 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, a non-recurring lump sum payment in an amount not to exceed $775.

(ii) Effective April 1, 2014, the state university trustees, at their discretion, may provide to incumbents of positions in the professional service in the state university that are designated, stipulated, or excluded from negotiating units as managerial or confidential as defined pursuant to article 14 of the civil service law, 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, a non-recurring lump sum payment in an amount not to exceed $225.

(iii) Payments provided in this subdivision shall be in addition to and shall not be a part of the employee's basic annual salary, provided, however, that any amounts payable pursuant to this subdivision shall be included as compensation for retirement purposes.

(b) (i) Effective April 1, 2013, Cornell and Alfred universities may provide to incumbents of positions in the institutions under the management and control of Cornell and Alfred universities as representatives of the board of trustees of the state university that, in the opinion of the director of employee relations, would be designated managerial or confidential were they subject to article 14 of the civil service law, who are (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, a

non-recurring lump sum payment in an amount not to exceed $775, for distribution in whole or in part by Cornell and Alfred universities, in their discretion, with the approval of the state university trustees.

(ii) Effective April 1, 2014, Cornell and Alfred universities may provide to incumbents of positions in the institutions under the management and control of Cornell and Alfred universities as representatives of the board of trustees of the state university that, in the opinion of the director of employee relations, would be designated managerial or confidential were they subject to article 14 of the civil service law, who are (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, a non-recurring lump sum payment in an amount not to exceed $225, for distribution in whole or in part by Cornell and Alfred universities, in their discretion, with the approval of the state university trustees.

(iii) Payments provided in this subdivision shall be in addition to and shall not be a part of the employee's basic annual salary, provided, however, that any amounts payable pursuant to this subdivision shall be included as compensation for retirement purposes.

4. During the period April 1, 2014 through March 31, 2016, the basic annual salary of incumbents of positions in the non-professional service that, in the opinion of the director of employee relations, would be designated managerial or confidential were they subject to article 14 of the civil service law, except those positions in the Cornell service and maintenance unit that are subject to the terms of a collective bargaining agreement between Cornell university and the employee organization representing employees in such positions and except those positions in the Alfred service and maintenance unit that are subject to the terms of a collective bargaining agreement between Alfred university and the employee organization representing employees in such positions, in institutions under the management and control of Cornell and Alfred universities as representatives of the board of trustees of the state university may be increased pursuant to plans approved by the state university trustees. Such plans may include new salary schedules which shall supersede the salary schedules then in effect applicable to such employees. Such plans shall provide for increases in basic annual salaries, which, exclusive of performance advancement payments or merit recognition payments, shall not exceed in the aggregate two percent of the total basic annual salary rates in effect on March 31, 2014 and two percent of the total basic annual salary rates in effect on March 31, 2015.

5. For the purposes of this section, the basic annual salary of an employee is that salary that is obtained through direct appropriation of state moneys for the purpose of paying wages. Nothing in this part shall prevent increasing amounts paid to incumbents of such positions in the professional service in addition to the basic annual salary, provided, however, that the amounts required for such increase and the cost of fringe benefits attributable to such increase, as determined by the comptroller, are made available to the state in accordance with the procedures established by the state university, with the approval of the director of the budget, for such purposes.

§ 6. Location compensation for certain state officers and employees.

1. This section shall apply to all full-time annual salaried state officers and employees and non annual salaried seasonal state officers and employees except the following:

(a) officers and employees of the legislature and the judiciary, including officers and employees of boards, bodies and commissions that are deemed to be part of the legislature or judiciary for the purposes of section 49 of the state finance law;

(b) officers and employees whose salaries are prescribed by or determined in accordance with section 40, 60, 169, 215, or 216 of the executive law;

(c) incumbents of allocated or unallocated positions in the professional service in the state university and in institutions under the management and control of Cornell and Alfred universities as representatives of the board of trustees of the state university;

(d) officers and employees who are in recognized or certified collective negotiating units pursuant to article 14 of the civil service law.

2. Notwithstanding the provisions of section 15 of chapter 333 of the laws of 1969, as amended, officers and employees subject to this section whose principal place of employment or, in the case of field employees, whose official station as determined in accordance with the regulations of the comptroller is located:

(a) in the county of Monroe and who were eligible to receive location pay on March 31, 1985, shall receive location pay at the rate of two hundred dollars per year provided they continue to be otherwise eligible.

(b) in the city of New York, or in the county of Rockland, Westchester, Nassau, or Suffolk shall continue to receive a downstate adjustment at the rate of three thousand twenty-six dollars effective October 1, 2008.

(c) in the county of Dutchess, Orange, or Putnam shall continue to receive a mid-Hudson adjustment at the rate of one thousand five hundred thirteen dollars effective October 1, 2008. Such location payments shall be in addition to and shall not be a part of an employee's basic annual salary, and shall not affect or impair any advancements or other rights or benefits to which an employee may be entitled by law, provided, however, that location payments shall be included as compensation for purposes of computation of overtime pay and for retirement purposes. For the sole purpose of continuing eligibility for location pay in Monroe county, an employee previously eligible to receive location pay on March 31, 1985 who is on an approved leave of absence or participates in an employer program to reduce to part-time service during summer months shall continue to be eligible for said location pay upon return to full-time state service in Monroe county.

§ 7. Continuation of location compensation for certain officers and employees of the Hudson Valley developmental disabilities services office. 1. Notwithstanding any law, rule or regulation to the contrary, any officer or employee of the Hudson Valley developmental disabilities services office not represented in collective negotiating units established pursuant to article 14 of the civil service law who is receiving location pay pursuant to section 5 of chapter 174 of the laws of 1993 shall continue to receive such location pay under the conditions and at the rates specified by such section.

2. Notwithstanding section seven of this act or any other law, rule or regulation to the contrary, any officer or employee of the Hudson Valley developmental disabilities services office not represented in collective negotiating units established pursuant to article 14 of the civil service law who is receiving location pay pursuant to said section seven of this act shall continue to be eligible for such location pay if such officer's or employee's principal place of employment is changed to a

location outside of the county of Rockland as the result of a reduction or redeployment of staff, provided, however, that such officer or employee is reassigned to or otherwise appointed or promoted to a different position at another work location within such Hudson Valley developmental disabilities services office located outside of the county of Rockland. The rate of such continued location pay shall not exceed the rate such officer or employee is receiving on the date of such reassignment, appointment, or promotion.

§ 8. Overtime meal allowance. Notwithstanding any other provision of law to the contrary, individuals in positions in the classified service of the state of New York designated managerial or confidential pursuant to article 14 of the civil service law, shall continue to receive, effective April 1, 2011, an overtime meal allowance in the amount of $5.50 pursuant to eligibility guidelines developed by the director of employee relations.

§ 9. Notwithstanding any provision of law to the contrary, the appropriations contained in this act shall be available to the state for the payment of grievance settlements and awards pursuant to executive order 42, dated October 14, 1970, and title 9, part 560, official compilation of codes, rules and regulations of the state of New York.

§ 10. Use of appropriations. The comptroller is authorized to pay any amounts required during the fiscal years commencing April 1, 2011 by the foregoing provisions of this act for any state department or agency from any appropriation or other funds available to such state department or agency for personal service or for other related employee benefits during such fiscal year. To the extent that such appropriations in any fund are insufficient to accomplish the purposes herein set forth, the director of the budget is authorized to allocate to the various departments and agencies, from any appropriations available in any fund, the amounts necessary to pay such amounts.

§ 11. Effect of participation in special annuity program. No officer or employee participating in a special annuity program pursuant to the provision of article 8-C of the education law shall, by reason of an increase in compensation pursuant to this act, suffer any reduction of the salary adjustment to which that employee would otherwise be entitled by reason of participation in such program, and such salary adjustment shall be based upon the salary of such officer or employee without regard to the reduction authorized by such article.

§ 12. Date of entitlement to salary increase. Notwithstanding the provisions of this act or of any other law, the increase in salary or compensation of any officer or employee provided by this act shall be added to the salary or compensation of such officer or employee at the beginning of that payroll period the first day of which is nearest to the effective date of such increase as provided in this act, or at the beginning of the earlier of two payroll periods the first days of which are nearest but equally near to the effective date of such increase as provided in this act, provided, however, that for the purposes of determining the salary of such officer or employee upon reclassification, reallocation, appointment, promotion, transfer, demotion, reinstatement or other change of status, such salary increase shall be deemed to be effective on the date thereof as prescribed in this act, and the payment thereof pursuant to this section on a date prior thereto, instead of on such effective date, shall not operate to confer any additional salary rights or benefits on such officer or employee.

§ 13. 1. Notwithstanding the provisions of any other section of this act or any other provision of law to the contrary, any increase in

compensation, including any lump sum payment, provided: (a) in this act, or (b) as a result of a promotion, appointment, or advancement to a position in a higher salary grade, or (c) pursuant to paragraph (c) of subdivision 6 of section 131 of the civil service law, or (d) pursuant to paragraph (b) of subdivision 8 of section 130 of the civil service law, or (e) pursuant to paragraph (a) of subdivision 3 of section 13 of chapter 732 of the laws of 1988, as amended, may be withheld in whole or in part from any officer or employee when, in the opinion of the director of the budget, such withholding is necessary to reflect the job performance of such officer or employee, or to maintain appropriate salary relationships among officers or employees of the state, or to reduce state expenditures to acceptable levels or when, in the opinion of the director of the budget, such increase is not warranted or is not appropriate.

2. Notwithstanding the provisions of any other section of this act, the salary increases and lump sum payments provided for in this act shall not be implemented until the director of the budget delivers notice to the comptroller that such amounts may be paid.

3. Notwithstanding the provisions of any other section of this act or any other provisions of law, for state officers and employees in the executive branch who are in positions which are not in collective negotiating units, the director of the budget shall have the authority to devise and implement a plan to reduce the basic annual salary, hourly rate or per diem of any such employee for the time and by the rate established by such plan for the time period specified in such plan. Such plan shall contain salary schedules appropriate for the plan and such other provisions necessary for the implementation and continued execution of the plan for the period established by the plan. After the cessation of such plan, the salary, rate or per diem shall be restored to the amount in effect immediately before the commencement of such plan.

§ 14. The several amounts as hereinafter set forth, or so much thereof as may be necessary, are hereby appropriated from the fund so designated for use by any state department or agency for the fiscal year beginning April 1, 2011 to supplement appropriations from each respective fund available for personal service, other than personal service and fringe benefits, and to carry out the provisions of this act. No money shall be available for expenditure from this appropriation until a certificate of approval has been issued by the director of the budget and a copy of such certificate or any amendment thereto has been filed with the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

ALL STATE DEPARTMENTS AND AGENCIES
SPECIAL PAY BILLS

General Fund / State Operations
State Purposes Account - 003

Nonpersonal Service

Family benefits 310,000
Medical flexible spending account 500,000
Pre-tax transportation benefit 550,000
Management training 1,018,000
Uniform allowance 245,000
Tuition reimbursement 250,000
M/C share of negotiated programs 570,000

§ 15. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2011. Appropriations made by this act shall remain in full force and effect for 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 schedules 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.

Subdivision 1 of section 19 of the correction law, repealed by section two of this act, provided salary schedules for superintendents of correctional facilities and is replaced by revised salary schedules in a new subdivision 1.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part contained in any part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part contained in any part thereof directly involved in the controversy which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately provided, however, that the applicable effective date for Parts A through B of this act shall be as specifically set forth in the last section of such Part.

Chapter 525 **Signed September 23, 2011**

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:

Section 1. The retirement and social security law is amended by adding a new section 1204-a to read as follows:

§ 1204-a. Pick up of member contributions by employer. a. Notwithstanding any other provision of law, each participating employer shall pick up the member contributions required to be made under section twelve hundred four of this article by its employees and shall do so by reducing the salary of each of its employees to which this section is applicable by that amount which each such employee is required to contribute under section twelve hundred four of this article. The contributions so picked up shall be paid by each participating employer in lieu of the member contributions to be paid by its employees under this section and shall be treated as employer contributions in determining income tax treatment under section 414(h) of the Internal Revenue Code. With the exception of federal income tax treatment, the member contributions picked up pursuant to this subdivision shall for all other purposes, including computation of retirement benefits and contributions by employers and employees, be deemed employee salary.

b. Any employee (subject to this article) of a participating employer who, in lieu of joining a public retirement system of the state, elected an optional retirement program to which their employers are thereby required to contribute shall, in order for the provisions of this subdivision to apply, be required to execute a salary reduction agreement (in accordance with the regulations promulgated under section 403(b) of the 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

which would otherwise be mandatory under the provisions of state law. With the exception of federal income tax treatment, the employee contributions picked up or paid pursuant to this subdivision shall for all other purposes, including computation of retirement benefits and contributions by employers and employees, be deemed employee salary. Nothing contained in this subdivision shall be construed as superseding any provision of law which limits the salary base for computing retirement benefits payable by a public retirement system.

§ 2. Paragraph 4 of subdivision f of section 517 of the retirement and social security law, as amended by chapter 783 of the laws of 1988, is amended to read as follows:

4. The provisions of this subdivision [~~f~~] shall not apply to a police/fire member **who is a member of either the New York city police pension fund or the New York city fire department pension fund** or a member of the New York city employees' retirement system who is a member of the uniformed correction force or of the uniformed force of the department of sanitation, as defined in subdivisions thirty-nine and sixty-two of section 13-101 of the administrative code of the city of New York.

§ 3. Paragraph 26 of subsection (b) of section 612 of the tax law, as amended by chapter 681 of the laws of 1992, is amended to read as follows:

(26) The amount of member or employee contributions to a retirement system or pension fund picked up or paid by the employer pursuant to subdivision f of section five hundred seventeen [~~or~~]**,** subdivision d of section six hundred thirteen **or section twelve hundred four-a** of the retirement and social security law or section 13-225.1, 13-327.1, 13-125.1, 13-125.2 or 13-521.1 of the administrative code of the city of New York or subdivision nineteen of section twenty-five hundred seventy-five of the education law.

§ 4. Subparagraph (B) of paragraph 2 of subsection (b) of section 671 of the tax law, as amended by chapter 312 of the laws of 1997, is amended to read as follows:

(B) Any member or employee contributions to a retirement system or pension fund picked up by the employer pursuant to subdivision f of section five hundred seventeen [~~or~~]**,** subdivision d of section six hundred thirteen **or section twelve hundred four-a** of the retirement and social security law or section 13-225.1, 13-327.1, 13-125.1, 13-125.2 or 13-521.1 of the administrative code of the city of New York or subdivision nineteen of section twenty-five hundred seventy-five of the education law and any member or employee contributions to a retirement system or pension fund picked up or paid by the employer for members of the Manhattan and Bronx surface transportation authority pension plan and treated as employer contributions in determining income tax treatment under section 414(h) of the Internal Revenue Code.

§ 5. Subsection (c) of section 1 of subsection (c) of section 1340 of the tax law, as amended by chapter 312 of the laws of 1997, is amended to read as follows:

(c) Wages. Wages shall mean wages as defined in subsection (a) of section thirty-four hundred one of the internal revenue code, except that (1) wages shall not include payments for active service as a member of the armed forces of the United States and shall not include, in the case of a nonresident individual or partner of a partnership doing an insurance business as a member of the New York insurance exchange described in section six thousand two hundred one of the insurance law, any item of income, gain, loss or deduction of such business which is

such individual's distributive or pro rata share for federal income tax purposes or which such individual is required to take into account separately for federal income tax purposes and (2) wages shall include (i) the amount of member or employee contributions to a retirement system or pension fund picked up by the employer pursuant to subdivision f of section five hundred seventeen [~~or~~], subdivision d of section six hundred thirteen **or section twelve hundred four-a** of the retirement and social security law or section 13-225.1, 13-327.1, 13-125.1, 13-125.2 or 13-521.1 of the administrative code of the city of New York or subdivision nineteen of section twenty-five hundred seventy-five of the education law, (ii) the amount deducted or deferred from an employee's salary under a flexible benefits program established pursuant to section twenty-three of the general municipal law or section one thousand two hundred ten-a of the public authorities law, (iii) the amount by which an employee's salary is reduced pursuant to the provisions of subdivision b of section 12-126.1 and subdivision b of section 12-126.2 of the administrative code of the city of New York, and (iv) the amount of member or employee contributions to a retirement system or pension fund picked up or paid by the employer for members of the Manhattan and Bronx surface transportation authority pension plan and treated as employer contributions in determining income tax treatment under section 414(h) of the Internal Revenue Code.

§ 6. Nothing contained in this act shall be construed to create any contractual right with respect to members and employees to which it applies. The provisions of this act are intended to afford members and employees the advantages of certain benefits contained in the Internal Revenue Code, and the effectiveness and existence of this act and the benefits it confers are completely contingent thereon.

§ 7. This act shall take effect at the beginning of the first payroll period following sixty days after the retirement system covered by this act shall receive an Internal Revenue Service ruling stating that the employee contributions covered by this act are not includible in the gross income of the employee until distributed or made available to the employee and shall remain in full force and effect only as long as such treatment of such employee contributions is authorized pursuant to the provisions of the Internal Revenue Code; provided that the state comptroller shall notify the legislative bill drafting commission upon the occurrence of such ruling and upon any change in the provisions of the Internal Revenue Code affecting the provisions of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law; provided further, however, that the amendments to subdivision f of section 517 of the retirement and social security law, paragraph 26 of subsection (b) of section 612, subparagraph (B) of paragraph 2 of subsection (b) of section 671 and subsection (c) of section 1 of subsection (c) of section 1340 of the tax law made by sections two, three, four and five of this act shall not affect the expiration of such provisions and shall be deemed to expire 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.

Chapter 539 **Signed September 23, 2011**

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:

Section 1. Notwithstanding any other provision of law to the contrary, the Town of Kent, in the county of Putnam, a participating employer in the New York state and local police and fire retirement system, which previously elected to offer the optional retirement plan established pursuant to section 384-d of the retirement and social security law to police officers employed by such Town, is hereby authorized to make participation in such plan available to Jerry R. Raneri, a police sergeant employed by the Town of Kent, who, on the effective date of this act is covered under the provisions of section 375-i of the retirement and social security law, and who, for reasons not ascribable to his own negligence failed to make a timely application to participate in such optional retirement plan. The Town of Kent may so elect by filing with the state comptroller, on or before December 31, 2011, a resolution of its legislative body together with certification that such police officer did not bar himself from participation in such retirement plan as a result of his own negligence. Thereafter, such police officer may elect to be covered by the provisions of section 384-d of the retirement and social security law, and shall be entitled to the full rights and benefits associated with coverage under such section, by filing a request to that effect with the state comptroller on or before June 30, 2012.

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

LBD11422-02-1

§ 2. All past service costs associated with implementing the provisions of this act shall be borne by the Town of Kent.

§ 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.

Chapter 582 **Signed September 23, 2011**

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:

Section 1. The closing paragraph of subdivision a of section 60 of the retirement and social security law, as added by chapter 105 of the laws of 2005, is amended to read as follows:

Notwithstanding the provisions of any other law to the contrary and solely for the purpose of determining eligibility for an ordinary death benefit and/or guaranteed ordinary death benefit, a member shall be considered to have died while in service upon which his or her membership was based provided such member was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** and died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which added this paragraph~~] **June fourteenth, two thousand five**. Provided, further, that any such member ordered to such active duty with the armed forces of the United States **or in service in the uniformed services** who died prior to rendering the minimum amount of service necessary to be eligible for this benefit 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

§ 2. Subparagraph (b) of paragraph 3 of subdivision f of section 60 of the retirement and social security law, as amended by chapter 105 of the laws of 2005, is amended to read as follows:

(b) the term "death in service" shall include the death of such a member who dies while off the payroll provided he or she (i) was on the payroll in such service and paid within a period of twelve months prior to his or her death, or was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** and died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which amended this subparagraph~~] **June fourteenth, two thousand five**, (ii) had not been otherwise gainfully employed since he or she ceased to be on such payroll and (iii) had credit for one or more years of continuous service since he last entered or reentered the service of his or her employer. Provided, further, that any such member ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

§ 3. Subdivision c of section 60-a of the retirement and social security law, as amended by chapter 105 of the laws of 2005, is amended to read as follows:

c. For the purposes of this section an employee who dies while off the payroll shall be considered to be in service provided he or she (1) was on the payroll in such service and paid within a period of twelve months prior to his or her death, or was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** and died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which amended this subdivision~~] **June fourteenth, two thousand five**, (2) had not been otherwise gainfully employed since he or she ceased to be on such payroll and (3) had credit for at least one year of continuous service since he or she last entered or reentered the service of his or her employer. Provided, further, that any such member ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

§ 4. Subdivision (a) of section 60-b of the retirement and social security law, as amended by chapter 105 of the laws of 2005, is amended to read as follows:

(a) Pursuant to the provisions of section thirty-three of this article, a participating employer may elect to provide a guaranteed ordinary death benefit upon the death in service of its employees who (i) meet

all the requirements of section sixty of this article except that contained in paragraph three of subdivision (a) thereof, and (ii) last entered or reentered the employ of a participating employer prior to April first, nineteen hundred eighty-five, and were in such employ on March thirty-first, nineteen hundred eighty-five, and (iii) last joined or rejoined a public retirement system of the state or a municipality thereof before July first, nineteen hundred seventy-three, and (iv) had not attained age sixty at the date of such entrance into such service, and (v) had rendered ninety or more days of continuous service in the service of such participating employer during the fifteen month period immediately preceding death. For the purposes of this section an employee who dies while off the payroll shall be considered to be in service provided he or she (1) was on the payroll in such service and paid within a period of twelve months prior to his or her death, or was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** and died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which amended this subdivision~~] **June fourteenth, two thousand five**, (2) had not been otherwise gainfully employed since he or she ceased to be on such payroll and (3) had credit for one or more years of continuous service since he or she last entered or reentered the service of his or her employer. Provided, further, that any such member ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

§ 5. The closing paragraph of subdivision a of section 61 of the retirement and social security law, as added by chapter 105 of the laws of 2005, is amended to read as follows:

Notwithstanding the provisions of section two hundred forty-two, two hundred forty-three or two hundred forty-four of the military law or the provisions of any other law to the contrary and solely for the purpose of determining eligibility for an accidental death benefit, a member shall be considered to have died as the natural and proximate result of an accident sustained in the performance of duty provided such member was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** and died while on such active duty **or in service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which added this paragraph~~] **June fourteenth, two thousand five**.

§ 6. The closing paragraph of subdivision a of section 360 of the retirement and social security law, as added by chapter 105 of the laws of 2005, is amended to read as follows:

Notwithstanding the provisions of any other law to the contrary and solely for the purpose of determining eligibility for an ordinary death benefit and/or guaranteed ordinary death benefit, a member shall be

considered to have died while in service upon which his or her membership was based provided such member was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** and died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which added this paragraph~~] **June fourteenth, two thousand five**. Provided, further, that any such member ordered to active duty with the armed forces of the United States **or to service in the uniformed services** who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

§ 7. Subparagraph (b) of paragraph 3 of subdivision g of section 360 of the retirement and social security law, as amended by chapter 105 of the laws of 2005, is amended to read as follows:

(b) the term "death in service" shall include the death of such a member who dies while off the payroll provided he or she (i) was on the payroll in such service and paid within a period of twelve months prior to his or her death, or was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** and died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which amended this subparagraph~~] **June fourteenth, two thousand five**, (ii) had not been otherwise gainfully employed since he or she ceased to be on such payroll and (iii) had credit for one or more years of continuous service since he or she last entered or reentered the service of his or her employer. Provided, further, that any such member ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

§ 8. Subdivision c of section 360-a of the retirement and social security law, as amended by chapter 105 of the laws of 2005, is amended to read as follows:

c. For the purposes of this section an employee who dies while off the payroll shall be considered to be in service provided he or she (1) was on the payroll in such service and paid within a period of twelve months prior to his or her death, or was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** and died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which amended this subdivision~~] **June fourteenth, two thousand five**, (2) had not been otherwise gainfully employed since he or she ceased to be on such payroll and (3) had credit for at least one year of continuous service since he or she last entered or

reentered the service of his or her employer. Provided, further, that any such member ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

§ 9. Subdivision (a) of section 360-b of the retirement and social security law, as amended by chapter 105 of the laws of 2005, is amended to read as follows:

(a) Pursuant to the provisions of section three hundred thirty-three of this article, a participating employer may elect to provide a guaranteed ordinary death benefit upon the death in service of its employees who (i) meet all of the requirements of section three hundred sixty of this title except that contained in paragraph three of subdivision (a) thereof, and (ii) last entered or reentered the employ of a participating employer prior to April first, nineteen hundred eighty-five, and were in such employ on March thirty-first, nineteen hundred eighty-five, and (iii) last joined or rejoined a public retirement system of the state or a municipality thereof before July first, nineteen hundred seventy-three, and (iv) had not attained age sixty at the date of such entrance into such service, and (v) had rendered ninety or more days of continuous service in the service of such participating employer during the fifteen month period immediately preceding death. For the purposes of this section an employee who dies while off the payroll shall be considered to be in service provided he or she (1) was on the payroll in such service and paid within a period of twelve months prior to his or her death, or was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** and died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which amended this subdivision~~] **June fourteenth, two thousand five**, (2) had not been otherwise gainfully employed since he or she ceased to be on such payroll and (3) had credit for one or more years of continuous service since he or she last entered or reentered the service of his or her employer. Provided, further, that any such member ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

§ 10. The closing paragraph of subdivision a of section 361 of the retirement and social security law, as added by chapter 105 of the laws of 2005, is amended to read as follows:

Notwithstanding the provisions of section two hundred forty-two, two hundred forty-three or two hundred forty-four of the military law or the provisions of any other law to the contrary and solely for the purpose of determining eligibility for an accidental death benefit and/or special accidental death benefit, a member shall be considered to have died as the natural and proximate result of an accident sustained in the performance of duty provided such member was on the payroll in the

service upon which membership is based at the time he or she was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** and died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which added this paragraph~~] **June fourteenth, two thousand five**.

§ 11. Subdivisions e and f of section 448 of the retirement and social security law, subdivision e as amended and subdivision f as added by chapter 105 of the laws of 2005, are amended to read as follows:

e. For the purposes of this section:

1. A member who dies while off the payroll shall be considered to be in service provided he or she (a) was on the payroll in such service and paid within a period of twelve months prior to his or her death, or was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** and died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which amended this subdivision~~] **June fourteenth, two thousand five**, (b) had not been otherwise gainfully employed since he or she ceased to be on such payroll and (c) had credit for one or more years of continuous service since he or she last entered or reentered the service of his or her employer; notwithstanding any other provision of law to the contrary, a member of the New York city employees' retirement system or the board of education retirement system of the city of New York shall be deemed to have died on the payroll for the purposes of this section in the event that death occurs while such member is on an authorized leave of absence without pay for medical reasons which has continuously been in effect since the member was last paid on the payroll in such service, provided, however, that such member was on the payroll in such service and paid within the four-year period prior to his or her death; and

2. The benefit payable shall be in addition to any payment made on account of a member's accumulated contributions.

3. Provided, further, that any such member ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

f. Notwithstanding the provisions of any other law to the contrary and solely for the purpose of determining eligibility for the death benefit payable pursuant to this section, a person subject to this section shall be considered to have died while in teaching service provided such person was in such service at the time he or she was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** and died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which added this subdivision~~] **June four-**

teenth, two thousand five. Provided, further, that any such person ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirements.

§ 12. Subdivision e of section 508 of the retirement and social security law, as amended by chapter 105 of the laws of 2005, is amended to read as follows:

e. For the purposes of this section:

1. A member who dies while off the payroll shall be considered to be in service provided he or she (a) was on the payroll in such service and paid within a period of twelve months prior to his or her death, or was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** and died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which amended this subdivision~~] **June fourteenth, two thousand five**, (b) had not been otherwise gainfully employed since he or she ceased to be on such payroll and (c) had credit for one or more years of continuous service since he or she last entered or reentered the service of his or her employer; and

2. The benefit payable shall be in addition to any payment made on account of a member's accumulated contributions.

3. Provided, further, that any such member ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

§ 13. The closing paragraph of subdivision a of section 509 of the retirement and social security law, as amended by chapter 489 of the laws of 2008, is amended to read as follows:

Notwithstanding the provisions of section two hundred forty-two, two hundred forty-three or two hundred forty-four of the military law or the provisions of any other law to the contrary and solely for the purpose of determining eligibility for an accidental death benefit, a member shall be considered to have died as the natural and proximate result of an accident sustained in the performance of duty provided such member was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** and died while on such active duty **or service in the uniformed services** on or after [~~the effective date of chapter one hundred five of the laws of two thousand five which added this paragraph~~] **June fourteenth, two thousand five**.

§ 14. Subdivision e of section 606 of the retirement and social security law, as amended by chapter 105 of the laws of 2005, is amended to read as follows:

e. For the purposes of this section:

1. A member who dies while off the payroll shall be considered to be in service provided he or she (a) was on the payroll in such service and paid within a period of twelve months prior to his or her death, or was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** and died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which amended this subdivision~~] **June fourteenth, two thousand five**, (b) had not been otherwise gainfully employed since he or she ceased to be on such payroll and (c) had credit for one or more years of continuous service since he or she last entered or reentered the service of his or her employer; notwithstanding any other provision of law to the contrary, a member of the New York city employees' retirement system or the board of education retirement system of the city of New York shall be deemed to have died on the payroll for the purposes of this section in the event that death occurs while such member is on an authorized leave of absence without pay for medical reasons which has continuously been in effect since the member was last paid on the payroll in such service, provided, however, that such member was on the payroll in such service and paid within the four-year period prior to his or her death; and

2. The benefit payable shall be in addition to any payment made on account of a member's accumulated contributions.

3. Provided, further, that any such member ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

§ 15. Subdivision a of section 607 of the retirement and social security law, as amended by chapter 489 of the laws of 2008, is amended to read as follows:

a. The eligible beneficiary of a member in service, or of a vested member who dies as a result of a qualifying World Trade Center condition as defined in section two of this chapter, shall be entitled to an accidental death benefit in the form of a pension equal to fifty percent of such member's wages earned during his or her last year of actual service or his or her annual wage rate if he or she was credited with less than one year of service since last becoming a member, if, upon application filed within sixty days after the death of the member, the head of the retirement system determines that such member died before the effective date of retirement, as the natural and proximate result of an accident not caused by his or her own willful negligence sustained in the performance of his or her duties in active service and while actually a member of the retirement system.

Notwithstanding the provisions of section two hundred forty-two, two hundred forty-three or two hundred forty-four of the military law or the provisions of any other law to the contrary and solely for the purpose of determining eligibility for an accidental death benefit, a member shall be considered to have died as the natural and proximate result of an accident sustained in the performance of duty provided such member

was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** and died while on such active duty **or service in the uniformed services** on or after [~~the effective date of chapter one hundred five of the laws of two thousand five which added this paragraph~~] **June fourteenth, two thousand five**.

Provided, however, the head of the retirement system in its sole discretion may accept an application for an accidental death benefit after the expiration of the sixty day filing period, where, but only where, an ordinary death benefit has not been previously paid.

§ 16. The second undesignated paragraph and the closing paragraph of subdivision 2 of section 655 of the retirement and social security law, as added by chapter 105 of the laws of 2005, are amended to read as follows:

Notwithstanding the provisions of any other law to the contrary and solely for the purpose of determining eligibility for a survivors benefit, a member shall be considered to have died while on the state payroll provided such member was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** and died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which added this paragraph~~] **June fourteenth, two thousand five**.

Provided, further, that any such member ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

§ 17. The second undesignated paragraph and the closing paragraph of subdivision 2 of section 656 of the retirement and social security law, as added by chapter 105 of the laws of 2005, are amended to read as follows:

Notwithstanding the provisions of any other law to the contrary and solely for the purpose of determining eligibility for a survivors benefit, a member shall be considered to have died while on the state payroll provided such member was on such payroll or was on the payroll in the service upon which membership is based at the time he or she was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** and died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which added this paragraph~~] **June fourteenth, two thousand five**.

Provided, further, that any such member ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United**

States Code who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

§ 18. Subdivision g of section 208-f of the general municipal law, as added by chapter 105 of the laws of 2005, is amended to read as follows:

g. Notwithstanding any other provision of law to the contrary, and solely for the purposes of this section, a member otherwise covered by this section shall be deemed to have died as the natural and proximate result of an accident sustained in the performance of duty upon which his or her membership is based, and not as a result of willful negligence on his or her part, provided that such member was in active service upon which his or her membership is based at the time that such member was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code**, and such member died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which added this subdivision~~] **June fourteenth, two thousand five** while serving on such active military duty **or in the uniformed services**.

§ 19. Subdivision f of section 512 of the education law, as added by chapter 105 of the laws of 2005, is amended to read as follows:

f. Notwithstanding the provisions of any other law to the contrary and solely for the purpose of determining eligibility for the death benefit payable pursuant to this section, a person subject to this section shall be considered to have died while in teaching service provided such person was in such service at the time he or she was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code** and died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which added this subdivision~~] **June fourteenth, two thousand five**. Provided, further, that any such person ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed servicers pursuant to Chapter 43 of Title 38 of the United States Code** who died prior to rendering the minimum amount of service necessary to be eligible for this benefit shall be considered to have satisfied the minimum service requirement.

§ 20. Paragraph (b) of subdivision 25 of section 2575 of the education law, as added by chapter 105 of the laws of 2005, is amended to read as follows:

(b) Notwithstanding any other provision of law to the contrary, the rules and regulations adopted pursuant to this section shall be deemed to be amended to provide that a member of the retirement system shall be deemed to have died as the natural and proximate result of an accident sustained in the performance of duty upon which his or her membership is based, and not as a result of willful negligence on his or her part, provided that such member was in active service upon which his or her membership is based at the time that such member was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code**, and such member died while on such active duty **or service in the uniformed services** on or after [~~the effective date of~~

~~the chapter of the laws of two thousand five which added this subdivision~~] **June fourteenth, two thousand five** while serving on such active military duty **or in the uniformed services**.

§ 21. Subdivision 4 of section 13-244 of the administrative code of the city of New York, as added by chapter 105 of the laws of 2005, is amended to read as follows:

4. Notwithstanding any other provision of law to the contrary, and solely for the purposes of this section, a member shall be deemed to have died as the natural and proximate result of an accident sustained in the performance of duty upon which his or her membership is based, and not as a result of willful negligence on his or her part, provided that such member was in active service upon which his or her membership is based at the time that such member was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code**, and such member died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which added this subdivision~~] **June fourteenth, two thousand five** while serving on such active military duty **or in the uniformed services**.

§ 22. Subdivision c of section 13-149 of the administrative code of the city of New York, as added by chapter 105 of the laws of 2005, is amended to read as follows:

c. Notwithstanding any other provision of law to the contrary, and solely for the purposes of this section, a member shall be deemed to have died as the natural and proximate result of an accident sustained in the performance of duty upon which his or her membership is based, and not as a result of willful negligence on his or her part, provided that such member was in active service upon which his or her membership is based at the time that such member was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code**, and such member died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which added this subdivision~~] **June fourteenth, two thousand five** while serving on such active military duty **or in the uniformed services**.

§ 23. Subdivision f of section 13-347 of the administrative code of the city of New York, as added by chapter 105 of the laws of 2005, is amended to read as follows:

f. Notwithstanding any other provision of law to the contrary, and solely for the purposes of this section, a member shall be deemed to have died as the natural and proximate result of an accident sustained in the performance of duty upon which his or her membership is based, and not as a result of willful negligence on his or her part, provided that such member was in active service upon which his or her membership is based at the time that such member was ordered to active duty[~~, other than for training purposes~~], pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code**, and such member died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which added this subdivision~~] **June**

fourteenth, two thousand five while serving on such active military duty **or in the uniformed services**.

§ 24. Subdivision d of section 13-544 of the administrative code of the city of New York, as added by chapter 105 of the laws of 2005, is amended to read as follows:

d. Notwithstanding any other provision of law to the contrary, and solely for the purposes of this section, a member shall be deemed to have died as the natural and proximate result of an accident sustained in the performance of duty upon which his or her membership is based, and not as a result of willful negligence on his or her part, provided that such member was in active service upon which his or her membership is based at the time that such member was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code**, and such member died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which added this subdivision~~] **June fourteenth, two thousand five** while serving on such active military duty **or in the uniformed services**.

§ 25. The closing paragraph of section 3-401 of the administrative code of the city of New York, as added by chapter 105 of the laws of 2005, is amended to read as follows:

Notwithstanding any other provision of law to the contrary, and solely for the purposes of this section, a member otherwise covered by this section shall be deemed to have been killed while engaged in the discharge of duty upon which his or her membership is based, provided that such member was in active service upon which his or her membership is based at the time that such member was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code**, and such member died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which added this paragraph~~] **June fourteenth, two thousand five** while serving on such active military duty **or in the uniformed services**.

§ 26. The closing paragraph of section 3-402 of the administrative code of the city of New York, as added by chapter 105 of the laws of 2005, is amended to read as follows:

Notwithstanding any other provision of law to the contrary, and solely for the purposes of this section, a member otherwise covered by this section shall be deemed to have been killed while engaged in the discharge of duty upon which his or her membership is based, provided that such member was in active service upon which his or her membership is based at the time that such member was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code**, and such member died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which added this paragraph~~] **June fourteenth, two thousand five** while serving on such active military duty **or in the uniformed services**.

§ 27. The closing paragraph of subdivision a of section 3-403 of the administrative code of the city of New York, as added by chapter 105 of the laws of 2005, is amended to read as follows:

Notwithstanding any other provision of law to the contrary, and solely for the purposes of this subdivision, a member otherwise covered by this subdivision shall be deemed to have been killed while engaged in the discharge of duty upon which his or her membership is based, provided that such member was in active service upon which his or her membership is based at the time that such member was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code**, and such member died while on such active duty **or service in the uniformed services** on or after [~~the effective date of the chapter of the laws of two thousand five which added this paragraph~~] **June fourteenth, two thousand five** while serving on such active military duty **or in the uniformed services**.

§ 28. Subparagraph (i) of paragraph 2 of subdivision b of section 12-126 of the administrative code of the city of New York, as amended by chapter 430 of the laws of 2010, is amended to read as follows:

(i) Where the death of a member of the uniformed forces of the police or fire departments is or was the natural and proximate result of an accident or injury sustained while in the performance of duty, the surviving spouse or domestic partner, until he or she dies, and the children under the age of nineteen years and any such child who is enrolled on a full-time basis in a program of undergraduate study in an accredited degree-granting institution of higher education until such child completes his or her educational program or reaches the age of twenty-three years, whichever comes first, shall be afforded the right to health insurance coverage, and health insurance coverage which is predicated on the insured's enrollment in the hospital and medical program for the aged and disabled under the social security act, as is provided for city employees, city retirees and their dependents as set forth in paragraph one of this subdivision. Where the death of a uniformed member of the correction or sanitation departments has occurred while such employee was in active service as the natural and proximate result of an accident or injury sustained while in the performance of duty, the surviving spouse or domestic partner, until he or she dies, and the child of such employee who is under the age of nineteen years and any such child who is enrolled on a full-time basis in a program of undergraduate study in an accredited degree-granting institution of higher education until such child completes his or her educational program or reaches the age of twenty-three years, whichever comes first, shall be afforded the right to health insurance coverage, and health insurance coverage which is predicated on the insured's enrollment in the hospital and medical program for the aged and disabled under the social security act, as is provided for city employees, city retirees and their dependents as set forth in paragraph one of this subdivision. Where the death of an employee of the fire department of the city of New York who was serving in a title whose duties are those of an emergency medical technician or advanced emergency medical technician (as those terms are defined in section three thousand one of the public health law), or whose duties required the direct supervision of employees whose duties are those of an emergency medical technician or advanced emergency medical technician (as those terms are defined in section three thousand one of the public health law) is or was the

natural and proximate result of an accident or injury sustained while in the performance of duty on or after September eleventh, two thousand one, the surviving spouse or domestic partner, until he or she dies, and the children under the age of nineteen years and any such child who is enrolled on a full-time basis in a program of undergraduate study in an accredited degree-granting institution of higher education until such child completes his or her educational program or reaches the age of twenty-three years, whichever comes first, shall be afforded the right to health insurance coverage, and health insurance coverage which is predicated on the insured's enrollment in the hospital and medical program for the aged and disabled under the social security act, as is provided for city employees, city retirees and their dependents as set forth in paragraph one of this subdivision. The mayor may, in his or her discretion, authorize the provision of such health insurance coverage for the surviving spouses, domestic partners and children of employees of the fleet services division of the police department who died on or after October first, nineteen hundred ninety-eight and before April thirtieth, nineteen hundred ninety-nine, and the surviving spouses, domestic partners and children of employees of the roadway repair and maintenance division of the department of transportation who died on or after September first, two thousand five and before September twenty-eighth, two thousand five, and the surviving spouses, domestic partners and children of employees of the bureau of wastewater treatment of the department of environmental protection who died on or after January eighth, two thousand nine and before January tenth, two thousand nine as a natural and proximate result of an accident or injury sustained while in the performance of duty, subject to the same terms, conditions and limitations set forth in the section. Provided, however, and notwithstanding any other provision of law to the contrary, and solely for the purposes of this subparagraph, a member otherwise covered by this subparagraph shall be deemed to have died as the natural and proximate result of an accident or injury sustained while in the performance of duty upon which his or her membership is based, provided that such member was in active service upon which his or her membership is based at the time that such member was ordered to active duty[~~, other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code**, and such member died while on active duty **or service in the uniformed services** on or after [~~the effective date of local law number ninety-six of the city of New York for the year two thousand five~~] **June fourteenth, two thousand five** while serving on such active military duty **or in the uniformed services**.

§ 29. The closing paragraph of section 165-a of the civil service law, as amended by section 6 of part T of chapter 56 of the laws of 2010, is amended to read as follows:

Notwithstanding any law to the contrary, the survivors of any employee subject to this section shall be entitled to the health benefits granted pursuant to this section, provided that such employee died while on active duty [~~other than for training purposes,~~] pursuant to Title 10 of the United States Code, with the armed forces of the United States **or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code**, and such member died on such active duty **or service in the uniformed services** on or after [~~the effective date of chapter one hundred five of the laws of two thousand five~~] **June fourteenth, 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.

Chapter 587 **Signed September 23, 2011**

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:

Section 1. Notwithstanding any other provision of law to the contrary, the county of Broome, a participating employer in the New York state and local employees' retirement system, which previously elected to offer the optional twenty year retirement plan, established pursuant to section 552 of the retirement and social security law, to sheriffs, under-sheriffs and deputy sheriffs employed by such county, is hereby authorized to make participation in such plan and benefits available to Richard Merrell and Frederick Akshar, deputy sheriffs employed by the county of Broome, who, for reasons not ascribable to their own negligence, failed to make a timely application to participate in such optional twenty year retirement plan. The county of Broome may so elect by filing with the state comptroller, on or before December 31, 2011, a resolution of its local legislative body together with certification that such deputy sheriffs did not bar themselves from participation in such retirement plan as a result of their own negligence. Thereafter, such deputy sheriffs may elect to be covered by the provisions of section 552 of the retirement and social security law, and shall be entitled to the full rights and benefits associated with coverage under such section, by filing a request to that effect with the state comptroller on or before June 30, 2012.

§ 2. All employer "past service" costs associated with implementing 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:

Section 1. Section 603 of the retirement and social security law is amended by adding a new subdivision u to read as follows:

u. If the county of Tompkins elects to provide a retirement benefit by adopting a resolution to such effect and filing a certified copy thereof with the comptroller, the service retirement benefit specified in section six hundred four of this article shall be payable to members with twenty years of creditable service, without regard to age, 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 investigator, assistant criminal investigator, criminal investigator-electronics, criminal investigator-child abuse, confidential investigator or criminal investigator/arson if: (i) such members have met the minimum service requirements upon retirement, and (ii) in the case of a member subject to the provisions of article fourteen of this chapter, such member files an election therefor which provides that he or she will be subject to the provisions of this article and to none of the provisions of article fourteen of this chapter. Such election, which shall be irrevocable, shall be in writing, duly executed and shall be filed with the comptroller, within three years after entering employment in the office of the district attorney of Tompkins county in one of the 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

subdivision, the term: "creditable service" shall have the meaning as so defined in both sections eighty-nine-d and six hundred one of this chapter and such term shall be subject to the conditions in such sections eighty-nine-d and six hundred one, also include service as a sheriff, undersheriff, captain deputy sheriff, lieutenant deputy sheriff, senior criminal investigator, chief investigator/detective, criminal investigator, criminal investigator-electronics, criminal investigator-child abuse, sergeant deputy sheriff, deputy sheriff, deputy sheriff trainee, police chief, police lieutenant, police sergeant, police officer, or police captain.

§ 2. Section 604 of the retirement and social security law is amended by adding a new subdivision u to read as follows:

u. If the county of Tompkins elects to provide the retirement benefit pursuant to this subdivision by adopting a resolution to such effect and filing a certified copy thereof with the comptroller, the early service retirement benefit for a member who is 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 investigator, assistant criminal investigator, criminal investigator-electronics, criminal investigator-child abuse, confidential investigator or criminal investigator/arson or other investigative title shall be a pension equal to one-fortieth of final average salary times years of credited service for the first twenty years of service plus an additional one-sixtieth of final average salary times years of credited service for each year beyond the first twenty years of service in such title, but not exceeding three-fourths of his or her final average salary.

§ 3. The county of Tompkins shall, by resolution, determine whether to extend the provisions of this act to those members in the office of the district attorney as a chief criminal investigator/detective, deputy chief criminal investigator, criminal investigator, senior criminal investigator, confidential criminal investigator, assistant criminal investigator, criminal investigator-electronics, criminal investigator-child abuse, confidential investigator or criminal investigator/arson or other investigative title provided, however, that such resolution must be adopted by April 1, 2012.

§ 4. The costs attributable to the operation of this act shall be borne by the county of Tompkins and shall be paid over a ten year period in amounts determined by the retirement system actuary.

§ 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 investigator, assistant criminal investigator, criminal investigator-electronics, 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:

Section 1. Legislative intent. The state of New York has an interest in the welfare of its citizens, and the general welfare of its senior citizens is a matter of great public concern to the state of New York. On December 7, 2010, the New York City Off Track Betting Corporation, a public benefits corporation created in 1973 pursuant to article VI of the racing, pari-mutual wagering and breeding law ceased operations. The legislature finds that, since its inception, New York City Off Track Betting provided the state of New York with significant revenues to support government operations. The legislature further finds that after the governor of the state of New York issued an executive order to allow the New York City Off Track Betting Corporation to file for bankruptcy pursuant to Chapter 9 of the United States Bankruptcy Code, the unions representing the employees of NYCOTB worked tirelessly to assist the corporation in its restructuring efforts, including two collective bargaining agreements wherein the employees made significant concessions, including voluntary separation from the corporation, in order to save the corporation and assist their fellow employees.

The legislature further finds that employees retired from the corporation, after having received the assurance that they and their dependants would receive health insurance and supplemental benefit coverage under their collective bargaining representative's welfare benefit program. After the closure of New York City Off Track Betting, those benefits ceased.

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

LBD09353-01-1

The legislature further finds that cessation of these benefits to public employees who have devoted their working lives to service of a New York state public benefits corporation works a great injustice and a severe hardship to the retirees and their dependants, thereby putting their health and very lives in danger.

The legislature further finds that by honoring the commitment to provide health insurance and supplemental benefits to retirees of New York City Off Track Betting, the state reaffirms its commitment to ameliorate the deleterious impact which the closure of New York City Off Track Betting has had upon the citizens of the state of New York.

§ 2. Subdivision 4 of section 606 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 115 of the laws of 2008, is amended to read as follows:

4. All [~~employees and officers~~] **present and future retirees** of the corporation in classes or positions whose incumbents, in equivalent classes or positions of the city, are eligible, as of the effective date hereof, to participate in, and receive benefits from any city authorized health insurance or welfare benefit program, shall be eligible to participate in, and receive benefits from any such health insurance or welfare benefit program; provided, however, that the [~~corporation~~] **state** shall reimburse the city or its designee for the actual cost of benefits under this subdivision.

§ 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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Chapter 180 **Signed July 20, 2011**

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:

Section 1. Paragraph 2 of subdivision b of section 13-638.2 of the administrative code of the city of New York, as amended by chapter 265 of the laws of 2010, is amended to read as follows:

(2) With respect to each retirement system, such rate of interest shall be as hereinafter set forth in this paragraph:

Retirement System	Rate of interest per centum per annum, compounded annually	First day and last day of fiscal year or series of fiscal years for which rate is effective
NYCERS	8%	July 1, 2004 to June 30, [~~2011~~] **2012**
NYCTRS	8%	July 1, 2004 to

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

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		June 30, [~~2011~~] **2012**
PPF	8%	July 1, 2004 to June 30, [~~2011~~] **2012**
FPF	8%	July 1, 2004 to June 30, [~~2011~~] **2012**
BERS	8%	July 1, 2004 to June 30, [~~2011~~] **2012**

§ 2. Paragraph 2 of subdivision f of section 13-638.2 of the administrative code of the city of New York, as amended by chapter 265 of the laws of 2010, is amended to read as follows:

(2) Such special interest shall be allowed at the rates and for the periods set forth below in this paragraph:

Retirement System	Rate of interest per centum per annum, compounded annually	First day and last day of fiscal year or series of fiscal years for which rate is effective
NYCERS	1 1/4%	July 1, 2004 to June 30, [~~2011~~] **2012**
NYCTRS	1 1/4%	July 1, 2004 to June 30, [~~2011~~] **2012**
PPF	1 1/4%	July 1, 2004 to June 30, [~~2011~~] **2012**
FPF	1 1/4%	July 1, 2004 to June 30, [~~2011~~] **2012**
BERS	1 1/4%	July 1, 2004 to June 30, [~~2011~~] **2012**

§ 3. Paragraph 2 of subdivision g of section 13-638.2 of the administrative code of the city of New York, as amended by chapter 265 of the laws of 2010, is amended to read as follows:

(2) Such additional interest shall be included at the rates and for the periods set forth below in this paragraph:

Retirement System	Rate of interest per centum per annum, compounded annually	First day and last day of fiscal year or series of fiscal years for which rate is effective
NYCERS	1 1/4%	July 1, 2004 to June 30, [~~2011~~] **2012**
NYCTRS	1 1/4%	July 1, 2004 to June 30, [~~2011~~] **2012**
PPF	1 1/4%	July 1, 2004 to June 30, [~~2011~~] **2012**
FPF	1 1/4%	July 1, 2004 to June 30, [~~2011~~] **2012**
BERS	1 1/4%	July 1, 2004 to June 30, [~~2011~~] **2012**

§ 4. Paragraph 2 of subdivision i of section 13-638.2 of the administrative code of the city of New York, as amended by chapter 265 of the laws of 2010, is amended to read as follows:

(2) Such supplementary interest shall be allowed at the rates and for the periods set forth below in this paragraph:

Retirement System	Rate of interest per centum per annum, compounded annually	First day and last day of fiscal year or series of fiscal years for which rate is effective
NYCERS	1%	July 1, 2004 to June 30, [~~2011~~] **2012**
NYCTRS	1%	July 1, 2004 to June 30, [~~2011~~] **2012**
PPF	1%	July 1, 2004 to June 30, [~~2011~~] **2012**
FPF	1%	July 1, 2004 to June 30, [~~2011~~] **2012**
BERS	1%	July 1, 2004 to June 30, [~~2011~~] **2012**

§ 5. This act shall take effect July 1, 2011; provided, however, if this act shall become a law after such date, it shall take effect immediately and shall be deemed to have been in full force and effect on and 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:

Section 1. The administrative code of the city of New York is amended by adding a new section 13-256.1 to read as follows:

§ 13-256.1 Discharge or dismissal. a. Notwithstanding any other provision of law, when a member has attained at least twenty years of creditable police service in the retirement system, the discharge or dismissal from employment of such person shall not preclude such person from receiving any rights or benefits to which he or she shall otherwise be entitled as a member or retired member of the retirement system nor upon retirement shall his or her benefits be in any way diminished as a result of such discharge or dismissal. Such member shall be deemed to be retired on the date of his or her discharge or dismissal from service for purposes of determining his or her rights and benefits as a member of the retirement system.

b. Notwithstanding anything to the contrary in subdivision a of this section, a member, other than a member to which article fourteen of the retirement and social security law is applicable, that has attained at least twenty years of creditable service in the retirement system shall forfeit the retirement benefits to which the member would otherwise be entitled if the member is convicted under the laws of the state of New York of a felony, or under the laws of another state or of the United States of an offense or crime which, if committed in the state of New York, would be a felony.

c. Nothing in this section shall be construed to in any way modify or 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.

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which article fourteen of the retirement and social security law is applicable.

§ 2. The administrative code of the city of New York is amended by adding a new section 13-361.1 to read as follows:

§ 13-361.1 Discharge or dismissal. a. Notwithstanding any other provision of law, when a member has attained at least twenty years of creditable fire uniformed force service in the retirement system, the discharge or dismissal from employment of such person shall not preclude such person from receiving any rights or benefits to which he or she shall otherwise be entitled as a member or retired member of the retirement system nor upon retirement shall his or her benefits be in any way diminished as a result of such discharge or dismissal. Such member shall be deemed to be retired on the date of his or her discharge or dismissal from service for purposes of determining his or her rights and benefits as a member of the retirement system.

b. Notwithstanding anything to the contrary in subdivision a of this section, a member, other than a member to which article fourteen of the retirement and social security law is applicable, that has attained at least twenty years of creditable service in the retirement system shall forfeit the retirement benefits to which the member would otherwise be entitled if the member is convicted under the laws of the state of New York of a felony, or under the laws of another state or of the United States of an offense or crime which, if committed in the state of New York, would be a felony.

c. Nothing in this section shall be construed to in any way modify or affect the rights or benefits of any member of the retirement system to which article fourteen of the retirement and social security law is applicable.

§ 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:

Section 1. Section 512 of the education law is amended by adding a new subdivision g to read as follows:

g. Notwithstanding any other provision of law to the contrary, any member of the retirement system subject to article fourteen or fifteen of the retirement and social security law who has permanently ceased teaching shall have the right to elect the return of his or her accumulated contributions and thereby terminate his or her membership in the retirement system without regard to the amount of service to his or her credit, provided a public employee retirement system in another state has certified in a manner satisfactory to the system that such member is a member of such other retirement system, has at least five years of retirement credit in such other system, and is eligible, upon the termination of his or her membership in the system, to obtain retirement credit in such other retirement system for the service which has been credited to his or her membership in the system. Upon refund of such accumulated contributions, any and all obligations of the retirement system to such member shall be totally discharged. The retirement board is authorized to adopt such rules and regulations as may be necessary to implement this subdivision.

§ 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.

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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:

Section 1. Paragraph (e) of subdivision 6 of section 177 of the retirement and social security law, as amended by chapter 560 of the laws of 1997, is amended to read as follows:

(e) Such real property, other than property to be used primarily for agricultural, horticultural, ranch, mining, recreational, amusement or club purposes, as may be acquired, as an investment for the production of income **(including capital appreciation)**, or as may be acquired to be improved or developed for such investment purpose pursuant to an existing program therefor, subject to the following limitations: (1) the cost of each parcel of real property so acquired under the authority of this subdivision, including the estimated cost to the fund of the improvement or development thereof, when added to the value of all other real property then held by it pursuant to this subdivision, shall not exceed [~~five~~] **ten** per cent of its assets, and (2) the cost of each parcel of real property acquired under the authority of this subdivision, including the estimated cost to the fund of the improvement or development thereof, shall not exceed two per cent of the fund's assets.

§ 2. Subdivision 6 of section 177 of the retirement and social security law is amended by adding a new paragraph (f) to read as follows:

(f) Notwithstanding any other provision of this article, for the purposes of this subdivision, an investment in an entity that invests or proposes to invest, directly or indirectly through one or more other 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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property of any kind or character as an investment for the production of income (including capital appreciation), or (2) debt instruments secured by any interest in real estate may be considered an investment in real estate pursuant to this subdivision and included in the assets subject to the ten percent limitation of paragraph (e) of this subdivision.

§ 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 NYCRS Fund.

To the extent that the NYCRS 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 NYCRS would otherwise have achieved, then employer contributions to the NYCRS 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:

Section 1. Section 521 of the education law is amended by adding a new subdivision 3 to read as follows:

3. Notwithstanding any other provision of law to the contrary, the governing board of an employer may elect to provide for the financing of a certain portion of the contributions due from such employer pursuant to this section on account of pensionable compensation paid by such employer during the plan years July first, two thousand eleven through June thirtieth, two thousand twelve and July first, two thousand twelve through June thirtieth, two thousand thirteen in accordance with the following provisions.

a. Such employer shall have the authority to adopt a bond resolution authorizing the financing of the payment of a portion of the contributions due from such employer on account of pensionable compensation paid by such employer in such plan years by the issuance of bonds without conducting a vote on a tax to be collected in installments not extending beyond fifteen years, provided the issuance of such obligations otherwise complies with the requirements of the local finance law and this chapter and provided further the amount of bonds issued pursuant to this authority shall not in the aggregate exceed one hundred twenty-five per centum of the contributions due from such employer on account of pensionable compensation paid during the plan year July 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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b. The proceeds of such bond issuance shall be deposited by such employer in a retirement contribution reserve account established pursuant to section six-r of the general municipal law and shall be applied to offset those contributions due from such employer to the system on account of pensionable compensation paid during the plan years July first, two thousand eleven through June thirtieth, two thousand twelve and July first, two thousand twelve through June thirtieth, two thousand thirteen and paid to the system from the appropriation for the support of common schools pursuant to this section as follows:

(i) so much 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 first, two thousand eleven through June thirtieth, two thousand twelve and paid to the system from the appropriation for the support of common schools pursuant to this section, but in no event shall the offset exceed the amount by which the contribution obligation of such employer exceeds eight and sixty-two one hundredths per centum of such pensionable compensation; and

(ii) the remainder of such proceeds, if any 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 first, two thousand twelve through June thirtieth, two thousand thirteen and paid to the system from the appropriation for the support of common schools pursuant to this section, but in no event shall the offset exceed the amount by which the contribution obligation of the employer exceeds eight and sixty-two one hundredths per centum of such pensionable compensation; and

(iii) any balance of such proceeds, if any remaining after the actions prescribed in subparagraphs (i) and (ii) of this paragraph 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 first, two thousand thirteen through June thirtieth, two thousand fourteen, used to offset debt resulting from this bond issuance or pay future employer pension contributions.

§ 2. Paragraphs b and c of subdivision 1 of section 6-r of the general municipal law, as added by chapter 260 of the laws of 2004, are amended to read as follows:

b. "Participating employer" means a participating employer as defined in subdivision twenty of section two of the retirement and social security law or in subdivision twenty of section three hundred two of such law **or an employer as defined in subdivision three of section five hundred one of the education law**.

c. "Retirement contribution" shall mean all or any portion of the amount payable by a municipal corporation to either the New York state and local employees' retirement system or the New York state and local police and fire retirement system pursuant to section seventeen or three hundred seventeen of the retirement and social security law **or to the New York state teachers' retirement system pursuant to sections five hundred seventeen and five hundred twenty-one of the education law**.

§ 3. Section 6-r of the general municipal law is amended by adding a new subdivision 11 to read as follows:

11. A participating employer which has deposited the proceeds of a bond issuance authorized pursuant to subdivision three of section five hundred twenty-one of the education law is authorized to withdraw such 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:

Section 1. Paragraph 7-a of subdivision e of section 604-c of the retirement and social security law, as amended by chapter 693 of the laws of 2003, is amended to read as follows:

7-a. Notwithstanding paragraph six or seven of this subdivision, where a deficiency chargeable to a participant pursuant to paragraph three of this subdivision has not been paid in full while the participant is a Triborough bridge and tunnel member and such participant retires prior to July first, two thousand [~~eleven~~] **fifteen**, such participant may elect to be covered by this paragraph. Such participant shall be entitled to the benefits provided in subdivision c of this section provided that participant authorizes the retirement system to deduct from such benefits an amount which will result in the deficiency, plus associated interest to date of final payment, being paid in full no later than July first, two thousand [~~eleven~~] **fifteen** or such earlier date as agreed to by the participant. Such amount will be deducted in equal installments on a monthly basis. Nothing in this paragraph shall prevent the participant from making a partial payment of the amount of the deficiency at the time of retirement so as to reduce the monthly payment nor to make a lump sum payment equal to the amount of the total unpaid balance at any time during the period of repayment.

§ 2. This act shall take effect immediately.

FISCAL NOTE.--PROVISIONS OF PROPOSED LEGISLATION: This proposed legislation 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.

LBD10859-02-1

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 recommend 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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