S T A T E O F N E W Y O R K

S. 56--B A. 156--B

S E N A T E - A S S E M B L Y

(PREFILED)

January 7, 2009

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

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

AN ACT to amend the state finance law, in relation to expanding the use of funds deposited in the criminal justice improvement account (Part A); to amend the tax law, in relation to imposing a state public safety communications surcharge, and clarifying the distribution of revenue from the surcharge; and to repeal section 309 of the county law relating to the state wireless communications service surcharge (Part B); Intentionally omitted (Part C); Intentionally omitted (Part D); to amend the executive law, in relation to crime victims compensation to sexual assault survivors (Part E); Intentionally omitted (Part F); to amend the executive law, in relation to imposing fees for the certification and certification renewal of security guard instructors and training schools (Part G); to amend the correction law, in relation to limiting the closings of certain correctional facilities, providing for the custody by the department of correctional services of inmates serving definite sentences and providing for custody of federal prisoners; requiring the closing of certain correctional facilities; and providing for the repeal of certain provisions upon expiration thereof (Part H); Intentionally omitted (Part I); to amend the executive law and the penal law, in relation to the eligibility criteria for medical parole (Part J); to amend the correction law, in relation to authorizing the sale of food products to charitable organizations (Part K); to amend the correction law, in relation to expanding eligibility for the shock incarceration program and to permitting time credit allowances

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

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for certain inmates (Part L); to amend the executive law and the correction law, in relation to eliminating reimbursement to localities for housing technical parole violators and state ready inmates except in situations where the department of correctional services is unable to provide a general confinement bed within ten business days of notification; and to repeal certain provisions of such laws relating thereto (Part M); to amend the executive law, in relation to supporting the use of graduated sanctions for parole violators and allowing parole board members to use a risk and needs assessment instrument in making their release determinations (Part N); to amend the criminal procedure law, in relation to permitting a term of interim probation to be credited against a subsequent sentence of probation (Part O); Intentionally omitted (Part P); to amend the correction law and the executive law, in relation to providing that the state commission of correction is not mandated to have oversight over facilities accredited with the American Correctional Association; to amend the correction law, in relation to providing county jails with options to reduce their operating costs; and to repeal certain provisions of the correction law relating thereto (Part Q); to amend the executive law, in relation to increasing the fee paid by nuclear power generating plant operators in support of state and local radiological emergency preparedness requirements; and to repeal certain provisions of such law relating thereto (Part R); Intentionally omitted (Part S); to amend the insurance law, in relation to the motor vehicle law enforcement fee; to amend the state finance law, in relation to the motor vehicle theft and insurance fund and the state police motor vehicle law enforcement account; to amend the executive law, in relation to making permanent the applicability of the plan of operation and grant award process of the motor vehicle theft and insurance fraud prevention demonstration program; to amend chapter 62 of the laws of 2003, amending the insurance law and other laws relating to motor vehicle law enforcement fees, to amend chapter 56 of the laws of 2004, amending the insurance law and the state finance law relating to motor vehicle law enforcement fees and chapter 57 of the laws of 2000, amending the state finance law relating to a report on automobile theft prevention activities of the state police, in relation to making certain provisions permanent; to repeal certain provisions of the insurance law, relating to providing funding to the motor vehicle theft and insurance fraud and prevention fund; and to repeal subdivision (bbb) of section 427 of chapter 55 of the laws of 1992 amending the tax law generally and enacting the omnibus revenue act of 1992 relating to taxes, surcharges, fees and funding, relating to making the motor vehicle theft and insurance fraud prevention fund permanent (Part T); to amend chapter 887 of the laws of 1983, amending the correction law relating to the psychological testing of candidates, in relation to extending the expiration of such chapter; to amend chapter 428 of the laws of 1999, amending the executive law and the criminal procedure law relating to expanding the geographic area of employment of certain police officers, in relation to extending the expiration of such chapter; to amend chapter 886 of the laws of 1972, amending the correction law and the penal law relating to prisoner furloughs in certain cases and the crime of absconding therefrom, in relation to extending the expiration of such chapter; to amend chapter 261 of the laws of 1987, amending chapters 50, 53 and 54 of the laws of 1987, the correction law, the penal law and other chapters and laws relating to correctional facilities, in relation to extending the expiration of

such chapter; to amend chapter 55 of the laws of 1992, amending the tax law and other laws relating to taxes, surcharges, fees and funding, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 339 of the laws of 1972, amending the correction law and the penal law relating to inmate work release, furlough and leave, in relation to extending the expiration of such chapter; to amend chapter 60 of the laws of 1994 relating to certain provisions which impact upon expenditure of certain appropriations made by chapter 50 of the laws of 1994 enacting the state operations budget, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 554 of the laws of 1986, amending the correction law and the penal law relating to providing for community treatment facilities and establishing the crime of absconding from the community treatment facility, in relation to extending the expiration of such chapter; to amend chapter 3 of the laws of 1995, amending the correction law and other laws relating to the incarceration fee, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 907 of the laws of 1984, amending the correction law, the New York city criminal court act and the executive law relating to prison and jail housing and alternatives to detention and incarceration programs, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 166 of the laws of 1991, amending the tax law and other laws relating to taxes, in relation to extending the expiration of certain provisions of such chapter; to amend the vehicle and traffic law, in relation to extending the expiration of the mandatory surcharge and victim assistance fee; to amend chapter 713 of the laws of 1988, amending the vehicle and traffic law relating to the ignition interlock device program, in relation to extending the expiration thereof; to amend chapter 435 of the laws of 1997, amending the military law and other laws relating to various provisions, in relation to extending the expiration date of the merit provisions of the correction law and the penal law of such chapter; to amend chapter 412 of the laws of 1999, amending the civil practice law and rules and the court of claims act relating to prisoner litigation reform, in relation to extending the expiration of the inmate filing fee provisions of the civil practice law and rules and general filing fee provision and inmate property claims exhaustion requirement of the court of claims act of such chapter; to amend chapter 222 of the laws of 1994 constituting the family protection and domestic violence intervention act of 1994, in relation to extending the expiration of certain provisions of the criminal procedure law requiring the arrest of certain persons engaged in family violence; to amend chapter 505 of the laws of 1985, amending the criminal procedure law relating to the use of closed-circuit television and other protective measures for certain child witnesses, in relation to extending the expiration of the provisions thereof; to amend chapter 688 of the laws of 2003, amending the executive law relating to enacting the interstate compact for adult offender supervision, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 3 of the laws of 1995, enacting the sentencing reform act of 1995, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 689 of the laws of 1993 amending the criminal procedure law relating to electronic court appearance in certain counties, in relation to extending the effective date thereof; and to repeal subdivision (r) of section 427 of chapter 55 of the laws of 1992 amending the tax law and other laws relating to

taxes (Part U); Intentionally omitted (Part V); Intentionally omitted (Part W); Intentionally omitted (Part X); Intentionally omitted (Part Y); Intentionally omitted (Part Z); Intentionally omitted (Part AA); Intentionally omitted (Part BB); Intentionally omitted (Part CC); Intentionally omitted (Part DD); Intentionally omitted (Part EE); Intentionally omitted (Part FF); to amend the state finance law, in relation to aid and incentives for municipalities (Part GG); Intentionally omitted (Part HH); to amend chapter 540 of the laws of 1992, amending the real property tax law relating to oil and gas charges, in relation to the effective date of such chapter (Part II); to amend the real property law and the state finance law, in relation to when conveyances of real property are not to be recorded and the fees associated with such conveyances and where such fees shall be deposited (Part JJ); to amend the state finance law, in relation to state assistance to cities and municipalities where a video lottery gaming facility is located (Part KK); Intentionally omitted (Part LL); Intentionally omitted (Part MM); Intentionally omitted (Part NN); Intentionally omitted (Part OO); to provide for the administration of certain funds and accounts related to the 2009-2010 budget; to authorize certain payments and transfers; to amend the state finance law, in relation to the school tax relief fund; to amend chapter 57 of the laws of 2008 providing for the administration of certain funds and accounts related to the 2008-2009 budget, in relation to the effectiveness of certain provisions thereof; to amend chapter 60 of the laws of 1993, amending the public authorities law and other laws relating to the bonding authority of the environmental facilities corporation, and the state finance law, in relation to the rainy day reserve fund; to amend the state finance law, in relation to temporary loans of money or other financial resources to the general fund; to amend chapter 57 of the laws of 2007, relating to the provision of funding of certain community projects; and to amend chapter 59 of the laws of 2008, amending chapter 57 of the laws of 2007, providing funding of certain community projects, in relation to reducing funding therefor; to direct the comptroller to transfer and deposit certain moneys; to amend the public authorities law, in relation to including drug courts within the courthouse facilities eligible for funding from the dormitory authority and urban development corporation; to amend the New York state medical care facilities finance agency act, in relation to increasing the bonding limits of such agency for mental health facilities; to amend the state finance law, in relation to variable rate bonds; to amend the public authorities law, in relation to the issuance of bonds by the dormitory authority and the New York state environmental facilities corporation; to amend chapter 61 of the laws of 2005, providing for the administration of certain funds and accounts related to the 2005-2006 budget, in relation to issuance of bonds by the urban development corporation; to amend chapter 81 of the laws of 2002, providing for the administration of certain funds and accounts related to the 2002-2003 budget, in relation to the issuance of bonds by the urban development corporation; to amend the state finance law, in relation to issuance of certificates of participation; to amend chapter 389 of the laws of 1997, providing for the financing of the correctional facilities improvement fund and the youth improvement fund, in relation to issuance of debt by the urban development corporation; to amend the private housing finance law, in relation to housing program bonds and notes; to amend the New York state urban development corporation act, in relation to economic development

initiatives and the state's right to require redemption of bonds; to amend chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, in relation to reducing funding therefor; to amend the state finance law, in relation to the issuance of revenue bonds; to amend the private housing finance law and the public authorities law, in relation to the state's right to require redemption of bonds; to amend the state finance law, in relation to state-supported debt; to repeal certain provisions of chapter 59 of the laws of 2008, amending chapter 57 of the laws of 2007, providing funding for certain community projects, relating to increasing such funding, relating to transfers of moneys for such projects; to amend the state finance law, in relation to mental health service facilities financing and providing for the repeal of certain provisions upon the expiration thereof (Part PP); to amend the workers' compensation law, in relation to disability payments (Part QQ); to amend chapter 152 of the laws of 2001 amending the military law relating to military funds of the organized militia, in relation to extending the effectiveness of such provisions (Part RR); to amend the correction law, the executive law and the penal law, in relation to release and supervision of persons serving a definite sentence (Part SS); to amend the vehicle and traffic law, in relation to court appearances and warrants of arrest (Part TT); to amend the correction law, in relation to a pilot project for filing medical assistance applications for inmates prior to their release; and providing for the repeal of such provisions upon the expiration thereof (Part UU); to amend the education law, in relation to loan forgiveness for indigent legal services attorney (Part VV); to amend the alcoholic beverage control law, in relation to requiring the state liquor authority to improve its information technology (Part WW); to amend chapter 141 of the laws of 1994, amending the legislative law and the state finance law relating to the operation and administration of the legislature, in relation to extending such provisions; and to amend the legislative law, in relation to members serving in special capacity (Part XX); to require public authorities receiving funding under the American recovery and reinvestment act of 2009 to submit expenditure plans (Part YY); to direct the chief administrator of the courts to promulgate rules relating to caseloads for attorneys representing indigent clients in criminal matters in cities of one million or more (Part ZZ); and to amend the criminal procedure law and the penal law, in relation to sentences of imprisonment; to amend the criminal procedure law, in relation to establishing the judicial diversion program for certain felony offenders; to amend the penal law and the criminal procedure law, in relation to operating as a major trafficker; to amend the penal law, in relation to criminal sale of a controlled substance to a child; to amend the criminal procedure law, in relation to interim probation supervision; to amend the penal law, in relation to shock incarceration participation; to amend the mental hygiene law, in relation to directing the office of alcoholism and substance abuse services to monitor the care and treatment of certain inmates; to amend the judiciary law, in relation to the diversion of cases; to amend the correction law, in relation to judicially sentenced shock incarceration inmates; and to amend the executive law, in relation to parole; and to repeal certain provisions of the criminal procedure law relating thereto (Part AAA)

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 which are necessary to implement the state fiscal plan for the 2009-2010 state fiscal year. Each component is wholly contained within a Part identified as Parts A through AAA. 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. Subdivision 3 of section 97-bb of the state finance law, as added by chapter 309 of the laws of 1996, is amended to read as follows:

3. Monies of the criminal justice improvement account, following appropriation by the legislature and allocation by the director of the budget shall be made available for local assistance services and expenses of programs to provide services to crime victims and witnesses, INCLUDING OPERATIONS OF THE CRIME VICTIMS BOARD, and for payments to victims in accordance with the federal crime control act of 1984, as administered pursuant to article twenty-two of the executive law.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2009.

PART B

Section 1. Section 309 of the county law is REPEALED.

S 2. Subdivision 8 of section 186-e of the tax law, as added by chapter 2 of the laws of 1995, is amended to read as follows:

8. Enhanced emergency telephone system surcharge fee AND PUBLIC SAFETY COMMUNICATIONS SURCHARGE. Notwithstanding any other provision contained in this chapter or any other law, any surcharge collected or any administrative fee retained by any provider of telecommunication services acting as collection agent for a municipality pursuant to the provisions of article six of the county law [shall] OR ACTING AS A COLLECTION AGENT FOR THE STATE PURSUANT TO THE PROVISIONS OF SECTION ONE HUNDRED EIGHTY-SIX-F OF THIS ARTICLE WILL not be considered as, nor included in the determination of gross receipts of the provider.

S 3. The tax law is amended by adding a new section 186-f to read as follows:

S 186-F. PUBLIC SAFETY COMMUNICATIONS SURCHARGE. 1. DEFINITIONS. AS USED IN THIS SECTION, WHERE NOT OTHERWISE SPECIFICALLY DEFINED AND UNLESS A DIFFERENT MEANING IS CLEARLY REQUIRED:

(A) "PLACE OF PRIMARY USE" HAS THE SAME MEANING AS THAT TERM IS DEFINED IN PARAGRAPH TWENTY-SIX OF SUBDIVISION (B) OF SECTION ELEVEN HUNDRED ONE OF THIS CHAPTER.

(B) "WIRELESS COMMUNICATIONS CUSTOMER" MEANS MOBILE TELECOMMUNICATIONS CUSTOMER AS DEFINED IN SUBPARAGRAPH (I) OF PARAGRAPH TWENTY-SEVEN OF SUBDIVISION (B) OF SECTION ELEVEN HUNDRED ONE OF THIS CHAPTER, WHO CONTRACTS FOR OR IS THE END USER OF WIRELESS COMMUNICATIONS SERVICE.

(C) "WIRELESS COMMUNICATIONS DEVICE" MEANS ANY EQUIPMENT USED TO ACCESS A WIRELESS COMMUNICATIONS SERVICE.

(D) "WIRELESS COMMUNICATIONS SERVICE" MEANS ALL COMMERCIAL MOBILE SERVICES, AS THAT TERM IS DEFINED IN SECTION 332(D) OF TITLE 47 OF THE UNITED STATES CODE, AS AMENDED FROM TIME TO TIME, INCLUDING, BUT NOT LIMITED TO, ALL BROADBAND PERSONAL COMMUNICATIONS SERVICES, WIRELESS RADIO TELEPHONE SERVICES, GEOGRAPHIC AREA SPECIALIZED AND ENHANCED SPECIALIZED MOBILE RADIO SERVICES, AND INCUMBENT-WIDE AREA SPECIALIZED MOBILE RADIO LICENSEES, WHICH OFFER REAL TIME, TWO-WAY VOICE OR DATA SERVICE THAT IS INTERCONNECTED WITH THE PUBLIC SWITCHED TELEPHONE NETWORK OR OTHERWISE PROVIDES ACCESS TO EMERGENCY COMMUNICATIONS SERVICES.

(E) "WIRELESS COMMUNICATIONS SERVICE SUPPLIER" MEANS A HOME SERVICE PROVIDER AS DEFINED IN SUBPARAGRAPH (II) OF PARAGRAPH TWENTY-SEVEN OF SUBDIVISION (B) OF SECTION ELEVEN HUNDRED ONE OF THIS CHAPTER, PROVIDED THAT THE HOME SERVICE PROVIDER PROVIDES WIRELESS COMMUNICATIONS SERVICE AND HAS ONE OR MORE WIRELESS COMMUNICATIONS CUSTOMERS IN NEW YORK STATE.

2. PUBLIC SAFETY COMMUNICATIONS SURCHARGE. (A) A SURCHARGE ON WIRELESS COMMUNICATIONS SERVICE PROVIDED TO A WIRELESS COMMUNICATIONS CUSTOMER WITH A PLACE OF PRIMARY USE IN THIS STATE IS IMPOSED AT THE RATE OF ONE DOLLAR AND TWENTY CENTS PER MONTH ON EACH WIRELESS COMMUNICATIONS DEVICE IN SERVICE DURING ANY PART OF EACH MONTH. THE SURCHARGE MUST BE REFLECTED AND MADE PAYABLE ON BILLS RENDERED TO THE WIRELESS COMMUNICATIONS CUSTOMER FOR WIRELESS COMMUNICATION SERVICE.

(B) EACH WIRELESS COMMUNICATIONS SERVICE SUPPLIER PROVIDING WIRELESS COMMUNICATIONS SERVICE IN NEW YORK STATE MUST ACT AS A COLLECTION AGENT FOR THE STATE FOR THE COLLECTION OF THE SURCHARGE. THE WIRELESS COMMUNICATIONS SERVICE SUPPLIER HAS NO LEGAL OBLIGATION TO ENFORCE THE COLLECTION OF THE SURCHARGE FROM ITS CUSTOMERS. HOWEVER, EACH WIRELESS COMMUNICATIONS SERVICE SUPPLIER MUST COLLECT AND RETAIN THE NAME AND ADDRESS OF ANY WIRELESS COMMUNICATIONS CUSTOMER WITH A PLACE OF PRIMARY USE IN THIS STATE THAT REFUSES OR FAILS TO PAY THE SURCHARGE, AS WELL AS THE CUMULATIVE AMOUNT OF THE SURCHARGE REMAINING UNPAID, AND MUST PROVIDE THIS INFORMATION TO THE COMMISSIONER AT THE TIME AND ACCORDING TO THE PROCEDURES THE COMMISSIONER MAY PROVIDE. THE SURCHARGE MUST BE REPORTED AND PAID TO THE COMMISSIONER ON A QUARTERLY BASIS ON OR BEFORE THE FIFTEENTH DAY OF THE MONTH FOLLOWING EACH QUARTERLY PERIOD ENDING ON THE LAST DAY OF FEBRUARY, MAY, AUGUST AND NOVEMBER, RESPECTIVELY. THE PAYMENTS MUST BE ACCOMPANIED BY A RETURN IN THE FORM AND CONTAINING THE INFORMATION THE COMMISSIONER MAY PRESCRIBE.

(C) THE SURCHARGE MUST BE ADDED AS A SEPARATE LINE ITEM TO BILLS FURNISHED BY A WIRELESS COMMUNICATIONS SERVICE SUPPLIER TO ITS CUSTOMERS, AND MUST BE IDENTIFIED AS THE "PUBLIC SAFETY COMMUNICATIONS SURCHARGE". EACH WIRELESS COMMUNICATIONS CUSTOMER WHO IS SUBJECT TO THE PROVISIONS OF THIS SECTION REMAINS LIABLE TO THE STATE FOR THE SURCHARGE DUE UNDER THIS SECTION UNTIL IT HAS BEEN PAID TO THE STATE, EXCEPT THAT PAYMENT TO A WIRELESS COMMUNICATIONS SERVICE SUPPLIER IS SUFFICIENT TO RELIEVE THE CUSTOMER FROM FURTHER LIABILITY FOR THE SURCHARGE.

(D) EACH WIRELESS COMMUNICATIONS SERVICE SUPPLIER IS ENTITLED TO RETAIN, AS AN ADMINISTRATIVE FEE, AN AMOUNT EQUAL TO TWO PERCENT OF FIFTY-EIGHT AND THREE-TENTHS PERCENT OF THE TOTAL COLLECTIONS OF THE SURCHARGE IMPOSED BY THIS SECTION, PROVIDED THAT THE SUPPLIER FILES ANY REQUIRED RETURN AND REMITS THE SURCHARGE DUE TO THE COMMISSIONER ON OR BEFORE ITS DUE DATE.

3. APPLICABILITY OF ARTICLE TWENTY-SEVEN. FOR PURPOSES OF ARTICLE TWENTY-SEVEN OF THIS CHAPTER AS APPLIED TO THIS SECTION BY SECTION TWO

HUNDRED SEVEN-B OF THIS ARTICLE, THE TERM "TAXPAYER" IN ARTICLE TWENTY-SEVEN REFERS TO A WIRELESS COMMUNICATIONS SERVICE SUPPLIER SUBJECT TO THIS SECTION OR A WIRELESS COMMUNICATIONS CUSTOMER SUBJECT TO THIS SECTION, AS THE CASE MAY BE, AND THE TERM "TAX" IN ARTICLE TWENTY-SEVEN REFERS TO THE SURCHARGE IMPOSED BY THIS SECTION.

4. EXEMPTIONS. THE STATE OF NEW YORK AND ANY OF ITS AGENCIES, INSTRUMENTALITIES AND POLITICAL SUBDIVISIONS ARE EXEMPT FROM THE SURCHARGE IMPOSED BY THIS SECTION.

5. DEPOSITS OF SURCHARGE MONIES COLLECTED AND RECEIVED. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, ALL SURCHARGE MONIES COLLECTED AND RECEIVED BY THE COMMISSIONER UNDER THIS SECTION MUST BE DEPOSITED DAILY TO THE CREDIT OF THE COMPTROLLER WITH THOSE RESPONSIBLE BANKS, BANKING HOUSES OR TRUST COMPANIES THE COMPTROLLER MAY DESIGNATE. THOSE DEPOSITS MUST BE KEPT SEPARATE AND APART FROM ALL OTHER MONIES IN THE POSSESSION OF THE COMPTROLLER. THE COMPTROLLER MUST REQUIRE ADEQUATE SECURITY FROM ALL SUCH DEPOSITORIES. OF THE TOTAL REVENUE COLLECTED OR RECEIVED UNDER THIS SECTION, THE COMPTROLLER MUST RETAIN IN THE COMPTROLLER'S HANDS AN AMOUNT DETERMINED BY THE COMMISSIONER TO BE NECESSARY FOR REFUNDS UNDER THIS SECTION, OUT OF WHICH THE COMPTROLLER WILL PAY ANY REFUNDS TO WHICH TAXPAYERS ARE ENTITLED UNDER THE PROVISIONS OF THIS SECTION. THE COMPTROLLER, AFTER RESERVING THE AMOUNT TO PAY REFUNDS, MUST, ON OR BEFORE THE TENTH DAY OF EACH MONTH, PAY ALL SURCHARGE MONIES COLLECTED AND RECEIVED UNDER THIS SECTION AND REMAINING TO THE COMPTROLLER'S CREDIT AS FOLLOWS:

(A) FORTY-ONE AND SEVEN-TENTHS OF THE REVENUES COLLECTED AND RECEIVED UNDER THIS SECTION INTO THE STATE GENERAL FUND; AND

(B) AFTER DEDUCTING THE AMOUNT PAID UNDER PARAGRAPH (A) OF THIS SUBDIVISION AND THE AMOUNT RETAINED BY WIRELESS COMMUNICATIONS SUPPLIERS PURSUANT TO PARAGRAPH (D) OF SUBDIVISION TWO OF THIS SECTION, THE BALANCE OF THE REVENUES COLLECTED UNDER THIS SECTION INTO THE NEW YORK STATE WIRELESS TELEPHONE EMERGENCY SERVICE ACCOUNT OF THE MISCELLANEOUS SPECIAL REVENUE FUND, CREATED PURSUANT TO SECTION NINETY-SEVEN-QQ OF THE STATE FINANCE LAW.

6. DISTRIBUTION. THE MONIES COLLECTED FROM THE SURCHARGE IMPOSED BY THIS SECTION MUST BE DISTRIBUTED TO INCLUDE THE FOLLOWING:

(A) THE SUM OF TWENTY-FIVE MILLION FIVE HUNDRED THOUSAND DOLLARS MUST BE ALLOCATED TO THE STATE POLICE PURSUANT TO APPROPRIATION BY THE LEGISLATURE ANNUALLY;

(B) THE SUM OF ONE MILLION FIVE HUNDRED THOUSAND DOLLARS MUST BE DEPOSITED INTO THE NEW YORK STATE EMERGENCY SERVICES REVOLVING LOAN FUND ANNUALLY;

(C) TO FUND COSTS ASSOCIATED WITH THE DESIGN, CONSTRUCTION, AND OPERATION OF THE STATEWIDE WIRELESS NETWORK ANNUALLY PURSUANT TO APPROPRIATION BY THE LEGISLATURE;

(D) NOT LESS THAN THE SUM OF TEN MILLION DOLLARS ANNUALLY MUST BE DISBURSED PURSUANT TO ARTICLE SIX-A OF THE COUNTY LAW AND APPROPRIATED BY THE LEGISLATURE; AND

(E) TO PROVIDE THE COSTS OF DEBT SERVICE FOR BONDS AND NOTES ISSUED TO FINANCE EXPEDITED DEPLOYMENT FUNDING PURSUANT TO THE PROVISIONS OF SECTION THREE HUNDRED THIRTY-THREE OF THE COUNTY LAW AND SECTION SIXTEEN HUNDRED EIGHTY-NINE-H OF THE PUBLIC AUTHORITIES LAW.

S 4. This act shall take effect on the first day of the quarterly period, as described in paragraph (b) of subdivision 2 of section 186-f of the tax law, as added by section three of this act, next commencing at least 120 days after this act becomes a law.

PART C

Intentionally omitted.

PART D

Intentionally omitted.

PART E

Section 1. Subdivision 13 of section 631 of the executive law, as added by chapter 264 of the laws of 2003, is amended to read as follows:

13. Notwithstanding any other provision of law, rule, or regulation to the contrary, when any New York state accredited hospital, accredited sexual assault examiner program, or licensed health care provider furnishes services to any sexual assault survivor, including but not limited to a health care forensic examination in accordance with the sex offense evidence collection protocol and standards established by the department of health, such hospital, sexual assault examiner program, or licensed healthcare provider shall provide such services to the person without charge and shall bill the board directly. The board, in consultation with the department of health, shall define the specific services to be covered by the sexual assault forensic exam reimbursement fee, which must include at a minimum forensic examiner services, hospital or healthcare facility services related to the exam, and related laboratory tests and pharmaceuticals. Follow-up HIV post-exposure prophylaxis costs shall continue to be reimbursed according to established board procedure. The board, in consultation with the department of health, shall also generate the necessary regulations and forms for the direct reimbursement procedure. The rate for reimbursement shall be THE AMOUNT OF ITEMIZED CHARGES NOT EXCEEDING eight hundred dollars, to be reviewed and adjusted annually by the board in consultation with the department of health. The hospital, sexual assault examiner program, or licensed health care provider must accept this fee as payment in full for these specified services. No additional billing of the survivor for said services is permissible. A sexual assault survivor may voluntarily assign any private insurance benefits to which she or he is entitled for the healthcare forensic examination, in which case the hospital or healthcare provider may not charge the board. A hospital, sexual assault examiner program or licensed health care provider shall, at the time of the initial visit, request assignment of any private health insurance benefits to which the sexual assault survivor is entitled on a form prescribed by the board; provided, however, such sexual assault survivor shall be advised orally and in writing that he or she may decline to provide such information regarding private health insurance benefits if he or she believes that the provision of such information would substantially interfere with his or her personal privacy or safety and in such event, the sexual assault forensic exam fee shall be paid by the board. Such sexual assault survivor shall also be advised that providing such information may provide additional resources to pay for services to other sexual assault victims. If he or she declines to provide such health insurance information, he or she shall indicate such decision on the form provided by the hospital, sexual assault examiner program or licensed health care provider, which form shall be prescribed by the board.

S 2. This act shall take effect immediately, and shall apply to all exams conducted on and after such date.

PART F

Intentionally omitted.

PART G

Section 1. Subdivision 8-b of section 837 of the executive law, as amended by chapter 309 of the laws of 1996, is amended to read as follows:

8-b. Notwithstanding any other provision of law to the contrary, charge a fee for the provision of agency materials and publications, conferences, criminal history record reviews, legal services, the provision of services to analyze or prepare data that is not prepared in the ordinary course of business, the provision of information in a computerized format, THE APPLICATION FOR APPROVAL AND RENEWAL OF SECURITY GUARD TRAINING SCHOOLS AND THE CERTIFICATION AND RENEWAL CERTIFICATION OF SECURITY GUARD INSTRUCTORS, the service and repair of municipal law enforcement agency equipment and collect reimbursement and other moneys. Such fees shall be reasonably related to the actual costs incurred, including the costs of salaries, computer time, shipping and handling, as appropriate. The comptroller is hereby authorized to deposit such fees into the general fund effective August thirty-first, nineteen hundred ninety-six.

S 2. This act shall take effect immediately.

PART H

Section 1. Section 79-a of the correction law, as amended by section 2 of part D of chapter 63 of the laws of 2005, is amended to read as follows:

S 79-a. Closure of correctional facilities; notice. Before the closure of any correctional facility, [which for purposes of this section shall include a correctional facility annex, or any special housing unit established to confine inmates in accordance with the provisions of subdivision six of section one hundred thirty-seven of this chapter], for reasons other than those set forth in paragraph (a) of subdivision eight of section forty-five of this chapter, the commissioner shall take the following actions:

1. confer with the department of civil service, the governor's office of employee relations and any other appropriate state agencies to develop strategies which attempt to minimize the impact of the closure on the state work force;

2. consult with the department of economic development and any other appropriate state agencies to develop strategies which attempt to minimize the impact of such closures on the local and regional economies; and

3. provide notice by certified mail to (i) all local governments of any political subdivision in which the correctional facility is located, (ii) all employee labor organizations operating within, or representing employees of, the correctional facility, and (iii) managerial and confidential employees employed within the correctional facility at least twelve months prior to any such closure.

S 2. Paragraph (a) of subdivision 3 of section 70 of the correction law, as amended by section 2 of part D of chapter 63 of the laws of 2005, is amended to read as follows:

(a) The commissioner may continue to maintain, as a correctional facility, any institution operated by the department prior to May eighth, nineteen hundred seventy, and may add to or close any such place, and may establish and maintain new correctional facilities, in accordance with the needs of the department and provided expenditures for such purposes are within amounts made available therefor by appropriation; provided, however, that before the closure of any correctional facility, [correctional facility annex, or any special housing unit established to confine inmates in accordance with the provisions of subdivision six of section one hundred thirty-seven of this chapter,] for reasons other than those set forth in paragraph (a) of subdivision eight of section forty-five of this chapter, the provisions of section seventy-nine-a of this article shall be adhered to.

S 3. Notwithstanding the requirements of sections 79-a and 79-b of the correction law, or any other inconsistent provision of law, the commissioner of the department of correctional services may close Camp Gabriels, Camp Pharsalia and Camp Mt. McGregor any time on or after July 1, 2009, and prior to March 31, 2010. By October 1, 2009, such commissioner shall provide a report for an adaptive reuse plan for each of the above named facilities, in a manner consistent with section 79-b of the correction law.

S 4. Paragraph (b) of subdivision 8 of section 45 of the correction law, as amended by section 2 of part D of chapter 63 of the laws of 2005, is amended to read as follows:

(b) Before a correctional facility as defined in subdivision four of section two of this chapter, [correctional facility annex, or any special housing unit established to confine inmates in accordance with the provisions of subdivision six of section one hundred thirty-seven of this chapter,] may be closed for a reason other than those set forth in paragraph (a) of this subdivision, the provisions of section seventy-nine-a of this chapter shall be adhered to.

S 5. Section 91 of the correction law, as added by chapter 478 of the laws of 1970, is amended to read as follows:

S 91. Agreements for custody of definite sentence inmates. 1. The [state] commissioner [of correction] 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] 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; PROVIDED, HOWEVER, THAT A PERSON COMMITTED TO THE CUSTODY OF THE DEPARTMENT PURSUANT TO AN AGREEMENT ESTABLISHED BY THIS SECTION, EXCEPT A PERSON COMMITTED PURSUANT TO AN AGREEMENT WITH THE CITY OF NEW YORK, SHALL BE DELIVERED TO A RECEPTION CENTER DESIGNATED BY THE COMMISSIONER FOR AN INITIAL PROCESSING PERIOD WHICH SHALL BE NO LONGER THAN SEVEN DAYS, AND THEREAFTER, SHALL BE TRANSFERRED TO A GENERAL CONFINEMENT CORRECTIONAL FACILITY LOCATED IN THE SAME COUNTY OR IN A COUNTY ADJACENT TO THE COUNTY WHERE SUCH PERSON WOULD OTHERWISE BE COMMITTED TO A LOCAL CORRECTIONAL FACILITY. IN THE EVENT, HOWEVER, THAT EXIGENT CIRCUMSTANCES RELATED TO HEALTH, SAFETY OR SECURITY ARISE WHICH REQUIRE THE IMMEDIATE TRANSFER OF AN INMATE TO A DIFFERENT FACILITY NOT WITHIN THE COUNTY OR ADJACENT COUNTY, THEN THE DEPARTMENT SHALL, AS SOON THEREAFTER AS PRAC-

TICABLE, ARRANGE FOR SUCH INMATE TO BE RETURNED TO THE JURISDICTION OF THE COUNTY FROM WHICH HE OR SHE WAS COMMITTED.

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], AND THE COSTS INCURRED UNDER SUBDIVISION TWO OR THREE OF SECTION ONE HUNDRED TWENTY-FIVE OF THIS CHAPTER RELATING TO THE PROVISION OF CLOTHING, MONEY AND TRANSPORTATION UPON RELEASE OR DISCHARGE OF INMATES DELIVERED TO THE DEPARTMENT PURSUANT TO THE AGREEMENT, 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] 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] or to any of its institutions during the pendency of such agreement for delivery of inmates to the [state] department [of correction] 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 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 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)] (D) A PROVISION REQUIRING THE DEPARTMENT TO PROVIDE TRANSITIONAL SERVICES UPON THE RELEASE OF PERSONS COMMITTED TO THE CUSTODY OF THE DEPARTMENT PURSUANT TO AN AGREEMENT ESTABLISHED BY THIS SECTION;

(E) Any other provision the [state] commissioner [of correction] may deem necessary or appropriate; and

[(g)] (F) 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. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMMISSIONER SHALL BE AUTHORIZED TO GRANT, WITHHOLD, CAUSE TO BE FORFEITED, OR CANCEL TIME

ALLOWANCES AS PROVIDED IN AND IN COMPLIANCE WITH SECTION EIGHT HUNDRED FOUR OF THIS CHAPTER.

5. 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.

S 6. Section 92 of the correction law, as added by chapter 478 of the laws of 1970, is amended to read as follows:

S 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] 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] upon request of the head of the county or city institution and approval of the [state] commissioner [of correction].

3. Inmates who are deemed committed to the custody of the [state] department [of correction] under subdivision one of this section, or who may be transferred to the care of the [state] department [of correction] 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].

4. In the event any such agreement is cancelled, inmates delivered to the [state] department [of correction] 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] under such agreement after the date on which such cancellation becomes effective.

S 7. Section 612 of the correction law is amended to read as follows:

S 612. United States prisoners. 1. A sheriff must receive into his OR HER jail and keep a prisoner, committed to the same, by virtue of civil process issued by a court of record, instituted under the authority of the United States, until he OR SHE is discharged by the due course of the laws of the United States, in the same manner as if he was committed by virtue of a mandate in a civil action, issued from a court of the state. A sheriff or jailer, to whose jail a civil prisoner is committed, as prescribed herein, is answerable for his OR HER safe keeping in the courts of the United States, according to the laws thereof.

2. THE COMMISSIONER MAY ENTER INTO AN AGREEMENT TO PROVIDE FOR CUSTODY BY THE DEPARTMENT OF PERSONS WHO ARE BEING DETAINED BY VIRTUE OF AN ORDER ISSUED BY A COURT OF THE UNITED STATES. AN AGREEMENT MADE UNDER THIS SECTION SHALL REQUIRE THE UNITED STATES TO PAY THE COST OF TREATMENT, MAINTENANCE AND CUSTODY FURNISHED BY THE DEPARTMENT.

S 8. This act shall take effect immediately; provided, however that sections five and six of this act shall expire and be deemed repealed September 1, 2011.

PART I

Intentionally omitted.

PART J

Section 1. The section heading and paragraph (a) of subdivision 1 of section 259-r of the executive law, the section heading as added by chapter 55 of the laws of 1992 and paragraph (a) of subdivision 1 as amended by chapter 3 of the laws of 1995, are amended to read as follows:

Release on medical parole FOR TERMINALLY ILL INMATES.

(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 HIS OR HER SENTENCE: [murder in the first degree,] 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.

S 2. Paragraph (a) of subdivision 1 of section 259-r of the executive law, as added by chapter 55 of the laws of 1992, 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 HIS OR HER SENTENCE: [murder in the first degree,] 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.

S 3. Paragraph (b) of subdivision 1 of section 259-r of the executive law, as added by chapter 55 of the laws of 1992, is amended to read as follows:

(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. [Such] 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.

S 4. Subdivision 2 of section 259-r of the executive law, as amended by chapter 503 of the laws of 1994, is amended to read as follows:

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 [and to care for him or herself] 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 previ-

ously 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 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 [reject all or part of the discharge plan submitted by the department of correctional services, and may] postpone its decision pending [submission of a new] COMPLETION OF AN ADEQUATE discharge plan, or may deny release based on inadequacy of the discharge plan. [The department of correctional services and the division of parole 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.]

S 5. Subdivision 4 of section 259-r of the executive law, as added by chapter 55 of the laws of 1992, paragraphs (a) and (d) as amended by chapter 503 of the laws of 1994, is amended to read as follows:

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) [The] WHERE APPROPRIATE, THE board shall require as a condition of release that medical parolees be supervised on intensive caseloads at reduced supervision ratios [similar to the caseloads for parolees released pursuant to the shock incarceration program established by article twenty-six-A of the correction law].

(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 [and to care for him or herself] 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 [four] 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.

S 6. The executive law is amended by adding a new section 259-s to read as follows:

S 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 HIS OR HER 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.

(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 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 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 THE CUSTODY OF THE DEPARTMENT OF CORRECTIONAL SERVICES AND THE REASONS FOR RETURN.

S 7. Subparagraph (v) of paragraph (a) of subdivision 1 of section 70.40 of the penal law, as amended by chapter 3 of the laws of 1995, is amended to read as follows:

(v) Notwithstanding any other subparagraph of this paragraph, a person may be paroled from the institution in which he 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.

S 8. Subdivision 1 of section 259-c of the executive law, as amended by chapter 3 of the laws of 1995, is amended to read as follows:

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;

S 9. This act shall take effect immediately; provided that:

(a) the amendments to paragraph (a) of subdivision 1 of section 259-r of the executive law made by section one of this act shall be subject to the expiration and reversion of such paragraph pursuant to chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section two of this act shall take effect;

(b) the amendments to the section heading, paragraph (a) of subdivision 1, paragraph (b) of subdivision 1, subdivision 2 and subdivision 4 of section 259-r of the executive law made by sections one, two, three, four and five, respectively, of this act shall not affect the expiration of such section and shall be deemed to expire therewith; and

(c) the amendments to subparagraph (v) of paragraph (a) of subdivision 1 of section 70.40 of the penal law and the amendments to subdivision 1 of section 259-c of the executive law made by sections seven and eight, respectively, of this act shall not affect the expiration of such paragraph and subdivision and shall be deemed to expire therewith.

PART K

Section 1. Subdivision 5 of section 177 of the correction law is renumbered subdivision 6 and a new subdivision 5 is added to read as follows:

5. THE COMMISSIONER SHALL BE AUTHORIZED TO ENTER INTO AGREEMENTS TO SELL FOOD AND DRINK PRODUCTS MADE AT THE FOOD PRODUCTION CENTER OF THE DEPARTMENT TO FOOD KITCHENS, HOMELESS SHELTERS AND OTHER ELEEMOSYNARY ORGANIZATIONS FUNDED IN WHOLE OR IN PART BY FEDERAL, STATE OR LOCAL FUNDS AND TO COUNTIES FOR GOVERNMENTAL PURPOSES. ALL PROCEEDS FROM SUCH SALES SHALL BE DEPOSITED INTO AN ACCOUNT WHICH SHALL ONLY BE USED FOR THE CONTINUED OPERATION OF THE FOOD PRODUCTION CENTER. THE CHARGE FOR THESE PRODUCTS, INCLUDED IN THE AGREEMENTS BETWEEN THE COMMISSIONER AND THESE ELEEMOSYNARY ORGANIZATIONS, SHALL NOT EXCEED THE COSTS ASSOCIATED WITH THE PRODUCTION AND TRANSPORTATION OF THE PRODUCTS FOR SALE. THE COMMISSIONER MAY, IN HIS OR HER DISCRETION, AND BY WHATEVER MEANS HE OR SHE DEEMS APPROPRIATE, NOTIFY SUCH ORGANIZATIONS OF THE AVAILABILITY OF SUCH PRODUCTS FOR SALE.

S 2. This act shall take effect immediately.

PART L

Section 1. Subdivision 1 of section 865 of the correction law, as amended by chapter 738 of the laws of 2004, is amended to read as follows:

1. "Eligible inmate" means a person sentenced to an indeterminate term of imprisonment who will become eligible for release on parole within three years or sentenced to a determinate term of imprisonment who will become eligible for conditional release within three years, who has not

reached the age of [forty] FIFTY years, who has not previously been convicted of a felony upon which an indeterminate or determinate term of imprisonment was imposed and who was between the ages of sixteen and [forty] FIFTY years at the time of commission of the crime upon which his or her present sentence was based except, however, an eligible inmate shall not include a person sentenced [to a determinate sentence of three and one-half years or more] as a second felony drug offender pursuant to subdivision [three] FOUR of section 70.70 of the penal law for a conviction of a class B felony offense defined in article two hundred twenty of the penal law. Notwithstanding the foregoing, no person who is convicted of any of the following crimes shall be deemed eligible to participate in this program: (a) a violent felony offense as defined in article seventy of the penal law, (b) an A-I felony offense, (c) [manslaughter in the second degree, vehicular manslaughter in the second degree, vehicular manslaughter in the first degree, and criminally negligent] ANY homicide OFFENSE as defined in article one hundred twenty-five of the penal law, (d) [rape in the second degree, rape in the third degree, criminal sexual act in the second degree, criminal sexual act in the third degree, attempted sexual abuse in the first degree, attempted rape in the second degree and attempted criminal sexual act in the second degree] ANY FELONY SEX OFFENSE as defined in [articles one hundred ten and] ARTICLE one hundred thirty of the penal law and (e) any escape or absconding offense as defined in article two hundred five of the penal law.

S 2. Subdivision 2 of section 865 of the correction law, as added by chapter 261 of the laws of 1987, is amended to read as follows:

2. "Shock incarceration program" means a program pursuant to which eligible inmates are selected [directly at reception centers] to participate in the program and serve a period of six months in a shock incarceration facility, which shall provide rigorous physical activity, intensive regimentation and discipline and rehabilitation therapy and programming. SUCH INMATES MAY BE SELECTED EITHER: (I) AT A RECEPTION CENTER; OR (II) AT A GENERAL CONFINEMENT FACILITY WHEN THE OTHERWISE ELIGIBLE INMATE THEN BECOMES ELIGIBLE FOR RELEASE ON PAROLE WITHIN THREE YEARS IN THE CASE OF AN INDETERMINATE TERM OF IMPRISONMENT, OR THEN BECOMES ELIGIBLE FOR CONDITIONAL RELEASE WITHIN THREE YEARS IN THE CASE OF A DETERMINATE TERM OF IMPRISONMENT.

S 3. Subdivision 2 of section 866 of the correction law, as added by chapter 261 of the laws of 1987, is amended to read as follows:

2. [For each reception center the] THE commissioner shall appoint or cause to be appointed a shock incarceration selection committee AT ONE OR MORE DESIGNATED CORRECTIONAL FACILITIES, which shall meet on a regularly scheduled basis to review ALL ELIGIBLE INMATES TRANSFERRED TO SUCH FACILITY FOR SCREENING AND all applications for the shock incarceration program.

S 4. The correction law is amended by adding a new section 803-b to read as follows:

S 803-B. LIMITED CREDIT TIME ALLOWANCES FOR INMATES SERVING INDETERMINATE OR DETERMINATE SENTENCES IMPOSED FOR SPECIFIED OFFENSES. 1. DEFINITIONS. AS USED IN THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "ELIGIBLE OFFENDER" MEANS A PERSON UNDER THE CUSTODY OF THE DEPARTMENT OR CONFINED IN A FACILITY IN THE DEPARTMENT OF MENTAL HYGIENE, OTHER THAN A PERSON WHO IS SUBJECT TO A SENTENCE IMPOSED FOR MURDER IN THE FIRST DEGREE AS DEFINED IN SECTION 125.27 OF THE PENAL LAW, AN OFFENSE DEFINED IN ARTICLE ONE HUNDRED THIRTY OF SUCH LAW, OR AN

ATTEMPT OR A CONSPIRACY TO COMMIT ANY SUCH OFFENSE, WHO IS OTHERWISE SUBJECT TO:

(I) AN INDETERMINATE SENTENCE IMPOSED FOR ANY CLASS A-I FELONY OFFENSE OTHER THAN CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE IN THE FIRST DEGREE AS DEFINED IN SECTION 220.21 OF THE PENAL LAW OR CRIMINAL SALE OF A CONTROLLED SUBSTANCE IN THE FIRST DEGREE AS DEFINED IN SECTION 220.43 OF SUCH LAW OR AN ATTEMPT OR A CONSPIRACY TO COMMIT SUCH CONTROLLED SUBSTANCE OFFENSE; OR

(II) AN INDETERMINATE OR DETERMINATE SENTENCE IMPOSED FOR AN OFFENSE LISTED IN SUBDIVISION ONE OF SECTION 70.02 OF THE PENAL LAW; OR

(III) AN INDETERMINATE OR DETERMINATE SENTENCE IMPOSED FOR AN OFFENSE DEFINED IN ARTICLE ONE HUNDRED TWENTY-FIVE OF THE PENAL LAW.

(B) "LIMITED CREDIT TIME BENEFIT" MEANS:

(I) IN THE CASE OF AN ELIGIBLE OFFENDER WHO IS SUBJECT TO AN INDETERMINATE SENTENCE WITH A MAXIMUM TERM OF LIFE IMPRISONMENT, SUCH OFFENDER SHALL BE ELIGIBLE FOR RELEASE SIX MONTHS BEFORE THE COMPLETION OF THE CONTROLLING MINIMUM PERIOD OF IMPRISONMENT AS DEFINED BY SUBDIVISION ONE OF SECTION 70.40 OF THE PENAL LAW; OR

(II) (A) IN THE CASE OF AN ELIGIBLE OFFENDER WHO IS NOT SUBJECT TO AN INDETERMINATE SENTENCE WITH A MAXIMUM TERM OF LIFE IMPRISONMENT, SUCH OFFENDER SHALL BE ELIGIBLE FOR CONDITIONAL RELEASE SIX MONTHS EARLIER THAN AS PROVIDED BY PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION 70.40 OF THE PENAL LAW, PROVIDED THAT THE DEPARTMENT DETERMINES SUCH OFFENDER HAS EARNED THE FULL AMOUNT OF GOOD TIME AUTHORIZED BY SECTION EIGHT HUNDRED THREE OF THIS ARTICLE; THE WITHHOLDING OF ANY GOOD BEHAVIOR TIME CREDIT BY THE DEPARTMENT SHALL RENDER AN INMATE INELIGIBLE FOR THE CREDIT DEFINED HEREIN;

(B) IN THE EVENT THE LIMITED CREDIT TIME BENEFIT DEFINED HEREIN CAUSES SUCH CONDITIONAL RELEASE DATE TO PRECEDE THE PAROLE ELIGIBILITY DATE AS CALCULATED PURSUANT TO SUBDIVISION ONE OF SECTION 70.40 OF THE PENAL LAW, A LIMITED CREDIT TIME BENEFIT SHALL ALSO BE APPLIED TO THE PAROLE ELIGIBILITY DATE, BUT ONLY TO THE EXTENT NECESSARY TO CAUSE SUCH PAROLE ELIGIBILITY DATE TO BE THE SAME DATE AS THE CONDITIONAL RELEASE DATE;

(C) AN INMATE SHALL NOT BE ELIGIBLE FOR THE CREDIT DEFINED HEREIN IF HE OR SHE IS RETURNED TO THE DEPARTMENT PURSUANT TO A REVOCATION OF PRESUMPTIVE RELEASE, PAROLE, CONDITIONAL RELEASE, OR POST-RELEASE SUPERVISION AND HAS NOT BEEN SENTENCED TO AN ADDITIONAL INDETERMINATE OR DETERMINATE TERM OF IMPRISONMENT.

(III) REGARDLESS OF THE NUMBER OF SENTENCES TO WHICH AN ELIGIBLE OFFENDER IS SUBJECT, THE LIMITED CREDIT TIME BENEFIT AUTHORIZED PURSUANT TO THIS SECTION SHALL BE LIMITED TO A SINGLE SIX-MONTH CREDIT APPLIED TO SUCH PERSON'S PAROLE ELIGIBILITY DATE PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH OR TO SUCH PERSON'S CONDITIONAL RELEASE DATE PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH. EXCEPT AS PROVIDED IN CLAUSE (B) OF SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE LIMITED CREDIT TIME BENEFIT AUTHORIZED PURSUANT TO THIS SECTION SHALL NOT BE APPLIED TO AN ELIGIBLE OFFENDER'S PAROLE ELIGIBILITY DATE AND CONDITIONAL RELEASE DATE.

(C) "SIGNIFICANT PROGRAMMATIC ACCOMPLISHMENT" MEANS THAT THE INMATE:

(I) PARTICIPATES IN NO LESS THAN TWO YEARS OF COLLEGE PROGRAMMING; OR

(II) OBTAINS A MASTERS OF PROFESSIONAL STUDIES DEGREE; OR

(III) SUCCESSFULLY PARTICIPATES AS AN INMATE PROGRAM ASSOCIATE FOR NO LESS THAN TWO YEARS; OR

(IV) RECEIVES A CERTIFICATION FROM THE STATE DEPARTMENT OF LABOR FOR HIS OR HER SUCCESSFUL PARTICIPATION IN AN APPRENTICESHIP PROGRAM; OR

(V) SUCCESSFULLY WORKS AS AN INMATE HOSPICE AID FOR A PERIOD OF NO LESS THAN TWO YEARS.

(D) "SERIOUS DISCIPLINARY INFRACTION" OR "OVERALL POOR INSTITUTIONAL RECORD" SHALL BE DEFINED IN REGULATIONS PROMULGATED BY THE COMMISSIONER AND NEED NOT BE THE SAME AS THE REGULATIONS PROMULGATED FOR THE MEANING OF SERIOUS DISCIPLINARY INFRACTION PURSUANT TO PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION EIGHT HUNDRED THREE OF THIS ARTICLE.

(E) "DISQUALIFYING JUDICIAL DETERMINATION" MEANS A JUDICIAL DETERMINATION THAT THE PERSON, WHILE AN INMATE, COMMENCED OR CONTINUED A CIVIL ACTION OR PROCEEDING OR CLAIM THAT WAS FOUND TO BE FRIVOLOUS AS DEFINED IN SUBDIVISION (C) OF SECTION EIGHT THOUSAND THREE HUNDRED THREE-A OF THE CIVIL PRACTICE LAW AND RULES, OR AN ORDER OF A FEDERAL COURT PURSUANT TO RULE 11 OF THE FEDERAL RULES OF CIVIL PROCEDURE IMPOSING SANCTIONS IN AN ACTION COMMENCED BY A PERSON WHILE AN INMATE AGAINST A STATE AGENCY, OFFICER OR EMPLOYEE.

2. EVERY ELIGIBLE OFFENDER UNDER THE CUSTODY OF THE DEPARTMENT OR CONFINED IN A FACILITY IN THE DEPARTMENT OF MENTAL HYGIENE MAY EARN A LIMITED CREDIT TIME ALLOWANCE IF SUCH OFFENDER SUCCESSFULLY PARTICIPATES IN THE WORK AND TREATMENT PROGRAM ASSIGNED PURSUANT TO SECTION EIGHT HUNDRED FIVE OF THIS ARTICLE AND:

(A) SUCCESSFULLY COMPLETES ONE OR MORE SIGNIFICANT PROGRAMMATIC ACCOMPLISHMENTS; AND

(B) HAS NOT COMMITTED A SERIOUS DISCIPLINARY INFRACTION OR MAINTAINED AN OVERALL NEGATIVE INSTITUTIONAL RECORD AS DEFINED IN RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER; AND

(C) HAS NOT RECEIVED A DISQUALIFYING JUDICIAL DETERMINATION.

3. NO PERSON SHALL HAVE THE RIGHT TO DEMAND OR REQUIRE THE CREDIT AUTHORIZED BY THIS SECTION. THE COMMISSIONER MAY REVOKE AT ANY TIME SUCH CREDIT FOR ANY DISCIPLINARY INFRACTION COMMITTED BY THE INMATE OR FOR ANY FAILURE TO CONTINUE TO PARTICIPATE SUCCESSFULLY IN ANY ASSIGNED WORK AND TREATMENT PROGRAM AFTER THE CERTIFICATE OF EARNED ELIGIBILITY HAS BEEN AWARDED. ANY ACTION BY THE COMMISSIONER PURSUANT TO THIS SECTION SHALL BE DEEMED A JUDICIAL FUNCTION AND SHALL NOT BE REVIEWABLE IF DONE IN ACCORDANCE WITH LAW.

S 5. This act shall take effect immediately.

PART M

Section 1. Subparagraph (ii) of paragraph (a) of subdivision 3 of section 259-i of the executive law is REPEALED and subparagraphs (iii) and (iv) are renumbered subparagraphs (ii) and (iii).

S 2. Section 601-c of the correction law is REPEALED and a new section 601-c is added to read as follows:

S 601-C. FELONY PRISONERS; REIMBURSEMENT FOR COSTS. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN ANY CASE WHERE A PERSON HAS BEEN CONVICTED OF A FELONY AND A SENTENCE HAS BEEN PRONOUNCED WHICH REQUIRES THAT HE OR SHE BE COMMITTED TO THE CUSTODY OF THE COMMISSIONER, IF SUCH PERSON HAS NOT BEEN ACCEPTED FOR CUSTODY BY THE COMMISSIONER WITHIN TEN BUSINESS DAYS OF RECEIPT OF A WRITTEN NOTIFICATION BY THE DEPARTMENT FROM THE APPROPRIATE LOCAL OFFICIAL THAT HE OR SHE IS PREPARED TO TRANSPORT SUCH PERSON TO THE FACILITY DESIGNATED BY THE DEPARTMENT, PROVIDED THAT THERE HAS BEEN COMPLIANCE WITH SUBDIVISION (A) OF SECTION SIX HUNDRED ONE OF THIS ARTICLE, AND PROVIDED FURTHER THAT SUCH PERSON IS NOT IN NEED OF IMMEDIATE MEDICAL CARE REQUIRING THE AVAILABILITY OF A HOSPITAL OR INFIRMARY BED, THEN THE EXPENSE OF MAINTAINING SUCH PERSON SHALL BE PAID BY THE STATE AT THE RATE OF ONE HUNDRED DOLLARS PER DAY PER CAPITA, OR THE ACTUAL PER DAY PER CAPITA COST AS CERTIFIED BY THE

APPROPRIATE LOCAL OFFICIAL, WHICHEVER IS LESS, BEGINNING WITH THE FIRST DAY OF RECEIPT OF WRITTEN NOTIFICATION BY THE DEPARTMENT.

S 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2009.

PART N

Section 1. Section 259-a of the executive law is amended by adding a new subdivision 4-a to read as follows:

4-A. TO FACILITATE THE SUPERVISION OF ALL INMATES RELEASED ON PAROLE OR CONDITIONAL RELEASE, OR TO POST-RELEASE 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 APPROACHES THAT CONCENTRATE SUPERVISION ON NEW RELEASES, ALTERNATIVES TO INCARCERATION FOR TECHNICAL PAROLE VIOLATORS AND THE USE OF ENHANCED TECHNOLOGIES.

S 2. Subdivision 4 of section 259-c of the executive law, as added by chapter 904 of the laws of 1977, is amended to read as follows:

4. establish written guidelines 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 RISK AND NEEDS ASSESSMENT INSTRUMENT TO ASSIST MEMBERS OF THE STATE BOARD OF PAROLE IN DETERMINING WHICH INMATES MAY BE RELEASED TO PAROLE SUPERVISION;

S 3. Subdivision 16 of section 296 of the executive law, as amended by chapter 639 of the laws of 2007, is amended to read as follows:

16. It shall be an unlawful discriminatory practice, unless specifically required or permitted by statute, for any person, agency, bureau, corporation or association, including the state and any political subdivision thereof, to make any inquiry about, whether in any form of application or otherwise, or to act upon adversely to the individual involved, any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual, as defined in subdivision two of section 160.50 of the criminal procedure law, or by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law in connection with the licensing, employment or providing of credit or insurance to such individual; provided, [however, that the] FURTHER, NO PERSON SHALL BE REQUIRED TO DIVULGE INFORMATION PERTAINING TO ANY ARREST OR CRIMINAL ACCUSATION OF SUCH INDIVIDUAL NOT THEN PENDING AGAINST THAT INDIVIDUAL WHICH WAS FOLLOWED BY A TERMINATION OF THAT CRIMINAL ACTION OR PROCEEDING IN FAVOR OF SUCH INDIVIDUAL, AS DEFINED IN SUBDIVISION TWO OF SECTION 160.50 OF THE CRIMINAL PROCEDURE LAW, OR BY A YOUTHFUL OFFENDER ADJUDICATION, AS DEFINED IN SUBDIVISION ONE OF SECTION 720.35 OF THE CRIMINAL PROCEDURE LAW, OR BY A CONVICTION FOR A VIOLATION SEALED PURSUANT TO SECTION 160.55 OF THE CRIMINAL PROCEDURE LAW. THE provisions [hereof] OF THIS SUBDIVISION shall not apply to the licensing activities of governmental bodies in relation to the regulation of guns, firearms and other deadly weapons or in relation to an application for employment as a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of the criminal procedure law; provided further that the provisions of this

subdivision shall not apply to an application for employment or membership in any law enforcement agency with respect to any arrest or criminal accusation which was followed by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law.

S 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after March 1, 2009.

PART O

Section 1. Subdivision 6 of section 390.30 of the criminal procedure law, as amended by chapter 216 of the laws of 1999, is amended to read as follows:

6. Interim probation supervision. (A) In any case where the court determines that a defendant is eligible for a sentence of probation, the court, after consultation with the prosecutor and upon the consent of the defendant, may adjourn the sentencing to a specified date and order that the defendant be placed on interim probation supervision. In no event may the sentencing be adjourned for a period exceeding one year from the date the conviction is entered. When ordering that the defendant be placed on interim probation supervision, the court shall impose all of the conditions relating to supervision specified in subdivision three of section 65.10 of the penal law and THE COURT may impose any or all of the conditions relating to conduct and rehabilitation specified in subdivisions two, four [and], five AND FIVE-A of section 65.10 of such law[; provided, however, that the]. THE defendant must receive a written copy of any such conditions at the time he or she is placed on interim probation supervision. The defendant's record of compliance with such conditions, as well as any other relevant information, shall be included in the presentence report, or updated presentence report, prepared pursuant to this section, and the court must consider such record and information when pronouncing sentence. IF A DEFENDANT SATISFACTORILY COMPLETES A TERM OF INTERIM PROBATION SUPERVISION, HE OR SHE SHALL RECEIVE CREDIT FOR THE TIME SERVED UNDER THE PERIOD OF INTERIM PROBATION SUPERVISION TOWARD ANY PROBATION SENTENCE THAT IS SUBSEQUENTLY IMPOSED IN THAT CASE.

(B) IN ITS DISCRETION, THE SUPERVISING PROBATION DEPARTMENT MAY UTILIZE THE PROVISIONS OF SECTIONS 410.20, 410.30, 410.40, 410.50, 410.60 AND 410.92 OF THIS TITLE, WHERE APPLICABLE.

S 2. This act shall take effect on the sixtieth day after it shall become a law, provided, however, that a defendant serving a sentence of probation supervision on the effective date of this act shall have his or her probation sentence credited with any period of interim probation supervision that he or she satisfactorily completed prior to the imposition of that probation sentence.

PART P

Intentionally omitted.

PART Q

Section 1. Subdivision 3 of section 45 of the correction law, as added by chapter 865 of the laws of 1975, is amended to read as follows:

3. [Visit] EXCEPT IN CIRCUMSTANCES INVOLVING HEALTH, SAFETY OR ALLEGED VIOLATIONS OF ESTABLISHED STANDARDS OF THE COMMISSION, VISIT, AND inspect CORRECTIONAL FACILITIES CONSISTENT WITH A SCHEDULE DETERMINED BY THE CHAIRMAN OF THE COMMISSION, TAKING INTO CONSIDERATION AVAILABLE RESOURCES, WORKLOAD AND STAFFING, and appraise the management of SUCH correctional facilities with specific attention to matters such as safety, security, health of inmates, sanitary conditions, rehabilitative programs, disturbance and fire prevention and control preparedness, and adherence to laws and regulations governing the rights of inmates.

S 2. Subdivisions 9 and 9-a of section 45 of the correction law are REPEALED.

S 3. Subdivision 11 of section 45 of the correction law is REPEALED.

S 4. Section 837-a of the executive law is amended by adding a new subdivision 9 to read as follows:

9. IN CONSULTATION WITH THE STATE COMMISSION OF CORRECTION AND THE MUNICIPAL POLICE TRAINING COUNCIL, ESTABLISH AND MAINTAIN BASIC AND OTHER CORRECTIONAL TRAINING PROGRAMS FOR SUCH PERSONNEL EMPLOYED BY CORRECTIONAL FACILITIES AS THE COMMISSIONER SHALL DEEM NECESSARY. SUCH BASIC CORRECTIONAL TRAINING PROGRAM SHALL BE SATISFACTORILY COMPLETED BY SUCH PERSONNEL PRIOR TO THEIR UNDERTAKING THEIR DUTIES OR WITHIN ONE YEAR FOLLOWING THE DATE OF THEIR APPOINTMENT OR AT SUCH TIMES AS THE COMMISSIONER MAY PRESCRIBE. PROVIDED, HOWEVER, THE COMMISSIONER MAY, AFTER CONSULTATION WITH THE STATE COMMISSION OF CORRECTION, EXEMPT FROM SUCH REQUIREMENT PERSONNEL EMPLOYED BY ANY CORRECTIONAL FACILITY WHICH, IN THE OPINION OF THE COMMISSIONER, MAINTAINS A BASIC CORRECTIONAL TRAINING PROGRAM OF A STANDARD EQUAL TO OR HIGHER THAN THAT ESTABLISHED AND MAINTAINED BY THE DIVISION; OR REVOKE IN WHOLE OR IN PART SUCH EXEMPTION, IF IN HIS OR HER OPINION THE STANDARDS OF THE BASIC CORRECTIONAL TRAINING PROGRAM MAINTAINED BY SUCH FACILITY ARE LOWER THAN THOSE ESTABLISHED PURSUANT TO THIS ARTICLE.

S 5. Subdivision 3 of section 840 of the executive law, as amended by chapter 155 of the laws of 2008, is amended and a new subdivision 2-a is added to read as follows:

2-A. THE COUNCIL, IN CONSULTATION WITH THE STATE COMMISSION OF CORRECTION, SHALL PROMULGATE RULES AND REGULATIONS WITH RESPECT TO:

(A) THE APPROVAL, OR REVOCATION THEREOF, OF BASIC AND OTHER CORRECTIONAL TRAINING PROGRAMS ADMINISTERED BY MUNICIPALITIES;

(B) MINIMUM COURSES OF STUDY, ATTENDANCE REQUIREMENTS, AND EQUIPMENT AND FACILITIES TO BE REQUIRED AT APPROVED BASIC AND OTHER CORRECTIONAL TRAINING PROGRAMS;

(C) MINIMUM QUALIFICATIONS FOR INSTRUCTORS AT APPROVED BASIC AND OTHER CORRECTIONAL TRAINING PROGRAMS; AND

(D) THE REQUIREMENTS OF A MINIMUM BASIC CORRECTIONAL TRAINING PROGRAM REQUIRED BY SUBDIVISION NINE OF SECTION EIGHT HUNDRED THIRTY-SEVEN-A OF THIS ARTICLE.

3. The council shall, in addition: (a) Consult with, advise and make recommendations to the commissioner with respect to the exercise of his OR HER functions, powers and duties as set forth in section eight hundred forty-one of this article;

(b) Recommend studies, surveys and reports to be made by the commissioner regarding the carrying out of the objectives and purposes of this section;

(c) Visit and inspect any police training school AND CORRECTIONAL TRAINING PROGRAMS approved by the commissioner or for which application for such approval has been made;

(d) Make recommendations, from time to time, to the commissioner, the governor and the legislature, regarding the carrying out of the purposes of this section;

(e) Perform such other acts as may be necessary or appropriate to carry out the functions of the council;

(f) Develop, maintain and disseminate, in consultation with the state office for the prevention of domestic violence, written policies and procedures consistent with article eight of the family court act and applicable provisions of the criminal procedure and domestic relations laws, regarding the investigation of and intervention by new and veteran police officers in incidents of family offenses. Such policies and procedures shall make provisions for education and training in the interpretation and enforcement of New York's family offense laws, including but not limited to:

(1) intake and recording of victim statements, on a standardized "domestic violence incident report form" promulgated by the division of criminal justice services in consultation with the superintendent of state police, representatives of local police forces and the state office for the prevention of domestic violence, and the investigation thereof so as to ascertain whether a crime has been committed against the victim by a member of the victim's family or household as such terms are defined in section eight hundred twelve of the family court act and section 530.11 of the criminal procedure law; and

(2) the need for immediate intervention in family offenses including the arrest and detention of alleged offenders, pursuant to subdivision four of section 140.10 of the criminal procedure law, and notifying victims of their rights, including but not limited to immediately providing the victim with the written notice required in subdivision six of section 530.11 of the criminal procedure law and subdivision five of section eight hundred twelve of the family court act; [and]

(g) Develop, maintain and disseminate, in consultation with the state division of human rights and the state civil service department, written policies and procedures to enhance police AND CORRECTIONAL officer recruitment efforts and to increase police AND CORRECTIONAL OFFICER awareness of racial, ethnic, religious and gender differences, and other diversity issues, in communities served by such police[.] AND IN CORRECTIONAL FACILITIES; AND

(H) CONSULT WITH THE STATE COMMISSION OF CORRECTION REGARDING CORRECTIONAL TRAINING PROGRAMS.

S 6. Section 841 of the executive law, as amended by chapter 843 of the laws of 1980, subdivision 3 as amended by chapter 551 of the laws of 2001, subdivision 9 as added by chapter 847 of the laws of 1986, is amended to read as follows:

S 841. Functions, powers and duties of the commissioner with respect to the council. In addition to the functions, powers and duties otherwise provided by this article, the commissioner shall, with the general advice of the council, and, in the case of subdivisions one, two and three OF THIS SECTION, only in accordance with rules and regulations promulgated by the governor pursuant to section eight hundred forty-two OF THIS ARTICLE:

1. Approve police training schools administered by municipalities and issue certificates of approval to such schools, and revoke such approval or certificate;

1-A. APPROVE CORRECTIONAL TRAINING PROGRAMS ADMINISTERED BY MUNICIPALITIES AND ISSUE CERTIFICATES OF APPROVAL TO SUCH PROGRAMS, AND REVOKE SUCH APPROVAL OR CERTIFICATE;

2. Certify, as qualified, instructors at approved police training schools and issue appropriate certificates to such instructors;

2-A. CERTIFY, AS QUALIFIED, INSTRUCTORS AT APPROVED CORRECTIONAL TRAINING PROGRAMS AND ISSUE APPROPRIATE CERTIFICATES TO SUCH INSTRUCTORS;

3. Certify police officers and peace officers who have satisfactorily completed basic training programs and issue certificates to such police officers and peace officers, including the issuance of equivalency certificates for basic training certificates issued to peace officers, where such officers received a certificate for successful completion of a basic training for police officers program or an approved course for state university of New York public safety officers during a period in which such peace officer was not employed as a police officer, upon demonstration of adequate equivalent training, the completion of supervised field training, requisite job-related law enforcement experience as determined by the commissioner, and if deemed necessary, the successful completion of relevant police officer training courses pursuant to section two hundred nine-q of the general municipal law;

3-A. CERTIFY CORRECTION OFFICERS WHO HAVE SATISFACTORILY COMPLETED BASIC CORRECTIONAL TRAINING PROGRAMS AND ISSUE CERTIFICATES TO SUCH CORRECTION OFFICERS;

4. Cause studies and surveys to be made relating to the establishment, operation and approval of municipal police training schools AND CORRECTIONAL TRAINING PROGRAMS;

5. Consult with and cooperate with municipal police training schools AND CORRECTIONAL TRAINING PROGRAMS for the development of advanced in-service training programs for police officers [and], peace officers, AND CORRECTION OFFICERS and issue appropriate certificates to police officers [and], peace officers, AND CORRECTION OFFICERS, attesting to their satisfactory completion of such advanced training programs;

6. Consult with and cooperate with universities, colleges and institutes in the state for the development of specialized courses of study for police officers [and], peace officers, AND CORRECTION OFFICERS in police science [and], police administration, AND CRIMINAL JUSTICE;

7. Consult with and cooperate with other departments and agencies of the state concerned with police officer and peace officer training;

7-A. CONSULT WITH AND COOPERATE WITH THE STATE COMMISSION OF CORRECTION AND OTHER DEPARTMENTS AND AGENCIES OF THE STATE CONCERNED WITH CORRECTION OFFICER TRAINING;

8. Report to the council at each regular meeting of the council and at such other times as may be appropriate[.]; AND

9. Prepare, update and distribute to appropriate law enforcement officials the form and content of the written notice required to be given to victims of family offenses pursuant to subdivision five of section eight hundred twelve of the family court act and subdivision six of section 530.11 of the criminal procedure law.

S 7. Subdivisions 6 and 10 of section 45 of the correction law, as added by chapter 865 of the laws of 1975, are amended to read as follows:

6. Promulgate rules and regulations establishing minimum standards for THE REVIEW OF THE CONSTRUCTION OR IMPROVEMENT OF CORRECTIONAL FACILITIES AND the care, custody, correction, treatment, supervision, discipline, and other correctional programs for all persons confined in correctional facilities. Such rules and regulations shall be forwarded to the governor, the temporary president of the senate and the speaker of the assem-

bly no later than January first, nineteen hundred seventy-six and annually thereafter.

10. Approve or reject plans and specifications for the construction or improvement of correctional facilities THAT DIRECTLY AFFECT THE HEALTH OF INMATES AND STAFF, SAFETY, OR SECURITY.

S 8. Subdivision 2 of section 504 of the correction law, as amended by chapter 506 of the laws of 1982, is 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 a natural disaster including but not limited to flood, earthquake, hurricane, landslide or fire,] 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 [is hereby authorized and empowered to] MAY, IN HIS OR HER SOLE DISCRETION, make available, upon such terms and conditions as he 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, 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 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.

S 9. This act shall take effect immediately; provided, however, that sections two, four, five and six of this act shall take effect on the one hundred eightieth day after it shall have become a law.

PART R

Section 1. Paragraph (b) of subdivision 2 of section 29-c of the executive law, as amended by chapter 169 of the laws of 1994, is amended to read as follows:

(b) The amount of such fee shall be [determined annually by the commission taking into account the costs of such responsibilities not

otherwise provided for and unexpended amounts of previous fees paid by any such licensee. In no event shall an annual fee for any facility exceed five hundred fifty thousand] ONE MILLION dollars. Such fee, which shall be payable to the commission on or before [April] DECEMBER first, shall be expended or distributed only by appropriation.

S 2. Subdivision 4 of section 29-c of the executive law is REPEALED.

S 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2009, provided, however, this act shall not affect obligations or amounts with respect to fees payable on or before April 1, 2009.

PART S

Intentionally omitted.

PART T

Section 1. Subsection (b) of section 9110 of the insurance law, as amended by section 1 of part Q of chapter 62 of the laws of 2003, is amended to read as follows:

(b) The annual fee is hereby imposed at the rate of [five dollars] TEN DOLLARS per insured motor vehicle registered pursuant to the provisions of paragraph [(b)] B of subdivision one of section four hundred one of the vehicle and traffic law. PROVIDED, HOWEVER, THAT SUCH FEE SHALL BE REDUCED BY FIFTY PERCENT PER INSURED MOTOR VEHICLE REGISTERED PURSUANT TO THE PROVISIONS OF PARAGRAPH B OF SUBDIVISION ONE OF SECTION FOUR HUNDRED ONE OF THE VEHICLE AND TRAFFIC LAW WHERE A POLICY ISSUED IN THE STATE OR FOR DELIVERY IN THE STATE FOR MOTOR VEHICLE LIABILITY INSURANCE COVERAGE IS FOR A TERM OF SIX MONTHS OR LESS. Such fee will be paid monthly by insurance companies to the superintendent on or before the fifteenth of the month next succeeding the month in which such collections are received.

S 2. Subsection (e) of section 9110 of the insurance law, as amended by section 1 of part A of chapter 56 of the laws of 2004, is amended to read as follows:

(e) All moneys received by the superintendent which are collected from policyholders of insurance on [passenger] motor vehicles [subject to the provisions of paragraph a of subdivision six of section four hundred one of the vehicle and traffic law] shall be paid [to the state police motor vehicle law enforcement account established pursuant to section ninety-seven-mm of the state finance law] by the tenth day of the month following receipt of such collections[. By the end of each fiscal year, any moneys paid to the state police motor vehicle law enforcement account established pursuant to section ninety-seven-mm of the state finance law which exceed sixty million four hundred thousand dollars shall be paid to the motor vehicle theft and insurance fraud prevention fund established pursuant to section eighty-nine-d of the state finance law.] IN THE FOLLOWING MANNER:

(1) EACH FISCAL YEAR, THE FIRST FOUR MILLION SEVEN HUNDRED THOUSAND DOLLARS SHALL BE PAID TO THE MOTOR VEHICLE THEFT AND INSURANCE FRAUD PREVENTION FUND ESTABLISHED PURSUANT TO SECTION EIGHTY-NINE-D OF THE STATE FINANCE LAW.

(2) ALL REMAINING MONEYS SHALL BE PAID TO THE STATE POLICE MOTOR VEHICLE LAW ENFORCEMENT ACCOUNT ESTABLISHED PURSUANT TO SECTION NINETY-SEVEN-MM OF THE STATE FINANCE LAW.

S 3. Subsection (f) of section 9110 of the insurance law is REPEALED.

S 4. Subdivision 2 of section 89-d of the state finance law, as amended by chapter 170 of the laws of 1994, is amended to read as follows:

2. Such fund shall consist of all moneys received by the state pursuant to subsection [(f)] (B) of section nine thousand one hundred ten of the insurance law [including any moneys received by the state] THAT ARE TRANSFERRED TO THE FUND pursuant to PARAGRAPH ONE OF subsection (e) of section nine thousand one hundred ten of the insurance law [that are transfered to the fund] and all other grants, bequests or other moneys appropriated, credited or transferred thereto from any other fund or source pursuant to law.

S 5. Subdivisions 2 and 3 of section 97-mm of the state finance law, as amended by section 2 of part A of chapter 56 of the laws of 2004, are amended to read as follows:

2. The state police motor vehicle law enforcement account shall consist of all moneys received by the state pursuant to subsection [(e)] (B) of section nine thousand one hundred ten of the insurance law [and any moneys received by the state pursuant to subsection (f) of section nine thousand one hundred ten of the insurance law] that are transferred to the account PURSUANT TO PARAGRAPH TWO OF SUBSECTION (E) OF SECTION NINE THOUSAND ONE HUNDRED TEN OF THE INSURANCE LAW and all other grants, bequests or other moneys credited, appropriated, or transferred thereto from any other fund or source.

3. Nine million one hundred thousand dollars annually of the state police motor vehicle law enforcement account, following appropriation by the legislature and allocation by the director of the budget, shall be made available for the state operation expenses of the division of state police including but not limited to the costs of activities relating to the detection, prosecution or reduction of automobile theft and related purposes. [Fifty-one million three hundred thousand dollars] ALL OTHER FUNDS of the state police motor vehicle law enforcement account, following appropriation by the legislature and allocation by the director of the budget, shall be made available for the state operation expenses of the division of state police including but not limited to the costs of activities relating to highway safety and public security.

S 6. Section 7 of part Q of chapter 62 of the laws of 2003, amending the insurance law and other laws relating to motor vehicle law enforcement fees, as amended by section 1 of part M of chapter 56 of the laws of 2008, is amended to read as follows:

S 7. This act shall take effect immediately, provided that sections one, two and three of this act shall take effect June 1, 2003; [and provided further that the amendments made to subsection (b) of section 9110 of the insurance law made by section one of this act shall expire and be deemed repealed on July 1, 2009 and the provisions of such subsection shall be read as such provisions existed on the date immediately preceding the effective date of this act;] and provided further that the amendments made to subsection (e) of section 9110 of the insurance law made by section two of this act and the amendments made to subdivision 3 of section 97-mm of the state finance law made by section three of this act shall expire and be deemed repealed on March 31, 2004 and the provisions of such subsection and such subdivision shall be read as such provisions existed on the date immediately preceding the effective date of this act.

S 7. Section 3 of part A of chapter 56 of the laws of 2004, amending the insurance law and the state finance law relating to motor vehicle

law enforcement fees, as amended by section 2 of part M of chapter 56 of the laws of 2008, is amended to read as follows:

S 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2004[; provided, however, that the amendments made to subsections (e) and (f) of section 9110 of the insurance law made by section one of this act shall expire and be deemed repealed on March 31, 2009, and provided further that the amendments made to subdivisions 2 and 3 of section 97-mm of the state finance law made by section two of this act shall expire and be deemed repealed on March 31, 2009].

S 8. Subdivision (bbb) of section 427 of chapter 55 of the laws of 1992, amending the tax law generally and enacting the omnibus revenue act of 1992 relating to taxes, surcharges, fees and funding, is REPEALED.

S 9. Paragraphs (b) and (d) of subdivision 2 and subdivision 3 of section 846-m of the executive law, as amended by section 4 of part M of chapter 56 of the laws of 2008, are amended to read as follows:

(b) Activities eligible for funding include, but are not limited to, the following: prosecution and adjudication services; law enforcement services; neighborhood or community based programs designed to reduce the incidence of motor vehicle theft and motor vehicle insurance fraud; educational programs designed to inform owners of motor vehicles concerning activities designed to prevent the incidence of theft of motor vehicles and fraudulent claims practices; and programs designed to examine, evaluate and make recommendations relating to the efficacy of motor vehicle theft prevention devices or methods including, but not limited to, passive tracking devices designed to identify the location of a motor vehicle at any given point in time and window glass etching with vehicle identification numbers or any other unique identifying symbol including decal programs such as New York city's operation combat auto theft (C.A.T.). Funds provided under this program shall be used to augment, and not to supplant, the provider agency's current funding, if any, for motor vehicle theft and insurance fraud detection, prevention, or reduction activities[, and shall only be used to fund pilot programs of a specified duration not to extend beyond July first, two thousand nine].

(d) The state comptroller shall conduct an audit of all moneys received and expended by the fund as well as all other funds expended from any other source for the purposes of this program, and shall submit a written report detailing such audit to the governor and legislature on or before March first[, two thousand nine.

3. This article shall expire on July first, two thousand nine] OF EACH YEAR.

S 10. Section 9 of part T of chapter 57 of the laws of 2000, amending the state finance law relating to a report on automobile theft prevention activities of the state police, as amended by section 5 of part M of chapter 56 of the laws of 2008, is amended to read as follows:

S 9. This act shall take effect immediately provided, however, that the amendments to sections 846-j, 846-k, 846-l and 846-m of the executive law made by this act shall not affect the expiration of such sections and shall be deemed to expire therewith[; provided, further, however, that the provisions of subdivision 4 of section 97-mm of the state finance law, as added by section eight of this act, shall expire and be deemed repealed on July 1, 2009].

S 11. The article heading of article 36-A of the executive law, as added by chapter 170 of the laws of 1994, is amended to read as follows:

NEW YORK MOTOR VEHICLE THEFT AND INSURANCE FRAUD PREVENTION [DEMONSTRATION] PROGRAM

S 12. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after March 1, 2009, provided, however, that section one of this act shall take effect June 1, 2009.

PART U

Section 1. Section 2 of chapter 887 of the laws of 1983, amending the correction law relating to the psychological testing of candidates, as amended by section 1 of part C of chapter 56 of the laws of 2007, is amended to read as follows:

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall remain in effect until September 1, [2009] 2011.

S 2. Section 3 of chapter 428 of the laws of 1999, amending the executive law and the criminal procedure law relating to expanding the geographic area of employment of certain police officers, as amended by section 2 of part C of chapter 56 of the laws of 2007, is amended to read as follows:

S 3. This act shall take effect on the first day of November next succeeding the date on which it shall have become a law, and shall remain in effect until the first day of September, [2009] 2011, when it shall expire and be deemed repealed.

S 3. Section 3 of chapter 886 of the laws of 1972, amending the correction law and the penal law relating to prisoner furloughs in certain cases and the crime of absconding therefrom, as amended by section 3 of part C of chapter 56 of the laws of 2007, is amended to read as follows:

S 3. This act shall take effect 60 days after it shall have become a law and shall remain in effect until September 1, [2009] 2011.

S 4. Section 20 of chapter 261 of the laws of 1987, amending chapters 50, 53 and 54 of the laws of 1987, the correction law, the penal law and other chapters and laws relating to correctional facilities, as amended by section 4 of part C of chapter 56 of the laws of 2007, is amended to read as follows:

S 20. This act shall take effect immediately except that section thirteen of this act shall expire and be of no further force or effect on and after September 1, [2009] 2011 and shall not apply to persons committed to the custody of the department after such date, and provided further that the commissioner of correctional services shall report each January first and July first during such time as the earned eligibility program is in effect, to the chairmen of the senate crime victims, crime and correction committee, the senate codes committee, the assembly correction committee, and the assembly codes committee, the standards in effect for earned eligibility during the prior six-month period, the number of inmates subject to the provisions of earned eligibility, the number who actually received certificates of earned eligibility during that period of time, the number of inmates with certificates who are granted parole upon their first consideration for parole, the number with certificates who are denied parole upon their first consideration, and the number of individuals granted and denied parole who did not have earned eligibility certificates.

S 5. Subdivision (q) of section 427 of chapter 55 of the laws of 1992, amending the tax law and other laws relating to taxes, surcharges, fees

and funding, as amended by section 5 of part C of chapter 56 of the laws of 2007, is amended to read as follows:

(q) the provisions of section two hundred eighty-four of this act shall remain in effect until September 1, [2009] 2011 and be applicable to all persons entering the program on or before August 31, [2009] 2011.

S 6. Section 10 of chapter 339 of the laws of 1972, amending the correction law and the penal law relating to inmate work release, furlough and leave, as amended by section 6 of part C of chapter 56 of the laws of 2007, is amended to read as follows:

S 10. This act shall take effect 30 days after it shall have become a law and shall remain in effect until September 1, [2009] 2011, and provided further that the commissioner of correctional services shall report each January first, and July first, to the chairman of the senate crime victims, crime and correction committee, the senate codes committee, the assembly correction committee, and the assembly codes committee, the number of eligible inmates in each facility under the custody and control of the commissioner who have applied for participation in any program offered under the provisions of work release, furlough, or leave, and the number of such inmates who have been approved for participation.

S 7. Subdivision (c) of section 46 of chapter 60 of the laws of 1994 relating to certain provisions which impact upon expenditure of certain appropriations made by chapter 50 of the laws of 1994 enacting the state operations budget, as amended by section 7 of part C of chapter 56 of the laws of 2007, is amended to read as follows:

(c) sections forty-one and forty-two of this act shall expire September 1, [2009] 2011; provided, that the provisions of section forty-two of this act shall apply to inmates entering the work release program on or after such effective date; and

S 8. Section 5 of chapter 554 of the laws of 1986, amending the correction law and the penal law relating to providing for community treatment facilities and establishing the crime of absconding from the community treatment facility, as amended by section 8 of part C of chapter 56 of the laws of 2007, is amended to read as follows:

S 5. This act shall take effect immediately and shall remain in full force and effect until September 1, [2009] 2011, and provided further that the commissioner of correctional services shall report each January first and July first during such time as this legislation is in effect, to the chairmen of the senate crime victims, crime and correction committee, the senate codes committee, the assembly correction committee, and the assembly codes committee, the number of individuals who are released to community treatment facilities during the previous six-month period, including the total number for each date at each facility who are not residing within the facility, but who are required to report to the facility on a daily or less frequent basis.

S 9. Subdivision h of section 74 of chapter 3 of the laws of 1995, amending the correction law and other laws relating to the incarceration fee, as amended by section 9 of part C of chapter 56 of the laws of 2007, is amended to read as follows:

h. Section fifty-two of this act shall be deemed to have been in full force and effect on and after April 1, 1995; provided, however, that the provisions of section 189 of the correction law, as amended by section fifty-five of this act, subdivision 5 of section 60.35 of the penal law, as amended by section fifty-six of this act, and section fifty-seven of this act shall expire September 1, [2009] 2011, when upon such date the amendments to the correction law and penal law made by sections fifty-

five and fifty-six of this act shall revert to and be read as if the provisions of this act had not been enacted; provided, however, that sections sixty-two, sixty-three and sixty-four of this act shall be deemed to have been in full force and effect on and after March 1, 1995 and shall be deemed repealed April 1, 1996 and upon such date the provisions of subsection (e) of section 9110 of the insurance law and subdivision 2 of section 89-d of the state finance law shall revert to and be read as set out in law on the date immediately preceding the effective date of sections sixty-two and sixty-three of this act;

S 10. Subdivision (z) of section 427 of chapter 55 of the laws of 1992, amending the tax law and other laws relating to taxes, surcharges, fees and funding, as amended by section 10 of part C of chapter 56 of the laws of 2007, is amended to read as follows:

(z) the provisions of section three hundred eighty-one of this act shall apply to all persons supervised by the division of parole on or after the effective date of this act, provided however, that subdivision 9 of section 259-a of the executive law, as added by section three hundred eighty-one of this act, shall expire on September 1, [2009] 2011;

S 11. Subdivision (aa) of section 427 of chapter 55 of the laws of 1992, amending the tax law and other laws relating to taxes, surcharges, fees and funding, as amended by section 11 of part C of chapter 56 of the laws of 2007, is amended to read as follows:

(aa) the provisions of sections three hundred eighty-two, three hundred eighty-three and three hundred eighty-four of this act shall expire on September 1, [2009] 2011;

S 12. Section 12 of chapter 907 of the laws of 1984, amending the correction law, the New York city criminal court act and the executive law relating to prison and jail housing and alternatives to detention and incarceration programs, as amended by section 12 of part C of chapter 56 of the laws of 2007, is amended to read as follows:

S 12. This act shall take effect immediately, except that the provisions of sections one through ten of this act shall remain in full force and effect until September 1, [2009] 2011 on which date those provisions shall be deemed to be repealed.

S 13. Subdivision (p) of section 406 of chapter 166 of the laws of 1991, amending the tax law and other laws relating to taxes, as amended by section 13 of part C of chapter 56 of the laws of 2007, is amended to read as follows:

(p) The amendments to section 1809 of the vehicle and traffic law made by sections three hundred thirty-seven and three hundred thirty-eight of this act shall not apply to any offense committed prior to such effective date; provided, further, that section three hundred forty-one of this act shall take effect immediately and shall expire November 1, 1993 at which time it shall be deemed repealed; sections three hundred forty-five and three hundred forty-six of this act shall take effect July 1, 1991; sections three hundred fifty-five, three hundred fifty-six, three hundred fifty-seven and three hundred fifty-nine of this act shall take effect immediately and shall expire June 30, 1995 and shall revert to and be read as if this act had not been enacted; section three hundred fifty-eight of this act shall take effect immediately and shall expire June 30, 1998 and shall revert to and be read as if this act had not been enacted; section three hundred sixty-four through three hundred sixty-seven of this act shall apply to claims filed on or after such effective date; sections three hundred sixty-nine, three hundred seventy-two, three hundred seventy-three, three hundred seventy-four, three

hundred seventy-five and three hundred seventy-six of this act shall remain in effect until September 1, [2009] 2011, at which time they shall be deemed repealed; provided, however, that the mandatory surcharge provided in section three hundred seventy-four of this act shall apply to parking violations occurring on or after said effective date; and provided further that the amendments made to section 235 of the vehicle and traffic law by section three hundred seventy-two of this act, the amendments made to section 1809 of the vehicle and traffic law by sections three hundred thirty-seven and three hundred thirty-eight of this act and the amendments made to section 215-a of the labor law by section three hundred seventy-five of this act shall expire on September 1, [2009] 2011 and upon such date the provisions of such subdivisions and sections shall revert to and be read as if the provisions of this act had not been enacted; the amendments to subdivisions 2 and 3 of section 400.05 of the penal law made by sections three hundred seventy-seven and three hundred seventy-eight of this act shall expire on July 1, 1992 and upon such date the provisions of such subdivisions shall revert and shall be read as if the provisions of this act had not been enacted; the state board of law examiners shall take such action as is necessary to assure that all applicants for examination for admission to practice as an attorney and counsellor at law shall pay the increased examination fee provided for by the amendment made to section 465 of the judiciary law by section three hundred eighty of this act for any examination given on or after the effective date of this act notwithstanding that an applicant for such examination may have prepaid a lesser fee for such examination as required by the provisions of such section 465 as of the date prior to the effective date of this act; the provisions of section 306-a of the civil practice law and rules as added by section three hundred eighty-one of this act shall apply to all actions pending on or commenced on or after September 1, 1991, provided, however, that for the purposes of this section service of such summons made prior to such date shall be deemed to have been completed on September 1, 1991; the provisions of section three hundred eighty-three of this act shall apply to all money deposited in connection with a cash bail or a partially secured bail bond on or after such effective date; and the provisions of sections three hundred eighty-four and three hundred eighty-five of this act shall apply only to jury service commenced during a judicial term beginning on or after the effective date of this act; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law;

S 14. Subdivision 8 of section 1809 of the vehicle and traffic law, as amended by section 14 of part C of chapter 56 of the laws of 2007, is amended to read as follows:

8. The provisions of this section shall only apply to offenses committed on or before September first, two thousand [nine] ELEVEN.

S 15. Section 6 of chapter 713 of the laws of 1988, amending the vehicle and traffic law relating to the ignition interlock device program, as amended by section 16 of part C of chapter 56 of the laws of 2007, is amended to read as follows:

S 6. This act shall take effect on the first day of April next succeeding the date on which it shall have become a law; provided, however, that effective immediately, the addition, amendment or repeal

of any rule or regulation necessary for the implementation of the foregoing sections of this act on their effective date is authorized and directed to be made and completed on or before such effective date and shall remain in full force and effect until the first day of September, [2009] 2011 when upon such date the provisions of this act shall be deemed repealed.

S 16. Paragraph a of subdivision 6 of section 76 of chapter 435 of the laws of 1997, amending the military law and other laws relating to various provisions, as amended by section 17 of part C of chapter 56 of the laws of 2007, is amended to read as follows:

a. sections forty-three through forty-five of this act shall expire and be deemed repealed on September 1, [2009] 2011;

S 17. Section 4 of part D of chapter 412 of the laws of 1999, amending the civil practice law and rules and the court of claims act relating to prisoner litigation reform, as amended by section 18 of part C of chapter 56 of the laws of 2007, is amended to read as follows:

S 4. This act shall take effect 120 days after it shall have become a law and shall remain in full force and effect until September 1, [2009] 2011, when upon such date it shall expire.

S 18. Subdivision 2 of section 59 of chapter 222 of the laws of 1994, constituting the family protection and domestic violence intervention act of 1994, as amended by section 19 of part C of chapter 56 of the laws of 2007, is amended to read as follows:

2. Subdivision 4 of section 140.10 of the criminal procedure law as added by section thirty-two of this act shall take effect January 1, 1996 and shall expire and be deemed repealed on September 1, [2009] 2011.

S 19. Section 5 of chapter 505 of the laws of 1985, amending the criminal procedure law relating to the use of closed-circuit television and other protective measures for certain child witnesses, as amended by section 21 of part C of chapter 56 of the laws of 2007, is amended to read as follows:

S 5. This act shall take effect immediately and shall apply to all criminal actions and proceedings commenced prior to the effective date of this act but still pending on such date as well as all criminal actions and proceedings commenced on or after such effective date and its provisions shall expire on September 1, [2009] 2011, when upon such date the provisions of this act shall be deemed repealed.

S 20. Section 3 of chapter 688 of the laws of 2003, amending the executive law relating to enacting the interstate compact for adult offender supervision, as amended by section 27 of part C of chapter 56 of the laws of 2007, is amended to read as follows:

S 3. This act shall take effect immediately, except that section one of this act shall take effect on the first of January next succeeding the date on which it shall have become a law, and shall remain in effect until the first of September, [2009] 2011, upon which date this act shall be deemed repealed and have no further force and effect; provided that section one of this act shall only take effect with respect to any compacting state which has enacted an interstate compact entitled "Interstate compact for adult offender supervision" and having an identical effect to that added by section one of this act and provided further that with respect to any such compacting state, upon the effective date of section one of this act, section 259-m of the executive law is hereby deemed REPEALED and section 259-mm of the executive law, as added by section one of this act, shall take effect; and provided further that with respect to any state which has not enacted an inter-

state compact entitled "Interstate compact for adult offender supervision" and having an identical effect to that added by section one of this act, section 259-m of the executive law shall take effect and the provisions of section one of this act, with respect to any such state, shall have no force or effect until such time as such state shall adopt an interstate compact entitled "Interstate compact for adult offender supervision" and having an identical effect to that added by section one of this act in which case, with respect to such state, effective immediately, section 259-m of the executive law is deemed repealed and section 259-mm of the executive law, as added by section one of this act, shall take effect.

S 21. Subdivision d of section 74 of chapter 3 of the laws of 1995, enacting the sentencing reform act of 1995, as amended by section 20 of part D of chapter 56 of the laws of 2005, is amended to read as follows:

d. Sections one-a through twenty, twenty-four through twenty-eight, thirty through thirty-nine, forty-two[, forty-three] and forty-four of this act shall be deemed repealed on September 1, [2009] 2011;

S 22. Subdivision (r) of section 427 of chapter 55 of the laws of 1992, amending the tax law and other laws relating to taxes, surcharges, fees and funding, is REPEALED.

S 23. Section 2 of chapter 689 of the laws of 1993 amending the criminal procedure law relating to electronic court appearance in certain counties, as amended by chapter 34 of the laws of 2006, is amended to read as follows:

S 2. This act shall take effect immediately, except that the provisions of this act shall be deemed to have been in full force and effect since July 1, 1992 and the provisions of this act shall expire September 1, [2009] 2011 when upon such date the provisions of this act shall be deemed repealed.

S 24. This act shall take effect immediately.

PART V

Intentionally omitted.

PART W

Intentionally omitted.

PART X

Intentionally omitted.

PART Y

Intentionally omitted.

PART Z

Intentionally omitted.

PART AA

Intentionally omitted.

PART BB

Intentionally omitted.

PART CC

Intentionally omitted.

PART DD

Intentionally omitted.

PART EE

Intentionally omitted.

PART FF

Intentionally omitted.

PART GG

Section 1. Paragraph d of subdivision 10 of section 54 of the state finance law, as added by section 1 of part F of chapter 56 of the laws of 2007, is amended to read as follows:

d. Additional annual apportionments. Within amounts appropriated in the state fiscal year commencing April first, two thousand seven and in [each state fiscal year thereafter through and including] the state fiscal year commencing April first, two thousand [ten] EIGHT, municipalities shall receive additional aid apportioned as follows:

(i) Any municipality with an average full valuation per capita equal to or less than the average full valuation per capita for municipalities that is a city, a town with a population greater than fifteen thousand, or a village with a population greater than ten thousand, shall be eligible to receive an additional annual apportionment equal to:

(1) nine percent of such municipality's base level grant if the municipality meets all of the fiscal distress indicators in paragraph c of this subdivision,

(2) seven percent of such municipality's base level grant if the municipality meets any three of the fiscal distress indicators in paragraph c of this subdivision, or

(3) five percent of such municipality's base level grant if the municipality meets at least one but no more than two of the fiscal distress indicators in paragraph c of this subdivision.

(ii) Any municipality with an average full valuation per capita equal to or less than the average full valuation per capita for municipalities that is a town with a population of fifteen thousand or less or a village with a population of ten thousand or less which meets one or more of the fiscal distress indicators in subparagraphs (i), (ii) and (iii) of paragraph c of this subdivision shall be eligible to receive an additional annual apportionment equal to five percent of such municipality's base level grant.

(iii) Any municipality that does not qualify for an additional annual apportionment pursuant to subparagraphs (i) and (ii) of this paragraph shall be eligible to receive an additional annual apportionment equal to three percent of such municipality's base level grant.

S 2. Paragraph e of subdivision 10 of section 54 of the state finance law, as amended by section 3 of part O of chapter 56 of the laws of 2008, is amended to read as follows:

e. Per capita adjustment. Within amounts appropriated in the state fiscal year commencing April first, two thousand seven and in [each state fiscal year thereafter through and including] the state fiscal year commencing April first, two thousand [ten] EIGHT, additional aid shall be apportioned as follows:

(i) For the purposes of subparagraphs (ii), (iii), (iv) and (v) of this paragraph, the threshold percentage shall be seventy-five percent in the state fiscal year commencing April first, two thousand seven[;] AND eighty percent in the state fiscal year commencing April first, two thousand eight[; eighty-five percent in the state fiscal year commencing April first, two thousand nine; and ninety percent in the state fiscal year commencing April first, two thousand ten].

(ii) A municipality with an average full valuation per capita equal to or less than the average full valuation per capita for municipalities that is a city with a population greater than or equal to one hundred twenty-five thousand and receives per capita state aid less than or equal to the threshold percentage of the average for cities with a population greater than or equal to one hundred twenty-five thousand shall be eligible to receive additional aid of four and one-half percent of such city's base level grant, subject to the availability of funds.

(iii) A municipality with an average full valuation per capita equal to or less than the average full valuation per capita for municipalities that is a city with a population less than one hundred twenty-five thousand, meets one or more of the fiscal distress indicators, and receives per capita state aid less than or equal to the threshold percentage of the average for cities with a population less than one hundred twenty-five thousand that meet one or more of the fiscal distress indicators, shall be eligible to receive additional aid of four and one-half percent of such city's base level grant, subject to the availability of funds.

(iv) A municipality with an average full valuation per capita equal to or less than the average full valuation per capita for municipalities that is a town with a population greater than fifteen thousand, meets one or more of the fiscal distress indicators, and receives per capita state aid less than or equal to the threshold percentage of the average for towns with a population greater than fifteen thousand that meet one or more of the fiscal distress indicators, shall be eligible to receive additional aid of four and one-half percent of such town's base level grant, subject to the availability of funds.

(v) A municipality with an average full valuation per capita equal to or less than the average full valuation per capita for municipalities that is a village with a population greater than ten thousand, meets one or more of the fiscal distress indicators, and receives per capita state aid less than or equal to the threshold percentage of the average for villages with a population greater than ten thousand that meet one or more of the fiscal distress indicators, shall be eligible to receive additional aid of four and one-half percent of such village's base level grant, subject to the availability of funds.

(vi) If sufficient funds are not available for additional aid in the amount authorized pursuant to subparagraphs (ii), (iii), (iv) and (v) of this paragraph, additional aid shall be apportioned to each municipality eligible for such aid based on the municipality's pro rata share of available funds.

S 3. Subparagraph (ii) of paragraph g of subdivision 10 of section 54 of the state finance law, as amended by section 4 of part O of chapter 56 of the laws of 2008, is amended to read as follows:

(ii) As a condition of receiving [an additional annual apportionment pursuant to paragraph d of this subdivision] A BASE LEVEL GRANT PURSUANT TO PARAGRAPH B OF THIS SUBDIVISION, each municipality that is a city, other than a city subject to a control period under a state imposed fiscal stability authority or a city subject to the requirements of subparagraph (i) of this paragraph and each municipality that is a village that [will receive an additional annual apportionment pursuant to clause one of subparagraph (i) of paragraph d of this subdivision], MEETS ALL FOUR FISCAL DISTRESS INDICATORS IN PARAGRAPH C OF THIS SUBDIVISION shall develop a multi-year financial plan that includes: projected employment levels, projected annual expenditures for personal service, fringe benefits, non-personal services and debt service; appropriate reserve fund amounts; estimated annual revenues including projected property tax rates, the value of the taxable real property and resulting tax levy, annual growth in sales tax and non-property tax revenues, and the proposed use of one-time revenue sources. Such multi-year financial plan shall consist of, at a minimum, four fiscal years including the municipality's most recently completed fiscal year, its current fiscal year adopted budget and the subsequent two fiscal years. On or before March thirty-first, two thousand eight and on or before March thirty-first in each year thereafter through and including two thousand eleven, the chief elected official of such municipality shall submit written certification to the director of the budget that such municipality has complied with the requirements of this subparagraph.

S 4. Paragraph j of subdivision 10 of section 54 of the state finance law, as amended by section 1 of part KK of chapter 57 of the laws of 2008, is amended to read as follows:

j. Special aid and incentives for municipalities to the city of New York. In the state fiscal year commencing April first, two thousand seven a city with a population of one million or more shall receive twenty million dollars on or before December fifteenth. In the state fiscal year commencing April first, two thousand eight, a city with a population of one million or more shall receive two hundred forty-five million nine hundred forty-four thousand eight hundred thirty-four dollars payable on or before December fifteenth. In the state fiscal year commencing April first, two thousand nine, [a city with a population of one million or more shall receive eighty-one million nine hundred forty-four thousand eight hundred thirty-four dollars payable on or before June thirtieth and shall receive an additional two hundred forty-five million nine hundred forty-four thousand eight hundred thirty-four dollars payable on or before December fifteenth. In the state fiscal year commencing April first, two thousand ten,] and in each state fiscal year thereafter, a city with a population of one million or more shall receive three hundred twenty-seven million eight hundred eighty-nine thousand six hundred sixty-eight dollars payable on or before December fifteenth. Special aid and incentives for municipalities to the city of New York shall be apportioned and paid as required as follows:

(i) Any amounts required to be paid to the city university construction fund pursuant to the city university construction fund act;

(ii) Any amounts required to be paid to the New York city housing development corporation pursuant to the New York city housing development corporation act;

(iii) Five hundred thousand dollars to the chief fiscal officer of the city of New York for payment to the trustees of the police pension fund of such city;

(iv) Eighty million dollars to the special account for the municipal assistance corporation for the city of New York in the municipal assistance tax fund created pursuant to section ninety-two-d of this chapter to the extent that such amount has been included by the municipal assistance corporation for the city of New York in any computation for the issuance of bonds on a parity with outstanding bonds pursuant to a contract with the holders of such bonds prior to the issuance of any other bonds secured by payments from the municipal assistance corporation for the city of New York in the municipal assistance state aid fund created pursuant to section ninety-two-e of this chapter;

(v) The balance of the special account for the municipal assistance corporation for the city of New York in the municipal assistance state aid fund created pursuant to section ninety-two-e of this chapter;

(vi) Any amounts to be refunded to the general fund of the state of New York pursuant to the annual appropriation enacted for the municipal assistance state aid fund;

(vii) To the state of New York municipal bond bank agency to the extent provided by section twenty-four hundred thirty-six of the public authorities law; and

(viii) To the transit construction fund to the extent provided by section twelve hundred twenty-five-i of the public authorities law, and thereafter to the city of New York.

Notwithstanding any other law to the contrary, the amount paid to any city with a population of one million or more on or before December fifteenth shall be for an entitlement period ending the immediately preceding June thirtieth.

S 5. Clause 2 of subparagraph (viii) of paragraph a of subdivision 10 of section 54 of the state finance law, as amended by section 1 of part O of chapter 56 of the laws of 2008, is amended to read as follows:

(2) for the state fiscal year commencing April first, two thousand eight and in each state fiscal year thereafter, the base level grant received in the immediately preceding state fiscal year pursuant to paragraph b of this subdivision plus any additional apportionments received in such year pursuant to paragraph d of this subdivision and any per capita adjustments received in such year pursuant to paragraph e of this subdivision plus any additional aid received in such year pursuant to [subparagraph (i) or subparagraph (iii) of] paragraph p of this subdivision.

S 6. Paragraph p of subdivision 10 of section 54 of the state finance law, as added by section 8 of part O of chapter 56 of the laws of 2008, is amended to read as follows:

p. Local government efficiency grant program municipal merger incentives. For the purposes of this paragraph, "municipalities" shall mean cities with a population less than one million, towns and villages. Within the annual amounts appropriated therefor, surviving municipalities following a merger, consolidation or dissolution occurring on or after the state fiscal year commencing April first, two thousand seven may be awarded [one of the following as selected by the governing body of the merged, consolidated or surviving, in the case of a dissolution, municipality: (i) Additional aid in the state fiscal year following such merger, consolidation or dissolution equal to twenty-five percent of the combined base level grants received, pursuant to paragraph b of this subdivision, by the municipalities that were party to

such merger, consolidation or dissolution in the state fiscal year in which such merger, consolidation or dissolution took effect. In instances where only a portion of a city, town or village is party to a consolidation, merger or dissolution, the additional aid payable to the resulting successor government shall be based on only a pro rata share of the base level grant received by such city, town or village. Such pro rata share shall be calculated by multiplying the base level grant of such city, town or village in the state fiscal year in which such merger, consolidation or dissolution took effect by the ratio of the most recent federal decennial census population of the portion consolidated, merged or dissolved as compared to the total two thousand federal decennial census population of the city, town or village party to such consolidation, merger or dissolution. In no case shall a municipality's additional aid pursuant to this subparagraph exceed one million dollars. Such additional aid shall be apportioned and paid to the chief fiscal officer of each merged, consolidated or surviving, in the case of a village dissolution, municipality on audit and warrant of the state comptroller out of moneys appropriated by the legislature for such purpose to the credit of the local assistance fund in the general fund of the state treasury in the same "on or before month and day" manner as the municipality's base level grant is paid pursuant to subparagraph (i) of paragraph i of this subdivision. Any municipality receiving a merger incentive award pursuant to this subparagraph shall use such aid only for general municipal purposes. Such additional aid shall in subsequent state fiscal years be considered prior year aid for the purposes of determining such merged, consolidated or surviving municipality's base level grant pursuant to paragraph b of this subdivision.

(ii) Two hundred fifty thousand dollars in the first state fiscal year following such merger, consolidation or dissolution, reduced in equal parts in each of the subsequent four state fiscal years; provided, however, that in no case shall such first state fiscal year award exceed twenty-five percent of the combined property tax levy of the merged or consolidated municipalities in the local fiscal year prior to the local fiscal year in which such merger or consolidation took effect; provided, further, that in the case of a village dissolution, such first state fiscal year award shall not exceed twenty-five percent of the combined property tax levy of the village and surviving town in the local fiscal year prior to the local fiscal year in which such dissolution took effect. Such award shall be used for transitional purposes and long-term savings and efficiencies. In the event a village dissolves into more than one town, the surviving towns shall receive a pro rata portion of the additional aid based on relative population. Such additional aid shall be apportioned and paid to the chief fiscal officer of each merged, consolidated or surviving, in the case of a dissolution, municipality on audit and warrant of the state comptroller out of moneys appropriated by the legislature for such purpose to the credit of the local assistance fund in the general fund of the state treasury in the same "on or before month and day" manner as the municipality's base level grant is paid pursuant to subparagraph (i) of paragraph i of this subdivision.

(iii) Additional] ADDITIONAL aid in the state fiscal year following such merger, consolidation or dissolution equal to fifteen percent of the combined amount of real property taxes levied by all of the municipalities participating in the merger, consolidation or dissolution in the local fiscal year prior to the local fiscal year in which such merger, consolidation or dissolution took effect. [In instances where only a

portion of a city, town or village is party to a consolidation, merger or dissolution, the additional annual aid payable to the resulting successor government shall be based on only a pro rata share of the total real property taxes levied by such city, town or village. Such pro rata share shall be calculated by multiplying the total real property tax levy of such city, town or village in the local fiscal year prior to the local fiscal year in which such merger, consolidation or dissolution took effect by the ratio of the most recent federal decennial census population of the portion consolidated, merged or dissolved as compared to the total two thousand federal decennial census population of the city, town or village party to such consolidation, merger or dissolution.] IN INSTANCES OF THE DISSOLUTION OF A VILLAGE LOCATED IN MORE THAN ONE TOWN, SUCH ADDITIONAL AID SHALL EQUAL THE SUM OF FIFTEEN PERCENT OF THE REAL PROPERTY TAXES LEVIED BY SUCH VILLAGE IN THE VILLAGE FISCAL YEAR PRIOR TO THE VILLAGE FISCAL YEAR IN WHICH SUCH DISSOLUTION TOOK EFFECT PLUS FIFTEEN PERCENT OF THE AVERAGE AMOUNT OF REAL PROPERTY TAXES LEVIED BY THE TOWNS IN WHICH THE VILLAGE WAS LOCATED IN THE TOWN FISCAL YEAR PRIOR TO THE TOWN FISCAL YEAR IN WHICH SUCH DISSOLUTION TOOK EFFECT, AND SHALL BE DIVIDED AMONG SUCH TOWNS BASED ON THE PERCENTAGE OF SUCH VILLAGE'S POPULATION THAT RESIDED IN EACH SUCH TOWN AS OF THE MOST RECENT FEDERAL DECENNIAL CENSUS. Such additional aid shall be apportioned and paid to the chief fiscal officer of each consolidated or merged municipality on audit and warrant of the state comptroller out of moneys appropriated by the legislature for such purpose to the credit of the local assistance fund in the general fund of the state treasury in the same "on or before month and day" manner as the municipality's base level grant is paid pursuant to subparagraph (i) of paragraph i of this subdivision. Any municipality receiving a merger incentive award pursuant to this [subparagraph] PARAGRAPH shall use such aid only for general municipal purposes. In no case shall [a municipality's annual] THE ADDITIONAL aid pursuant to this [subparagraph] PARAGRAPH exceed one million dollars. Such additional aid shall in subsequent state fiscal years be considered prior year aid for the purposes of determining such merged, consolidated or surviving municipality's base level grant pursuant to paragraph b of this subdivision.

S 7. Clause 1 of subparagraph (i) of paragraph o of subdivision 10 of section 54 of the state finance law, as added by section 7 of part O of chapter 56 of the laws of 2008, is amended to read as follows:

(1) For the purposes of this paragraph, "municipality" shall mean counties, cities, towns, villages, special improvement districts, fire districts, [library districts] PUBLIC LIBRARIES, ASSOCIATION LIBRARIES, water authorities, sewer authorities, regional planning and development boards, school districts, and boards of cooperative educational services; provided, however, that for the purposes of this definition, a board of cooperative educational services shall be considered a municipality only in instances where such board of cooperative educational services advances a joint application on behalf of school districts and other municipalities within the board of cooperative educational services region; provided, however, that any agreements with a board of cooperative educational services: shall not generate additional state aid; shall be deemed not to be a part of the program, capital and administrative budgets of the board of cooperative educational services for the purposes of computing charges upon component school districts pursuant to subparagraph seven of paragraph b of subdivision four of section nineteen hundred fifty and subdivision one of section nineteen hundred fifty and subdivision one of section nineteen hundred fifty-one of the

education law; and shall be deemed to be a cooperative municipal service for purposes of subparagraph two of paragraph d of subdivision four of section nineteen hundred fifty of the education law.

S 8. Notwithstanding any other law to the contrary, for the state fiscal year beginning April 1, 2010, and in each state fiscal year thereafter, fifteen million dollars of aid and incentives for municipalities otherwise due and payable to the city of Yonkers on or before March 31 shall be paid on or before June 30 in such fiscal year upon written request by the chief elected official of such city to the director of the budget, provided such request is made no later than April 1, 2010.

S 9. This act shall take effect immediately; and shall be deemed to have been in full force and effect on and after April 1, 2009.

PART HH

Intentionally omitted.

PART II

Section 1. Section 2 of chapter 540 of the laws of 1992, amending the real property tax law relating to oil and gas charges, as amended by chapter 140 of the laws of 2006, is amended to read as follows:

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 1992; provided, however that any charges imposed by section 593 of the real property tax law as added by section one of this act shall first be due for values for assessment rolls with tentative completion dates after July 1, 1992, and provided further, that this act shall remain in full force and effect until March 31, [2009] 2012, at which time section 593 of the real property tax law as added by section one of this act shall be repealed.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2009.

PART JJ

Section 1. Subdivision 3 of section 333 of the real property law, as separately amended by section 2 of part B of chapter 57 and chapter 521 of the laws of 2004, is amended to read as follows:

3. The recording officer of every county and the city of New York shall impose a fee of one hundred sixty-five dollars, or in the case of a transfer involving qualifying residential or farm property as defined by paragraph iv of subdivision one-e of this section, a fee of seventy-five dollars, for every real property transfer reporting form submitted for recording as required under subdivision one-e of this section. In the city of New York, the recording officer shall impose a fee of fifty dollars for each real property transfer tax form filed in accordance with chapter twenty-one of title eleven of the administrative code of the city of New York, except where a real property transfer reporting form is also submitted for recording for the transfer as required under subdivision one-e of this section. The recording officer shall deduct nine dollars from such fee and remit the remainder of the revenue collected to the state office of real property services every month for deposit [in the improvement of real property tax administration account established pursuant to section ninety-seven-ll of the state finance

law] INTO THE GENERAL FUND. The amount duly deducted by the recording officer shall be retained by the county or by the city of New York.

S 2. Subdivision 3 of section 333 of the real property law, as amended by section one of this act, is amended to read as follows:

3. The recording officer of every county and the city of New York shall impose a fee of [one hundred sixty-five] TWO HUNDRED FIFTY dollars, or in the case of a transfer involving qualifying residential or farm property as defined by paragraph iv of subdivision one-e of this section, a fee of [seventy-five] ONE HUNDRED TWENTY-FIVE dollars, for every real property transfer reporting form submitted for recording as required under subdivision one-e of this section. In the city of New York, the recording officer shall impose a fee of [fifty] ONE HUNDRED dollars for each real property transfer tax form filed in accordance with chapter twenty-one of title eleven of the administrative code of the city of New York, except where a real property transfer reporting form is also submitted for recording for the transfer as required under subdivision one-e of this section. The recording officer shall deduct nine dollars from such fee and remit the remainder of the revenue collected to the state office of real property services every month for deposit into the general fund. The amount duly deducted by the recording officer shall be retained by the county or by the city of New York.

S 3. Subdivisions 2 and 3 of section 97-ll of the state finance law, as amended by section 2 of part C-2 of chapter 62 of the laws of 2003, are amended to read as follows:

2. [All revenue received by the state office of real property services from the state share of a recording fee pertaining to the transfer of real property shall be deposited to the credit of the improvement of real property tax administration account.

3.] Moneys within the improvement of real property tax administration account, upon appropriation by the legislature, shall be available to the state office of real property services for all services and expenses of the state office which relate to activities including, but not limited to, preparation and certification of state equalization rates, the administration of state technical and financial assistance to local governments, review and certification of adjusted base proportions for special assessing units and approved assessing units pursuant to articles eighteen and nineteen of the real property tax law, the determination of class equalization rates for portions within special assessing units and approved assessing units pursuant to article twelve of the real property tax law, continuance of the market value survey cycle, maintenance of effort in the production of agricultural lands value assessments, advisory appraisals, and assessor training and certification.

S 4. This act shall take effect immediately; provided, however that section two of this act shall take effect June 1, 2009 and shall be applicable to conveyances submitted for recording on and after such date.

PART KK

Section 1. Section 54-l of the state finance law, as amended by section 1 of part R of chapter 57 of the laws of 2007, is amended to read as follows:

S 54-l. State assistance to eligible cities and eligible municipalities in which a video lottery gaming facility is located. 1. Definitions. When used in this section, unless otherwise expressly stated:

a. "Eligible city" shall mean [(i) for the fiscal year commencing April first, two thousand seven] a city with a population equal to or greater than one hundred twenty-five thousand and less than one million in which a video lottery gaming facility is located AND OPERATING AS OF JANUARY FIRST, TWO THOUSAND NINE pursuant to section sixteen hundred seventeen-a of the tax law [and (ii) for the fiscal year commencing April first, two thousand eight and for each state fiscal year thereafter, shall mean a city with a population equal to or greater than one hundred twenty-five thousand in which a video lottery gaming facility is located pursuant to section sixteen hundred seventeen-a of the tax law].

b. "Eligible municipality" shall mean (I) FOR THE FISCAL YEARS COMMENCING APRIL FIRST, TWO THOUSAND SEVEN AND APRIL FIRST, TWO THOUSAND EIGHT a county, city, town or village in which a video lottery gaming facility is located pursuant to section sixteen hundred seventeen-a of the tax law that is not located in a city with a population equal to or greater than one hundred twenty-five thousand AND (II) FOR THE FISCAL YEAR COMMENCING APRIL FIRST, TWO THOUSAND NINE AND FOR EACH STATE FISCAL YEAR THEREAFTER, SHALL MEAN A COUNTY, CITY, TOWN OR VILLAGE IN WHICH A VIDEO LOTTERY GAMING FACILITY IS LOCATED AND OPERATING AS OF JANUARY FIRST, TWO THOUSAND NINE PURSUANT TO SECTION SIXTEEN HUNDRED SEVENTEEN-A OF THE TAX LAW THAT IS NOT LOCATED IN A CITY WITH A POPULATION EQUAL TO OR GREATER THAN ONE HUNDRED TWENTY-FIVE THOUSAND AND WHICH IS LOCATED IN A COUNTY THAT HAS A POVERTY RATE EQUAL TO OR GREATER THAN FIFTY PERCENT OF THE NEW YORK STATE POVERTY RATE.

c. "Estimated net machine income" shall mean the estimated full annual value of total revenue wagered after payout for prizes for games known as "video lottery gaming" as authorized under article thirty-four of the tax law during the state fiscal year in which state aid payments are made pursuant to subdivision two of this section.

d. "Population" shall mean population based on the most recent federal decennial census.

E. "POVERTY RATE" SHALL MEAN THE PERCENTAGE OF INDIVIDUALS LIVING BELOW THE POVERTY LEVEL, AS REPORTED IN THE MOST RECENT FEDERAL DECENNIAL CENSUS.

2. Within amounts appropriated therefor, [beginning in the state fiscal year commencing April first, two thousand seven, and in each state fiscal year thereafter,] an eligible city and an eligible municipality shall receive a state aid payment as follows:

a. An eligible city shall receive: (I) FOR THE STATE FISCAL YEARS COMMENCING APRIL FIRST, TWO THOUSAND SEVEN AND APRIL FIRST, TWO THOUSAND EIGHT, a state aid payment equal to three and one-half percent of the "estimated net machine income" generated by a video lottery gaming facility located in such eligible city. Such state aid payment shall not exceed twenty million dollars per eligible city; AND (II) FOR THE STATE FISCAL YEAR COMMENCING APRIL FIRST, TWO THOUSAND NINE AND FOR EACH STATE FISCAL YEAR THEREAFTER, AN AMOUNT EQUAL TO THE STATE AID PAYMENT RECEIVED IN THE STATE FISCAL YEAR COMMENCING APRIL FIRST, TWO THOUSAND EIGHT.

b. Eligible municipalities shall receive: (I) FOR THE STATE FISCAL YEARS COMMENCING APRIL FIRST, TWO THOUSAND SEVEN AND APRIL FIRST, TWO THOUSAND EIGHT, a share of three and one-half percent of the "estimated net machine income" generated by a video lottery gaming facility located within such eligible municipality as follows: [(i)] (1) twenty-five percent shall be apportioned and paid to the county; and [(ii)] (2) seventy-five percent shall be apportioned and paid on a pro rata basis to eligible municipalities, other than the county, based upon the popu-

lation of such eligible municipalities. Such state aid payment shall not exceed twenty-five percent of an eligible municipality's total expenditures as reported in the statistical report of the comptroller in the preceding state fiscal year pursuant to section thirty-seven of the general municipal law; AND (II) FOR THE STATE FISCAL YEAR COMMENCING APRIL FIRST, TWO THOUSAND NINE AND FOR EACH STATE FISCAL YEAR THEREAFTER: (1) FOR AN ELIGIBLE MUNICIPALITY WHICH IS LOCATED IN A COUNTY THAT HAS A POVERTY RATE EQUAL TO OR GREATER THAN SEVENTY-FIVE PERCENT OF THE NEW YORK STATE POVERTY RATE, AN AMOUNT EQUAL TO THE STATE AID PAYMENT RECEIVED IN THE STATE FISCAL YEAR COMMENCING APRIL FIRST, TWO THOUSAND EIGHT; AND (2) FOR AN ELIGIBLE MUNICIPALITY WHICH IS LOCATED IN A COUNTY THAT HAS A POVERTY RATE LESS THAN SEVENTY-FIVE PERCENT OF THE NEW YORK STATE POVERTY RATE, AN AMOUNT EQUAL TO FIFTY PERCENT OF THE STATE AID PAYMENT RECEIVED IN THE STATE FISCAL YEAR COMMENCING APRIL FIRST, TWO THOUSAND EIGHT.

3. a. State aid payments made to an eligible city pursuant to paragraph a of subdivision two of this section shall be used to increase support for public schools in such city.

b. State aid payments made to an eligible municipality pursuant to paragraph b of subdivision two of this section shall be used by such eligible municipality to: (i) defray local costs associated with a video lottery gaming facility, or (ii) minimize or reduce real property taxes.

4. [a. On or before June first of each state fiscal year, beginning in the state fiscal year commencing April first, two thousand seven, at the request of the director of the division of the budget, the director of the division of the lottery shall transmit a schedule of payments required pursuant to this section to the director of the division of the budget. In determining such schedule of payments, the director of the division of the lottery shall include a reconciliation of the state aid paid in the preceding fiscal year. Such reconciliation shall adjust for the difference between the state aid paid in the preceding fiscal year and what the state aid payment would have been if the actual full annual value of net machine income had been used in the calculation of state aid. Such reconciliation shall be subject to the maximum amounts identified in subdivision two of this section for the year being reconciled.

b. Notwithstanding any other provision of law to the contrary, in the event any eligible city or eligible municipality receives any payment under subdivision two of this section that has been recommended to be reconciled by the director of the division of the lottery as set forth in this subdivision, and the amounts payable pursuant to subdivision two of this section are insufficient to support such reconciliation, the comptroller shall deduct from any moneys payable to such eligible city or eligible municipality the amount required for such reconciliation upon receipt of a certification of the reconciliation amount from the director of the division of the lottery.

5.] Payments of state aid pursuant to this section shall be made on or before June thirtieth of each state fiscal year to the chief fiscal officer of each eligible city and each eligible municipality on audit and warrant of the state comptroller out of moneys appropriated by the legislature for such purpose to the credit of the local assistance fund in the general fund of the state treasury.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2009.

PART LL

Intentionally omitted.

PART MM

Intentionally omitted.

PART NN

Intentionally omitted.

PART OO

Intentionally omitted.

PART PP

Section 1. The state comptroller is hereby authorized and directed to loan money in accordance with the provisions set forth in subdivision 5 of section 4 of the state finance law to the following funds and/or accounts:

1. Tuition reimbursement fund (050):
   a. Tuition reimbursement account (01).
   b. Proprietary vocational school supervision account (02).
2. Local government records management improvement fund (052):
   a. Local government records management account (01).
3. Dedicated highway and bridge trust fund (072):
   a. Highway and bridge capital account (01).
4. State University Residence Hall Rehabilitation Fund (074).
5. State parks infrastructure trust fund (076):
   a. State parks infrastructure account (01).
6. Clean water/clean air implementation fund (079).
7. State lottery fund (160):
   a. Education - New (03).
   b. VLT - Admin (05).
   c. VLT - Sound basic education fund (06).
8. Medicaid management information system escrow fund (179).
9. Federal operating grants fund (290) federal capital grants fund (291).
10. Sewage treatment program management and administration fund (300).
11. Environmental conservation special revenue fund (301):
   a. Hazardous bulk storage account (F7).
   b. Utility environmental regulation account (H4).
   c. Low level radioactive waste siting account (K5).
   d. Recreation account (K6).
   e. Conservationist magazine account (S4).
   f. Environmental regulatory account (S5).
   g. Natural resource account (S6).
   h. Mined land reclamation program account (XB).
   i. Federal grants indirect cost recovery account (IC).
12. Environmental protection and oil spill compensation fund (303).
13. Hazardous waste remedial fund (312):
   a. Site investigation and construction account (01).
   b. Hazardous waste remedial clean up account (06).
14. Mass transportation operating assistance fund (313):
   a. Public transportation systems account (01).
   b. Metropolitan mass transportation (02).

15. Clean air fund (314):
a. Operating permit program account (01).
b. Mobile source account (02).
16. Centralized services fund (323).
17. State exposition special fund (325).
18. Agency enterprise fund (331):
a. OGS convention center account (55).
19. Agencies internal service fund (334):
a. Archives records management account (02).
b. Federal single audit account (05).
c. Quick copy center account (07).
d. Civil service law: sec 11 admin account (09).
e. Civil service EHS occupational health program account (10).
f. Banking services account (12).
g. Cultural resources survey account (14).
h. Neighborhood work project (17).
i. Automation & printing chargeback account (18).
j. OFT NYT account (20).
k. Data center account (23).
l. Human service telecom account (24).
m. Centralized Technology services account (30).
n. OMRDD copy center account (26).
o. Intrusion detection account (27).
p. Domestic violence grant account (28).
20. Miscellaneous special revenue fund (339):
a. Statewide planning and research cooperative system account (03).
b. OMRDD provider of service account (05).
c. New York state thruway authority account (08).
d. Mental hygiene patient income account (13).
e. Financial control board account (15).
f. Regulation of racing account (16).
g. New York metropolitan transportation council account (17).
h. Quality of care account (20).
i. Cyber upgrade account (25).
j. Certificate of need account (26).
k. Hospital and nursing home management account (44).
l. State university dormitory income reimbursable account (47).
m. Training, management and evaluation (50).
n. Energy research account (60).
o. Criminal justice improvement account (62).
p. Fingerprint identification and technology account (68).
q. Environmental laboratory reference fee account (81).
r. Clinical laboratory reference system assessment account (90).
s. Public employment relations board account (93).
t. Radiological health protection account (95).
u. Teacher certification account (A4).
v. Banking department account (A5).
w. Cable television account (A6).
x. Indirect cost recovery account (AH).
y. High school equivalency program account (AI).
z. Rail safety inspection account (AQ).
aa. Child support revenue account (AX).
bb. Multi-agency training account (AY).
cc. Critical infrastructure account (B3).
dd. Insurance department account (B6).
ee. Bell jar collection account (BJ).

ff. Industry and utility service account (BK).
gg. Real property disposition account (BP).
hh. Parking account (BQ).
ii. Asbestos safety training program account (BW).
jj. Improvement of real property tax administration account (BZ).
kk. Public service account (C3).
ll. Plant industry account (CZ).
mm. Batavia school for the blind account (D9).
nn. Investment services account (DC).
oo. Surplus property account (DE).
pp. OMRDD day services account (DH).
qq. Financial oversight account (DI).
rr. Regulation of indian gaming account (DT).
ss. Special conservation activities account (CU).
tt. Interest assessment account (DZ).
uu. Office of the professions account (E3).
vv. Rome school for the deaf account (E6).
ww. Seized assets account (E8).
xx. Administrative adjudication account (E9).
yy. Client notices system (EG).
zz. Federal salary sharing account (EC).
aaa. Cultural education account (EN).
bbb. Examination and miscellaneous revenue account (ER).
ccc. Transportation regulation account (F1).
ddd. Local services account (G3).
eee. Electronic benefit transfer and common benefit identification card account (GD).
fff. Housing special revenue account (H2).
ggg. Department of motor vehicles compulsory insurance account (H7).
hhh. Housing Indirect cost recovery (HI).
iii. Housing credit agency application fee account (J5).
jjj. EPIC premium account (J6).
kkk. Federal gasoline and diesel fuel excise tax account (L6).
lll. OTDA earned revenue account (L7).
mmm. Medical assistance disability account (LF).
nnn. Low income housing credit monitoring fee account (NG).
ooo. Procurement opportunities newsletter account (P4).
ppp. Corporation administration account (P6).
qqq. Montrose veteran's home account (Q6).
rrr. Excelsior capital corporation reimbursement account (R1).
sss. Motor fuel quality account (R4).
ttt. Weights and measures account (R5).
uuu. Deferred compensation administration account (R7).
vvv. Rent revenue other account (RR).
www. Batavia medicaid income account (S1).
xxx. Rent revenue account (S8).
yyy. Tax revenue arrearage account (TR).
zzz. Solid waste management account (W3).
aaaa. Occupational health clinics account (W4).
bbbb. Capacity contracting (XU).
cccc. Point insurance reduction program account.
dddd. Internet point insurance reduction program account.
eeee. Mental hygiene program fund account (10).

21. State university income fund (345):

a. State university general income offset account (11).

22. State police and motor vehicle law enforcement fund (354):

a. State police motor vehicle law enforcement account (02).
23. Youth facilities improvement fund (357):
a. Youth facilities improvement account (01).
24. Highway safety program fund (362):
a. Highway safety program account (01).
25. Drinking water program management and administration fund (366):
a. EFC drinking water program account (01).
b. DOH drinking water program account (02).
26. New York city county clerks offset fund (368):
a. NYCCC operating offset account (01).
27. Housing assistance fund (374).
28. Housing program fund (376).
29. Department of transportation - engineering services fund (380):
a. Highway facility purpose account (01).
30. Miscellaneous capital projects fund (387):
a. Clean air capital account (08).
b. New York racing account.
31. Mental hygiene facilities capital improvement fund (389).
32. Joint labor/management administration fund (394):
a. Joint labor/management administration fund (01).
33. Audit and control revolving fund (395):
a. Executive direction internal audit account (04).
34. Health insurance internal service fund (396):
a. Health insurance internal service account (00).
b. Civil service employee benefits div admin (01).
35. Correctional industries revolving fund (397).
36. Correctional facilities capital improvement fund (399).
37. Industrial exhibit authority fund (450).
38. Federal unemployment insurance administration fund (480):
a. UI administration (01).
39. Federal unemployment insurance occupational training fund (484):
a. Federal unemployment insurance occupational training (00).
b. Disaster relief grants (01).
40. Federal employment and training grants (486):
a. DOL workforce investment act (09).
41. HCRA resources fund (061):
a. EPIC premium account (J6).
b. Maternal and child HIV services account (LC).
c. Hospital based grants program account (AF).
d. Child health plus program account (29).

S 1-a. The state comptroller is hereby authorized and directed to loan money in accordance with the provisions set forth in subdivision 5 of section 4 of the state finance law to any account within the following federal funds, provided the comptroller has made a determination that sufficient federal grant award authority is available to reimburse such loans:

1. Federal USDA-food nutrition services fund (261).
2. Federal health and human services fund (265).
3. Federal education grants fund (267).
4. Federal block grant fund (269).
5. Federal operating grants fund (290).
6. Federal capital projects fund (291).

S 2. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, on

or before March 31, 2010, up to the unencumbered balance or the following amounts:

Economic Development and Public Authorities:

1. $300,000 from the miscellaneous special revenue fund (339) underground facilities safety training account (US), to the general fund.

2. An amount up to the unencumbered balance from the miscellaneous special revenue fund (339), business and licensing services account(AG), to the general fund.

3. $14,260,000 from the miscellaneous special revenue fund (339), code enforcement account (07), to the general fund.

4. $15,000,000 from the miscellaneous special revenue fund (339), insurance department account (B6), to the general fund.

5. $8,000,000 from the miscellaneous special revenue fund (339), banking department account (A5), to the general fund.

6. $177,700,000 from the miscellaneous special revenue fund (339), insurance department account (B6), to the health care reform fund (061), HCRA undistributed account (99).

Education:

1. $2,279,000,000 from the general fund to the state lottery fund (160), education account (03), as reimbursement for disbursements made from such fund for supplemental aid to education pursuant to section 92-c of the state finance law that are in excess of the amounts deposited in such fund for such purposes pursuant to section 1612 of the tax law.

2. $478,000,000 from the general fund to the state lottery fund (160), VLT education account (06), as reimbursement for disbursements made from such fund for supplemental aid to education pursuant to section 92-c of the state finance law that are in excess of the amounts deposited in such fund for such purposes pursuant to section 1612 of the tax law.

3. Moneys from the state lottery fund (160) up to an amount deposited in such fund pursuant to section 1612 of the tax law in excess of the current year appropriation for supplemental aid to education pursuant to section 92-c of the state finance law.

4. $300,000 from the local government records management improvement fund (052) to the archives partnership trust fund (024).

5. $700,000 from the general fund to the miscellaneous special revenue fund (339), Batavia school for the blind account (D9).

6. $400,000 from the general fund to the miscellaneous special revenue fund (339), Rome school for the deaf account (E6).

7. $1,500,000 from the general fund for the private schools for the blind and deaf may be transferred to the department of health miscellaneous special revenue fund (339), quality assurance and audit revenue activities account (GB). Notwithstanding any other law, rule or regulation to the contrary, funds shall be available for transfer to the department of health miscellaneous special revenue fund (339), quality assurance and audit revenue activities account (GB), upon the approval by the director of the budget of a staffing and expenditure plan developed by the department of health in consultation with the state education department.

8. $40,000,000 from the state university dormitory income fund (330) to the state university residence hall rehabilitation fund (074).

9. $315,000,000 from the state university dormitory income fund (330) to the miscellaneous special revenue fund (339), state university dormitory income reimbursable account (47).

10. $500,000 from the miscellaneous special revenue fund (339), volunteer recruitment service scholarships account (VR) to the general fund.

11. $1,000,000 from the miscellaneous special revenue fund (339), cultural education account (EN), to the miscellaneous special revenue fund (339), summer school of the arts account (38).

12. $22,000,000 from the state university income fund (345), state university general income fund reimbursable account (10), to the general fund.

13. $24,000,000 from any of the state education department special revenue and internal service funds to the miscellaneous special revenue fund (339), indirect cost recovery account (AH).

14. $8,318,000 from the general fund to the state university income fund (345), state university income offset account (11), for the states share of repayment of the STIP loan.

15. $75,000,000 from the state university income fund (345), state university general income fund reimbursable account (10), to the state university income fund (345), supplemental operating fund account.

Environmental Affairs:

1. $500,000 from the department of transportation's federal capital projects fund (291) to the office of parks and recreation federal operating grants fund (290), miscellaneous operating grants account.

2. $5,000,000 from the general fund to the hazardous waste remedial fund (312), hazardous waste remediation oversight and assistance account (00).

3. $95,000,000 from resources made available through the use of bond financing for activities in the environmental protection fund (078), environmental protection transfer account (01), to the general fund.

4. $5,000,000 from the general fund to the state parks infrastructure fund (076), state infrastructure account (01).

5. $16,000,000 from any of the department of environmental conservation's special revenue federal funds to the special revenue fund (301) federal grant indirect cost recovery account.

6. $2,000,000 from any of the office of parks, recreation, and historical preservation special revenue federal funds to the special revenue fund (339) federal grant indirect cost recovery account.

7. $1,000,000 from any of the office of parks, recreation and historic preservation special revenue federal funds to the special revenue fund (339) federal grant indirect cost recovery account (Z1).

8. $1,000,000 from any of the office of parks, recreation and historic preservation special revenue federal funds to the special revenue fund (339), I love NY water account (39).

9. $1,000,000 from any of the office of parks, recreation and historic preservation special revenue federal funds to the special revenue fund (339), patron services account (T2).

10. $500 from the Hudson river valley greenway fund (056), greenway communities council account (01), to the general fund.

11. $44 from the Hudson river valley greenway fund (056), greenway heritage conservancy account (02), to the general fund.

12. $3,000,000 from the hazardous waste remedial fund (312) site investigation and construction account (01), to the general fund.

13. $20,000,000 from the hazardous waste remedial fund (312) oversight and assistance account (05), to the general fund.

14. $1,700,000 from the environmental conservation special revenue fund (301) mined land reclamation account (XB), to the general fund.

Family Assistance:

1. $10,000,000 from any of the office of children and family services, office of temporary and disability assistance, or department of health special revenue federal funds and the general fund, in accordance with

agreements with social services districts, to the miscellaneous special revenue fund (339), office of human resources development state match account (2C).

2. $3,000,000 from any of the office of children and family services or office of temporary and disability assistance special revenue federal funds to the miscellaneous special revenue fund (339), family preservation and support services and family violence services account (GC).

3. $6,000,000 from any of the office of children and family services special revenue federal funds to the general fund for title IV-E reimbursement of youth facility costs.

4. $28,000,000 from any of the office of children and family services, office of temporary and disability assistance, or department of health special revenue federal funds and any other miscellaneous revenues generated from the operation of office of children and family services programs to the miscellaneous special revenue fund (339), office of children and family services income account (AR).

5. $10,000,000 from any of the office of children and family services or office of temporary and disability assistance special revenue funds or the general fund to the miscellaneous special revenue fund (339), connections account (WK).

6. $41,000,000 from any of the office of temporary and disability assistance accounts within the federal health and human services fund (265) to the general fund.

7. $7,300,000 from the federal health and human services fund (265) to the miscellaneous special revenue fund (339), ODD earned revenue account (AD).

8. $8,300,000 from any of the office of temporary and disability assistance accounts within the federal health and human services fund (265) to the miscellaneous special revenue fund (339), client notices account (EG).

9. $81,886,000 from any of the office of temporary and disability assistance, department of health or office of children and family services special revenue funds to the miscellaneous special revenue fund (339), office of temporary and disability assistance earned revenue account (L7).

10. $4,309,000 from the federal block grant fund (269) or the federal health and human services fund (265) to the miscellaneous special revenue fund (339), home energy assistance earned revenue account (QA).

11. $7,500,000 from any of the office of temporary and disability assistance or office of children and family services special revenue federal funds to the miscellaneous special revenue fund (339), office of temporary and disability assistance program account (AL).

12. $50,000,000 from any of the office of children and family services, office of temporary and disability assistance, department of labor, and department of health special revenue federal funds to the office of children and family services miscellaneous special revenue fund (339), multi-agency training contract account (AY).

13. $30,000,000 from the office of temporary and disability assistance federal health and human services fund (265) to the miscellaneous special revenue fund (339), child support revenue account (AX).

14. $6,300,000 from any of the office of children and family services, office of temporary and disability assistance, department of labor, or department of health special revenue funds to the office of temporary and disability assistance miscellaneous special revenue fund (339), multi-agency systems development account (MD).

15. $2,322,000 from any of the office of temporary and disability assistance special revenue federal funds, in accordance with agreements with social services districts, to the miscellaneous special revenue fund (339), OTDA office of human resources development state match account (49).

16. $10,731,000 from any of the office of temporary and disability assistance special revenue federal funds, to the miscellaneous special revenue fund (339), OTDA training contract account (48).

17. $97,000 from the employment training fund (341), JTPA youth employment account (04), to the general fund.

18. $147,000 from the employment training fund (341), JTPA youth employment account (01), to the general fund.

19. $6,000,000 from the miscellaneous special revenue fund (339), adult shelter sanction account (GA), to the general fund.

20. $203,000,000 from the miscellaneous special revenue fund (339), youth facility per Diem account (YF), to the general fund.

21. $10,000,000 from the miscellaneous special revenue fund (339), office of temporary and disability assistance earned revenue account (L7), to the general fund.

22. $1,381,800 from the general fund to the children and family trust fund (020).

23. $13,000 from the agency enterprise fund (331) training materials account (07), to the general fund.

24. $7,000,000 from any of the office of temporary and disability assistance accounts within the federal health and human services fund (265), to the general fund.

25. $1,300,000 from any of the office of temporary and disability assistance and department of health special revenue federal funds to the miscellaneous special revenue fund (339), welfare inspector general administrative reimbursement account (WW).

26. $1,000,000 from any of the office of children and family services or office of temporary and disability assistance special revenue federal funds and any other miscellaneous revenues generated from the operation of office of children and family services programs to the miscellaneous special revenue fund (339), office of children and family services program account (L4).

General Government:

1. $1,545,000 from the miscellaneous special revenue fund (339), examination and miscellaneous revenue account (ER) to the general fund.

2. $12,500,000 from the general fund to the health insurance revolving fund (396).

3. $192,400,000 from the health insurance reserve receipts fund (167) to the general fund.

4. $150,000 from the general fund to the not-for-profit revolving loan fund (055).

5. $150,000 from the not-for-profit revolving loan fund (055) to the general fund.

6. $11,000,000 from the miscellaneous special revenue fund (339), real property disposition account (BP), to the general fund.

7. $3,000,000 from the miscellaneous special revenue fund (339), surplus property account (DE), to the general fund.

8. $21,480,000 from the general fund to the miscellaneous special revenue fund (339), alcoholic beverage control account (DB).

9. $2,000,000 from the miscellaneous special revenue fund (339), federal liability account (FL), to the general fund.

10. $10,000,000 from centralized services fund (323), OGS building administration account (ZY), to the general fund.

11. $16,580,000 from the miscellaneous special revenue fund (339), revenue arrearage account (CR), to the general fund.

12. $1,326,000 from the miscellaneous special revenue fund (339) revenue arrearage account (CR), to the miscellaneous special revenue fund (339) authority budget office account.

13. $1,000,000 from the miscellaneous special revenue fund (339), parking services account (BQ), to the general debt service fund (311), general debt service account.

14. Intentionally omitted.

15. $60,000,000 from any account within the special revenue federal funds receiving money pursuant to federal Medicare Part D legislation to the general fund.

Health:

1. $1,500,000 from any of the department of health accounts within the federal health and human services fund (265) to the miscellaneous special revenue fund (339), quality assurance and audit revenue activities account (GB).

2. $139,560,000 from any of the department of health accounts within the federal health and human services fund (265) to the miscellaneous special revenue fund (339), quality of care account (20).

3. $1,000,000 from the general fund to the combined gifts, grants and bequests fund (020), breast cancer research and education account (BD), an amount equal to the monies collected and deposited into that account in the previous fiscal year.

4. $2,464,000 from any of the department of health accounts within the federal health and human services fund (265) to the department of health miscellaneous special revenue fund (339), statewide planning and research cooperation system (SPARCS) program account (03).

5. $250,000 from the general fund to the combined gifts, grants and bequests fund (020), prostate cancer research, detection, and education account (PR), an amount equal to the moneys collected and deposited into that account in the previous fiscal year.

6. $500,000 from the general fund to the combined gifts, grants and bequests fund (020), Alzheimer's disease research and assistance account (AA), an amount equal to the moneys collected and deposited into that account in the previous fiscal year.

7. $1,000,000 from the miscellaneous special revenue fund (339), administration account (AP), to the general fund.

8. $600,000,000 from any of the department of health accounts within the federal health and human services fund (265) to the miscellaneous special revenue fund (339), federal state health reform partnership account (FS).

9. $85,000,000 from the general fund to the miscellaneous special revenue fund (339) empire state stem cell trust fund account (SR).

10. $1,250,000 from the miscellaneous new york state agency fund (169), medical assistance account to the department of health miscellaneous special revenue fund (339), third party health insurance account (35).

11. $3,700,000 from the miscellaneous new york state agency fund (169), medical assistance account to the office of medicaid inspector general miscellaneous special revenue fund (339), recoveries and revenue account (C9).

Labor:

1. $700,000 from the labor standards miscellaneous special revenue fund (339), fee and penalty account (30), to the child performer protection fund (025), child performer protection account (CP).
2. $9,000,000 from the labor standards miscellaneous special revenue fund (339), fee and penalty account (30), to the general fund.
3. $9,000,000 from the occupational safety and health special revenue fund (305), occupational safety and health training and education account (01), to the general fund.
4. $5,000,000 from the unemployment insurance interest and penalty special revenue fund (482), unemployment insurance special interest and penalty account (01), to the general fund.

Mental Hygiene:

1. $5,000,000 from the miscellaneous special revenue fund (339), mental hygiene patient income account (13), to the miscellaneous special revenue fund (339), federal salary sharing account (EC).
2. $10,000,000 from the miscellaneous special revenue fund (339), mental hygiene patient income account (13), to the miscellaneous special revenue fund (339), federal salary sharing account (EC).
3. $190,000,000 from the miscellaneous special revenue fund (339), mental hygiene patient income account (13) to the miscellaneous special revenue fund (339), provider of service accounts (05).
4. $144,000,000 from the miscellaneous special revenue fund (339), mental hygiene program fund account (10) to the miscellaneous special revenue fund (339), provider of service account (05).
5. $150,000,000 from the general fund to the miscellaneous special revenue fund (339), mental hygiene patient income account (13).
6. $150,000,000 from the general fund to the miscellaneous special revenue fund (339), mental hygiene program fund account (10).
7. $3,600,000 from the miscellaneous special revenue fund (332), Intermediate Care Facility (ICF)/Home and Community Based Services (HCBS) loan account (05), to the general fund.
8. $197,400,000 from the miscellaneous special revenue fund (339), mental hygiene program fund account (10) to the general fund.
9. $24,200,000 from the miscellaneous special revenue fund (339), mental hygiene patient income account (13) to the general fund.

Public Protection:

1. $1,350,000 from the miscellaneous special revenue fund (339), emergency management account (61), to the general fund.
2. $3,300,000 from the general fund to the miscellaneous special revenue fund (339), recruitment incentive account (U2).
3. $14,000,000 from the general fund to the correctional industries revolving fund (397), correctional industries internal service account (00).
4. $25,500,000 from the miscellaneous special revenue fund (339), statewide public safety communications account (LZ), to the miscellaneous special revenue fund (339), seized assets account (E8).
5. $1,500,000 from the miscellaneous special revenue fund (339), statewide public safety communications account (LZ), to the combined gifts, grants and bequests fund (020), New York state emergency services revolving loan account (AU).
6. $10,000,000 from the miscellaneous special revenue fund (339), statewide public safety communications account (LZ), to the miscellaneous special revenue fund (339), local wireless public safety answering point account (LW).

7. $23,559,000 from the miscellaneous special revenue fund (339), statewide public safety communications account (LZ), to the general debt service fund (311), revenue bond tax account (02).

8. $10,000,000 from federal miscellaneous operating grants fund (290), DMNA damage account (71), to the general fund.

9. $6,000,000 from the general fund to the miscellaneous special revenue fund (339), crimes against revenue program account (CA).

10. $2,000,000 from the general fund to the Attica state employee victims' fund (013).

11. $20,000,000 from any office of homeland security account within the federal miscellaneous operating grants fund (290), receiving money through the homeland security grants program, to the general fund.

12. $11,500,000 from the federal miscellaneous operating grants fund (290) world trade center account, to the general fund.

13. $4,800,000 from the federal miscellaneous operating grants fund (290) world trade center account, to the miscellaneous special revenue fund (339) New York alert account.

14. $100,000,000 from the miscellaneous special revenue fund (339), statewide public safety communications account (LZ), to the state capital projects fund (002).

15. $9,946,000 from the miscellaneous special revenue fund (339) criminal justice improvement account (62) to the general fund.

16. $7,200,000 from the miscellaneous special revenue fund (390) indigent legal services fund (01), to the general fund.

17. $600,000 from the agency enterprise fund (331) farm program account (FM), to the general fund.

Transportation:

1. $17,672,000 from the federal miscellaneous operating grants fund (290) to the special revenue fund (339), tri-state federal regional planning account (17).

2. $20,147,000 from the federal capital projects fund (291) to the special revenue fund (339), tri-state federal regional planning accounts (17).

3. $12,300,000 from the miscellaneous special revenue fund (339), compulsory insurance account (H7), to the general fund.

4. $20,000,000 from the suburban transportation fund (327) to the mass transportation operating assistance fund (313), additional mass transportation fund account (06).

5. $14,183,000 from the general fund to the mass transportation operating assistance fund (313) public transportation systems accounts (01).

6. $16,721,000 from the mass transportation operating assistance fund (313) metropolitan mass transit operating assistance account (02), to the mass transportation operating assistance fund (313) public transportation systems operating assistance account (01).

7. $478,234,000 from the general fund to the dedicated highway and bridge trust fund (072).

Miscellaneous:

1. $75,000,000 from the general fund to any funds or accounts for the purpose of reimbursing certain outstanding accounts receivable balances.

2. $250,000,000 from the general fund to the debt reduction reserve fund (064).

3. $23,300,000 from the general fund to the miscellaneous special revenue fund (339), improvement of real property tax administrative account (BZ).

S 3. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, on or before March 31, 2010:

1. Upon request of the commissioner of environmental conservation, up to $10,463,500 from revenues credited to any of the department of environmental conservation special revenue funds, including $3,068,300 from the environmental protection and oil spill compensation fund (303), and $1,723,000 from the conservation fund (302), to the environmental conservation special revenue fund (301), indirect charges account (BJ).

2. Upon request of the commissioner of agriculture and markets, up to $3,000,000 from any special revenue fund or enterprise fund within the department of agriculture and markets to the miscellaneous special revenue fund (339) administrative costs account, to pay appropriate administrative expenses.

3. Upon request of the commissioner of agriculture and markets, up to $2,000,000 from the state exposition special fund (325), state fair receipts account (01), or the industrial exhibit authority fund (450), industrial exhibit authority account (01), to the miscellaneous capital projects fund (387), state fair capital improvement account (13).

4. Upon request of the commissioner of the division of housing and community renewal, up to $2,911,000 from revenues credited to any division of housing and community renewal miscellaneous special revenue fund (339) to the agency cost recovery account (HI).

5. Upon request of the commissioner of health up to $15,000,000 from revenues credited to any of the department of health's special revenue funds, to the miscellaneous special revenue fund (339), administration account (AP).

6. Upon request of the director of the budget, up to $20,000,000 from the miscellaneous special revenue fund (339), statewide public safety communications account (LZ), to the general fund.

S 4. Notwithstanding section 2815 of the public health law or any other contrary provision of law, upon the direction of the director of the budget and the commissioner of health, the dormitory authority of the state of New York is directed to transfer seven million dollars annually from funds available and uncommitted in the New York state health care restructuring pool to the health care reform act (HCRA) resources fund - HCRA resources account.

S 5. Notwithstanding any law to the contrary, the state university chancellor or his designee is authorized and directed to transfer estimated tuition revenue balances from the state university collection fund (344) to the state university fund (345), state university revenue offset account (12) on or before March 31, 2010.

S 6. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the state university chancellor or his designee, up to $40,000,000 from the state university income fund (345), state university hospitals income reimbursable account (22) under hospital income reimbursable for services and expenses of hospital operations and capital expenditures at the state university hospitals, and the state university income fund (345) Long Island veterans' home account (09) to the state university capital projects fund (384) on or before June 30, 2010.

S 7. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, up to $128,700,000 from the general fund to the state university income

fund (345), state university hospitals income reimbursable account (22) during the period July 1, 2009 through June 30, 2010 to reflect ongoing state subsidy of SUNY hospitals and to pay costs attributable to the SUNY hospitals' state agency status.

S 8. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller, after consultation with the state university chancellor or his or her designee, is hereby authorized and directed to transfer moneys, in the first instance, from the state university collection fund (344), Stony Brook hospital collection account (07), Brooklyn hospital collection account (08), and Syracuse hospital collection account (09) to the state university income fund (345), state university hospitals income reimbursable account (22) in the event insufficient funds are available in the state university income fund (345), state university hospitals income reimbursable account (22) to transfer moneys, in amounts sufficient to permit the full transfer of moneys authorized for transfer, to the general debt service fund (311) for payment of debt service related to the SUNY hospitals. Notwithstanding any law to the contrary, the comptroller is also hereby authorized and directed, after consultation with the state university chancellor or his or her designee, to transfer moneys from the state university income fund (345) to the state university income fund (345), state university hospitals income reimbursable account (22) in the event insufficient funds are available in the state university income fund (345), state university hospitals income reimbursable account (22) to pay hospital operating costs or to transfer moneys, in amounts sufficient to permit the full transfer of moneys authorized for transfer, to the general debt service fund (311) for payment of debt service related to the SUNY hospitals on or before March 31, 2010.

S 9. On or before March 31, 2010, the comptroller is authorized and directed to transfer the unencumbered balance from the family benefit fund (329) to the general fund.

S 10. On or before March 31, 2010, the comptroller is hereby authorized and directed to deposit earnings that would otherwise accrue to the general fund that are attributable to the operation of section 98-a of the state finance law, to the agencies internal service fund (334), banking services account (12), for the purpose of meeting direct payments from such account.

S 11. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer monies, upon request of the director of the budget, on or before March 31, 2010, from and to any of the following accounts: the miscellaneous special revenue fund (339), patient income account (13), the miscellaneous special revenue fund (339), mental hygiene program fund account or the general fund in any combination, the aggregate of which shall not exceed $200 million.

S 12. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, at the request of the director of the budget, up to $200 million from the unencumbered balance of any special revenue fund or account, or combination of funds and accounts, to the general fund. The amounts transferred pursuant to this authorization shall be in addition to any other transfers expressly authorized in the 2009-10 budget. Transfers from federal funds, debt service funds, capital projects funds, or the community projects fund are not permitted pursuant to this authorization. The director of the budget shall notify both

houses of the legislature in writing prior to initiating transfers pursuant to this authorization.

S 13. Subdivision 5 of section 97-rrr of the state finance law, as amended by section 14 of part RR of chapter 57 of the laws of 2008, is amended to read as follows:

5. Notwithstanding the provisions of section one hundred seventy-one-a of the tax law, as separately amended by chapters four hundred eighty-one and four hundred eighty-four of the laws of nineteen hundred eighty-one, or any other provisions of law to the contrary, during the fiscal year beginning April first, two thousand [eight] NINE, the state comptroller is hereby authorized and directed to deposit to the fund created pursuant to this section from amounts collected pursuant to article twenty-two of the tax law and pursuant to a schedule submitted by the director of the budget, up to [$4,970,000,000] $3,524,450,000, as may be certified in such schedule as necessary to meet the purposes of such fund for the fiscal year beginning April first, two thousand [eight] NINE.

S 13-a. Section 51 of part RR of chapter 57 of the laws of 2008 providing for the administration of certain funds and accounts related to the 2008-2009 budget, is amended to read as follows:

S 51. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2008; provided, however, that the amendments to subdivision 6 of section 4 and subdivision 4 of section 40 of the state finance law made by sections fifteen and sixteen of this act shall expire on the same date such subdivisions expire; and provided, further, however, that section thirty-four of this act shall take effect on the same date as the reversion of section 69-c of the state finance law as provided in section 58 of part T of chapter 57 of the laws of 2007, as amended; provided, further that such amendments shall expire and be deemed repealed March 31, 2010; and provided, further, however, that sections one, three, four, [fourteen,] and eighteen through twenty-seven of this act shall expire March 31, 2009 when upon such date the provisions of such sections shall be deemed repealed; AND PROVIDED FURTHER THAT SECTION FOURTEEN OF THIS ACT SHALL EXPIRE MARCH 31, 2010 WHEN UPON SUCH DATE THE PROVISIONS OF SUCH SECTION SHALL BE DEEMED REPEALED.

S 14. Section 41 of chapter 60 of the laws of 1993, amending the public authorities law and other laws relating to the bonding authority of the environmental facilities corporation is amended by adding a new subdivision 4 to read as follows:

4. MONEYS IN THE CONTINGENCY RESERVE FUND MAY BE TEMPORARILY LOANED TO THE GENERAL FUND DURING ANY FISCAL YEAR IN ANTICIPATION OF THE RECEIPT OF REVENUES FROM TAXES, FEES AND OTHER SOURCES REQUIRED TO BE PAID INTO THE GENERAL FUND DURING SUCH FISCAL YEAR. MONEYS SO TEMPORARILY LOANED SHALL BE REPAID IN CASH DURING THE SAME FISCAL YEAR.

S 15. Section 92-cc of the state finance law is amended by adding a new subdivision 5 to read as follows:

5. MONEYS IN THE RAINY DAY RESERVE FUND MAY BE TEMPORARILY LOANED TO THE GENERAL FUND DURING ANY FISCAL YEAR IN ANTICIPATION OF THE RECEIPT OF REVENUES FROM TAXES, FEES AND OTHER SOURCES REQUIRED TO BE PAID INTO THE GENERAL FUND DURING SUCH FISCAL YEAR. MONEYS SO TEMPORARILY LOANED SHALL BE REPAID IN CASH DURING THE SAME FISCAL YEAR.

S 16. Subdivision 5 of section 4 of the state finance law, as amended by chapter 524 of the laws of 2008, is amended to read as follows:

5. No money or other financial resources shall be transferred or temporarily loaned from one fund to another without specific statutory

authorization for such transfer or temporary loan, except that [the] MONEY OR OTHER FINANCIAL RESOURCES OF A FUND MAY BE TEMPORARILY LOANED TO THE GENERAL FUND DURING THE STATE FISCAL YEAR PROVIDED THAT SUCH LOAN SHALL BE REPAID IN FULL NO LATER THAN (A) FOUR MONTHS AFTER IT WAS MADE OR (B) BY THE END OF THE SAME FISCAL YEAR IN WHICH IT WAS MADE, WHICHEVER PERIOD IS SHORTER, SO THAT AN ACCURATE ACCOUNTING AND REPORTING OF THE BALANCE OF FINANCIAL RESOURCES IN EACH FUND MAY BE MADE. THE comptroller is hereby authorized to temporarily loan money from the general fund or any other fund to the fund/accounts that are authorized to receive a loan. Such loans shall be limited to the amounts immediately required to meet disbursements, made in pursuance of an appropriation by law and authorized by a certificate of approval issued by the director of the budget with copies thereof filed with the comptroller and the chair of the senate finance committee and the chair of the assembly ways and means committee. The director of the budget shall not issue such a certificate unless he or she shall have determined that the amounts to be so loaned are receivable on account. When making loans, the comptroller shall establish appropriate accounts and if the loan is not repaid by the end of the month, provide on or before the fifteenth day of the following month to the director of the budget, the chair of the senate finance committee and the chair of the assembly ways and means committee, an accurate accounting and report of the financial resources of each such fund at the end of such month. Within ten days of the receipt of such accounting and reporting, the director of the budget shall provide the comptroller and the chair of the senate finance committee and the chair of the assembly ways and means committee an expected schedule of repayment by fund and by source for each outstanding loan. Repayment shall be made by the comptroller from the first cash receipt of this fund.

S 17. Section 3 of part MM of chapter 59 of the laws of 2008, amending chapter 57 of the laws of 2007, providing funding for certain community projects, relating to increasing such funding, is REPEALED.

S 18. Subdivision (b) of section 1 of part P of chapter 57 of the laws of 2007, relating to the provision of funding of certain community projects, as amended by section 1 of part MM of chapter 59 of the laws of 2008, is amended to read as follows:

(b) [One hundred twenty-five] SIXTY-TWO million FIVE HUNDRED THOUSAND dollars [($125,000,000)] ($62,500,000) for the period April 1, 2009 through March 31, 2010, as follows: sixty-two million five hundred thousand dollars ($62,500,000) to account AA[; and sixty-two million five hundred thousand dollars ($62,500,000) to account CC]. Such [transfers] TRANSFER shall be made in accordance with section 99-d of the state finance law, as added by chapter 474 of the laws of 1996, as amended.

S 19. Subdivision (a) of section 2 of part MM of chapter 59 of the laws of 2008, amending chapter 57 of the laws of 2007, providing funding of certain community projects, is amended to read as follows:

(a) [Seventy] THIRTY million [six hundred thousand] dollars [($70,600,000)] ($30,000,000) for the period April 1, 2009 through March 31, 2010, as follows: thirty million dollars ($30,000,000) to account AA[; thirty million dollars ($30,000,000) to account CC; and ten million six hundred thousand dollars ($10,600,000) to account GG]. Such [transfers] TRANSFER shall be made in accordance with section 99-d of the state finance law, as added by chapter 474 of the laws of 1996, as amended.

S 19-a. In accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer from the general fund -- state purposes account to the community projects fund the following amounts:

(a) Eighty-five million dollars ($85,000,000) for the period April 1, 2010 through March 31, 2011, as follows: forty-two million five hundred thousand dollars ($42,500,000) to account BB; and forty-two million five hundred thousand dollars ($42,500,000) to account CC. Such transfers shall be made in accordance with section 99-d of the state finance law, as added by chapter 474 of the laws of 1996, as amended.

(b) Eighty-five million dollars ($85,000,000) for the period April 1, 2011 through March 31, 2012, as follows: forty-two million five hundred thousand dollars ($42,500,000) to account BB; and forty-two million five hundred thousand dollars ($42,500,000) to account CC. Such transfers shall be made in accordance with section 99-d of the state finance law, as added by chapter 474 of the laws of 1996, as amended.

S 19-b. Notwithstanding the provisions of subdivisions (a) and (b) of section nineteen-a of this act, if, during the period April 1, 2009 through March 31, 2010, an account has insufficient funds to make timely payments upon presentment of proper vouchers therefor, the comptroller is authorized and directed to transfer, upon the joint request of the director of the budget, the secretary of the senate finance committee and the secretary of the assembly ways and means committee, to such account monies that are otherwise authorized for transfer during the period April 1, 2010 through March 31, 2011, provided, however that the monies transferred to any account shall not exceed the total authorized for such account in subdivision (a) of section nineteen-a of this act. The comptroller shall provide the director of the budget, the chair of the senate finance committee, and the chair of the assembly ways and means committee with an accurate accounting and report of any transfers that occur pursuant to this section on or before the fifteenth day of the following month in which such transfers occur.

S 20. The comptroller is authorized and directed to deposit to the general fund-state purposes account reimbursements from moneys appropriated or reappropriated to the correctional facilities capital improvement fund (399) by a chapter of the laws of 2009. Reimbursements shall be available for spending from appropriations made to the department of correctional services in the general fund-state purposes account by a chapter of the laws of 2009 for costs associated with the administration and security of capital projects and for other costs which are attributable, according to a plan, to such capital projects.

S 21. Notwithstanding any other law, rule, or regulation to the contrary, the comptroller is hereby authorized and directed to deposit, to the credit of the capital projects fund, reimbursement from the proceeds of notes and bonds issued by the environmental facilities corporation for a capital appropriation for $22,404,000 authorized by chapter 55 of the laws of 1999 to the department of environmental conservation for payment of a portion of the state's match for federal capitalization grants for the water pollution control revolving loan fund, reimbursements for spending from various appropriations for projects related to the New York city watershed, reimbursement from the proceeds of notes and bonds issued by the environmental facilities corporation for a capital appropriation for $22,500,000 authorized by chapter 55 of the laws of 1999 to the environmental facilities corporation for payment for the jobs two thousand pipeline for jobs program, reimbursement from the proceeds of notes and bonds issued by the dormi-

tory authority of the state of New York for a capital appropriation for $47,500,000 authorized by chapter 55 of the laws of 1999 to the office of science, technology and academic research for payment for the jobs two thousand capital facilities program, reimbursement from the proceeds of notes and bonds issued by the dormitory authority of the state of New York for a capital appropriation for $145,000,000 authorized by chapter 53 of the laws of 1999 to the state education department for payment of capital construction grants to school districts pursuant to the rebuilding schools to uphold education program, and reimbursement from the proceeds of notes and bonds issued by the urban development corporation for a capital appropriation for $25,000,000 authorized by chapter 55 of the laws of 1999 to all state agencies for payment of costs related to economic development, land acquisition, and heritage trail projects.

S 22. Notwithstanding any other law, rule, or regulation to the contrary, the comptroller is hereby authorized and directed to deposit, to the credit of the capital projects fund, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for a capital appropriation for $43,383,000 authorized by chapter 55 of the laws of 2000 to the department of environmental conservation for payment of a portion of the state's match for federal capitalization grants for the water pollution control revolving loan fund, to reimburse spending from various appropriations for certain projects related to the New York city watershed, reimbursement from the proceeds of notes and bonds issued by the urban development corporation for capital appropriation for $15,000,000 authorized by chapter 55 of the laws of 2000 to the urban development corporation for payment of costs related to a sports facility in the city of Rochester, reimbursement from the proceeds of notes and bonds issued by the urban development corporation of the state of New York for a capital appropriation for $50,000,000 authorized by chapter 55 of the laws of 2000 to the urban development corporation for payment of costs related to economic development projects in the downtown Buffalo, the Buffalo inner harbor area, or surrounding environs, reimbursement from proceeds of notes and bonds issued by the dormitory authority of the state of New York for a capital appropriation for $225,000,000 authorized by chapter 55 of the laws of 2000 to all state agencies for payment of costs related to the strategic investment program, reimbursement from the proceeds of notes and bonds issued by the dormitory authority of the state of New York for a capital appropriation for $50,000,000 authorized by chapter 53 of the laws of 2000 to the state education department for payment of capital construction grants to school districts pursuant to the rebuilding schools to uphold education program, for reimbursement from the proceeds of notes and bonds issued by the dormitory authority of the state of New York for a capital appropriation for $15,000,000 authorized by chapter 53 of the laws of 2000 to the office of children and family services for payment of costs related to the child care facilities development program, and for reimbursement from the proceeds of notes and bonds issued by the dormitory authority of the state of New York for a capital appropriation for $10,000,000 authorized by chapter 55 of the laws of 2000 to the office of science, technology and academic research for payment of costs related to biomedical research and/or manufacturing facilities.

S 23. Notwithstanding any other law, rule, or regulation to the contrary, the comptroller is hereby authorized and directed to deposit to the credit of the capital projects fund, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corpo-

ration for a capital appropriation for $29,772,000 authorized by chapter 54 of the laws of 2001 to the department of environmental conservation for payment of a portion of the state's match for federal capitalization grants for the water pollution control revolving loan fund.

S 24. Notwithstanding any other law, rule, or regulation to the contrary, the comptroller is hereby authorized and directed to deposit, to the credit of the capital projects fund, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for a capital appropriation for $29,365,000 authorized by chapter 54 of the laws of 2002 to the department of environmental conservation for payment of a portion of the state's match for federal capitalization grants for the water pollution control revolving loan fund, reimbursement from the proceeds of notes and bonds issued by the urban development corporation or other financing source for a capital appropriation for $89,000,000 authorized by chapter 50 of the laws of 2002 to the office of general services for payment of capital construction costs for the Alfred E. Smith office building located in the city of Albany, reimbursement from the proceeds of notes and bonds issued by the urban development corporation or other financing source for capital appropriations for $1,500,000 authorized by chapter 50 of the laws of 2002 to the office of general services for payment of capital construction costs for the Elk street parking garage building located in the city of Albany, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for disbursements of up to $12,000,000 from any capital appropriation or reappropriation authorized by chapter 50 of the laws of 2002 to the office of general services for various purposes, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for a capital appropriation of $13,250,000 authorized by chapter 55 of the laws of 2002 to the energy research and development authority for the Western New York Nuclear Service Center at West Valley, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for a capital appropriation of $14,300,000 authorized by chapter 55 of the laws of 2002 to the urban development corporation to finance a portion of the jobs now program, reimbursement from the proceeds of notes or bonds issued by the dormitory authority for disbursements of up to $20,800,000 from any capital appropriation or reappropriation authorized by chapter 51 of the laws of 2002 to the judiciary for courthouse improvements, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for disbursements of up to $15,000,000 from appropriations or reappropriations authorized by chapter 50 of the laws of 2002 to any agency for costs related to homeland security, and reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for a capital appropriation of $10,000,000 authorized by chapter 54 of the laws of 2002 to the department of environmental conservation for Onondaga lake.

S 25. Notwithstanding any other law, rule, or regulation to the contrary, the comptroller is hereby authorized and directed to deposit to the credit of the capital projects fund, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for a capital appropriation of $30,174,000 authorized by chapter 55 of the laws of 2003 to the department of environmental conservation for payment of a portion of the state's match for federal capitalization grants for the water pollution control revolving loan fund, reimbursement from the proceeds of notes or bonds issued by the urban development corporation or other financing source for a capital appropriation of

$19,500,000 authorized by chapter 50 of the laws of 2003 to the office of general services for payment of capital construction costs for the 51 Elk street parking garage building located in the city of Albany, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for disbursements of up to $10,000,000 from any capital appropriation or reappropriation authorized by chapter 50 of the laws of 2003 to the office of general services for various purposes, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for a capital appropriation of $13,250,000 authorized by chapter 55 of the laws of 2003 to the energy research and development authority for the Western New York Nuclear Service Center at West Valley, reimbursement from the proceeds of notes or bonds issued by the dormitory authority for disbursements of up to $16,400,000 from any capital appropriation or reappropriation authorized by chapter 51 of the laws of 2003 to the judiciary for courthouse improvements, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for disbursements of up to $10,000,000 from appropriations or reappropriations authorized by chapter 50 of the laws of 2003 to any agency for costs related to homeland security, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for a capital appropriation of $10,000,000 authorized by chapter 55 of the laws of 2003 to the department of environmental conservation for Onondaga lake, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for disbursements of up to $11,000,000 from any capital appropriations or reappropriations authorized by chapter 55 of the laws of 2003 to the department of environmental conservation for environmental purposes, and reimbursement from the proceeds of notes or bonds issued by the dormitory authority for disbursements of up to $100,000,000 from a capital appropriation authorized by chapter 50 of the laws of 2003 to the department of state for enhanced 911 wireless service.

S 26. Notwithstanding any other law, rule, or regulation to the contrary, the comptroller is hereby authorized and directed to deposit to the credit of the capital projects fund, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for a capital appropriation for $28,893,000 authorized by chapter 55 of the laws of 2004 to the department of environmental conservation for payment of a portion of the state's match for federal capitalization grants for the water pollution control revolving loan fund, reimbursement from the proceeds of notes or bonds issued by reimbursement from the proceeds of notes or bonds issued by the urban development corporation for disbursements of up to $10,000,000 from any capital appropriation or reappropriation authorized by chapter 50 of the laws of 2004 to the office of general services for various purposes, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for a capital appropriation of $11,350,000 authorized by chapter 55 of the laws of 2004 to the energy research and development authority for the Western New York Nuclear Service Center at West Valley, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation, for a capital appropriation of $10,000,000 authorized by chapter 55 of the laws of 2004 to the department of environmental conservation for Onondaga lake, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for disbursements of up to $11,000,000 from any capital appropriations or reappropriations authorized by chapter 55 of the laws of 2004 to the department of environmental conservation for environ-

mental purposes, reimbursement from the proceeds of notes or bonds issued by the dormitory authority for a capital appropriation of $80,000,000 authorized by chapter 53 of the laws of 2004 to the education department for capital transition grants for transportation, reimbursement from the proceeds of notes or bonds issued by the dormitory authority for a capital appropriation of $250,000,000 authorized by chapter 55 of the laws of 2004 for payment of costs related to economic development projects, reimbursement from the proceeds of bonds or notes issued by the urban development corporation for a capital appropriation of $83,500,000 authorized by chapter 53 of the laws of 2006, as amended by chapter 108 of the laws of 2006, for payment of costs related to the H. H. Richardson complex and the Darwin Martin House, and reimbursement from the proceeds of notes or bonds issued by the dormitory authority for a capital appropriation of $350,000,000 authorized by chapter 3 of the laws of 2004 for the New York state economic development program.

S 27. Notwithstanding any other law, rule, or regulation to the contrary, the comptroller is hereby authorized and directed to deposit to the credit of the capital projects fund, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for a capital appropriation for $29,602,000 authorized by chapter 55 of the laws of 2005 to the department of environmental conservation for payment of a portion of the state's match for federal capitalization grants for the water pollution control revolving loan fund, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for disbursements of up to $10,000,000 from any capital appropriation or reappropriation authorized by chapter 50 of the laws of 2005 to the office of general services for various purposes, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for a capital appropriation of $11,350,000 authorized by chapter 55 of the laws of 2005 to the energy research and development authority for the Western New York Nuclear Service Center at West Valley, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for a capital appropriation of $10,000,000 authorized by chapter 55 of the laws of 2005 to the department of environmental conservation for Onondaga lake, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for disbursements of up to $11,000,000 from any capital appropriations or reappropriations authorized by chapter 55 of the laws of 2005 to the department of environmental conservation for environmental purposes, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for a capital appropriation of $350,000,000 authorized by chapter 55 of the laws of 2005 for the Javits center, reimbursement from the proceeds of notes or bonds issued by the dormitory authority for a capital appropriation of $90,000,000 authorized by chapter 62 of the laws of 2005 for regional development, reimbursement from the proceeds of notes or bonds issued by the dormitory authority for a capital appropriation of $250,000,000 authorized by chapter 62 of the laws of 2005 for technology and development, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for a capital appropriation of $75,000,000 authorized by chapter 162 of the laws of 2005 for the New York state economic development program, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for a capital appropriation of $150,000,000 authorized by chapter 62 of the laws of 2005 for the higher education facilities capital matching grants program, reimbursement from the proceeds of notes or bonds issued by the

dormitory authority or other financing source for a capital appropriation of $4,000,000 authorized by chapter 50 of the laws of 2005 to the office of general services for payment of capital construction costs for the Elk street parking garage building located in the city of Albany, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for a capital appropriation of $15,000,000 authorized by chapter 53 of the laws of 2005 to the state education department for payment of capital construction costs for public broadcasting facilities, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for a capital appropriation of $15,700,000 authorized by chapter 50 of the laws of 2005 to the division of state police for public protection facilities, and reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital disbursements of up to $3,000,000 from any capital appropriation or reappropriation authorized by chapter 50 of the laws of 2005 to the division of military and naval affairs for various purposes.

S 28. Notwithstanding any other law, rule, or regulation to the contrary, the comptroller is hereby authorized and directed to deposit to the credit of the capital projects fund, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for a capital appropriation for $29,600,000 authorized by chapter 55 of the laws of 2006 to the department of environmental conservation for payment of a portion of the state's match for federal capitalization grants for the water pollution control revolving loan fund, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for disbursements of up to $20,000,000 from any capital appropriation or reappropriation authorized by chapter 50 of the laws of 2006 to the office of general services for various purposes, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for a capital appropriation of $14,000,000 authorized by chapter 55 of the laws of 2006 to the energy research and development authority for the Western New York Nuclear Service Center at West Valley, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for a capital appropriation of $10,000,000 authorized by chapter 55 of the laws of 2006 to the department of environmental conservation for Onondaga lake, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for disbursements of up to $12,000,000 from any capital appropriations or reappropriations authorized by chapter 55 of the laws of 2006 to the department of environmental conservation for environmental purposes, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital disbursements of up to $3,000,000 from any capital appropriation or reappropriation authorized by chapter 50 of the laws of 2006 to the division of military and naval affairs for various purposes, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for disbursements of up to $12,400,000 from any capital appropriation or reappropriation authorized by chapter 50 of the laws of 2006 to the division of state police for public protection facilities, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for a capital appropriation of $117,000,000 authorized by chapter 50 of the laws of 2006 to all state departments and agencies for the purchase of equipment, reimbursement from the proceeds of notes or bonds issued by the dormitory authority or the urban development corporation for all or a portion of capital appropriations of $603,050,000

authorized by chapter 108 of the laws of 2006 to the urban development corporation for economic development/other projects, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for a capital appropriation of $269,500,000 authorized by chapter 108 of the laws of 2006 to the dormitory authority or the urban development corporation for economic development projects, reimbursement from the proceeds of notes or bonds issued by the dormitory authority or the urban development corporation for a capital appropriation of $201,500,000 authorized by chapter 108 of the laws of 2006 to the urban development corporation for university development projects, reimbursement from the proceeds of notes or bonds issued by the dormitory authority or for a capital appropriation of $143,000,000 authorized by chapter 108 of the laws of 2006 to the urban development corporation for cultural facilities projects, reimbursement from the proceeds of notes or bonds issued by the dormitory authority or the urban development corporation for capital appropriations totaling $60,000,000 authorized by chapter 108 of the laws of 2006 to the urban development corporation for energy/environmental projects, reimbursement from the proceeds of notes or bonds issued by the dormitory authority or the urban development corporation for a capital appropriation of $20,000,000 authorized by chapter 108 of the laws of 2006 to the urban development corporation for a competitive solicitation for construction of a pilot cellulosic ethanol refinery, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for a capital appropriation of $74,700,000 authorized by chapter 55 of the laws of 2006 to the urban development corporation for services and expenses related to infrastructure for a new stadium in Queens county, and reimbursement from the proceeds of notes or bonds issued by the urban development corporation for a capital appropriation of $74,700,000 authorized by chapter 55 of the laws of 2006 to the urban development corporation for services and expenses related to infrastructure improvements to construct a new parking facility at a new stadium in Bronx county, reimbursement from the proceeds of notes and bonds issued by the environmental facilities corporation for a capital appropriation for $5,000,000 authorized by chapter 55 of the laws of 2006 to the environmental facilities corporation for payment for the pipeline for jobs program, reimbursement from the proceeds of notes or bonds issued by the dormitory authority for capital disbursements of up to $14,000,000 from any capital appropriation or reappropriation authorized by chapter 53 of the laws of 2006 for the library construction purpose, reimbursement from the proceeds of notes or bonds issued by the urban development corporation or the dormitory authority for an appropriation of $2,000,000 authorized by chapter 53 of the laws of 2006 for a Cornell equine drug testing laboratory, reimbursement from the proceeds of notes or bonds issued by the urban development corporation or the dormitory authority for an appropriation of $1,200,000 authorized by chapter 53 of the laws of 2006 for the towns of Bristol and Canandaigua public water systems, reimbursement from the proceeds of notes or bonds issued by the urban development corporation or the dormitory authority for an appropriation of $5,500,000 authorized by chapter 53 of the laws of 2006 for Belleayre mountain ski center, reimbursement from the proceeds of notes or bonds issued by the urban development corporation or the dormitory authority for an appropriation of $25,000,000 authorized by chapter 53 of the laws of 2006 for the town of Smithtown/Kings Park psychiatric center rehabilitation, reimbursement from the proceeds of notes or bonds issued by the urban development corporation or the dormitory authority for an appropriation of

$5,000,000 authorized by chapter 108 of the laws of 2006 for a state of New York umbilical cord bank, reimbursement from the proceeds of notes or bonds issued by the urban development corporation or the dormitory authority for an appropriation of $5,500,000 authorized by chapter 53 of the laws of 2006 for an Old Gore mountain ski bowl connection, reimbursement from the proceeds of notes or bonds issued by the urban development corporation or the dormitory authority for an appropriation of $2,000,000 authorized by chapter 53 of the laws of 2006 for a Fredonia vineyard laboratory, reimbursement from the proceeds of notes or bonds issued by the urban development corporation or the dormitory authority for an appropriation of $99,500,000 authorized by chapter 108 of the laws of 2006 to the office for technology for payment of capital construction costs for a consolidated data center, reimbursement from the proceeds of notes or bonds issued by the dormitory authority or the urban development corporation for an appropriation of $40,000,000 authorized by chapter 108 of the laws of 2006 for a food testing laboratory, reimbursement from the proceeds of notes or bonds issued by the New York state thruway authority for an appropriation of $22,000,000 authorized by chapter 108 of the laws of 2006 to the department of transportation for high speed rail, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital disbursements of up to $500,000,000 from an appropriation authorized by chapter 108 of the laws of 2006 to the urban development corporation for development of a semiconductor manufacturing facility, reimbursement from the proceeds of notes or bonds issued by the urban development corporation of up to $150,000,000 from an appropriation authorized by chapter 108 of the laws of 2006 to the urban development corporation for research and development activities of a semiconductor manufacturer, and reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital disbursements of up to $300,000,000 from an appropriation to the urban development corporation authorized by chapter 108 of the laws of 2006 for community revitalization projects.

S 29. Notwithstanding any other law, rule, or regulation to the contrary, the comptroller is hereby authorized and directed to deposit to the credit of the capital projects fund, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for a capital appropriation for $29,600,000 authorized by chapter 55 of the laws of 2007 to the department of environmental conservation for payment of a portion of the state's match for federal capitalization grants for the water pollution control revolving loan fund, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for disbursements of up to $20,000,000 from any capital appropriation or reappropriation authorized by chapter 50 of the laws of 2007 to the office of general services for various purposes, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for a capital appropriation of $13,500,000 authorized by chapter 55 of the laws of 2007 to the energy research and development authority for the Western New York Nuclear Service Center at West Valley, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for a capital appropriation of $10,000,000 authorized by chapter 55 of the laws of 2007 to the department of environmental conservation for Onondaga lake, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for disbursements of up to $12,000,000 from any capital appropriations or reappropriations authorized by chapter 55 of the laws of 2007 to the department of environmental conservation for environ-

mental purposes, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital disbursements of up to $3,000,000 from any capital appropriation or reappropriation authorized by chapter 50 of the laws of 2007 to the division of military and naval affairs for various purposes, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for disbursements from a capital appropriation of $50,000,000 authorized by chapter 50 of the laws of 2007 to the division of state police for construction of a Troop G facility, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for disbursements from a capital appropriation of $6,000,000 authorized by chapter 50 of the laws of 2007 to the division of state police for construction of evidence storage facilities, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital appropriations totaling $77,900,000 authorized by chapter 51 of the laws of 2007 to the judiciary for court training facilities and courthouse improvement projects, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for a capital appropriation of $20,000,000 authorized by chapter 50 of the laws of 2007 to all state departments and agencies for the purchase of equipment, reimbursement from the proceeds of notes or bonds issued by the dormitory authority for capital disbursements of up to $14,000,000 from any capital appropriation or reappropriation authorized by chapter 53 of the laws of 2007 for library construction, reimbursement from the proceeds of notes or bonds issued by the dormitory authority for capital disbursements of up to $60,000,000 from any capital appropriation or reappropriation authorized by chapter 53 of the laws of 2007 for cultural education storage facilities, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital disbursements of up to $15,000,000 from any capital appropriation or reappropriation authorized by chapter 55 of the laws of 2007 for the Roosevelt Island Operating Corporation aerial tramway, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital disbursements of up to $20,000,000 from any capital appropriation or reappropriation authorized by chapter 55 of the laws of 2007 for Governor's Island, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital disbursements of up to $7,500,000 from any capital appropriation or reappropriation authorized by chapter 55 of the laws of 2007 for Harriman research and technology park, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital disbursements of up to $7,950,000 from any capital appropriation or reappropriation authorized by chapter 55 of the laws of 2007 for USA Niagara, and reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital disbursements of up to $1,300,000 from appropriations authorized by chapter 50 of the laws of 2007 made to the office of general services for legislative office building hearing rooms.

S 30. Notwithstanding any other law, rule, or regulation to the contrary, the comptroller is hereby authorized and directed to deposit to the credit of the capital projects fund, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for a capital appropriation for $29,600,000 authorized by chapter 55 of the laws of 2008 to the department of environmental conservation for payment of a portion of the state's match for federal capitalization grants for the water pollution control revolving loan fund, reimbursement from the proceeds of notes or bonds issued by the urban development

corporation for a capital appropriation of $141,000,000 authorized by chapter 50 of the laws of 2008 to all state departments and agencies for the purchase of equipment or systems development, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for disbursements of up to $45,500,000 from any capital appropriation or reappropriation authorized by chapter 50 of the laws of 2008 to the office of general services for various purposes, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for a capital appropriation of $13,500,000 authorized by chapter 55 of the laws of 2008 to the energy research and development authority for the Western New York Nuclear Service Center at West Valley, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for a capital appropriation of $10,000,000 authorized by chapter 55 of the laws of 2008 to the department of environmental conservation for Onondaga lake, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for disbursements of up to $12,000,000 from any capital appropriations or reappropriations authorized by chapter 55 of the laws of 2008 to the department of environmental conservation for environmental purposes, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital disbursements of up to $3,000,000 from any capital appropriation or reappropriation authorized by chapter 50 of the laws of 2008 to the division of military and naval affairs for various purposes, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for a capital appropriation of $11,000,000 authorized by chapter 50 of the laws of 2008 to the office for technology for the costs of development of interim data center facilities, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for a capital appropriation of $10,000,000 authorized by chapter 50 of the laws of 2008 to the office for technology for activities related to broadband service, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for a capital appropriation of $6,000,000 authorized by chapter 50 of the laws of 2008 to the division of state police for rehabilitation of facilities, reimbursement from the proceeds and notes or bonds issued by the Dormitory Authority of the State of New York or other financing source for a capital appropriation authorized by chapter 55 of the laws of 2008 for $14,000,000 to the education department for library construction, reimbursement from the proceeds and notes or bonds issued by the Dormitory Authority of the State of New York or other financing source for a capital appropriation authorized by chapter 55 of the laws of 2008 for $12,585,000 to the education department for state records center expansion, reimbursement from the proceeds and notes or bonds issued by the Dormitory Authority of the State of New York or other financing source for a capital appropriation authorized by chapter 55 of the laws of 2008 for $15,000,000 to the education department for museum renewal project, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital appropriation of $50,000,000 authorized by chapter 53 of the laws of 2008 to the urban development corporation for services and expenses related to the investment opportunity fund, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital appropriation of $30,000,000 authorized by chapter 53 of the laws of 2008 to the urban development corporation for services and expenses related to arts and cultural projects, reimbursement from the proceeds of bonds or notes issued by the urban development corporation

for a capital appropriation of $35,000,000 authorized by chapter 53 of the laws of 2008 for economic and community development projects, reimbursement from the proceeds of bonds or notes issued by the urban development corporation for a capital appropriation of $30,000,000 authorized by chapter 53 of the laws of 2008 for New York City waterfront development projects, reimbursement from the proceeds of bonds or notes issued by the urban development corporation for a capital appropriation of $45,000,000 authorized by chapter 53 of the laws of 2008 for luther forest infrastructure projects, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital appropriation of $35,000,000 authorized by chapter 53 of the laws of 2008 to the urban development corporation for services and expenses related to downstate regional projects, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital appropriation of $145,000,000 authorized by chapter 53 of the laws of 2008 to the urban development corporation for services and expenses related to upstate city-by-city projects, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital appropriation of $35,000,000 authorized by chapter 53 of the laws of 2008 to the urban development corporation for services and expenses related to the downstate revitalization projects, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital appropriation of $120,000,000 authorized by chapter 53 of the laws of 2008 to the urban development corporation for services and expenses related to the upstate regional blueprint fund, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital appropriation of $40,000,000 authorized by chapter 53 of the laws of 2008 to the urban development corporation for services and expenses related to the upstate agricultural economic development fund, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital appropriation of $350,000,000 authorized by chapter 53 of the laws of 2008 to the urban development corporation for services and expenses related to the New York state capital assistance program, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital appropriation of $350,000,000 authorized by chapter 53 of the laws of 2008 to the urban development corporation for services and expenses related to the New York state economic development assistance program, and reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital appropriation of $20,000,000 authorized by chapter 55 of the laws of 2008 to the urban development corporation for services and expenses related to the empire state economic development fund.

S 31. Notwithstanding any other law, rule, or regulation to the contrary, the comptroller is hereby authorized and directed to deposit to the credit of the capital projects fund, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for a capital appropriation for $29,600,000 authorized by a chapter of the laws of 2009 to the department of environmental conservation for payment of a portion of the state's match for federal capitalization grants for the water pollution control revolving loan fund, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for a capital appropriation of $129,800,000 authorized by a chapter of the laws of 2009 to all state departments and agencies for the purchase of equipment or systems development, reimbursement from the proceeds of notes or bonds issued by the urban development corporation

for disbursements of up to $24,000,000 from any capital appropriation or reappropriation authorized by a chapter of the laws of 2009 to the office of general services for various purposes, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for a capital appropriation of $13,500,000 authorized by a chapter of the laws of 2009 to the energy research and development authority for the Western New York Nuclear Service Center at West Valley, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for a capital appropriation of $10,000,000 authorized by a chapter of the laws of 2009 to the department of environmental conservation for Onondaga lake, reimbursement from the proceeds of notes or bonds issued by the environmental facilities corporation for disbursements of up to $12,000,000 from any capital appropriations or reappropriations authorized by a chapter of the laws of 2009 to the department of environmental conservation for environmental purposes, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital disbursements of up to $3,000,000 from any capital appropriation or reappropriation authorized by a chapter of the laws of 2009 to the division of military and naval affairs for various purposes, reimbursement from the proceeds of notes or bonds issued by the urban development corporation for a capital appropriation of $6,000,000 authorized by a chapter of the laws of 2009 to the division of state police for rehabilitation of facilities, reimbursement from the proceeds and notes or bonds issued by the Dormitory Authority of the State of New York or other financing source for a capital appropriation for $14,000,000 to the State Education Department for library construction, reimbursement from the proceeds and notes or bonds issued by the Dormitory Authority of the State of New York or other financing source for a capital appropriation for $4,000,000 to the State Education Department for rehabilitation associated with the St. Regis Mohawk elementary school authorized by a chapter of the laws of 2009 and reimbursement from the proceeds of notes or bonds issued by the urban development corporation for capital appropriation of $25,000,000 authorized by a chapter of the laws of 2009 to the urban development corporation for services and expenses related to the empire state economic development fund.

S 31-a. Notwithstanding any other law, rule, or regulation to the contrary, the comptroller is hereby authorized and directed to deposit to the credit of the capital projects fund, reimbursement from the proceeds of notes or bonds issued by the dormitory authority and urban development corporation for disbursements of up to $8,000,000 from an appropriation authorized by a chapter of the laws of 2009 for drug courts.

S 32. Notwithstanding any other law, rule, or regulation to the contrary, the comptroller is hereby authorized and directed to deposit to the credit of the city university special revenue fund (377), reimbursement from the proceeds of notes or bonds issued by the Dormitory Authority of the State of New York for capital disbursements of up to $20,000,000 from any appropriation or reappropriation authorized by a chapter of the laws of 2009 to the city university of New York for various purposes.

S 33. Notwithstanding any other law, rule, or regulation to the contrary, the state comptroller is hereby authorized and directed to use any balance remaining in the mental health services fund debt service appropriation, after payment by the state comptroller of all obligations required pursuant to any lease, sublease, or other financing arrangement

between the dormitory authority of the state of New York as successor to the New York state medical care facilities finance agency, and the facilities development corporation pursuant to chapter 83 of the laws of 1995 and the department of mental hygiene for the purpose of making payments to the dormitory authority of the state of New York for the amount of the earnings for the investment of monies deposited in the mental health services fund that such agency determines will or may have to be rebated to the federal government pursuant to the provisions of the internal revenue code of 1986, as amended, in order to enable such agency to maintain the exemption from federal income taxation on the interest paid to the holders of such agency's mental services facilities improvement revenue bonds. On or before June 30, 2010, such agency shall certify to the state comptroller its determination of the amounts received in the mental health services fund as a result of the investment of monies deposited therein that will or may have to be rebated to the federal government pursuant to the provisions of the internal revenue code of 1986, as amended.

S 34. (1) Notwithstanding any other law, rule, or regulation to the contrary, the state comptroller shall at the commencement of each month certify to the director of the budget, the commissioner of environmental conservation, the chair of the senate finance committee, and the chair of the assembly ways and means committee the amounts disbursed from all appropriations for hazardous waste site remediation disbursements for the month preceding such certification.

(2) Notwithstanding any law to the contrary, prior to the issuance by the comptroller of bonds authorized pursuant to subdivision a of section 4 of the environmental quality bond act of nineteen hundred eighty-six, as enacted by chapter 511 of the laws of 1986, disbursements from all appropriations for that purpose shall first be reimbursed from moneys credited to the hazardous waste remedial fund, site investigation and construction account, to the extent moneys are available in such account. For purposes of determining moneys available in such account, the commissioner of environmental conservation shall certify to the comptroller the amounts required for administration of the hazardous waste remedial program.

(3) The comptroller is hereby authorized and directed to transfer any balance above the amounts certified by the commissioner of environmental conservation to reimburse disbursements pursuant to all appropriations from such site investigation and construction account; provided, however, that if such transfers are determined by the comptroller to be insufficient to assure that interest paid to holders of state obligations issued for hazardous waste purposes pursuant to the environmental quality bond act of nineteen hundred eighty-six, as enacted by chapter 511 of the laws of 1986, is exempt from federal income taxation, the comptroller is hereby authorized and directed to transfer, from such site investigation and construction account to the general fund, the amount necessary to redeem bonds in an amount necessary to assure the continuation of such tax exempt status. Prior to the making of any such transfers, the comptroller shall notify the director of the budget of the amount of such transfers.

S 35. Section 69-c of the state finance law, as amended by section 34 of part RR of chapter 57 of the laws of 2008, is amended to read as follows:

S 69-c. Variable rate bonds. Notwithstanding any other provision of law to the contrary, any State-supported debt may be issued as variable rate bonds.

Notwithstanding any other provision of law to the contrary, for purposes of calculating the present value of debt service and calculating savings in connection with the issuance of refunding indebtedness, (i) the effective interest rate and debt service payable on variable rate bonds in connection with which, and to the extent that, an authorized issuer has entered into an interest rate exchange or similar agreement pursuant to which the authorized issuer makes payments based on a fixed rate and receives payments based on a variable rate that is reasonably expected by such authorized issuer to be equivalent over time to the variable rate paid on the related variable rate bonds, shall be calculated assuming that the rate of interest on such variable rate bonds is the fixed rate payable by the authorized issuer on such interest rate exchange or similar agreement for the scheduled term of such agreement; (ii) the effective interest rate and debt service on variable rate bonds in connection with which, and to the extent that, an authorized issuer has not entered into such an interest rate exchange or similar agreement shall be calculated assuming that interest on such variable interest rate bonds is payable at a rate or rates reasonably assumed by the authorized issuer; (iii) the effective interest rate and debt service on any bonds subject to optional or mandatory tender shall be a rate or rates reasonably assumed by the authorized issuer; [and] (iv) ANY VARIABLE RATE BONDS THAT ARE CONVERTED OR REFUNDED TO A FIXED RATE, WHETHER OR NOT FINANCED ON AN INTERIM BASIS WITH BOND ANTICIPATION NOTES, SHALL BE ASSUMED TO GENERATE A PRESENT VALUE SAVINGS; AND (V) otherwise, the effective interest rate and debt service on any bonds shall be calculated at a rate or rates reasonably assumed by the authorized issuer. Notwithstanding any other provision of law to the contrary, for calculating the present value of debt service and calculating savings in connection with the issuance of refunding indebtedness, the refunding of variable rate debt instruments with new variable rate debt instruments shall be excluded from any such requirements, if effectuated for sound business purposes.

S 36. Paragraph (c) of subdivision 19 of section 1680 of the public authorities law, as amended by section 35 of part RR of chapter 57 of the laws of 2008, is amended to read as follows:

(c) Subject to the provisions of chapter fifty-nine of the laws of two thousand, the dormitory authority shall not issue any bonds for state university educational facilities purposes if the principal amount of bonds to be issued when added to the aggregate principal amount of bonds issued by the dormitory authority on and after July first, nineteen hundred eighty-eight for state university educational facilities will exceed [eight] TEN billion [five hundred eighty-three] EIGHTY-NINE million dollars; provided, however, that bonds issued or to be issued shall be excluded from such limitation if: (1) such bonds are issued to refund state university construction bonds and state university construction notes previously issued by the housing finance agency; or (2) such bonds are issued to refund bonds of the authority or other obligations issued for state university educational facilities purposes and the present value of the aggregate debt service on the refunding bonds does not exceed the present value of the aggregate debt service on the bonds refunded thereby; provided, further that upon certification by the director of the budget that the issuance of refunding bonds or other obligations issued between April first, nineteen hundred ninety-two and March thirty-first, nineteen hundred ninety-three will generate long term economic benefits to the state, as assessed on a present value basis, such issuance will be deemed to have met the present value test

noted above. For purposes of this subdivision, the present value of the aggregate debt service of the refunding bonds and the aggregate debt service of the bonds refunded, shall be calculated by utilizing the true interest cost of the refunding bonds, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding bonds from the payment dates thereof to the date of issue of the refunding bonds to the purchase price of the refunding bonds, including interest accrued thereon prior to the issuance thereof. The maturity of such bonds, other than bonds issued to refund outstanding bonds, shall not exceed the weighted average economic life, as certified by the state university construction fund, of the facilities in connection with which the bonds are issued, and in any case not later than the earlier of thirty years or the expiration of the term of any lease, sublease or other agreement relating thereto; provided that no note, including renewals thereof, shall mature later than five years after the date of issuance of such note. The legislature reserves the right to amend or repeal such limit, and the state of New York, the dormitory authority, the state university of New York, and the state university construction fund are prohibited from covenanting or making any other agreements with or for the benefit of bondholders which might in any way affect such right.

S 37. Paragraph j of subdivision 2 of section 1680 of the public authorities law, as amended by section 36 of part RR of chapter 57 of the laws of 2008, is amended to read as follows:

j. Subject to the provisions of chapter fifty-nine of the laws of two thousand, the maximum amount of bonds and notes to be issued after March thirty-first, two thousand two for a housing unit for the use of students at a state-operated institution or statutory or contract college under the jurisdiction of the state university of New York shall be one billion [one] TWO hundred [fifty] THIRTY million dollars. Such amount shall be exclusive of bonds and notes issued to fund any reserve fund or funds, costs of issuance, and to refund any outstanding bonds and notes relating to a housing unit under the jurisdiction of the state university of New York.

S 38. Subdivision 10-a of section 1680 of the public authorities law, as amended by section 37 of part RR of chapter 57 of the laws of 2008, is amended to read as follows:

10-a. Subject to the provisions of chapter fifty-nine of the laws of two thousand, but notwithstanding any other provision of the law to the contrary, the maximum amount of bonds and notes to be issued after March thirty-first, two thousand two, on behalf of the state, in relation to any locally sponsored community college, shall be [four] FIVE hundred [sixty-six] THIRTY-SIX million dollars. Such amount shall be exclusive of bonds and notes issued to fund any reserve fund or funds, costs of issuance and to refund any outstanding bonds and notes, issued on behalf of the state, relating to a locally sponsored community college.

S 39. Paragraph (c) of subdivision 14 of section 1680 of the public authorities law, as amended by section 38 of part RR of chapter 57 of the laws of 2008, is amended to read as follows:

(c) Subject to the provisions of chapter fifty-nine of the laws of two thousand, (i) the dormitory authority shall not deliver a series of bonds for city university community college facilities, except to refund or to be substituted for or in lieu of other bonds in relation to city university community college facilities pursuant to a resolution of the dormitory authority adopted before July first, nineteen hundred eighty-

five or any resolution supplemental thereto, if the principal amount of bonds so to be issued when added to all principal amounts of bonds previously issued by the dormitory authority for city university community college facilities, except to refund or to be substituted in lieu of other bonds in relation to city university community college facilities will exceed the sum of four hundred twenty-five million dollars and (ii) the dormitory authority shall not deliver a series of bonds issued for city university facilities, including community college facilities, pursuant to a resolution of the dormitory authority adopted on or after July first, nineteen hundred eighty-five, except to refund or to be substituted for or in lieu of other bonds in relation to city university facilities and except for bonds issued pursuant to a resolution supplemental to a resolution of the dormitory authority adopted prior to July first, nineteen hundred eighty-five, if the principal amount of bonds so to be issued when added to the principal amount of bonds previously issued pursuant to any such resolution, except bonds issued to refund or to be substituted for or in lieu of other bonds in relation to city university facilities, will exceed six billion [one] EIGHT hundred [eighteen] FORTY-THREE million two hundred thousand dollars. The legislature reserves the right to amend or repeal such limit, and the state of New York, the dormitory authority, the city university, and the fund are prohibited from covenanting or making any other agreements with or for the benefit of bondholders which might in any way affect such right.

S 40. Subdivision 1 of section 1689-i of the public authorities law, as amended by section 39 of part RR of chapter 57 of the laws of 2008, is amended to read as follows:

1. The dormitory authority is authorized to issue bonds, at the request of the commissioner of education, to finance eligible library construction projects pursuant to section two hundred seventy-three-a of the education law, in amounts certified by such commissioner not to exceed a total principal amount of [forty-two] FIFTY-SIX million dollars.

S 41. Subdivision 1 of section 1680-m of the public authorities law, as amended by section 40 of part RR of chapter 57 of the laws of 2008, is amended to read as follows:

1. Notwithstanding the provisions of any other law to the contrary, the authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for construction and rehabilitation associated with the cultural education facilities AND THE ST. REGIS MOHAWK ELEMENTARY SCHOOL. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [eighty-seven] NINETY-ONE million five hundred eighty-five thousand dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the authority and the urban development corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the authority for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

S 42. Subdivision 3 of section 1285-p of the public authorities law, as amended by section 41 of part RR of chapter 57 of the laws of 2008, is amended to read as follows:

3. The maximum amount of bonds that may be issued for the purpose of financing environmental infrastructure projects authorized by this section shall be [six] EIGHT hundred [ninety-eight] SIXTY-SEVEN million FIVE HUNDRED THOUSAND dollars, exclusive of bonds issued to fund any debt service reserve funds, pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay bonds or notes previously issued. Such bonds and notes of the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the corporation for debt service and related expenses pursuant to any service contracts executed pursuant to subdivision one of this section, and such bonds and notes shall contain on the face thereof a statement to such effect.

S 43. Subdivision (a) of section 27 of part Y of chapter 61 of the laws of 2005, providing for the administration of certain funds and accounts related to the 2005-2006 budget, as amended by section 42 of part RR of chapter 57 of the laws of 2008, is amended to read as follows:

(a) Subject to the provisions of chapter 59 of the laws of 2000, but notwithstanding any provisions of law to the contrary, the urban development corporation is hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed [$108,100,000] $114,100,000, excluding bonds issued to finance one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing capital projects for division of state police facilities, debt service and leases; and to reimburse the state general fund for disbursements made therefor. Such bonds and notes of such authorized issuer shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to such authorized issuer for debt service and related expenses pursuant to any service contract executed pursuant to subdivision (b) of this section and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

S 44. Subdivision (a) of section 48 of part K of chapter 81 of the laws of 2002, providing for the administration of certain funds and accounts related to the 2002-2003 budget, as amended by section 43 of part RR of chapter 57 of the laws of 2008, is amended to read as follows:

(a) Subject to the provisions of chapter 59 of the laws of 2000[,] but notwithstanding the provisions of section 18 of the urban development corporation act, the corporation is hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed $25,000,000 excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing capital costs related to homeland security for the division of state police, the division of military and naval affairs, and any other state agency, including the reimbursement of any disbursements made from the state capital projects

fund, and is hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed [$128,800,000] $155,800,000, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing improvements to State office buildings and other facilities located statewide, including the reimbursement of any disbursements made from the state capital projects fund. Such bonds and notes of the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the corporation for debt service and related expenses pursuant to any service contracts executed pursuant to subdivision (b) of this section, and such bonds and notes shall contain on the face thereof a statement to such effect.

Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

S 45. Subdivision 4 of section 66-b of the state finance law, as amended by section 44 of part RR of chapter 57 of the laws of 2008, is amended to read as follows:

4. Subject to the provisions of chapter fifty-nine of the laws of two thousand, but notwithstanding any other provisions of law to the contrary, the maximum amount of certificates of participation or similar instruments representing periodic payments due from the state of New York, issued on behalf of state departments and agencies, the city university of New York and any other state entity otherwise specified after March thirty-first, two thousand three shall be [four] FIVE hundred [thirty-four] SIXTY-FOUR million dollars. Such amount shall be exclusive of certificates of participation or similar instruments issued to fund a reserve fund or funds, costs of issuance and to refund outstanding certificates of participation.

S 46. Subdivision 1 of section 16 of part D of chapter 389 of the laws of 1997, providing for the financing of the correctional facilities improvement fund and the youth facility improvement fund, as amended by section 46 of part RR of chapter 57 of the laws of 2008, is amended to read as follows:

1. Subject to the provisions of chapter 59 of the laws of 2000, but notwithstanding the provisions of section 18 of section 1 of chapter 174 of the laws of 1968, the New York state urban development corporation is hereby authorized to issue bonds, notes and other obligations in an aggregate principal amount not to exceed five billion [five] EIGHT hundred [eleven] THIRTY-SEVEN million [four] EIGHT hundred thousand dollars [$5,511,400,000] $5,837,800,000, and shall include all bonds, notes and other obligations issued pursuant to chapter 56 of the laws of 1983, as amended or supplemented. The proceeds of such bonds, notes or other obligations shall be paid to the state, for deposit in the correctional facilities capital improvement fund to pay for all or any portion of the amount or amounts paid by the state from appropriations or reappropriations made to the department of correctional services from the correctional facilities capital improvement fund for capital projects. The aggregate amount of bonds, notes or other obligations authorized to be issued pursuant to this section shall exclude bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued, the proceeds of which were paid to the state for all or a portion of the amounts expended by the state from appropriations or reappropriations made to the department of correction-

al services; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than five billion [five] EIGHT hundred [eleven] THIRTY-SEVEN million [four] EIGHT hundred thousand dollars [$5,511,400,000] $5,837,800,000, only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For the purposes hereof, the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the corporation including estimated accrued interest from the sale thereof.

S 47. Paragraph (a) of subdivision 2 of section 47-e of the private housing finance law, as amended by section 2 of part B of chapter 2 of the laws of 2009, is amended to read as follows:

(a) Subject to the provisions of chapter fifty-nine of the laws of two thousand, in order to enhance and encourage the promotion of housing programs and thereby achieve the stated purposes and objectives of such housing programs, the agency shall have the power and is hereby authorized from time to time to issue negotiable housing program bonds and notes in such principal amount as shall be necessary to provide sufficient funds for the repayment of amounts disbursed (and not previously reimbursed) pursuant to law or any prior year making capital appropriations or reappropriations for the purposes of the housing program; provided, however, that the agency may issue such bonds and notes in an aggregate principal amount not exceeding two billion [three] FOUR hundred [twenty-two] TWENTY-EIGHT million [nine] ONE hundred forty-one thousand dollars, plus a principal amount of bonds issued to fund the debt service reserve fund in accordance with the debt service reserve fund requirement established by the agency and to fund any other reserves that the agency reasonably deems necessary for the security or marketability of such bonds and to provide for the payment of fees and other charges and expenses, including underwriters' discount, trustee and rating agency fees, bond insurance, credit enhancement and liquidity enhancement related to the issuance of such bonds and notes. No reserve fund securing the housing program bonds shall be entitled or eligible to receive state funds apportioned or appropriated to maintain or restore such reserve fund at or to a particular level, except to the extent of any deficiency resulting directly or indirectly from a failure of the state to appropriate or pay the agreed amount under any of the contracts provided for in subdivision four of this section.

S 48. The section heading and subdivision 1 of section 43 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as added by section 48 of part RR of chapter 57 of the laws of 2008, are amended to read as follows:

2008 AND 2009 Economic development initiatives. 1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and

the corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for various economic development and regional initiatives, the upstate regional blueprint fund, the downstate revitalization fund, the upstate agricultural economic fund, the New York state capital assistance program, the New York state economic development assistance program and other state costs associated with such projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed one billion [two] THREE hundred [eighty-five] TEN million dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the dormitory authority and the corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

S 49. Subdivision (b) of section 11 of chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, as amended by section 50 of part RR of chapter 57 of the laws of 2008, is amended to read as follows:

(b) Any service contract or contracts for projects authorized pursuant to sections 10-c, 10-f, 10-g and 80-b of the highway law and section 14-k of the transportation law, and entered into pursuant to subdivision (a) of this section, shall provide for state commitments to provide annually to the thruway authority a sum or sums, upon such terms and conditions as shall be deemed appropriate by the director of the budget, to fund, or fund the debt service requirements of any bonds or any obligations of the thruway authority issued to fund such projects having a cost not in excess of [$5,806,200,000] $5,860,800,000 cumulatively by the end of fiscal year 2009-10.

S 49-a. (a) The New York state urban development corporation and the dormitory authority of the state of New York are hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed $83,500,000 excluding bonds issued to finance one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing project costs of the H. H. Richardson Complex and Darwin Martin House pursuant to an appropriation contained in a chapter of the laws of 2006. Such bonds and notes of the corporation or the dormitory authority shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the corporation or the dormitory authority for debt service and related expenses pursuant to any service contract executed pursuant to subdivision (b) of this section and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds. All of the provisions of the New York state urban development corporation act and the dormitory authority act relating to bonds and notes which

are not inconsistent with the provisions of this section shall apply to obligations authorized by this section, including but not limited to the power to establish adequate reserves therefor and to issue renewal notes or refunding bonds thereof. The issuance of any bonds or notes hereunder shall further be subject to the approval of the director of the division of the budget.

(b) Notwithstanding any other law, rule or regulation to the contrary, in order to assist the corporation and the dormitory authority in undertaking the administration and financing of the H. H. Richardson Complex and Darwin Martin House pursuant to an appropriation contained in a chapter of the laws of 2006, the director of the budget is hereby authorized to enter into one or more service contracts with the corporation and the dormitory authority, none of which shall exceed more than 30 years in duration, upon such terms and conditions as the director of the budget and the corporation and the dormitory authority shall agree, so as to annually provide to the corporation and the dormitory authority, in the aggregate, a sum not to exceed the annual debt service payments and related expenses required for the bonds and notes issued pursuant to this section. Any service contract entered into pursuant to this subdivision shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purposes, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned or pledged by the corporation and the dormitory authority as security for its bonds and notes, as authorized by this section.

S 49-b. Section 1680-o of the public authorities law, as added by section 44 of part T of chapter 57 of the laws of 2007, is amended to read as follows:

S 1680-o. Courthouse improvements and training facilities. 1. Notwithstanding the provisions of any other law to the contrary, the authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for eligible courthouse improvements, DRUG COURTS, and training facilities. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [seventy-seven] EIGHTY-FIVE million nine hundred thousand dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the authority and the urban development corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the authority and the urban development corporation in undertaking the financing of eligible courthouse improvements, DRUG COURTS, and training facilities, the director of the budget is hereby

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

S 49-c. Paragraph b of subdivision 2 of section 9-a of section 1 of chapter 392 of the laws of 1973, constituting the New York state medical care facilities finance agency act, as amended by section 49 of part RR of chapter 57 of the laws of 2008, is amended to read as follows:

b. The agency shall have power and is hereby authorized from time to time to issue negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amount as, in the opinion of the agency, shall be necessary, after taking into account other moneys which may be available for the purpose, to provide sufficient funds to the facilities development corporation, or any successor agency, for the financing or refinancing of or for the design, construction, acquisition, reconstruction, rehabilitation or improvement of mental health services facilities pursuant to paragraph a of this subdivision, the payment of interest on mental health services improvement bonds and mental health services improvement notes issued for such purposes, the establishment of reserves to secure such bonds and notes, the cost or premium of bond insurance or the costs of any financial mechanisms which may be used to reduce the debt service that would be payable by the agency on its mental health services facilities improvement bonds and notes and all other expenditures of the agency incident to and necessary or convenient to providing the facilities development corporation, or any successor agency, with funds for the financing or refinancing of or for any such design, construction, acquisition, reconstruction, rehabilitation or improvement and for the refunding of mental hygiene improvement bonds issued pursuant to section 47-b of the private housing finance law; provided, however, that the agency shall not issue mental health services facilities improvement bonds and mental health services facilities improvement notes in an aggregate principal amount exceeding seven billion three hundred [fifty-six] SIXTY-SIX million [four] SIX hundred thousand dollars, excluding mental health services facilities improvement bonds and mental health services facilities improvement notes issued to refund outstanding mental health services facilities improvement bonds and mental health services facilities improvement notes; provided, however, that upon any such refunding or repayment of mental health services facilities improvement bonds and/or mental health services facilities improvement notes the total aggregate principal amount of outstanding mental health services facilities improvement bonds and mental health facilities improvement notes may be greater than [five] SEVEN billion [eight] THREE hundred [fifty-seven]

SIXTY-SIX million SIX HUNDRED THOUSAND dollars only if, except as hereinafter provided with respect to mental health services facilities bonds and mental health services facilities notes issued to refund mental hygiene improvement bonds authorized to be issued pursuant to the provisions of section 47-b of the private housing finance law, the present value of the aggregate debt service of the refunding or repayment bonds to be issued shall not exceed the present value of the aggregate debt service of the bonds to be refunded or repaid. For purposes hereof, the present values of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the authority including estimated accrued interest from the sale thereof. Such bonds, other than bonds issued to refund outstanding bonds, shall be scheduled to mature over a term not to exceed the average useful life, as certified by the facilities development corporation, of the projects for which the bonds are issued, and in any case shall not exceed thirty years and the maximum maturity of notes or any renewals thereof shall not exceed five years from the date of the original issue of such notes. Notwithstanding the provisions of this section, the agency shall have the power and is hereby authorized to issue mental health services facilities improvement bonds and/or mental health services facilities improvement notes to refund outstanding mental hygiene improvement bonds authorized to be issued pursuant to the provisions of section 47-b of the private housing finance law and the amount of bonds issued or outstanding for such purposes shall not be included for purposes of determining the amount of bonds issued pursuant to this section. The director of the budget shall allocate the aggregate principal authorized to be issued by the agency among the office of mental health, office of mental retardation and developmental disabilities, and the office of alcoholism and substance abuse services, in consultation with their respective commissioners to finance bondable appropriations previously approved by the legislature.

S 50. Subdivision 8 of section 68-b of the state finance law, as added by section 2 of part I of chapter 383 of the laws of 2001, is amended to read as follows:

8. Revenue bonds may only be issued for authorized purposes, as defined in section sixty-eight-a of this article. Notwithstanding the foregoing, [any authorized issuer] THE DORMITORY AUTHORITY OF THE STATE OF NEW YORK AND THE URBAN DEVELOPMENT CORPORATION may issue revenue bonds [in place of (a) housing program bonds or notes as authorized by section forty-seven-e of the private housing finance law, (b) bonds to finance the state match for federal capitalization grants for the purpose of any state revolving fund as authorized by paragraph (a) of subdivision one of section twelve hundred ninety of the public authorities law and (c) certificates of participation as authorized by article five-a of this chapter] FOR ANY AUTHORIZED PURPOSE OF ANY OTHER SUCH AUTHORIZED ISSUER THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TEN. The authorized issuers shall not issue any revenue bonds in an amount in

excess of statutory authorizations for such authorized purposes. Authorizations for such authorized purposes shall be reduced in an amount equal to the amount of revenue bonds issued for such authorized purposes under this article. Such reduction shall not be made in relation to revenue bonds issued to fund reserve funds, if any, and costs of issuance, if these items are not counted under existing authorizations, nor shall revenue bonds issued to refund bonds issued under existing authorizations reduce the amount of such authorizations.

S 51. For purposes of sections twenty-one through thirty-one of this act, the comptroller is also hereby authorized and directed to deposit to the credit of any capital projects fund, reimbursement from the proceeds of bonds and notes issued by any authorized issuer, as defined by section 68-a of the state finance law, in the amounts and for the purposes listed in such sections.

S 52. Section 49 of the private housing finance law is amended to read as follows:

S 49. State's right to require redemption of bonds. Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of the bonds, the state may, upon furnishing sufficient funds therefor, require the agency to redeem, prior to maturity, as a whole, any issue of bonds on any interest payment date not less than twenty years after the date of the bonds of such issue at one hundred five per centum of their face value and accrued interest or at such lower redemption price as may be provided in the bonds in case of the redemption thereof as a whole on the redemption date. Notice of such redemption shall be published in at least two newspapers publishing and circulating respectively in the cities of Albany and New York at least twice, the first publication to be at least thirty days before the date of redemption. THE PROVISIONS OF THIS SECTION RELATING TO THE STATE'S RIGHT TO REQUIRE REDEMPTION OF BONDS, SHALL NOT APPLY TO STATE-SUPPORTED DEBT, AS DEFINED IN SECTION SIXTY-SEVEN-A OF THE STATE FINANCE LAW, ISSUED BY THE AGENCY. SUCH AGENCY BONDS SHALL REMAIN SUBJECT TO REDEMPTION PURSUANT TO ANY CONTRACT WITH THE HOLDERS OF SUCH BONDS.

S 53. Section 25 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended to read as follows:

S 25. State's right to require redemption of bonds. Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of the bonds, the state may, upon furnishing sufficient funds therefor, require the corporation to redeem, prior to maturity, as a whole, any issue of bonds on any interest payment date not less than twenty years after the date of the bonds of such issue at one hundred five per centum of their face value and accrued interest or at such lower redemption price as may be provided in the bonds in case of the redemption thereof as a whole on the redemption date. Notice of such redemption shall be published at least twice in at least two newspapers publishing and circulating respectively in the cities of Albany and New York, the first publication to be at least thirty days before the date of redemption. THE PROVISIONS OF THIS SECTION RELATING TO THE STATE'S RIGHT TO REQUIRE REDEMPTION OF BONDS SHALL NOT APPLY TO STATE-SUPPORTED DEBT, AS DEFINED BY SECTION 67-A OF THE STATE FINANCE LAW, ISSUED BY THE CORPORATION. SUCH CORPORATION BONDS SHALL REMAIN SUBJECT TO REDEMPTION PURSUANT TO ANY CONTRACT WITH THE HOLDERS OF SUCH BONDS.

S 54. Section 367 of the public authorities law, as amended by chapter 244 of the laws of 1953, is amended to read as follows:

S 367. State's right to require redemption of bonds. Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of the bonds, the state may, upon furnishing sufficient funds therefor, require the authority to redeem, prior to maturity, as a whole, any issue of bonds on any interest payment date not less than fifteen years after the date of the bonds of such issue at one hundred four per centum of their face value and accrued interest or at such lower redemption price as may be provided in the bonds in case of the redemption thereof as a whole on the redemption date. Notice of such redemption shall be published in at least two newspapers published and circulating respectively in the cities of Albany and New York at least twice, the first publication to be at least thirty days before the date of redemption. THE PROVISIONS OF THIS SECTION RELATING TO THE STATE'S RIGHT TO REQUIRE REDEMPTION OF BONDS, SHALL NOT APPLY TO STATE-SUPPORTED DEBT, AS DEFINED BY SECTION SIXTY-SEVEN-A OF THE STATE FINANCE LAW, ISSUED BY THE AUTHORITY. SUCH AUTHORITY BONDS SHALL REMAIN SUBJECT TO REDEMPTION PURSUANT TO ANY CONTRACT WITH THE HOLDERS OF SUCH BONDS.

S 55. Section 1293 of the public authorities law, as amended by chapter 744 of the laws of 1970, is amended to read as follows:

S 1293. Right of state to require redemption of bonds. Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of the bonds, the state may, upon furnishing sufficient funds therefor, require the corporation to redeem, prior to maturity, as a whole, any issue of bonds on any interest payment date not less than twenty years after the date of the bonds of such issue at one hundred five per centum of their face value and accrued interest or at such lower redemption price as may be provided in the bonds in case of the redemption thereof as a whole on the redemption date. Notice of such redemption shall be published in at least two newspapers publishing and circulating respectively in the cities of Albany and New York at least twice, the first publication to be at least thirty days before the date of redemption. THE PROVISIONS OF THIS SECTION RELATING TO THE STATE'S RIGHT TO REQUIRE REDEMPTION OF BONDS SHALL NOT APPLY TO STATE-SUPPORTED DEBT, AS DEFINED BY SECTION SIXTY-SEVEN-A OF THE STATE FINANCE LAW, ISSUED BY THE CORPORATION. SUCH CORPORATION BONDS SHALL REMAIN SUBJECT TO REDEMPTION PURSUANT TO ANY CONTRACT WITH THE HOLDERS OF SUCH BONDS.

S 56. Section 92-dd of the state finance law is amended by adding a new subdivision (j) to read as follows:

(J) THE STATE COMPTROLLER SHALL TRANSFER FROM THE HCRA RESOURCES FUND TO THE GENERAL DEBT SERVICE FUND, REVENUE BOND TAX FUND (311.02) AMOUNTS EQUAL TO THE DEBT SERVICE PAID FOR BONDS, NOTES, OR OTHER OBLIGATIONS ISSUED TO FINANCE THE HEAL NY CAPITAL GRANT PROGRAM AUTHORIZED PURSUANT TO SECTION SIXTEEN HUNDRED EIGHTY-J OF THE PUBLIC AUTHORITIES LAW.

S 56-a. Subdivision 2 of section 68-a of the state finance law, as added by section 2 of part I of chapter 383 of the laws of 2001, is amended to read as follows:

2. "Authorized purpose" for purposes of this article and section ninety-two-z of this chapter shall mean any purposes for which state-supported debt, as defined by section sixty-seven-a of this chapter, may or has been issued except debt for which the state is constitutionally obligated thereunder to pay debt service and related expenses, and except (a) as authorized in paragraph (b) of subdivision one of section

three hundred eighty-five of the public authorities law, (b) as authorized for the department of health of the state of New York facilities as specified in paragraph a of subdivision two of section sixteen hundred eighty of the public authorities law, (c) state university of New York dormitory facilities as specified in subdivision eight of section sixteen hundred seventy-eight of the public authorities law, and (d) as authorized for mental health services facilities by section nine-a of section one of chapter three hundred ninety-two of the laws of nineteen hundred seventy-three constituting the New York state medical care facilities financing act. NOTWITHSTANDING THE PROVISIONS OF CLAUSE (D) OF THIS SUBDIVISION, FOR THE PERIOD APRIL FIRST, TWO THOUSAND NINE THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TEN, MENTAL HEALTH SERVICES FACILITIES, AS AUTHORIZED BY SECTION NINE-A OF SECTION ONE OF CHAPTER THREE HUNDRED NINETY-TWO OF THE LAWS OF NINETEEN HUNDRED SEVENTY-THREE CONSTITUTING THE NEW YORK STATE MEDICAL CARE FACILITIES FINANCING ACT, SHALL CONSTITUTE AN AUTHORIZED PURPOSE.

S 56-b. Section 97-f of the state finance law is amended by adding a new subdivision 8 to read as follows:

8. IN ADDITION TO THE AMOUNTS REQUIRED TO BE MAINTAINED ON DEPOSIT IN THE MENTAL HEALTH SERVICES FUND PURSUANT TO SUBDIVISION FIVE OF THIS SECTION, THE FUND SHALL MAINTAIN ON DEPOSIT AN AMOUNT EQUAL TO THE DEBT SERVICE AND OTHER CASH REQUIREMENTS ON MENTAL HEALTH SERVICES FACILITIES BONDS ISSUED BY THE DORMITORY AUTHORITY PURSUANT TO SECTION SIXTY-EIGHT-B OF THIS CHAPTER. THE AMOUNT REQUIRED TO BE MAINTAINED IN SUCH FUND SHALL BE (I) TWENTY PERCENT OF THE AMOUNT OF THE NEXT PAYMENT COMING DUE RELATING TO MENTAL HEALTH SERVICES FACILITIES BONDS ISSUED BY AN AUTHORIZED ISSUER MULTIPLIED BY THE NUMBER OF MONTHS FROM THE DATE OF THE LAST SUCH PAYMENT WITH RESPECT TO PAYMENTS REQUIRED TO BE MADE SEMI-ANNUALLY, PLUS (II) THOSE AMOUNTS SPECIFIED IN ANY FINANCING AGREEMENT BETWEEN THE ISSUER AND THE STATE, ACTING THROUGH THE DIRECTOR OF THE BUDGET, WITH RESPECT TO PAYMENTS REQUIRED TO BE MADE OTHER THAN SEMI-ANNUALLY, INCLUDING FOR VARIABLE RATE BONDS, INTEREST RATE EXCHANGE OR SIMILAR AGREEMENTS OR OTHER FINANCING ARRANGEMENTS PERMITTED BY LAW. PRIOR TO MAKING ANY SUCH PAYMENT, THE COMPTROLLER SHALL MAKE AND DELIVER TO THE DIRECTOR OF THE BUDGET AND THE CHAIRMEN OF THE FACILITIES DEVELOPMENT CORPORATION AND THE NEW YORK STATE MEDICAL CARE FACILITIES FINANCE AGENCY, A CERTIFICATE STATING THE AGGREGATE AMOUNT TO BE MAINTAINED ON DEPOSIT IN THE MENTAL HEALTH SERVICES FUND TO COMPLY IN FULL WITH THE PROVISIONS OF THIS SUBDIVISION.

NO LATER THAN FIVE DAYS PRIOR TO THE PAYMENT TO BE MADE BY THE STATE COMPTROLLER ON SUCH MENTAL HEALTH SERVICES FACILITIES BONDS PURSUANT TO SECTION NINETY-TWO-Z OF THIS ARTICLE, THE AMOUNT OF SUCH PAYMENT SHALL BE TRANSFERRED BY THE STATE COMPTROLLER FROM THE MENTAL HEALTH SERVICES FUND TO THE REVENUE BOND TAX FUND ESTABLISHED BY SECTION NINETY-TWO-Z OF THIS ARTICLE. THE ACCUMULATION OF MONEYS PURSUANT TO THIS SUBDIVISION AND SUBSEQUENT TRANSFER TO THE REVENUE BOND TAX FUND SHALL BE SUBORDINATE IN ALL RESPECTS TO PAYMENTS TO BE MADE TO THE NEW YORK STATE MEDICAL CARE FACILITIES FINANCE AGENCY AND TO ANY PLEDGE OR ASSIGNMENT PURSUANT TO SUBDIVISION SIX OF THIS SECTION.

S 57. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2009; provided, however, that sections one, two, three, four, twelve and twenty-one through thirty-one of this act shall expire March 31, 2010, when, upon such date, the provisions of such sections shall be deemed repealed; provided, however that the amendments to subdivision 5 of section 97-rrr of the state finance law made by section thirteen of this act shall not

affect the expiration and reversion of such subdivision and shall expire and be deemed repealed therewith; and provided, further that amendments to section 69-c of the state finance law, made by section thirty-five of this act, shall not affect the expiration and reversion of such section and shall expire therewith.

PART QQ

Section 1. Subparagraph 4 of paragraph (h) of subdivision 8 of section 15 of the workers' compensation law, as amended by chapter 139 of the laws of 2008, is amended to read as follows:

(4) As soon as practicable after May first in the year nineteen hundred fifty-eight, and annually thereafter as soon as practicable after January first in each succeeding year, the chair of the board shall assess upon and collect from all self-insurers, except group self-insurers, the state insurance fund, all insurance carriers and group self-insurers, (A) a sum equal to one hundred fifty per centum of the total disbursements made from the special disability fund during the preceding calendar year (not including any disbursements made on account of anticipated liabilities or waiver agreements funded by bond proceeds and related earnings), less the amount of the net assets in such fund as of December thirty-first of said preceding calendar year, and (B) a sum sufficient to cover debt service, and associated costs (the "debt service assessment") to be paid during the calendar year by the dormitory authority, as calculated in accordance with subparagraph five of this paragraph. Such assessments shall be allocated to (i) self-insurers except group self-insurers and the state insurance fund based upon the proportion that the total compensation payments made by all self-insurers except group self-insurers and the state insurance fund bore to the total compensation payments made by all self-insurers except group self-insurers, the state insurance fund, all insurance carriers and group self-insurers, (ii) insurance carriers based upon the proportion that the total compensation payments made by all insurance carriers bore to the total compensation payments by all self-insurers except group self-insurers, the state insurance fund and all insurance carriers and group self-insurers during the fiscal year which ended within said preceding calendar year, and (iii) group self-insurers based upon the proportion that the total compensation payments made by all group self-insurers bore to the total compensation payments made by all self-insurers, the state insurance fund and all insurance carriers during the fiscal year which ended within said preceding calendar year. Insurance carriers and self-insurers shall be liable for all such assessments regardless of the date on which they came into existence, or whether they have made any claim for reimbursement from the special disability fund. The portion of such sum allocated to self-insurers except group self-insurers and the state insurance fund that shall be collected from each self-insurer except a group self-insurer and the state insurance fund shall be a sum equal to the proportion of the amount which the total compensation payments of each such self-insurer except a group self-insurer or the state insurance fund bore to the total compensation payments made by all self-insurers except group self-insurers and the state insurance fund during the fiscal year which ended within said preceding calendar year. The portion of such sum allocated to insurance carriers that shall be collected from each insurance carrier shall be a sum equal to that proportion of the amount which the total [premiums written] STANDARD PREMIUM by each such insurance carrier bore to the total [written premi-

ums] STANDARD PREMIUM reported by all insurance carriers during the [fiscal] CALENDAR year which ended within said preceding [calendar] FISCAL year. The portion of such sum allocated to group self-insurers that shall be collected from each group self-insurer shall be a sum equal to that proportion of the amount which the pure premium calculation for each such group self-insurer bore to the total pure premium calculation for all group self-insurers for the calendar year which ended within the preceding state fiscal year. The payments from the debt service assessment, unless otherwise set forth in the special disability fund financing agreement, are hereby pledged therefor and shall be deemed the first monies received on account of assessments in each year. For the purposes of this paragraph, ["direct premiums written" means gross premiums, including policy and membership fees, less return premiums and premiums on policies not taken] "STANDARD PREMIUM" SHALL MEAN THE PREMIUM AS DEFINED FOR THE PURPOSES OF THIS ASSESSMENT BY THE SUPERINTENDENT OF INSURANCE, IN CONSULTATION WITH THE CHAIR OF THE BOARD AND THE WORKERS' COMPENSATION RATING BOARD. For purposes of this paragraph "pure premium calculation" means the New York state annual payroll as of December thirty-first of the preceding year by class code for each employer member of a group self-insurer multiplied by the applicable loss cost for each class code as determined by the workers' compensation rating board in effect on December thirty-first of the preceding year, and for a group or individual self-insurer who has ceased to self-insure shall be based on payroll at the time the group or individual self-insurer ceased to self-insure reduced by a factor reflecting the reduction in the group or individual self-insurer's self-insurance liabilities since ceasing to self-insure. An employer who has ceased to be a self-insurer or a group that ceases to be licensed as a group self-insurer shall continue to be liable for any assessments into said fund on account of any compensation payments made by him or her on his or her account during such fiscal year, and the security fund, created under the provisions of section one hundred seven of this chapter, shall, in the event of the insolvency of any insurance company, be liable for any assessments that would have been made against such company except for its insolvency. No assessment shall be payable from the aggregate trust fund, created under the provisions of section twenty-seven of this article, but such fund shall continue to be liable for all compensation that shall be payable under any award or order of the board, the commuted value of which has been paid into such fund. Such assessments when collected shall be deposited with the commissioner of taxation and finance for the benefit of such fund. Unless otherwise provided, such assessments, shall not constitute an element of loss for the purpose of establishing rates for compensation insurance but shall for the purpose of collection be treated as separate costs by carriers. All insurance carriers and the state insurance fund, shall collect such assessments, from their policyholders through a surcharge based on premiums in accordance with rules set forth by THE SUPERINTENDENT OF INSURANCE IN CONSULTATION WITH the New York workers' compensation rating board[, as approved by the superintendent of insurance] AND THE CHAIR OF THE BOARD. Such surcharge shall be considered as part of premium for purposes prescribed by law including, but not limited to, computing premium tax, reporting to the superintendent of insurance pursuant to section ninety-nine of this chapter and section three hundred seven of the insurance law, determining the limitation of expenditures for the administration of the state insurance fund pursuant to section eighty-eight of this chapter and the cancellation by an insurance carrier, including the

state insurance fund, of a policy for non-payment of premium. The provisions of this paragraph shall not apply with respect to policies containing coverage pursuant to subsection (j) of section three thousand four hundred twenty of the insurance law relating to every policy providing comprehensive personal liability insurance on a one, two, three or four family owner-occupied dwelling. The state insurance fund shall, notify its insureds that such assessments, shall be, for the purpose of recoupment, treated as separate costs, respectively for the purpose of premiums billed on or after October first, nineteen hundred ninety-four.

For the purposes of this paragraph, except as otherwise provided: the term "insurance carrier" shall include only stock corporations, mutual corporations and reciprocal insurers authorized to transact the business of workers' compensation insurance in this state; the term "self-insurer" shall include any employer or group of employers permitted to pay compensation directly under the provisions of subdivision three, three-a or four of section fifty of this chapter[;].

THE BOARD IS HEREBY AUTHORIZED TO ISSUE CREDITS OR REFUNDS AS NECESSARY, IN THE CASE OF OVERPAYMENTS MADE TO THE FUND. AN INSURANCE CARRIER THAT KNOWINGLY UNDERREPORTS PREMIUMS FOR THE PURPOSES OF THIS SECTION SHALL BE GUILTY OF A CLASS E FELONY.

S 2. Paragraph (b) of subdivision 2 of section 151 of the workers' compensation law, as amended by chapter 6 of the laws of 2007, the opening paragraph as amended by chapter 139 of the laws of 2008, is amended to read as follows:

(b) An itemized statement of the expenses so ascertained shall be open to public inspection in the office of the board for thirty days after notice to the state insurance fund, all insurance carriers and all self-insurers including group self-insurers affected thereby, before the board shall make an assessment for such expenses. The chair shall assess upon and collect a proportion of such expenses as hereinafter provided from each insurance carrier, the state insurance fund and each self-insurer including group self-insurers. The assessment for such expenses shall be allocated to (i) self-insurers except group self-insurers and the state insurance fund based upon the proportion that the total compensation payments made by all self-insurers except group self-insurers and the state insurance fund in such year bore to the total compensation payments made by all self-insurers except group self-insurers, the state insurance fund, all insurance carriers and group self-insurers and (ii) insurance carriers based upon the proportion that the total compensation payments made by all insurance carriers in such year bore to the total compensation payments by all self-insurers, the state insurance fund and all insurance carriers [during the fiscal year which ended within said preceding calendar year], and (iii) group self-insurers based upon the proportion that the total compensation payments made by all group self-insurers IN SUCH YEAR bore to the total compensation payments made by all self-insurers, the state insurance fund and all insurance carriers [during the fiscal year which ended within said preceding calendar year]. The portion of the assessment for such expenses allocated to self-insurers except group self-insurers and the state insurance fund that shall be collected from each self-insurer except group self-insurers and the state insurance fund shall be a sum equal to the proportion of the amount which the total compensation payments of each such self-insurer except a group self-insurer or the state insurance fund in such year bore to the total compensation payments made by all self-insurers except group self-insurers and the

state insurance fund. The portion of the assessment for such expenses allocated to insurance carriers that shall be collected from each such insurance carrier shall be a sum equal to that proportion of the amount which the total [premiums written] STANDARD PREMIUM by each such insurance carrier [in such year] bore to the total [written premiums] STANDARD PREMIUM reported by all insurance carriers FOR THE CALENDAR YEAR WHICH ENDED WITH THE STATE FISCAL YEAR. The portion of such sum allocated to group self-insurers that shall be collected from each group self-insurer shall be a sum equal to that proportion of the amount which the pure premium calculation for each such group self-insurer bore to the total pure premium calculation for all group self-insurers for the calendar year which ended within the [preceding] state fiscal year. The amounts so secured shall be used for the payment of the expenses of administering this chapter. Pure premium for assessments against individual and group self-insurers who ceased to self-insure shall be based on payroll at the time the individual or group self-insurer has ceased to self-insure, reduced by a factor reflecting the reduction in the group or individual self-insurer's self-insurance liabilities since ceasing to self-insure.

For purposes of this paragraph, ["direct premiums written" means gross premiums, including policy and membership fees, less return premiums and premiums on policies not taken] "STANDARD PREMIUM" SHALL MEAN THE PREMIUM AS DEFINED FOR THE PURPOSES OF THIS ASSESSMENT BY THE SUPERINTENDENT OF INSURANCE, IN CONSULTATION WITH THE CHAIR OF THE BOARD AND THE WORKERS' COMPENSATION RATING BOARD. For purposes of this paragraph "pure premium calculation" means the New York state annual payroll as of December thirty-first of the preceding year by class code for each employer member of a group self-insurer multiplied by the applicable rate for each class code as determined by the workers' compensation rating board in effect on December thirty-first of the preceding year. The amounts so secured shall be used for the payment of the expenses of administering this chapter.

For the purposes of this paragraph, the term "insurance carrier" shall include only stock corporations, mutual corporations and reciprocal insurers authorized to transact the business of workers' compensation insurance in this state and the term "self-insurer" shall include any employer or group of employers permitted to pay compensation directly under the provisions of subdivision three, three-a or four of section fifty of this chapter.

S 3. (a) For purposes of this section, "insurance carrier," and "workers' compensation rating board" shall have the meaning set forth in section 2 of the workers' compensation law, and "affected insurance carrier" shall mean any insurance carrier or affiliated group of insurance carriers that has, prior to the effective date of this section: (1) paid to the workers' compensation board for any year an amount directed by the workers' compensation board under subdivision 8 of section 15, subdivision 3 of section 25-a or section 151 of the workers' compensation law that was less than the amount collected from its insured employers in that year, in accordance with a calculation provided by the workers' compensation rating board, (2) has identified and held any funds collected but not paid to the workers' compensation board, as measurable and available, as of January 1, 2009.

(b) Any affected insurance carrier shall notify the chair of the workers' compensation board, within thirty days of the effective date of this subdivision, of the amount of funds it has held as measurable and available under subdivision (a) of this section. The chair of the work-

ers' compensation board may, at any time within one hundred twenty days of the effective date of this subdivision, or at any time thereafter if the insurance carrier has not provided the notification required by this section, direct an affected insurance carrier to pay such funds to the board within thirty days if they are attributable to assessments in fiscal year 2007 or before, and as soon as practicable thereafter if they are attributable to subsequent assessments. Such funds shall be credited to the workers' compensation account and shall be reserved in the first instance for expenditure pursuant to a multi-year plan, prepared by the chair, to improve the quality, timeliness and fairness of services performed by the board, including any services funded by assessments under the workers' compensation law. Such plan must be approved by the director of the budget, and expenditures pursuant to such plan may equal up to ten percent of the 2008-09 appropriations made to the workers' compensation board, excluding contingency appropriations. As a part of such plan, the chair of the workers' compensation board may recommend suballocations of the funds credited to the workers' compensation account under this subdivision to the department of labor for any other purposes funded by assessments made under the workers' compensation law, or for the implementation of chapter 6 of the laws of 2007, including for implementation of section 134 and subdivision 1 of section 35 of the workers' compensation law. Such suballocations shall be included within the total allowable expenditures under the plan and must also be approved by the director of the budget. Any amounts available in any fiscal year after deducting amounts reflecting expenditures to be made by the workers' compensation board for that fiscal year under the plan provided for by this section shall be transferred by the comptroller to the general fund, at the request of the director of the budget.

(c) Any affected insurance carrier that makes payments to the workers' compensation board in accordance with this section shall not be subject to any civil or criminal liability for damages arising out of the collection or maintenance of any funds so paid, that were collected under subdivision 8 of section 15, subdivision 3 of section 25-a or section 151 of the workers' compensation law.

(d) Except for the immunity of an affected insurance carrier pursuant to subdivision (c) of this section, this section does not confer any immunity or create a cause of action or provide a defense.

S 4. This act shall take effect immediately, provided that sections one and two of this act shall take effect on January 1, 2010.

PART RR

Section 1. Section 3 of part C of chapter 152 of the laws of 2001 amending the military law relating to military funds of the organized militia, as amended by section 1 of part B of chapter 56 of the laws of 2007, is amended to read as follows:

S 3. This act shall take effect on the same date as the reversion of subdivision 5 of section 183 and subdivision 1 of section 221 of the military law as provided by section 76 of chapter 435 of the laws of 1997, as amended by section 1 of chapter 19 of the laws of 1999 notwithstanding this act shall be deemed to have been in full force and effect on and after July 31, 2005 and shall remain in full force and effect until July 31, [2009] 2011 when upon such date this act shall expire.

S 2. This act shall take effect immediately.

PART SS

Section 1. The correction law is amended by adding a new article 12 to read as follows:

ARTICLE 12
LOCAL CONDITIONAL RELEASE COMMISSION

SECTION 270. DEFINITIONS.
271. LOCAL CONDITIONAL RELEASE COMMISSION; ORGANIZATION.
272. LOCAL CONDITIONAL RELEASE COMMISSION; FUNCTION, POWERS AND DUTIES.
273. CONDITIONAL RELEASE; PROCEDURES FOR APPLICATION AND DETERMINATIONS.
274. CONDITIONAL RELEASE; PROCEDURES FOR VIOLATION, DELINQUENCY, WARRANTS AND REVOCATION.
275. TRANSFER OF CUSTODY AND SUPERVISION OF CONDITIONAL RELEASEE.
276. REGULATIONS AND REPORT.

S 270. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS HAVE THE FOLLOWING MEANINGS:

1. "COMMISSION" MEANS THE LOCAL CONDITIONAL RELEASE COMMISSION.

2. "COUNTY" MEANS EACH COUNTY IN THE STATE, EXCEPT A COUNTY WITHIN THE CITY OF NEW YORK.

3. "COUNTY EXECUTIVE" MEANS THE COUNTY COMMISSIONER, COUNTY MANAGER, COUNTY DIRECTOR OR COUNTY PRESIDENT.

4. "DIVISION" MEANS THE DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES.

S 271. LOCAL CONDITIONAL RELEASE COMMISSION; ORGANIZATION. 1. EVERY COUNTY, AND THE CITY OF NEW YORK, MAY ADOPT A LOCAL LAW ESTABLISHING A LOCAL CONDITIONAL RELEASE COMMISSION. SUCH COMMISSION SHALL BE APPOINTED BY THE COUNTY EXECUTIVE, UPON THE ADVICE AND CONSENT OF THE COUNTY LEGISLATURE, OR IN THE CASE OF THE CITY OF NEW YORK, SUCH COMMISSION SHALL BE APPOINTED BY THE MAYOR, UPON THE ADVICE AND CONSENT OF THE CITY COUNCIL. EACH SUCH COMMISSION SHALL CONSIST OF AT LEAST FIVE MEMBERS. EACH MEMBER OF THE COMMISSION SHALL HAVE GRADUATED FROM AN ACCREDITED FOUR YEAR COLLEGE OR UNIVERSITY AND SHALL HAVE HAD AT LEAST FIVE YEARS OF EXPERIENCE IN THE FIELD OF CRIMINOLOGY, ADMINISTRATION OF CRIMINAL JUSTICE, LAW ENFORCEMENT, PROBATION, PAROLE, LAW, SOCIAL WORK, SOCIAL SCIENCE, PSYCHOLOGY, PSYCHIATRY OR CORRECTIONS.

2. THE TERM OF OFFICE OF EACH MEMBER OF SUCH COMMISSION SHALL BE FOR FOUR 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 THE PERSON IS TO SUCCEED. VACANCIES CAUSED BY EXPIRATION OF TERM OR OTHERWISE SHALL BE FILLED IN THE SAME MANNER AS ORIGINAL APPOINTMENTS.

3. NO MEMBER OF THE COMMISSION SHALL SERVE AS A REPRESENTATIVE OF ANY POLITICAL PARTY ON AN EXECUTIVE COMMITTEE OR OTHER GOVERNING BODY THEREOF, AS AN EXECUTIVE OFFICER OR EMPLOYEE OF ANY POLITICAL COMMITTEE, ORGANIZATION OR ASSOCIATION, NOR BE A JUDGE OR JUSTICE, A SHERIFF OR DISTRICT ATTORNEY.

4. ANY MEMBER MAY BE REMOVED BY THE COUNTY EXECUTIVE, OR THE MAYOR IN THE CASE OF THE CITY OF NEW YORK, FOR CAUSE, AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD.

5. THE DIRECTOR OF THE LOCAL PROBATION DEPARTMENT, OR SUCH DIRECTOR'S DESIGNEE, SHALL SERVE AS AN EX-OFFICIO, NON-VOTING MEMBER OF THE COMMISSION.

6. THE LOCAL PROBATION DEPARTMENT SHALL ASSIGN STAFF SUPPORT TO THE COMMISSION.

S 272. LOCAL CONDITIONAL RELEASE COMMISSION; FUNCTION, POWERS AND DUTIES. THE COMMISSION SHALL:

1. HAVE THE POWER AND DUTY OF DETERMINING WHICH PERSONS SENTENCED WITHIN THE COUNTY, OR THE CITY OF NEW YORK, AND SERVING A DEFINITE SENTENCE OF IMPRISONMENT AND ELIGIBLE FOR CONDITIONAL RELEASE PURSUANT TO SUBDIVISION TWO OF SECTION 70.40 OF THE PENAL LAW MAY BE RELEASED ON CONDITIONAL RELEASE AND WHEN AND UNDER WHAT CONDITIONS IN ACCORDANCE WITH SECTION TWO HUNDRED SEVENTY-THREE OF THIS ARTICLE;

2. HAVE THE POWER TO DETERMINE, AS EACH INMATE APPLIES FOR CONDITIONAL RELEASE, THE NEED FOR SUPPLEMENTAL INVESTIGATION OF THE BACKGROUND OF SUCH INMATE AND CAUSE SUCH INVESTIGATION AS MAY BE NECESSARY TO BE MADE AS SOON AS PRACTICABLE. THE COMMISSION MAY REQUIRE THAT THE PROBATION DEPARTMENT LOCATED IN THE JURISDICTION OF THE COMMISSION CONDUCT SUCH SUPPLEMENTAL INVESTIGATION. THE RESULTS OF SUCH INVESTIGATION TOGETHER WITH ALL OTHER INFORMATION COMPILED BY THE LOCAL CORRECTIONAL FACILITY AND THE COMPLETE CRIMINAL RECORD AND FAMILY COURT RECORD OF SUCH INMATE SHALL BE READILY AVAILABLE WHEN THE CONDITIONAL RELEASE OF SUCH INMATE IS BEING CONSIDERED. SUCH INFORMATION SHALL INCLUDE A COMPLETE STATEMENT OF THE CRIME FOR WHICH THE INMATE HAS BEEN SENTENCED, THE CIRCUMSTANCES OF SUCH CRIME, ALL PRESENTENCE MEMORANDA, THE NATURE OF THE SENTENCE, THE COURT IN WHICH SUCH INMATE WAS SENTENCED, THE NAME OF THE JUDGE AND DISTRICT ATTORNEY AND COPIES OF SUCH PROBATION REPORTS AS MAY HAVE BEEN MADE AS WELL AS REPORTS AS TO THE INMATE'S SOCIAL, PHYSICAL, MENTAL AND PSYCHIATRIC CONDITION AND HISTORY;

3. HAVE THE LEGAL CUSTODY OF PERSONS CONDITIONALLY RELEASED AND PLACED UNDER THE SUPERVISION OF THE LOCAL PROBATION DEPARTMENT FOR A PERIOD OF ONE YEAR, OR UNTIL RETURNED TO THE CUSTODY OF THE LOCAL CORRECTIONAL FACILITY LOCATED IN THE JURISDICTION OF THE COMMISSION, AS THE CASE MAY BE;

4. HAVE THE POWER TO REVOKE THE CONDITIONAL RELEASE OF ANY PERSON IN THE LEGAL CUSTODY OF THE COMMISSION AND TO ISSUE DECLARATIONS OF DELINQUENCY AND AUTHORIZE THE ISSUANCE OF A WARRANT FOR THE RETAKING OF SUCH PERSON, AS PROVIDED FOR IN SECTION TWO HUNDRED SEVENTY-FOUR OF THIS ARTICLE;

5. FOR THE PURPOSE OF ANY INVESTIGATION NECESSARY IN THE PERFORMANCE OF ITS DUTIES, 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. THE MINUTES OF ALL COMMISSION MEETINGS MUST BE RECORDED AND SUCH RECORDS SHALL BE RETAINED ACCORDING TO APPLICABLE STANDARDS;

6. HAVE THE POWER TO AUTHORIZE ANY MEMBERS THEREOF TO ADMINISTER OATHS AND TAKE THE TESTIMONY OF PERSONS UNDER OATH;

7. NOTIFY, IN WRITING, THE INITIAL SENTENCING COURT, THE DISTRICT ATTORNEY AND DEFENSE COUNSEL WITHIN FIVE BUSINESS DAYS OF RECEIPT OF AN APPLICATION FOR A LOCAL CONDITIONAL RELEASE FILED UNDER THIS ARTICLE AND PROVIDE A FIFTEEN DAY PERIOD FOR COMMENT ON SUCH APPLICATION. COMMENTS SUBMITTED UNDER THIS SUBDIVISION SHALL BE PROVIDED TO THE COMMISSION AND ALL PARTIES;

8. NOTIFY IN WRITING THE APPROPRIATE LOCAL PROBATION DEPARTMENT PRIOR TO RELEASE OF A CONDITIONALLY RELEASED PERSON OF SUCH DEPARTMENT'S RESPONSIBILITIES TO SUPERVISE SUCH PERSON;

SUCH NOTICE SHALL INCLUDE THE NAME AND RESIDENCE OF THE PERSON, THE DATE OF RELEASE, THE CONDITIONS OF RELEASE, AND ALL NECESSARY RECORDS MAINTAINED ON SUCH PERSON TO AID THE LOCAL PROBATION DEPARTMENT IN THE

PERFORMANCE OF ITS RESPONSIBILITIES PURSUANT TO SUBDIVISION SIX OF SECTION TWO HUNDRED FIFTY-SIX OF THE EXECUTIVE LAW;

9. HAVE THE POWER TO TRANSFER THE LEGAL CUSTODY OF PERSONS CONDITIONALLY RELEASED IN ACCORDANCE WITH THE PROVISIONS OF SECTION TWO HUNDRED SEVENTY-FIVE OF THIS ARTICLE;

10. PRESENT AN ANNUAL REPORT TO THE COUNTY LEGISLATURE, OR IN THE CASE OF THE CITY OF NEW YORK, TO THE CITY COUNCIL, OF ITS FINDINGS AND ACTIONS ON SUBMITTED APPLICATIONS.

S 273. CONDITIONAL RELEASE; PROCEDURES FOR APPLICATION AND DETERMINATIONS. 1. ANY INMATE WHO IS ELIGIBLE FOR CONDITIONAL RELEASE BY A COMMISSION PURSUANT TO SUBDIVISION TWO OF SECTION 70.40 OF THE PENAL LAW AND WHO HAS SERVED A MINIMUM PERIOD OF SIXTY DAYS IN A LOCAL CORRECTIONAL FACILITY MAY APPLY FOR CONDITIONAL RELEASE. ELIGIBILITY CRITERIA SHALL BE LIMITED TO INMATES:

(A) WHO HAVE NOT BEEN PREVIOUSLY CONVICTED AND WHO DO NOT STAND CONVICTED OF ANY CRIME WHICH WOULD MAKE SUCH INMATE INELIGIBLE FOR THE RECEIPT OF MERIT TIME PURSUANT TO SECTION EIGHT HUNDRED THREE OF THIS CHAPTER, ANY CRIME PURSUANT TO ARTICLE TWO HUNDRED THIRTY-FIVE OF THE PENAL LAW WHEN THE VICTIM OF SUCH OFFENSE WAS UNDER THE AGE OF EIGHTEEN AT THE TIME OF THE OFFENSE, OR ANY CRIME WHICH THE COMMISSION DETERMINES CONSTITUTED A CRIME OF DOMESTIC VIOLENCE;

(B) HAVING JAIL RECORDS WHICH MAKE THEM ELIGIBLE FOR A REDUCTION OF SENTENCE UNDER SECTION EIGHT HUNDRED FOUR OF THIS CHAPTER;

(C) HAVING VERIFIED COMMUNITY TIES IN ONE OF THE FOLLOWING AREAS: EMPLOYMENT, PERMANENT RESIDENCE AND FAMILY.

APPLICATION SHALL BE MADE IN WRITING, ON FORMS PRESCRIBED BY THE DIVISION, TO THE COMMISSION IN THE COUNTY WHERE THE SENTENCE WAS IMPOSED.

2. THE COMMISSION SHALL REVIEW AND MAKE A DETERMINATION ON EACH APPLICATION WITHIN THIRTY DAYS OF RECEIPT OF SUCH APPLICATION. NO DETERMINATION GRANTING OR DENYING SUCH APPLICATION SHALL BE VALID UNLESS MADE BY A MAJORITY VOTE OF AT LEAST THREE COMMISSION MEMBERS PRESENT. NO RELEASE SHALL BE GRANTED UNLESS THERE IS A REASONABLE PROBABILITY THAT, IF SUCH INMATE IS RELEASED, HE OR SHE SHALL LIVE AND REMAIN AT LIBERTY WITHOUT VIOLATING THE LAW, AND THAT HIS OR HER RELEASE IS NOT INCOMPATIBLE WITH THE WELFARE OF SOCIETY AND SHALL NOT SO DEPRECATE THE SERIOUSNESS OF HIS OR HER CRIME AS TO UNDERMINE RESPECT FOR LAW.

3. IF CONDITIONAL RELEASE IS GRANTED, THE COMMISSION SHALL SET THE CONDITIONS FOR RELEASE OF THE PERSON IN ACCORDANCE WITH RULES AND REGULATIONS PROMULGATED BY THE DIVISION. SUCH PERSON SHALL BE GIVEN A COPY OF THE CONDITIONS OF RELEASE. SUCH CONDITIONS SHALL, WHERE APPROPRIATE, INCLUDE A REQUIREMENT THAT THE PERSON COMPLY WITH ANY RESTITUTION ORDER PREVIOUSLY IMPOSED BY A COURT OF COMPETENT JURISDICTION THAT APPLIES TO THE PERSON.

4. NO PERSON WHO HAS BEEN GRANTED CONDITIONAL RELEASE SHALL BE RELEASED UNTIL SUCH PERSON HAS SERVED A MINIMUM PERIOD OF INCARCERATION OF NINETY DAYS, IN ACCORDANCE WITH SUBDIVISION TWO OF SECTION 70.40 OF THE PENAL LAW, AND UNLESS SUCH PERSON HAS AGREED IN WRITING TO THE CONDITIONS SET BY THE COMMISSION. SUCH AGREEMENT SHALL STATE IN PLAIN, EASILY UNDERSTANDABLE LANGUAGE THE CONSEQUENCES OF A VIOLATION OF ONE OR MORE OF THE CONDITIONS OF RELEASE.

5. PERSONS WHO HAVE BEEN GRANTED CONDITIONAL RELEASE BY THE COMMISSION ESTABLISHED PURSUANT TO THIS ARTICLE SHALL, WHILE ON CONDITIONAL RELEASE, BE IN THE LEGAL CUSTODY OF THE COMMISSION FOR A PERIOD OF ONE YEAR, OR UNTIL RETURNED TO THE CUSTODY OF THE LOCAL CORRECTIONAL FACILITY LOCATED IN THE JURISDICTION OF THE COMMISSION, AS THE CASE MAY BE. THE PROBATION DEPARTMENT LOCATED IN THE JURISDICTION OF THE COMMISSION

HAS THE DUTY OF SUPERVISING THE PERSON DURING THE PERIOD OF SUCH CONDITIONAL RELEASE. THE COMMISSION SHALL IMPOSE A MINIMUM OF FOUR SUPERVISION CONTACTS PER MONTH WHILE THE PERSON IS ON CONDITIONAL RELEASE, UNLESS THE COMMISSION DETERMINES THAT FEWER CONTACTS ARE APPROPRIATE IN ANY INDIVIDUAL CASE.

6. IF CONDITIONAL RELEASE IS NOT GRANTED, THE COMMISSION SHALL INFORM THE PERSON IN WRITING OF THE FACTORS AND REASONS FOR SUCH DENIAL OF CONDITIONAL RELEASE WITHIN FIFTEEN DAYS OF THE DECISION. SUCH REASONS SHALL BE GIVEN IN DETAIL AND NOT IN CONCLUSORY TERMS. INMATES DENIED CONDITIONAL RELEASE ARE ELIGIBLE TO REAPPLY SIXTY DAYS AFTER THE DATE OF THE DENIAL.

S 274. CONDITIONAL RELEASE; PROCEDURES FOR VIOLATION, DELINQUENCY, WARRANTS AND REVOCATION. 1. IF AT ANY TIME DURING THE PERIOD OF CONDITIONAL RELEASE, THE COMMISSION, OR ANY MEMBER THEREOF, HAS REASONABLE CAUSE TO BELIEVE THAT A PERSON WHO HAS BEEN CONDITIONALLY RELEASED HAS LAPSED INTO CRIMINAL WAYS OR COMPANY, OR HAS VIOLATED ONE OR MORE CONDITIONS OF CONDITIONAL RELEASE, THE COMMISSION OR SUCH MEMBER MAY DECLARE SUCH PERSON DELINQUENT AND ISSUE A WRITTEN DECLARATION OF DELINQUENCY. UPON SUCH DECLARATION, SUCH COMMISSION OR SUCH MEMBER MAY ISSUE A WARRANT FOR THE RETAKING AND TEMPORARY DETENTION OF SUCH PERSON.

2. A WARRANT ISSUED PURSUANT TO THIS SECTION SHALL CONSTITUTE SUFFICIENT AUTHORITY TO THE CHIEF ADMINISTRATIVE OFFICER OF ANY LOCAL CORRECTIONAL FACILITY TO WHOM IT IS DELIVERED TO HOLD IN TEMPORARY DETENTION THE PERSON NAMED THEREIN.

3. A WARRANT ISSUED PURSUANT TO THIS SECTION MAY BE EXECUTED BY ANY PROBATION OFFICER OR ANY OFFICER AUTHORIZED TO SERVE CRIMINAL PROCESS OR ANY PEACE OFFICER, WHO IS ACTING PURSUANT TO HIS OR HER SPECIAL DUTIES, OR ANY POLICE OFFICER. ANY SUCH OFFICER TO WHOM SUCH WARRANT SHALL BE DELIVERED IS AUTHORIZED AND REQUIRED TO EXECUTE SUCH WARRANT BY TAKING SUCH PERSON AND HAVING HIM OR HER DETAINED AS PROVIDED FOR IN THIS SECTION.

4. THE ALLEGED VIOLATOR SHALL, WITHIN FIVE DAYS OF THE EXECUTION OF THE WARRANT, BE GIVEN WRITTEN NOTICE OF THE TIME, PLACE AND PURPOSE OF THE HEARING. THE NOTICE SHALL STATE WHAT CONDITIONS OF CONDITIONAL RELEASE ARE ALLEGED TO HAVE BEEN VIOLATED AND IN WHAT MANNER AND SHALL INFORM THE ALLEGED VIOLATOR OF HIS OR HER RIGHT TO COUNSEL AS PROVIDED FOR IN SUBDIVISION SEVEN OF THIS SECTION.

5. THE ALLEGED CONDITIONAL RELEASE VIOLATOR SHALL APPEAR BEFORE THE COMMISSION WITHIN TWENTY DAYS OF THE EXECUTION OF THE WARRANT. AT THE TIME OF SUCH APPEARANCE THE COMMISSION SHALL ASK THE ALLEGED VIOLATOR WHETHER HE OR SHE WISHES TO MAKE ANY STATEMENT WITH RESPECT TO THE VIOLATION. IF THE ALLEGED VIOLATOR MAKES A STATEMENT, THE COMMISSION MAY ACCEPT IT AND BASE A DECISION THEREON. IF THE COMMISSION DOES NOT ACCEPT IT, OR IF THE ALLEGED VIOLATOR DOES NOT MAKE A STATEMENT, THE COMMISSION SHALL PROCEED WITH THE HEARING.

6. THE COMMISSION MAY RECEIVE ANY RELEVANT EVIDENCE. THE ALLEGED VIOLATOR MAY CROSS EXAMINE WITNESSES AND MAY PRESENT EVIDENCE ON HIS OR HER OWN BEHALF.

7. THE ALLEGED VIOLATOR IS ENTITLED TO COUNSEL AT ALL STAGES OF ANY PROCEEDING UNDER THIS SECTION AND THE COMMISSION SHALL ADVISE HIM OR HER OF SUCH RIGHT UPON DELIVERING TO THE ALLEGED VIOLATOR WRITTEN NOTICE, REQUIRED PURSUANT TO SUBDIVISION FOUR OF THIS SECTION.

8. AT THE CONCLUSION OF THE HEARING, THE COMMISSION SHALL ISSUE A FINDING. IF THE COMMISSION IS NOT SATISFIED THAT THERE IS A PREPONDERANCE OF EVIDENCE IN SUPPORT OF THE VIOLATION, THE COMMISSION SHALL DISMISS THE VIOLATION, CANCEL DELINQUENCY AND RESTORE THE PERSON TO

SUPERVISION. IF THE COMMISSION IS SATISFIED THAT THERE IS A PREPONDERANCE OF EVIDENCE THAT THE ALLEGED VIOLATOR VIOLATED ONE OR MORE CONDITIONS OF CONDITIONAL RELEASE IN AN IMPORTANT RESPECT, THE COMMISSION SHALL SO FIND.

9. UPON A FINDING IN SUPPORT OF THE VIOLATION, THE COMMISSION MAY REVOKE THE CONDITIONAL RELEASE, OR CONTINUE OR MODIFY THE CONDITIONS OF SUCH CONDITIONAL RELEASE. WHERE THE COMMISSION REVOKES A PERSON'S CONDITIONAL RELEASE, SUCH PERSON SHALL BE COMMITTED TO THE CUSTODY OF THE CHIEF ADMINISTRATIVE OFFICER OF THE LOCAL CORRECTIONAL FACILITY TO SERVE THE TIME REMAINING ON HIS OR HER SENTENCE, IN ACCORDANCE WITH SUBDIVISION THREE OF SECTION 70.40 OF THE PENAL LAW. WHERE THE COMMISSION MODIFIES THE CONDITIONS OF THE CONDITIONAL RELEASE, THE COMMISSION SHALL INFORM THE PERSON, IN WRITING, OF SUCH MODIFIED CONDITIONS.

10. ANY ACTIONS BY THE COMMISSION PURSUANT TO THIS ARTICLE SHALL BE DEEMED A JUDICIAL FUNCTION AND SHALL NOT BE REVIEWABLE IF DONE IN ACCORDANCE WITH LAW.

S 275. TRANSFER OF CUSTODY AND SUPERVISION OF CONDITIONAL RELEASEE. 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, TO ASSUME CUSTODY OF SUCH PERSON AND MAY SO TRANSFER CUSTODY UPON THE CONSENT OF SUCH OTHER COMMISSION OR THE PAROLE BOARD.

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. THE COMMISSION MAKING THE DESIGNATION SHALL IMMEDIATELY FORWARD ITS ENTIRE CASE RECORD REGARDING SUCH PERSON TO THE RECEIVING COMMISSION OR THE PAROLE BOARD. THE COMMISSION TO WHICH LEGAL CUSTODY HAS BEEN TRANSFERRED, OR THE PAROLE BOARD, SHALL ASSUME THE SAME POWERS AND DUTIES EXERCISED BY THE DESIGNATING COMMISSION AND SHALL HAVE THE SOLE CUSTODY OF SUCH PERSON.

3. THE COMMISSION MAKING THE DESIGNATION SHALL, UPON DESIGNATION AND PRIOR TO TRANSFER, NOTIFY THE LOCAL PROBATION DEPARTMENT LOCATED IN THE JURISDICTION OF THE RECEIVING COMMISSION OF THE DUTIES OF SUPERVISION AND CONDITIONS OF RELEASE OF SUCH PERSON. UPON SUCH NOTIFICATION, SUCH PROBATION DEPARTMENT SHALL ASSUME RESPONSIBILITIES OF SUPERVISION. THE COMMISSION MAKING THE DESIGNATION SHALL IMMEDIATELY FORWARD ITS ENTIRE CASE RECORD REGARDING SUCH PERSON TO SUCH PROBATION DEPARTMENT.

S 276. REGULATIONS AND REPORT. THE DIVISION SHALL PROMULGATE REGULATIONS IN CONFORMANCE WITH THE PROVISIONS OF THIS ARTICLE WHICH ENSURE THAT LOCAL CONDITIONAL RELEASE COMMISSIONS OPERATE IN ACCORDANCE WITH THE REQUIREMENTS PROVIDED IN THIS ARTICLE. THE DIVISION SHALL REPORT ANNUALLY TO THE SPEAKER OF THE ASSEMBLY AND TO THE TEMPORARY PRESIDENT OF THE SENATE CONCERNING THE OPERATIONS OF LOCAL CONDITIONAL RELEASE COMMISSIONS.

S 2. The executive law is amended by adding a new section 257-b to read as follows:

S 257-B. CONDITIONAL RELEASEES; DUTIES OF SUPERVISION. 1. IT SHALL BE THE DUTY OF EVERY PROBATION OFFICER TO FURNISH EACH PERSON WHO HAS BEEN ORDERED TO HIS OR HER SUPERVISION PURSUANT TO SUBDIVISION TWO OF SECTION 70.40 OF THE PENAL LAW, WITH A STATEMENT OF THE CONDITIONS OF RELEASE AND TO INSTRUCT SUCH PERSON WITH REGARD THERETO; TO KEEP INFORMED

CONCERNING SUCH PERSON'S CONDUCT, HABITS, ASSOCIATES, EMPLOYMENTS, RECREATION AND WHEREABOUTS; TO CONTACT SUCH PERSON PURSUANT TO RULES AND REGULATIONS PROMULGATED BY THE DIVISION; TO AID AND ENCOURAGE SUCH PERSON BY FRIENDLY ADVICE AND ADMONITION AND, BY SUCH OTHER MEASURES AS MAY SEEM MOST SUITABLE, TO BRING ABOUT IMPROVEMENT IN SUCH PERSON'S CONDUCT, CONDITION AND GENERAL ATTITUDE TOWARD SOCIETY.

2. PROBATION OFFICERS SHALL REPORT TO THE HEAD OF THE LOCAL PROBATION DEPARTMENT WHO SHALL IN TURN REPORT IN WRITING TO THE LOCAL CONDITIONAL RELEASE COMMISSION HAVING CUSTODY OF SUCH PERSON AT LEAST MONTHLY CONCERNING THE CONDUCT AND CONDITION OF PERSONS CONDITIONALLY RELEASED PURSUANT TO SUBDIVISION TWO OF SECTION 70.40 OF THE PENAL LAW; KEEP RECORDS OF THEIR WORK AS PROBATION OFFICERS; KEEP ACCURATE AND COMPLETE ACCOUNTS OF ALL MONEY COLLECTED FROM SUCH PERSONS; GIVE RECEIPTS THEREFOR AND MAKE PROMPT RETURNS THEREOF AT LEAST MONTHLY; AID IN SECURING EMPLOYMENT; PERFORM SUCH OTHER DUTIES IN CONNECTION WITH THE SUPERVISION OF SUCH PERSONS AS MAY BE REQUIRED BY RULES AND REGULATIONS PROMULGATED BY THE DIVISION; AND MAKE ANY OTHER REPORTS TO THE DIVISION AS IT MAY REQUIRE.

3. IF AT ANY TIME DURING THE PERIOD OF SUPERVISION, A PROBATION OFFICER HAS REASONABLE CAUSE TO BELIEVE A PERSON CONDITIONALLY RELEASED PURSUANT TO SUBDIVISION TWO OF SECTION 70.40 OF THE PENAL LAW HAS LAPSED INTO CRIMINAL WAYS OR COMPANY, OR HAS VIOLATED ONE OR MORE CONDITIONS OF HIS OR HER RELEASE, SUCH PROBATION OFFICER SHALL REPORT SUCH FACT TO A MEMBER OF THE LOCAL CONDITIONAL RELEASE COMMISSION HAVING CUSTODY OF SUCH PERSON.

S 3. Subdivision 4 of section 259-a of the executive law, as separately amended by chapter 635 of the laws of 1985 and chapter 1 of the laws of 1998, is amended to read as follows:

4. [The] IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER, THE division shall supervise [all] inmates released on parole or conditional release, or to post-release supervision, except that the division 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.

S 4. Subdivision 2 of section 70.40 of the penal law, as amended by chapter 467 of the laws of 1979, 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, [and] 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 [that] 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 [for a period of one year] 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 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.

S 5. Paragraph (b) of subdivision 3 of section 70.40 of the penal law, as separately amended by chapter 1 of the laws of 1998, is amended to read as follows:

(b) When a person is alleged to have violated the terms of his conditional release or post-release supervision and has been declared delinquent by the PAROLE board or THE LOCAL CONDITIONAL RELEASE commission having supervision over [him] 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 was released or, if he was released from an institution under the jurisdiction of the state department of [correction] CORRECTIONAL SERVICES, to an institution under the jurisdiction of that department. Upon such return, the person shall resume service of his sentence. For a person released to post-release supervision, the provisions of section 70.45 shall apply.

S 6. This act shall take effect immediately.

PART TT

Section 1. Section 1806 of the vehicle and traffic law, as amended by chapter 173 of the laws of 1990, is amended to read as follows:

S 1806. Plea of not guilty by a defendant charged with a traffic infraction. In addition to appearing personally to enter a plea of not guilty to a violation of any provision of the tax law or the transportation law regulating traffic, or to a traffic infraction for the violation of any of the provisions of the vehicle and traffic law or of any local law, ordinance, order, rule or regulation relating to the operation of motor vehicles or [motor cycles] MOTORCYCLES, a defendant may enter a plea of not guilty by mailing to the court of appropriate jurisdiction the ticket making the charge and a signed statement indicating such plea. Such plea must be sent: (a) by registered or certified mail, return receipt requested or by first class mail; and (b) within forty-eight hours after receiving such ticket. Upon receipt of such ticket and statement, the court shall advise the violator of [the trial] AN APPEARANCE date by first class mail but no warrant of arrest for [his] failure to appear can be issued until the violator is notified

of a new [trial] COURT APPEARANCE date by registered or certified mail, return receipt requested, and [he] fails to appear.

S 2. This act shall take effect immediately.

PART UU

Section 1. Legislative findings. The legislature hereby finds that inmates face significant health issues and suffer from relatively high rates of infectious diseases, mental illness, chronic drug and alcohol addictions, and other conditions such as diabetes, asthma and hypertension. Research has shown that individuals who are enrolled in Medicaid upon release from incarceration, and therefore have access to medical and mental health care and drug treatment, are less likely to be rearrested and to engage in unhealthy behaviors. Additionally, multiple studies have shown that providing adequate medical assistance to persons returning from incarceration produces considerable fiscal savings by reducing costs associated with drug use and related crime and fighting the spread of communicable diseases like HIV and hepatitis.

Therefore, the legislature finds that helping to ensure access to Medicaid benefits for persons immediately upon their release from incarceration is essential to ensure adequate medical care, drug treatment and mental health services.

In 2007, New York law was changed to allow for the suspension rather than termination of Medicaid eligibility upon incarceration. As a result, inmates who are enrolled in Medicaid immediately before admission to the correctional system have their Medicaid benefits suspended rather than terminated and therefore have access to Medicaid coverage upon release. It is estimated that twenty to thirty percent of inmates have Medicaid coverage immediately before their admission to prison. Nonetheless, many inmates who are not enrolled in Medicaid when they enter prison will require Medicaid coverage upon release.

The legislature finds that the New York department of correctional services, the department of health, the office of temporary and disability assistance and the division of parole should work together to determine the most efficient way to facilitate Medicaid coverage for eligible inmates upon release from prison. The legislature finds that these state agencies are in the best position to determine if correctional, parole or health staff or an outside entity should be trained to assist inmates in filing medical assistance applications to help ensure that medical assistance benefits are available to inmates either upon their release or as soon thereafter as practicable.

The legislature finds that the department of correctional services should determine which correctional facility is the ideal setting to institute a pilot project in which inmates released from such a state correctional facility will have access to Medicaid coverage upon release from prison. The legislature further finds that in order to expedite the process and help ensure Medicaid coverage upon release, applications for medical assistance filed on behalf of inmates being released to a county, other than the county in which the correctional facility is located, should be submitted to and processed by the centralized statewide enrollment center established through contract with the department of health.

S 2. The correction law is amended by adding a new section 140-a to read as follows:

S 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 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 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 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 CUSTO-

DY IN A DEPARTMENT FACILITY TO THE COMMUNITY. THE COMMISSIONER, THE COMMISSIONER OF THE STATE DEPARTMENT OF HEALTH AND THE CHAIRMAN OF THE STATE DIVISION OF PAROLE SHALL DETERMINE THE PROCESS FOR ISSUING THE MEDICAL ASSISTANCE IDENTIFICATION CARD SO THAT THE APPLICANT WILL RECEIVE APPROPRIATE DOCUMENTATION OF HIS/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 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.

S 3. This act shall take effect immediately, provided however that the provisions of section two of this act shall be implemented upon the certification by the commissioner of the department of health that the centralized statewide enrollment center, established through contract with the department of health pursuant to subdivision 24 of section 206 of the public health law, is able to accept and process medical assistance applications. This act shall remain in effect until April 1, 2012, when it shall expire and be deemed repealed.

PART VV

Section 1. Section 679-e of the education law, as added by section 1 of part H of chapter 56 of the laws of 2007, paragraphs a and d of subdivision 2 as amended by section 1 of part X of chapter 56 of the laws of 2008 and paragraph b of subdivision 3 as amended by section 2 of part X of chapter 56 of the laws of 2008, is amended to read as follows:

S 679-e. New York state district attorney AND INDIGENT LEGAL SERVICES ATTORNEY loan forgiveness program. 1. Purpose. The president shall grant student loan forgiveness awards for the purpose of increasing the number of experienced attorneys serving in the position of district attorney OR INDIGENT LEGAL SERVICES ATTORNEY in the counties of the state.

2. Definitions. a. (i) "Eligible attorney" means an attorney, admitted to practice law in New York state, who is EMPLOYED FULL-TIME AS EITHER a district attorney, as defined in subparagraph (ii) of this paragraph, OR AN INDIGENT LEGAL SERVICES ATTORNEY, AS DEFINED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, who is [employed full time as a district attorney; and who holds a degree from a law school] ADMITTED TO PRACTICE LAW IN THIS STATE FOR NOT MORE THAN ELEVEN YEARS and WHO was within the eligible period as defined in paragraph b of this subdivision during the time for which such person is seeking a student loan expense grant.

(ii) "District attorney" means the district attorney of one of the counties of the state or an employee of the office of any such district attorney.

(III) "INDIGENT LEGAL SERVICES ATTORNEY" MEANS AN ATTORNEY WHO IS AN EMPLOYEE OF (A) ANY AGENCY DESIGNATED BY SUBDIVISIONS ONE AND TWO OF SECTION SEVEN HUNDRED TWENTY-TWO OF THE COUNTY LAW, WHO IS ENGAGED IN THE PRACTICE OF CRIMINAL LAW ON BEHALF OF PERSONS CHARGED WITH A CRIME WHO ARE FINANCIALLY UNABLE TO OBTAIN COUNSEL; (B) A NOT-FOR-PROFIT CORPORATION THAT IS EXEMPT FROM THE PAYMENT OF FEDERAL INCOME TAXES PURSUANT TO SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE AND ESTABLISHED FOR THE PURPOSE OF PROVIDING LEGAL SERVICES THAT INCLUDE CIVIL LEGAL SERVICES TO PERSONS WITHIN NEW YORK STATE WHO ARE FINANCIALLY UNABLE TO OBTAIN COUNSEL; OR (C) AN AGENCY SPECIFIED IN CLAUSE (A) OF THIS SUBPARAGRAPH AND/OR A CORPORATION SPECIFIED IN CLAUSE (B) OF THIS SUBPARAGRAPH AND WHO PROVIDES A COMBINATION OF THE CIVIL AND CRIMINAL SERVICES SPECIFIED THEREIN.

b. "Eligible period" means the six-year period after completion of the third year and before the commencement of the tenth year of employment as [a district] AN ELIGIBLE attorney. For purposes of this section, all periods of time during which an admitted attorney was employed as [a district] AN ELIGIBLE attorney and all periods of time during which a law school graduate awaiting admission to the New York state bar was employed by a prosecuting or criminal defense agency as permitted by section four hundred eighty-four of the judiciary law shall be combined.

c. "Student loan expense" means the total loan balance required to be paid by the eligible attorney on the cumulative total of the attorney's outstanding student loans covering his or her cost of attendance at an undergraduate institution and/or law school, at the time of the attorney's first application for reimbursement. Interest paid or due on such loans shall be considered eligible for reimbursement under this program. For purposes of this calculation, the amount of the student loan expenses shall be reduced by any grants, loan forgiveness, or similar reductions to the attorney's indebtedness that the attorney has received or shall receive, including, but not limited to, law school loan forgiveness and public service scholarships.

d. "Year of qualified service" means the twelve month period measured from the anniversary of the attorney's employment as an eligible attorney, or as a law school graduate awaiting admission to the New York state bar employed by a prosecuting or criminal defense agency as permitted by section four hundred eighty-four of the judiciary law, adjusted for any interruption in employment. Any period of temporary

leave from service taken by an eligible attorney shall not be considered in the calculation of qualified service. However, the period of temporary leave shall be considered an interruption in employment and the calculation of the time period of qualified service shall recommence when the eligible attorney returns to full time service.

3. Awards. a. An eligible attorney may apply for reimbursement after the completion of each year of qualified service provided however that reimbursement to each eligible attorney shall not exceed three thousand four hundred dollars, per qualifying year, SUBJECT TO APPROPRIATIONS AVAILABLE THEREFOR. The president may establish: (i) an application deadline and (ii) a method of selecting recipients if in any given year there are insufficient funds to cover the needs of all the applicants. Awards shall be within the amounts appropriated for such purpose and based on availability of funds.

b. An eligible attorney may apply after the completion of the fourth year of qualified service, and annually thereafter after the completion of the fifth through ninth year of qualified service, and may seek a student loan expense grant for only the previous year of qualified service within the time periods prescribed by the president. An eligible attorney may receive student loan expense grants for no more than six years of qualified service within an eligible period.

4. Rules and regulations. The president shall promulgate rules and regulations for the administration of this program. The president may promulgate rules and regulations to delegate to the entities employing the eligible attorneys the responsibility to certify the employment status and the student loan balance of the applicants.

S 2. This act shall take effect immediately.

PART WW

Section 1. Section 17 of the alcoholic beverage control law is amended by adding a new subdivision 14 to read as follows:

14. FOR STATE FISCAL YEAR TWO THOUSAND NINE--TWO THOUSAND TEN, THE AUTHORITY SHALL, WITHIN AMOUNTS APPROPRIATED THEREFORE, IMPROVE AND UPDATE THEIR INFORMATION TECHNOLOGY IN ORDER TO MEET FEDERAL SECURITY REQUIREMENTS AND TO ASSIST IN THE PROCESSING OF LICENSE AND/OR PERMIT APPLICATIONS AND RENEWALS.

S 2. This act shall take effect immediately.

PART XX

Section 1. Section 13 of chapter 141 of the laws of 1994, amending the legislative law and the state finance law relating to the operation and administration of the legislature, as amended by section 1 of part AA of chapter 56 of the laws of 2008, is amended to read as follows:

S 13. This act shall take effect immediately and shall be deemed to have been in full force and effect as of April 1, 1994, provided that, the provisions of section 5-a of the legislative law as amended by sections two and two-a of this act shall take effect on January 1, 1995, and provided further that, the provisions of article 5-A of the legislative law as added by section eight of this act shall expire June 30, [2009] 2010 when upon such date the provisions of such article shall be deemed repealed; and provided further that section twelve of this act shall be deemed to have been in full force and effect on and after April 10, 1994.

S 2. That portion of subdivision 1 of section 5-a of the legislative law entitled "SENATORS SERVING IN SPECIAL CAPACITY", as added by chapter 630 of the laws of 1998, is amended to read as follows:

SENATORS SERVING IN SPECIAL CAPACITY

Chairman of senate finance committee 34,000
Ranking minority member of senate finance committee 20,500
Chairman of senate judiciary committee 18,000
Ranking minority member of senate judiciary committee 11,000
Chairman of senate aging committee 12,500
Ranking minority member of senate aging committee 9,000
Chairman of the senate alcoholism and drug abuse committee 12,500
Ranking minority member of the senate alcoholism and drug abuse committee 9,000
Chairman of senate children and families committee 12,500
Ranking minority member of senate children and families committee 9,000
Chairman of senate codes committee 18,000
Ranking minority member of senate codes committee 11,000
Chairman of senate banks committee 15,000
Ranking minority member of senate banks committee 9,500
Chairman of senate education committee 18,000
Ranking minority member of senate education committee 11,000
Chairman of senate energy and telecommunications committee 12,500
Ranking minority member of senate energy and telecommunications committee 9,000
Chairman of senate ethics committee 12,500
Ranking minority member of senate ethics committee 9,000
Chairman of senate health committee 15,000
Ranking minority member of senate health committee 9,500
Chairman of senate local government committee 12,500
Ranking minority member of senate local government committee 9,000
Chairman of senate labor committee 12,500
Ranking minority member of senate labor committee 9,000
Chairman of senate mental health and developmental disabilities committee 12,500
Ranking minority member of senate mental health and developmental disabilities committee 9,000
Chairman of senate insurance committee 12,500
Ranking minority member of senate insurance committee 9,000
Chairman of senate social services committee 12,500
Ranking minority member of senate social services committee 9,000
Chairman of senate investigations[, taxation] and government operations committee 15,000
Ranking minority member of senate investigations[, taxation] and government operations committee 9,500
Chairman of senate corporations, authorities and

commissions committee 15,000
Ranking minority member of senate corporations, authorities and commissions committee 9,500
Chairman of senate transportation committee 15,000
Ranking minority member of senate transportation committee 9,500
Chairman of senate agriculture committee 12,500
Ranking minority member of senate agriculture committee 9,000
Chairman of senate consumer protection committee 12,500
Ranking minority member of senate consumer protection committee 9,000
Chairman of senate cities committee 15,000
Ranking minority member of senate cities committee 9,500
Chairman of senate civil service and pensions committee 12,500
Ranking minority member of senate civil service and pensions committee 9,000
Chairman of senate commerce, economic development and small business committee 12,500
Ranking minority member of senate commerce, economic development and small business committee 9,000
Chairman of senate environmental conservation committee 12,500
Ranking minority member of senate environmental conservation committee 9,000
Chairman of senate crime victims, crime and correction committee 12,500
Ranking minority member of senate crime victims, crime and correction committee 9,000
Chairman of senate elections committee 12,500
Ranking minority member of senate elections committee 9,000
Chairman of senate higher education committee 12,500
Ranking minority member of senate higher education committee 9,000
Chairman of senate housing, construction and community development committee 12,500
Ranking minority member of senate housing, construction and community development committee 9,000
Chairman of senate [tourism, recreation and sports development] CULTURAL AFFAIRS, TOURISM, PARKS AND RECREATION committee 12,500
Ranking minority member of senate [tourism, recreation and sports development] CULTURAL AFFAIRS, TOURISM, PARKS AND RECREATION committee 9,000
Chairman of senate veterans, HOMELAND SECURITY and military affairs committee 12,500
Ranking minority member of senate veterans, HOMELAND SECURITY and military affairs committee 9,000
Co-chairman of administrative regulations review commission 12,500

S 3. That portion of subdivision 1 of section 5-a of the legislative law entitled "ASSEMBLYMEN SERVING IN SPECIAL CAPACITY", as added by chapter 630 of the laws of 1998, is amended to read as follows:

ASSEMBLYMEN SERVING IN SPECIAL CAPACITY

Chairman of assembly ways and means committee 34,000
Ranking minority member of assembly ways and means committee 20,500
Chairman of assembly judiciary committee 18,000
Ranking minority member of assembly judiciary committee 11,000
Chairman of assembly codes committee 18,000
Ranking minority member of assembly codes committee 11,000
Chairman of assembly banks committee 15,000
Ranking minority member of assembly banks committee 9,500
Chairman of assembly committee on cities 15,000
Ranking minority member of assembly committee on cities 9,500
Chairman of assembly education committee 18,000
Ranking minority member of assembly education committee 11,000
Chairman of assembly health committee 15,000
Ranking minority member of assembly health committee 9,500
Chairman of assembly local governments committee 15,000
Ranking minority member of assembly local governments committee 9,500
Chairman of assembly agriculture committee 12,500
Ranking minority member of assembly agriculture committee 9,000
Chairman of assembly economic development, job creation, commerce and industry committee 18,000
Ranking minority member of assembly economic development, job creation, commerce and industry committee 11,000
Chairman of assembly environmental conservation committee 12,500
Ranking minority member of assembly environmental conservation committee 9,000
Chairman of assembly corporations, authorities and commissions committee 15,000
Ranking minority member of assembly corporations, authorities, and commissions committee 9,500
Chairman of assembly correction committee 12,500
Ranking minority member of assembly correction committee 9,000
Chairman of assembly ethics and guidance committee 12,500
Ranking minority member of assembly ethics and guidance committee 9,000
Chairman of assembly governmental employees committee 12,500
Ranking minority member of assembly governmental employees committee 9,000
Chairman of assembly governmental operations committee 12,500
Ranking minority member of assembly governmental operations committee 9,000
Chairman of assembly housing committee 12,500
Ranking minority member of assembly housing committee 9,000
Chairman of assembly insurance committee 12,500
Ranking minority member of assembly insurance committee 9,000
Chairman of assembly labor committee 14,000
Ranking minority member of assembly labor committee 9,000
Chairman of assembly racing and wagering committee 12,500
Ranking minority member of assembly racing and wagering committee 9,000
Chairman of assembly social services committee 12,500
Ranking minority member of assembly social services

committee 9,000
Chairman of assembly small business committee 12,500
Ranking minority member of assembly small business committee 9,000
Chairman of assembly transportation committee 15,000
Ranking minority member of assembly transportation committee 9,500
Chairman of assembly veterans' affairs committee 12,500
Ranking minority member of assembly veterans' affairs committee 9,000
Chairman of assembly aging committee 12,500
Ranking minority member of assembly aging committee 9,000
Chairman of the assembly alcoholism and drug abuse committee 12,500
Ranking minority member of the assembly alcoholism and drug abuse committee 9,000
Chairman of assembly committee on mental health, mental retardation and developmental disabilities 12,500
Ranking minority member of assembly committee on mental health, mental retardation and developmental disabilities 9,000
Chairman of assembly higher education committee 12,500
Ranking minority member of assembly higher education committee 9,000
Chairman of assembly real property taxation committee 12,500
Ranking minority member of assembly real property taxation committee 9,000
Chairman of assembly election law committee 12,500
Ranking minority member of assembly election law committee 9,000
Chairman of assembly children and families committee 12,500
Ranking minority member of assembly children and families committee 9,000
Chairman of assembly consumer affairs and protection committee 12,500
Ranking minority member of assembly consumer affairs and protection committee 9,000
Chairman of the assembly energy committee 12,500
Ranking minority member of assembly energy committee 9,000
Chairman of assembly tourism, PARKS, arts and sports development committee 12,500
Ranking minority member of assembly tourism, PARKS, arts and sports development committee 9,000
Chairman of assembly oversight, analysis and investigation committee 12,500
Ranking minority member of assembly oversight, analysis and investigation committee 9,000
Chairman of assembly office of state-federal relations 12,500
Chairman of majority house operations 12,500
Chairman of minority house operations 9,000
Co-chairman of the administrative regulations review commission 12,500

S 4. This act shall take effect immediately, provided however, if this act takes effect on or after June 30, 2009 this act shall take effect immediately and shall be deemed to have been in full force and effect on and after June 30, 2009.

PART YY

Section 1. All state public authorities as defined pursuant to subdivision 1 of section 2 of the public authorities law receiving funding under the American recovery and reinvestment act of 2009 shall submit a written expenditure plan to the governor, the speaker of the assembly and the temporary president of the senate within thirty days of award of funds. Such expenditure plan shall include: (i) the total amount awarded to the state public authority, (ii) a description of the program and federal agency from which the funding was awarded, (iii) a description of the intended uses of such award, (iv) recipient eligibility requirements, and (v) the methodology for the allocation of funding awards for program applicants. Further, all state public authorities receiving funding under the American recovery and reinvestment act of 2009 shall submit copies of reports on the use of funds required pursuant to such federal act to the governor, the speaker of the assembly and the temporary president of the senate on the same date as such reports are submitted to the federal government and shall further make such reports available on their websites.

S 2. This act shall take effect immediately.

PART ZZ

Section 1. The chief administrator of the courts shall promulgate rules regarding compliance with caseload standards for attorneys and law offices providing representation to indigent clients in criminal matters pursuant to article 18-B of the county law in cities with a population of over one million with caseload standards deemed reasonable by the chief administrator of the courts. Such rules shall provide for a 4-year phased plan of implementation, beginning on April 1, 2010 and resulting in ongoing compliance after March 31, 2014. The plan for compliance with caseload standards shall allow for adjustment each year, and shall consider, on an ongoing basis, the future projections of caseload, as well as the number of attorneys available to accept cases. The chief administrator may request funds necessary to assist in meeting the prescribed standards as part of the annual budget request of the office of court administration. However, nothing in this section shall be deemed to require the legislature to approve such request, nor create a liability requiring the state to provide the funding necessary to ensure compliance with the standards set by such rules.

S 2. This act shall take effect immediately.

PART AAA

Section 1. 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 incarcerative treatment services and who have been paroled or conditionally released under the supervision of the division of parole and who are, as a condition of their parole or conditional 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 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 [the provisions of article seventy] SUBDIVISION THREE OF SECTION 70.30 of the penal law, shall be at least [eighteen] 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 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.

S 2. Section 867 of the correction law is amended by adding a new subdivision 2-a to read as follows:

2-A. SUBDIVISIONS ONE AND TWO OF THIS SECTION SHALL APPLY TO A JUDICIALLY SENTENCED SHOCK INCARCERATION INMATE ONLY TO THE EXTENT THAT THE SCREENING COMMITTEE MAY DETERMINE WHETHER THE INMATE HAS A MEDICAL OR MENTAL HEALTH CONDITION THAT WILL RENDER THE INMATE UNABLE TO SUCCESS-

FULLY COMPLETE THE SHOCK INCARCERATION PROGRAM, AND THE FACILITY IN WHICH THE INMATE WILL PARTICIPATE IN SUCH PROGRAM. NOTWITHSTANDING SUBDIVISION FIVE OF THIS SECTION, AN INMATE SENTENCED TO SHOCK INCARCERATION SHALL PROMPTLY COMMENCE PARTICIPATION IN THE PROGRAM WHEN SUCH INMATE IS AN ELIGIBLE INMATE PURSUANT TO SUBDIVISION ONE OF SECTION EIGHT HUNDRED SIXTY-FIVE OF THIS ARTICLE.

S 3. The criminal procedure law is amended by adding a new section 160.58 to read as follows:

S 160.58 CONDITIONAL SEALING OF CERTAIN CONTROLLED SUBSTANCE, MARIHUANA OR SPECIFIED OFFENSE CONVICTIONS.

1. A DEFENDANT CONVICTED OF ANY OFFENSE DEFINED IN ARTICLE TWO HUNDRED TWENTY OR TWO HUNDRED TWENTY-ONE OF THE PENAL LAW OR A SPECIFIED OFFENSE DEFINED IN SUBDIVISION FIVE OF SECTION 410.91 OF THIS CHAPTER WHO HAS SUCCESSFULLY COMPLETED A JUDICIAL DIVERSION PROGRAM UNDER ARTICLE TWO HUNDRED SIXTEEN OF THIS CHAPTER, OR ONE OF THE PROGRAMS HERETOFORE KNOWN AS DRUG TREATMENT ALTERNATIVE TO PRISON OR ANOTHER JUDICIALLY SANCTIONED DRUG TREATMENT PROGRAM OF SIMILAR DURATION, REQUIREMENTS AND LEVEL OF SUPERVISION, AND HAS COMPLETED THE SENTENCE IMPOSED FOR THE OFFENSE OR OFFENSES, IS ELIGIBLE TO HAVE SUCH OFFENSE OR OFFENSES SEALED PURSUANT TO THIS SECTION.

2. THE COURT THAT SENTENCED THE DEFENDANT TO A JUDICIALLY SANCTIONED DRUG TREATMENT PROGRAM MAY ON ITS OWN MOTION, OR ON THE DEFENDANT'S MOTION, ORDER THAT ALL OFFICIAL RECORDS AND PAPERS RELATING TO THE ARREST, PROSECUTION AND CONVICTION WHICH RESULTED IN THE DEFENDANT'S PARTICIPATION IN THE JUDICIALLY SANCTIONED DRUG TREATMENT PROGRAM BE CONDITIONALLY SEALED. IN SUCH CASE, THE COURT MAY ALSO CONDITIONALLY SEAL THE ARREST, PROSECUTION AND CONVICTION RECORDS FOR NO MORE THAN THREE OF THE DEFENDANT'S PRIOR ELIGIBLE MISDEMEANORS, WHICH FOR PURPOSES OF THIS SUBDIVISION SHALL BE LIMITED TO MISDEMEANOR OFFENSES DEFINED IN ARTICLE TWO HUNDRED TWENTY OR TWO HUNDRED TWENTY-ONE OF THE PENAL LAW. THE COURT MAY ONLY SEAL THE RECORDS OF THE DEFENDANT'S ARRESTS, PROSECUTIONS AND CONVICTIONS WHEN:

(A) THE SENTENCING COURT HAS REQUESTED AND RECEIVED FROM THE DIVISION OF CRIMINAL JUSTICE SERVICES OR THE FEDERAL BUREAU OF INVESTIGATION A FINGERPRINT BASED CRIMINAL HISTORY RECORD OF THE DEFENDANT, INCLUDING ANY SEALED OR SUPPRESSED INFORMATION. THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL ALSO INCLUDE A CRIMINAL HISTORY REPORT, IF ANY, FROM THE FEDERAL BUREAU OF INVESTIGATION REGARDING ANY CRIMINAL HISTORY INFORMATION THAT OCCURRED IN OTHER JURISDICTIONS. THE DIVISION IS HEREBY AUTHORIZED TO RECEIVE SUCH INFORMATION FROM THE FEDERAL BUREAU OF INVESTIGATION FOR THIS PURPOSE. THE PARTIES SHALL BE PERMITTED TO EXAMINE THESE RECORDS;

(B) THE DEFENDANT OR COURT HAS IDENTIFIED THE MISDEMEANOR CONVICTION OR CONVICTIONS FOR WHICH RELIEF MAY BE GRANTED;

(C) THE COURT HAS RECEIVED DOCUMENTATION THAT THE SENTENCES IMPOSED ON THE ELIGIBLE MISDEMEANOR CONVICTIONS HAVE BEEN COMPLETED, OR IF NO SUCH DOCUMENTATION IS REASONABLY AVAILABLE, A SWORN AFFIDAVIT THAT THE SENTENCES IMPOSED ON THE PRIOR MISDEMEANORS HAVE BEEN COMPLETED; AND

(D) THE COURT HAS NOTIFIED THE DISTRICT ATTORNEY OF EACH JURISDICTION IN WHICH THE DEFENDANT HAS BEEN CONVICTED OF AN OFFENSE WITH RESPECT TO WHICH SEALING IS SOUGHT, AND THE COURT OR COURTS OF RECORD FOR SUCH OFFENSES, THAT THE COURT IS CONSIDERING SEALING THE RECORDS OF THE DEFENDANT'S ELIGIBLE MISDEMEANOR CONVICTIONS. BOTH THE DISTRICT ATTORNEY AND THE COURT SHALL BE GIVEN A REASONABLE OPPORTUNITY, WHICH SHALL NOT BE LESS THAN THIRTY DAYS, IN WHICH TO COMMENT AND SUBMIT MATERIALS TO AID THE COURT IN MAKING SUCH A DETERMINATION.

3. AT THE REQUEST OF THE DEFENDANT OR THE DISTRICT ATTORNEY OF A COUNTY IN WHICH THE DEFENDANT COMMITTED A CRIME THAT IS THE SUBJECT OF THE SEALING APPLICATION, THE COURT MAY CONDUCT A HEARING TO CONSIDER AND REVIEW ANY RELEVANT EVIDENCE OFFERED BY EITHER PARTY THAT WOULD AID THE COURT IN ITS DECISION WHETHER TO SEAL THE RECORDS OF THE DEFENDANT'S ARRESTS, PROSECUTIONS AND CONVICTIONS. IN MAKING SUCH A DETERMINATION, THE COURT SHALL CONSIDER ANY RELEVANT FACTORS, INCLUDING BUT NOT LIMITED TO: (I) THE CIRCUMSTANCES AND SERIOUSNESS OF THE OFFENSE OR OFFENSES THAT RESULTED IN THE CONVICTION OR CONVICTIONS; (II) THE CHARACTER OF THE DEFENDANT, INCLUDING HIS OR HER COMPLETION OF THE JUDICIALLY SANCTIONED TREATMENT PROGRAM AS DESCRIBED IN SUBDIVISION ONE OF THIS SECTION; (III) THE DEFENDANT'S CRIMINAL HISTORY; AND (IV) THE IMPACT OF SEALING THE DEFENDANT'S RECORDS UPON HIS OR HER REHABILITATION AND HIS OR HER SUCCESSFUL AND PRODUCTIVE REENTRY AND REINTEGRATION INTO SOCIETY, AND ON PUBLIC SAFETY.

4. WHEN A COURT ORDERS SEALING PURSUANT TO THIS SECTION, ALL OFFICIAL RECORDS AND PAPERS RELATING TO THE ARRESTS, PROSECUTIONS, AND CONVICTIONS, INCLUDING ALL DUPLICATES AND COPIES THEREOF, ON FILE WITH THE DIVISION OF CRIMINAL JUSTICE SERVICES OR ANY COURT SHALL BE SEALED AND NOT MADE AVAILABLE TO ANY PERSON OR PUBLIC OR PRIVATE AGENCY; PROVIDED, HOWEVER, THE DIVISION SHALL RETAIN ANY FINGERPRINTS, PALMPRINTS AND PHOTOGRAPHS, OR DIGITAL IMAGES OF THE SAME.

5. WHEN THE COURT ORDERS SEALING PURSUANT TO THIS SECTION, THE CLERK OF SUCH COURT SHALL IMMEDIATELY NOTIFY THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES, AND ANY COURT THAT SENTENCED THE DEFENDANT FOR AN OFFENSE WHICH HAS BEEN CONDITIONALLY SEALED, REGARDING THE RECORDS THAT SHALL BE SEALED PURSUANT TO THIS SECTION.

6. RECORDS SEALED PURSUANT TO THIS SUBDIVISION SHALL BE MADE AVAILABLE TO:

(A) THE DEFENDANT OR THE DEFENDANT'S DESIGNATED AGENT;

(B) QUALIFIED AGENCIES, AS DEFINED IN SUBDIVISION NINE OF SECTION EIGHT HUNDRED THIRTY-FIVE OF THE EXECUTIVE LAW, AND FEDERAL AND STATE LAW ENFORCEMENT AGENCIES, WHEN ACTING WITHIN THE SCOPE OF THEIR LAW ENFORCEMENT DUTIES; OR

(C) ANY STATE OR LOCAL OFFICER OR AGENCY WITH RESPONSIBILITY FOR THE ISSUANCE OF LICENSES TO POSSESS GUNS, WHEN THE PERSON HAS MADE APPLICATION FOR SUCH A LICENSE; OR

(D) 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.

7. THE COURT SHALL NOT SEAL THE DEFENDANT'S RECORD PURSUANT TO THIS SECTION WHILE ANY CHARGED OFFENSE IS PENDING.

8. IF, SUBSEQUENT TO THE SEALING OF RECORDS PURSUANT TO THIS SUBDIVISION, THE PERSON WHO IS THE SUBJECT OF SUCH RECORDS IS ARRESTED FOR OR FORMALLY CHARGED WITH ANY MISDEMEANOR OR FELONY OFFENSE, SUCH RECORDS SHALL BE UNSEALED IMMEDIATELY AND REMAIN UNSEALED; PROVIDED, HOWEVER, THAT IF SUCH NEW MISDEMEANOR OR FELONY ARREST RESULTS IN A TERMINATION IN FAVOR OF THE ACCUSED AS DEFINED IN SUBDIVISION THREE OF SECTION 160.50 OF THIS ARTICLE OR BY CONVICTION FOR A NON CRIMINAL OFFENSE AS DESCRIBED IN SECTION 160.55 OF THIS ARTICLE, SUCH UNSEALED RECORDS SHALL BE CONDITIONALLY SEALED PURSUANT TO THIS SECTION.

S 4. The criminal procedure law is amended by adding a new article 216 to read as follows:

ARTICLE 216

JUDICIAL DIVERSION PROGRAM FOR CERTAIN FELONY OFFENDERS

SECTION 216.00 DEFINITIONS.

216.05 JUDICIAL DIVERSION PROGRAM; COURT PROCEDURES.

S 216.00 DEFINITIONS.

THE FOLLOWING DEFINITIONS ARE APPLICABLE TO THIS ARTICLE:

1. "ELIGIBLE DEFENDANT" MEANS ANY PERSON WHO STANDS CHARGED IN AN INDICTMENT OR A SUPERIOR COURT INFORMATION WITH A CLASS B, C, D OR E FELONY OFFENSE DEFINED IN ARTICLE TWO HUNDRED TWENTY OR TWO HUNDRED TWENTY-ONE OF THE PENAL LAW OR ANY OTHER SPECIFIED OFFENSE AS DEFINED IN SUBDIVISION FOUR OF SECTION 410.91 OF THIS CHAPTER, PROVIDED, HOWEVER, A DEFENDANT IS NOT AN "ELIGIBLE DEFENDANT" IF HE OR SHE:

(A) WITHIN THE PRECEDING TEN YEARS, EXCLUDING ANY TIME DURING WHICH THE OFFENDER WAS INCARCERATED FOR ANY REASON BETWEEN THE TIME OF COMMISSION OF THE PREVIOUS FELONY AND THE TIME OF COMMISSION OF THE PRESENT FELONY, HAS PREVIOUSLY BEEN CONVICTED OF: (I) A VIOLENT FELONY OFFENSE AS DEFINED IN SECTION 70.02 OF THE PENAL LAW OR (II) ANY OTHER OFFENSE FOR WHICH A MERIT TIME ALLOWANCE IS NOT AVAILABLE PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION EIGHT HUNDRED THREE OF THE CORRECTION LAW, OR (III) A CLASS A FELONY OFFENSE DEFINED IN ARTICLE TWO HUNDRED TWENTY OF THE PENAL LAW; OR

(B) HAS PREVIOUSLY BEEN ADJUDICATED A SECOND VIOLENT FELONY OFFENDER PURSUANT TO SECTION 70.04 OF THE PENAL LAW OR A PERSISTENT VIOLENT FELONY OFFENDER PURSUANT TO SECTION 70.08 OF THE PENAL LAW.

A DEFENDANT WHO ALSO STANDS CHARGED WITH A VIOLENT FELONY OFFENSE AS DEFINED IN SECTION 70.02 OF THE PENAL LAW OR AN OFFENSE FOR WHICH MERIT TIME ALLOWANCE IS NOT AVAILABLE PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION EIGHT HUNDRED THREE OF THE CORRECTION LAW FOR WHICH THE COURT MUST, UPON THE DEFENDANT'S CONVICTION THEREOF, SENTENCE THE DEFENDANT TO INCARCERATION IN STATE PRISON IS NOT AN ELIGIBLE DEFENDANT WHILE SUCH CHARGES ARE PENDING. A DEFENDANT WHO IS EXCLUDED FROM THE JUDICIAL DIVERSION PROGRAM PURSUANT TO THIS PARAGRAPH OR PARAGRAPH (A) OR (B) OF THIS SUBDIVISION MAY BECOME AN ELIGIBLE DEFENDANT UPON THE PROSECUTOR'S CONSENT.

2. "ALCOHOL AND SUBSTANCE ABUSE EVALUATION" MEANS A WRITTEN ASSESSMENT AND REPORT BY A COURT-APPROVED ENTITY OR LICENSED HEALTH CARE PROFESSIONAL EXPERIENCED IN THE TREATMENT OF ALCOHOL AND SUBSTANCE ABUSE, OR BY AN ADDICTION AND SUBSTANCE ABUSE COUNSELOR CREDENTIALED BY THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES PURSUANT TO SECTION 19.07 OF THE MENTAL HYGIENE LAW, WHICH SHALL INCLUDE:

(A) AN EVALUATION AS TO WHETHER THE DEFENDANT HAS A HISTORY OF ALCOHOL OR SUBSTANCE ABUSE OR ALCOHOL OR SUBSTANCE DEPENDENCE, AS SUCH TERMS ARE DEFINED IN THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, FOURTH EDITION, AND A CO-OCCURRING MENTAL DISORDER OR MENTAL ILLNESS AND THE RELATIONSHIP BETWEEN SUCH ABUSE OR DEPENDENCE AND MENTAL DISORDER OR MENTAL ILLNESS, IF ANY;

(B) A RECOMMENDATION AS TO WHETHER THE DEFENDANT'S ALCOHOL OR SUBSTANCE ABUSE OR DEPENDENCE, IF ANY, COULD BE EFFECTIVELY ADDRESSED BY JUDICIAL DIVERSION IN ACCORDANCE WITH THIS ARTICLE;

(C) A RECOMMENDATION AS TO THE TREATMENT MODALITY, LEVEL OF CARE AND LENGTH OF ANY PROPOSED TREATMENT TO EFFECTIVELY ADDRESS THE DEFENDANT'S ALCOHOL OR SUBSTANCE ABUSE OR DEPENDENCE AND ANY CO-OCCURRING MENTAL DISORDER OR ILLNESS; AND

(D) ANY OTHER INFORMATION, FACTOR, CIRCUMSTANCE, OR RECOMMENDATION DEEMED RELEVANT BY THE ASSESSING ENTITY OR SPECIFICALLY REQUESTED BY THE COURT.

S 216.05 JUDICIAL DIVERSION PROGRAM; COURT PROCEDURES.

1. AT ANY TIME AFTER THE ARRAIGNMENT OF AN ELIGIBLE DEFENDANT, BUT PRIOR TO THE ENTRY OF A PLEA OF GUILTY OR THE COMMENCEMENT OF TRIAL, THE COURT AT THE REQUEST OF THE ELIGIBLE DEFENDANT, MAY ORDER AN ALCOHOL AND SUBSTANCE ABUSE EVALUATION. AN ELIGIBLE DEFENDANT MAY DECLINE TO PARTICIPATE IN SUCH AN EVALUATION AT ANY TIME. THE DEFENDANT SHALL PROVIDE A WRITTEN AUTHORIZATION, IN COMPLIANCE WITH THE REQUIREMENTS OF ANY APPLICABLE STATE OR FEDERAL LAWS, RULES OR REGULATIONS AUTHORIZING DISCLOSURE OF THE RESULTS OF THE ASSESSMENT TO THE DEFENDANT'S ATTORNEY, THE PROSECUTOR, THE LOCAL PROBATION DEPARTMENT, THE COURT, AUTHORIZED COURT PERSONNEL AND OTHER INDIVIDUALS SPECIFIED IN SUCH AUTHORIZATION FOR THE SOLE PURPOSE OF DETERMINING WHETHER THE DEFENDANT SHOULD BE OFFERED JUDICIAL DIVERSION FOR TREATMENT FOR SUBSTANCE ABUSE OR DEPENDENCE, ALCOHOL ABUSE OR DEPENDENCE AND ANY CO-OCCURRING MENTAL DISORDER OR MENTAL ILLNESS.

2. UPON RECEIPT OF THE COMPLETED ALCOHOL AND SUBSTANCE ABUSE EVALUATION REPORT, THE COURT SHALL PROVIDE A COPY OF THE REPORT TO THE ELIGIBLE DEFENDANT AND THE PROSECUTOR.

3. (A) UPON RECEIPT OF THE EVALUATION REPORT EITHER PARTY MAY REQUEST A HEARING ON THE ISSUE OF WHETHER THE ELIGIBLE DEFENDANT SHOULD BE OFFERED ALCOHOL OR SUBSTANCE ABUSE TREATMENT PURSUANT TO THIS ARTICLE. AT SUCH A PROCEEDING, WHICH SHALL BE HELD AS SOON AS PRACTICABLE SO AS TO FACILITATE EARLY INTERVENTION IN THE EVENT THAT THE DEFENDANT IS FOUND TO NEED ALCOHOL OR SUBSTANCE ABUSE TREATMENT, THE COURT MAY CONSIDER ORAL AND WRITTEN ARGUMENTS, MAY TAKE TESTIMONY FROM WITNESSES OFFERED BY EITHER PARTY, AND MAY CONSIDER ANY RELEVANT EVIDENCE INCLUDING, BUT NOT LIMITED TO, EVIDENCE THAT:

(I) THE DEFENDANT HAD WITHIN THE PRECEDING TEN YEARS (EXCLUDING ANY TIME DURING WHICH THE OFFENDER WAS INCARCERATED FOR ANY REASON BETWEEN THE TIME OF THE ACTS THAT LED TO THE YOUTHFUL OFFENDER ADJUDICATION AND THE TIME OF COMMISSION OF THE PRESENT OFFENSE) BEEN ADJUDICATED A YOUTHFUL OFFENDER FOR: (A) A VIOLENT FELONY OFFENSE AS DEFINED IN SECTION 70.02 OF THE PENAL LAW; OR (B) ANY OFFENSE FOR WHICH A MERIT TIME ALLOWANCE IS NOT AVAILABLE PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION EIGHT HUNDRED THREE OF THE CORRECTION LAW; AND

(II) IN THE CASE OF A FELONY OFFENSE DEFINED IN SUBDIVISION FOUR OF SECTION 410.91 OF THIS CHAPTER, ANY STATEMENT OF OR SUBMITTED BY THE VICTIM, AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION 380.50 OF THIS CHAPTER.

(B) UPON COMPLETION OF SUCH A PROCEEDING, THE COURT SHALL CONSIDER AND MAKE FINDINGS OF FACT WITH RESPECT TO WHETHER:

(I) THE DEFENDANT IS AN ELIGIBLE DEFENDANT AS DEFINED IN SUBDIVISION ONE OF SECTION 216.00 OF THIS ARTICLE;

(II) THE DEFENDANT HAS A HISTORY OF ALCOHOL OR SUBSTANCE ABUSE OR DEPENDENCE;

(III) SUCH ALCOHOL OR SUBSTANCE ABUSE OR DEPENDENCE IS A CONTRIBUTING FACTOR TO THE DEFENDANT'S CRIMINAL BEHAVIOR;

(IV) THE DEFENDANT'S PARTICIPATION IN JUDICIAL DIVERSION COULD EFFECTIVELY ADDRESS SUCH ABUSE OR DEPENDENCE; AND

(V) INSTITUTIONAL CONFINEMENT OF THE DEFENDANT IS OR MAY NOT BE NECESSARY FOR THE PROTECTION OF THE PUBLIC.

4. WHEN AN AUTHORIZED COURT DETERMINES, PURSUANT TO PARAGRAPH (B) OF SUBDIVISION THREE OF THIS SECTION, THAT AN ELIGIBLE DEFENDANT SHOULD BE OFFERED ALCOHOL OR SUBSTANCE ABUSE TREATMENT, OR WHEN THE PARTIES AND THE COURT AGREE TO AN ELIGIBLE DEFENDANT'S PARTICIPATION IN ALCOHOL OR SUBSTANCE ABUSE TREATMENT, AN ELIGIBLE DEFENDANT MAY BE ALLOWED TO PARTICIPATE IN THE JUDICIAL DIVERSION PROGRAM OFFERED BY THIS ARTICLE. PRIOR TO THE COURT'S ISSUING AN ORDER GRANTING JUDICIAL DIVERSION, THE ELIGIBLE DEFENDANT SHALL BE REQUIRED TO ENTER A PLEA OF GUILTY TO THE CHARGE OR CHARGES; PROVIDED, HOWEVER, THAT NO SUCH GUILTY PLEA SHALL BE REQUIRED WHEN:

(A) THE PEOPLE AND THE COURT CONSENT TO THE ENTRY OF SUCH AN ORDER WITHOUT A PLEA OF GUILTY; OR

(B) BASED ON A FINDING OF EXCEPTIONAL CIRCUMSTANCES, THE COURT DETERMINES THAT A PLEA OF GUILTY SHALL NOT BE REQUIRED. FOR PURPOSES OF THIS SUBDIVISION, EXCEPTIONAL CIRCUMSTANCES EXIST WHEN, REGARDLESS OF THE ULTIMATE DISPOSITION OF THE CASE, THE ENTRY OF A PLEA OF GUILTY IS LIKELY TO RESULT IN SEVERE COLLATERAL CONSEQUENCES.

5. THE DEFENDANT SHALL AGREE ON THE RECORD OR IN WRITING TO ABIDE BY THE RELEASE CONDITIONS SET BY THE COURT, WHICH, SHALL INCLUDE: PARTICIPATION IN A SPECIFIED PERIOD OF ALCOHOL OR SUBSTANCE ABUSE TREATMENT AT A SPECIFIED PROGRAM OR PROGRAMS IDENTIFIED BY THE COURT, WHICH MAY INCLUDE PERIODS OF DETOXIFICATION, RESIDENTIAL OR OUTPATIENT TREATMENT, OR BOTH, AS DETERMINED AFTER TAKING INTO ACCOUNT THE VIEWS OF THE HEALTH CARE PROFESSIONAL WHO CONDUCTED THE ALCOHOL AND SUBSTANCE ABUSE EVALUATION AND ANY HEALTH CARE PROFESSIONALS RESPONSIBLE FOR PROVIDING SUCH TREATMENT OR MONITORING THE DEFENDANT'S PROGRESS IN SUCH TREATMENT; AND MAY INCLUDE: (I) PERIODIC COURT APPEARANCES, WHICH MAY INCLUDE PERIODIC URINALYSIS; (II) A REQUIREMENT THAT THE DEFENDANT REFRAIN FROM ENGAGING IN CRIMINAL BEHAVIORS.

6. UPON AN ELIGIBLE DEFENDANT'S AGREEMENT TO ABIDE BY THE CONDITIONS SET BY THE COURT, THE COURT SHALL ISSUE A SECURING ORDER PROVIDING FOR BAIL OR RELEASE ON THE DEFENDANT'S OWN RECOGNIZANCE AND CONDITIONING ANY RELEASE UPON THE AGREED UPON CONDITIONS. THE PERIOD OF ALCOHOL OR SUBSTANCE ABUSE TREATMENT SHALL BEGIN AS SPECIFIED BY THE COURT AND AS SOON AS PRACTICABLE AFTER THE DEFENDANT'S RELEASE, TAKING INTO ACCOUNT THE AVAILABILITY OF TREATMENT, SO AS TO FACILITATE EARLY INTERVENTION WITH RESPECT TO THE DEFENDANT'S ABUSE OR CONDITION AND THE EFFECTIVENESS OF THE TREATMENT PROGRAM. IN THE EVENT THAT A TREATMENT PROGRAM IS NOT IMMEDIATELY AVAILABLE OR BECOMES UNAVAILABLE DURING THE COURSE OF THE DEFENDANT'S PARTICIPATION IN THE JUDICIAL DIVERSION PROGRAM, THE COURT MAY RELEASE THE DEFENDANT PURSUANT TO THE SECURING ORDER.

7. WHEN PARTICIPATING IN JUDICIAL DIVERSION TREATMENT PURSUANT TO THIS ARTICLE, ANY RESIDENT OF THIS STATE WHO IS COVERED UNDER A PRIVATE HEALTH INSURANCE POLICY OR CONTRACT ISSUED FOR DELIVERY IN THIS STATE PURSUANT TO ARTICLE THIRTY-TWO, FORTY-THREE OR FORTY-SEVEN OF THE INSURANCE LAW OR ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW, OR WHO IS COVERED BY A SELF-FUNDED PLAN WHICH PROVIDES COVERAGE FOR THE DIAGNOSIS AND TREATMENT OF CHEMICAL ABUSE AND CHEMICAL DEPENDENCE HOWEVER DEFINED IN SUCH POLICY; SHALL FIRST SEEK REIMBURSEMENT FOR SUCH TREATMENT IN ACCORDANCE WITH THE PROVISIONS OF SUCH POLICY OR CONTRACT.

8. DURING THE PERIOD OF A DEFENDANT'S PARTICIPATION IN THE JUDICIAL DIVERSION PROGRAM, THE COURT SHALL RETAIN JURISDICTION OF THE DEFENDANT. THE COURT MAY REQUIRE THE DEFENDANT TO APPEAR IN COURT AT ANY TIME TO ENABLE THE COURT TO MONITOR THE DEFENDANT'S PROGRESS IN ALCOHOL OR SUBSTANCE ABUSE TREATMENT. THE COURT SHALL PROVIDE NOTICE, REASONABLE UNDER THE CIRCUMSTANCES, TO THE PEOPLE, THE TREATMENT PROVIDER, THE

DEFENDANT AND THE DEFENDANT'S COUNSEL WHENEVER IT ORDERS OR OTHERWISE REQUIRES THE APPEARANCE OF THE DEFENDANT IN COURT. FAILURE TO APPEAR AS REQUIRED WITHOUT REASONABLE CAUSE THEREFOR SHALL CONSTITUTE A VIOLATION OF THE CONDITIONS OF THE COURT'S AGREEMENT WITH THE DEFENDANT.

9. (A) IF AT ANY TIME DURING THE DEFENDANT'S PARTICIPATION IN THE JUDICIAL DIVERSION PROGRAM, THE COURT HAS REASONABLE GROUNDS TO BELIEVE THAT THE DEFENDANT HAS VIOLATED A RELEASE CONDITION OR HAS FAILED TO APPEAR BEFORE THE COURT AS REQUESTED, THE COURT SHALL DIRECT THE DEFENDANT TO APPEAR OR ISSUE A BENCH WARRANT TO A POLICE OFFICER OR AN APPROPRIATE PEACE OFFICER DIRECTING HIM OR HER TO TAKE THE DEFENDANT INTO CUSTODY AND BRING THE DEFENDANT BEFORE THE COURT WITHOUT UNNECESSARY DELAY. THE PROVISIONS OF SUBDIVISION ONE OF SECTION 530.60 OF THIS CHAPTER RELATING TO REVOCATION OF RECOGNIZANCE OR BAIL SHALL APPLY TO SUCH PROCEEDINGS UNDER THIS SUBDIVISION.

(B) IN DETERMINING WHETHER A DEFENDANT VIOLATED A CONDITION OF HIS OR HER RELEASE UNDER THE JUDICIAL DIVERSION PROGRAM, THE COURT MAY CONDUCT A SUMMARY HEARING CONSISTENT WITH DUE PROCESS AND SUFFICIENT TO SATISFY THE COURT THAT THE DEFENDANT HAS, IN FACT, VIOLATED THE CONDITION.

(C) IF THE COURT DETERMINES THAT THE DEFENDANT HAS VIOLATED A CONDITION OF HIS OR HER RELEASE UNDER THE JUDICIAL DIVERSION PROGRAM, THE COURT MAY MODIFY THE CONDITIONS THEREOF, RECONSIDER THE ORDER OF RECOGNIZANCE OR BAIL PURSUANT TO SUBDIVISION TWO OF SECTION 510.30 OF THIS CHAPTER, OR TERMINATE THE DEFENDANT'S PARTICIPATION IN THE JUDICIAL DIVERSION PROGRAM; AND WHEN APPLICABLE PROCEED WITH THE DEFENDANT'S SENTENCING IN ACCORDANCE WITH THE AGREEMENT. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE COURT MAY IMPOSE ANY SENTENCE AUTHORIZED FOR THE CRIME OF CONVICTION IN ACCORDANCE WITH THE PLEA AGREEMENT, OR ANY LESSER SENTENCE AUTHORIZED TO BE IMPOSED ON A FELONY DRUG OFFENDER PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION TWO OF SECTION 70.70 OF THE PENAL LAW TAKING INTO ACCOUNT THE LENGTH OF TIME THE DEFENDANT SPENT IN RESIDENTIAL TREATMENT AND HOW BEST TO CONTINUE TREATMENT WHILE THE DEFENDANT IS SERVING THAT SENTENCE. IN DETERMINING WHAT ACTION TO TAKE FOR A VIOLATION OF A RELEASE CONDITION, THE COURT SHALL CONSIDER ALL RELEVANT CIRCUMSTANCES, INCLUDING THE VIEWS OF THE PROSECUTOR, THE DEFENSE AND THE ALCOHOL OR SUBSTANCE ABUSE TREATMENT PROVIDER, AND THE EXTENT TO WHICH PERSONS WHO ULTIMATELY SUCCESSFULLY COMPLETE A DRUG TREATMENT REGIMEN SOMETIMES RELAPSE BY NOT ABSTAINING FROM ALCOHOL OR SUBSTANCE ABUSE OR BY FAILING TO COMPLY FULLY WITH ALL REQUIREMENTS IMPOSED BY A TREATMENT PROGRAM. THE COURT SHALL ALSO CONSIDER USING A SYSTEM OF GRADUATED AND APPROPRIATE RESPONSES OR SANCTIONS DESIGNED TO ADDRESS SUCH INAPPROPRIATE BEHAVIORS, PROTECT PUBLIC SAFETY AND FACILITATE, WHERE POSSIBLE, SUCCESSFUL COMPLETION OF THE ALCOHOL OR SUBSTANCE ABUSE TREATMENT PROGRAM.

(D) NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED AS PREVENTING A COURT FROM TERMINATING A DEFENDANT'S PARTICIPATION IN THE JUDICIAL DIVERSION PROGRAM FOR VIOLATING A RELEASE CONDITION WHEN SUCH A TERMINATION IS NECESSARY TO PRESERVE PUBLIC SAFETY. NOR SHALL ANYTHING IN THIS SUBDIVISION BE CONSTRUED AS PRECLUDING THE PROSECUTION OF A DEFENDANT FOR THE COMMISSION OF A DIFFERENT OFFENSE WHILE PARTICIPATING IN THE JUDICIAL DIVERSION PROGRAM.

(E) A DEFENDANT MAY AT ANY TIME ADVISE THE COURT THAT HE OR SHE WISHES TO TERMINATE PARTICIPATION IN THE JUDICIAL DIVERSION PROGRAM, AT WHICH TIME THE COURT SHALL PROCEED WITH THE CASE AND, WHERE APPLICABLE, SHALL IMPOSE SENTENCE IN ACCORDANCE WITH THE PLEA AGREEMENT. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE COURT MAY IMPOSE ANY SENTENCE AUTHORIZED FOR THE CRIME OF CONVICTION IN ACCORDANCE WITH THE PLEA

AGREEMENT, OR ANY LESSER SENTENCE AUTHORIZED TO BE IMPOSED ON A FELONY DRUG OFFENDER PURSUANT TO PARAGRAPH (B) OR (C) OF SUBDIVISION TWO OF SECTION 70.70 OF THE PENAL LAW TAKING INTO ACCOUNT THE LENGTH OF TIME THE DEFENDANT SPENT IN RESIDENTIAL TREATMENT AND HOW BEST TO CONTINUE TREATMENT WHILE THE DEFENDANT IS SERVING THAT SENTENCE.

10. UPON THE COURT'S DETERMINATION THAT THE DEFENDANT HAS SUCCESSFULLY COMPLETED THE REQUIRED PERIOD OF ALCOHOL OR SUBSTANCE ABUSE TREATMENT AND HAS OTHERWISE SATISFIED THE CONDITIONS REQUIRED FOR SUCCESSFUL COMPLETION OF THE JUDICIAL DIVERSION PROGRAM, THE COURT SHALL COMPLY WITH THE TERMS AND CONDITIONS IT SET FOR FINAL DISPOSITION WHEN IT ACCEPTED THE DEFENDANT'S AGREEMENT TO PARTICIPATE IN THE JUDICIAL DIVERSION PROGRAM. SUCH DISPOSITION MAY INCLUDE, BUT IS NOT LIMITED TO: (A) REQUIRING THE DEFENDANT TO UNDERGO A PERIOD OF INTERIM PROBATION SUPERVISION AND, UPON THE DEFENDANT'S SUCCESSFUL COMPLETION OF THE INTERIM PROBATION SUPERVISION TERM, NOTWITHSTANDING THE PROVISION OF ANY OTHER LAW, PERMITTING THE DEFENDANT TO WITHDRAW HIS OR HER GUILTY PLEA AND DISMISSING THE INDICTMENT; OR (B) REQUIRING THE DEFENDANT TO UNDERGO A PERIOD OF INTERIM PROBATION SUPERVISION AND, UPON SUCCESSFUL COMPLETION OF THE INTERIM PROBATION SUPERVISION TERM, NOTWITHSTANDING THE PROVISION OF ANY OTHER LAW, PERMITTING THE DEFENDANT TO WITHDRAW HIS OR HER GUILTY PLEA, ENTER A GUILTY PLEA TO A MISDEMEANOR OFFENSE AND SENTENCING THE DEFENDANT AS PROMISED IN THE PLEA AGREEMENT, WHICH MAY INCLUDE A PERIOD OF PROBATION SUPERVISION PURSUANT TO SECTION 65.00 OF THE PENAL LAW; OR (C) ALLOWING THE DEFENDANT TO WITHDRAW HIS OR HER GUILTY PLEA AND DISMISSING THE INDICTMENT.

11. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS RESTRICTING OR PROHIBITING COURTS OR DISTRICT ATTORNEYS FROM USING OTHER LAWFUL PROCEDURES OR MODELS FOR PLACING APPROPRIATE PERSONS INTO ALCOHOL OR SUBSTANCE ABUSE TREATMENT.

S 5. Subdivision 6 of section 390.30 of the criminal procedure law, as amended by chapter 216 of the laws of 1999, is amended to read as follows:

6. Interim probation supervision. In any case where the court determines that a defendant is eligible for a sentence of probation, the court, after consultation with the prosecutor and upon the consent of the defendant, may adjourn the sentencing to a specified date and order that the defendant be placed on interim probation supervision. In no event may the sentencing be adjourned for a period exceeding one year from the date the conviction is entered, EXCEPT THAT UPON GOOD CAUSE SHOWN, THE COURT MAY, UPON THE DEFENDANT'S CONSENT, EXTEND THE PERIOD FOR AN ADDITIONAL ONE YEAR WHERE THE DEFENDANT HAS AGREED TO AND IS STILL PARTICIPATING IN A SUBSTANCE ABUSE TREATMENT PROGRAM IN CONNECTION WITH A COURT DESIGNATED A DRUG COURT BY THE CHIEF ADMINISTRATOR OF THE COURTS. When ordering that the defendant be placed on interim probation supervision, the court shall impose all of the conditions relating to supervision specified in subdivision three of section 65.10 of the penal law and may impose any or all of the conditions relating to conduct and rehabilitation specified in subdivisions two, four and five of section 65.10 of such law; provided, however, that the defendant must receive a written copy of any such conditions at the time he or she is placed on interim probation supervision. The defendant's record of compliance with such conditions, as well as any other relevant information, shall be included in the presentence report, or updated presentence report, prepared pursuant to this section, and the court must consider such record and information when pronouncing sentence.

S 6. Subdivision 2 of section 410.91 of the criminal procedure law, as added by chapter 3 of the laws of 1995, is amended to read as follows:

2. A defendant is an "eligible defendant" for purposes of a sentence of parole supervision when such defendant is a [second] felony offender convicted of a specified offense or offenses as defined in subdivision five of this section, 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 the penal law, a class A felony offense or a class B felony offense OTHER THAN A CLASS B FELONY OFFENSE DEFINED IN ARTICLE TWO HUNDRED TWENTY OF THE PENAL LAW, and is not subject to an undischarged term of imprisonment.

S 7. Subdivision 4 of section 410.91 of the criminal procedure law is REPEALED.

S 8. Subdivision 5 of section 410.91 of the criminal procedure law, as added by chapter 3 of the laws of 1995, is amended to read as follows:

5. For the purposes of this section, a "specified offense" is an offense defined by any of the following provisions of the penal law: BURGLARY IN THE THIRD DEGREE AS DEFINED IN SECTION 140.20, criminal mischief in the third degree as defined in section 145.05, criminal mischief in the second degree as defined in section 145.10, grand larceny in the fourth degree as defined in subdivision one, two, three, four, five, six, eight, nine or ten of section 155.30, grand larceny in the third degree as defined in section 155.35 (except where the property consists of one or more firearms, rifles or shotguns), unauthorized use of a vehicle in the second degree as defined in section 165.06, criminal possession of stolen property in the fourth degree as defined in subdivision one, two, three, five or six of section 165.45, criminal possession of stolen property in the third degree as defined in section 165.50 (except where the property consists of one or more firearms, rifles or shotguns), forgery in the second degree as defined in section 170.10, criminal possession of a forged instrument in the second degree as defined in section 170.25, unlawfully using slugs in the first degree as defined in section 170.60, or an attempt to commit any of the aforementioned offenses if such attempt constitutes a felony offense; or A CLASS B FELONY OFFENSE DEFINED IN ARTICLE TWO HUNDRED TWENTY WHERE A SENTENCE IS IMPOSED PURSUANT TO PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION 70.70 OF THE PENAL LAW; OR any class C, CLASS D or class E controlled substance or marihuana felony offense as defined in article two hundred twenty or two hundred twenty-one.

S 9. The criminal procedure law is amended by adding a new section 440.46 to read as follows:

S 440.46 MOTION FOR RESENTENCE; CERTAIN CONTROLLED SUBSTANCE OFFENDERS.

1. ANY PERSON IN THE CUSTODY OF THE DEPARTMENT OF CORRECTIONAL SERVICES 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.

2. AS PART OF ANY SUCH APPLICATION, THE DEFENDANT MAY ALSO MOVE TO BE RESENTENCED TO A DETERMINATE SENTENCE IN ACCORDANCE WITH SECTION 70.70 OF THE PENAL LAW FOR ANY ONE OR MORE CLASS C, D, OR E FELONY OFFENSES DEFINED IN ARTICLE TWO HUNDRED TWENTY OR TWO HUNDRED TWENTY-ONE OF THE PENAL LAW, THE SENTENCE OR SENTENCES FOR WHICH WERE IMPOSED BY THE

SENTENCING COURT AT THE SAME TIME OR WERE INCLUDED IN THE SAME ORDER OF COMMITMENT AS SUCH CLASS B FELONY.

3. THE PROVISIONS OF SECTION TWENTY-THREE OF CHAPTER SEVEN HUNDRED THIRTY-EIGHT OF THE LAWS OF TWO THOUSAND FOUR SHALL GOVERN THE PROCEEDINGS ON AND DETERMINATION OF A MOTION BROUGHT PURSUANT TO THIS SECTION; PROVIDED, HOWEVER THAT THE COURT'S CONSIDERATION OF THE INSTITUTIONAL RECORD OF CONFINEMENT OF SUCH PERSON SHALL INCLUDE BUT NOT BE LIMITED TO SUCH PERSON'S PARTICIPATION IN OR WILLINGNESS TO PARTICIPATE IN TREATMENT OR OTHER PROGRAMMING WHILE INCARCERATED AND SUCH PERSON'S DISCIPLINARY HISTORY. THE FACT THAT A PERSON MAY HAVE BEEN UNABLE TO PARTICIPATE IN TREATMENT OR OTHER PROGRAMMING WHILE INCARCERATED DESPITE SUCH PERSON'S WILLINGNESS TO DO SO SHALL NOT BE CONSIDERED A NEGATIVE FACTOR IN DETERMINING A MOTION PURSUANT TO THIS SECTION.

4. SUBDIVISION ONE OF SECTION SEVEN HUNDRED SEVENTEEN AND SUBDIVISION FOUR OF SECTION SEVEN HUNDRED TWENTY-TWO OF THE COUNTY LAW, AND THE RELATED PROVISIONS OF ARTICLE EIGHTEEN-A OF SUCH LAW, SHALL APPLY TO THE PREPARATION OF AND PROCEEDINGS ON MOTIONS PURSUANT TO THIS SECTION, INCLUDING ANY APPEALS.

5. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY PERSON WHO IS SERVING A SENTENCE ON A CONVICTION FOR OR HAS A PREDICATE FELONY CONVICTION FOR AN EXCLUSION OFFENSE. FOR PURPOSES OF THIS SUBDIVISION, AN "EXCLUSION OFFENSE" IS:

(A) A CRIME FOR WHICH THE PERSON WAS PREVIOUSLY CONVICTED WITHIN THE PRECEDING TEN YEARS, EXCLUDING ANY TIME DURING WHICH THE OFFENDER WAS INCARCERATED FOR ANY REASON BETWEEN THE TIME OF COMMISSION OF THE PREVIOUS FELONY AND THE TIME OF COMMISSION OF THE PRESENT FELONY, WHICH WAS: (I) A VIOLENT FELONY OFFENSE AS DEFINED IN SECTION 70.02 OF THE PENAL LAW; OR (II) ANY OTHER OFFENSE FOR WHICH A MERIT TIME ALLOWANCE IS NOT AVAILABLE PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION EIGHT HUNDRED THREE OF THE CORRECTION LAW; OR

(B) A SECOND VIOLENT FELONY OFFENSE PURSUANT TO SECTION 70.04 OF THE PENAL LAW OR A PERSISTENT VIOLENT FELONY OFFENSE PURSUANT TO SECTION 70.08 OF THE PENAL LAW FOR WHICH THE PERSON HAS PREVIOUSLY BEEN ADJUDICATED.

S 10. Subdivision 1 of section 450.90 of the criminal procedure law, as amended by chapter 498 of the laws of 2002, is amended to read as follows:

1. Provided that a certificate granting leave to appeal is issued pursuant to section 460.20, an appeal may, except as provided in subdivision two, be taken to the court of appeals by either the defendant or the people from any adverse or partially adverse order of an intermediate appellate court entered upon an appeal taken to such intermediate appellate court pursuant to section 450.10, 450.15, or 450.20, or from an order granting or denying a motion to set aside an order of an intermediate appellate court on the ground of ineffective assistance or wrongful deprivation of appellate counsel, OR BY EITHER THE DEFENDANT OR THE PEOPLE FROM ANY ADVERSE OR PARTIALLY ADVERSE ORDER OF AN INTERMEDIATE APPELLATE COURT ENTERED UPON AN APPEAL TAKEN TO SUCH INTERMEDIATE APPELLATE COURT FROM AN ORDER ENTERED PURSUANT TO SECTION 440.46 OF THIS CHAPTER. An order of an intermediate appellate court is adverse to the party who was the appellant in such court when it affirms the judgment, sentence or order appealed from, and is adverse to the party who was the respondent in such court when it reverses the judgment, sentence or order appealed from. An appellate court order which modifies a judgment or order appealed from is partially adverse to each party.

S 11. Paragraph (c) of subdivision 8 of section 700.05 of the criminal procedure law, as amended by chapter 394 of the laws of 2005, is amended to read as follows:

(c) Criminal possession of a controlled substance in the seventh degree as defined in section 220.03 of the penal law, criminal possession of a controlled substance in the fifth degree as defined in section 220.06 of the penal law, criminal possession of a controlled substance in the fourth degree as defined in section 220.09 of the penal law, criminal possession of a controlled substance in the third degree as defined in section 220.16 of the penal law, criminal possession of a controlled substance in the second degree as defined in section 220.18 of the penal law, criminal possession of a controlled substance in the first degree as defined in section 220.21 of the penal law, criminal sale of a controlled substance in the fifth degree as defined in section 220.31 of the penal law, criminal sale of a controlled substance in the fourth degree as defined in section 220.34 of the penal law, criminal sale of a controlled substance in the third degree as defined in section 220.39 of the penal law, criminal sale of a controlled substance in the second degree as defined in section 220.41 of the penal law, criminal sale of a controlled substance in the first degree as defined in section 220.43 of the penal law, criminally possessing a hypodermic instrument as defined in section 220.45 of the penal law, criminal possession of methamphetamine manufacturing material in the second degree as defined in section 220.70 of the penal law, criminal possession of methamphetamine manufacturing material in the first degree as defined in section 220.71 of the penal law, criminal possession of precursors of methamphetamine as defined in section 220.72 of the penal law, unlawful manufacture of methamphetamine in the third degree as defined in section 220.73 of the penal law, unlawful manufacture of methamphetamine in the second degree as defined in section 220.74 of the penal law, unlawful manufacture of methamphetamine in the first degree as defined in section 220.75 of the penal law, unlawful disposal of methamphetamine laboratory material as defined in section 220.76 of the penal law, OPERATING AS A MAJOR TRAFFICKER AS DEFINED IN SECTION 220.77 OF THE PENAL LAW, criminal possession of marihuana in the first degree as defined in section 221.30 of the penal law, criminal sale of marihuana in the first degree as defined in section 221.55 of the penal law, promoting gambling in the second degree as defined in section 225.05 of the penal law, promoting gambling in the first degree as defined in section 225.10 of the penal law, possession of gambling records in the second degree as defined in section 225.15 of the penal law, possession of gambling records in the first degree as defined in section 225.20 of the penal law, and possession of a gambling device as defined in section 225.30 of the penal law;

S 12. Subparagraph (A) of paragraph (c) of subdivision 2 of section 259-i of the executive law, as separately amended by chapters 40 and 126 of the laws of 1999, is amended to read as follows:

(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 adopted pursuant to subdivision four of section two hundred fifty-nine-c of this article shall require that the follow-

ing be considered: (i) the institutional record including program goals and accomplishments, academic achievements, vocational education, training or work assignments, therapy and interpersonal relationships 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; [and] (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. 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.

S 13. The section heading and subdivisions 1, 3 and 4 of section 259-j of the executive law, the section heading and subdivisions 1 and 3 as separately amended by section 10 of part F and section 1 of part N of chapter 62 of the laws of 2003, subdivision 4 as amended by chapter 310 of the laws of 2008, are amended to read as follows:

Merit termination of sentence and discharge from presumptive release, parole [and], 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 [or from], 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] SIX-C of the correction law, and such person is not on presumptive release, parole [or], 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.

3. A merit termination of sentence may be granted after two years of presumptive release [or], 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 [or], conditional release OR RELEASE TO POST-RELEASE SUPERVISION.

4. 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 [or], 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 [or], conditional release OR RELEASE TO POST-RELEASE 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.

S 14. Subdivision 16 of section 296 of the executive law, as amended by chapter 639 of the laws of 2007, is amended to read as follows:

16. It shall be an unlawful discriminatory practice, unless specifically required or permitted by statute, for any person, agency, bureau, corporation or association, including the state and any political subdivision thereof, to make any inquiry about, whether in any form of application or otherwise, or to act upon adversely to the individual involved, any arrest or criminal accusation of such individual not then pending against that individual which was followed by a termination of that criminal action or proceeding in favor of such individual, as defined in subdivision two of section 160.50 of the criminal procedure law, or by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law OR BY A CONVICTION WHICH IS SEALED PURSUANT TO SECTION 160.58 OF THE CRIMINAL PROCEDURE LAW, in connection with the licensing, employ-

ment or providing of credit or insurance to such individual; provided, [however, that the] FURTHER, THAT NO PERSON SHALL BE REQUIRED TO DIVULGE INFORMATION PERTAINING TO ANY ARREST OR CRIMINAL ACCUSATION OF SUCH INDIVIDUAL NOT THEN PENDING AGAINST THAT INDIVIDUAL WHICH WAS FOLLOWED BY A TERMINATION OF THAT CRIMINAL ACTION OR PROCEEDING IN FAVOR OF SUCH INDIVIDUAL, AS DEFINED IN SUBDIVISION TWO OF SECTION 160.50 OF THE CRIMINAL PROCEDURE LAW, OR BY A YOUTHFUL OFFENDER ADJUDICATION, AS DEFINED IN SUBDIVISION ONE OF SECTION 720.35 OF THE CRIMINAL PROCEDURE LAW, OR BY A CONVICTION FOR A VIOLATION SEALED PURSUANT TO SECTION 160.55 OF THE CRIMINAL PROCEDURE LAW, OR BY A CONVICTION WHICH IS SEALED PURSUANT TO SECTION 160.58 OF THE CRIMINAL PROCEDURE LAW. THE provisions [hereof] OF THIS SUBDIVISION shall not apply to the licensing activities of governmental bodies in relation to the regulation of guns, firearms and other deadly weapons or in relation to an application for employment as a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of the criminal procedure law; provided further that the provisions of this subdivision shall not apply to an application for employment or membership in any law enforcement agency with respect to any arrest or criminal accusation which was followed by a youthful offender adjudication, as defined in subdivision one of section 720.35 of the criminal procedure law, or by a conviction for a violation sealed pursuant to section 160.55 of the criminal procedure law, OR BY A CONVICTION WHICH IS SEALED PURSUANT TO SECTION 160.58 OF THE CRIMINAL PROCEDURE LAW.

S 14-a. Subdivision 4 of section 837 of the executive law is amended by adding a new paragraph (b-1) to read as follows:

(B-1) COLLECT DATA AND UNDERTAKE RESEARCH, STUDIES AND ANALYSES OF JUDICIAL DIVERSION PROGRAMS INCLUDING BUT NOT LIMITED TO THE JUDICIAL DIVERSION PROGRAM DESCRIBED IN ARTICLE TWO HUNDRED SIXTEEN OF THE CRIMINAL PROCEDURE LAW; AND

S 15. Subdivision 2 of section 212 of the judiciary law is amended by adding a new paragraph (r) to read as follows:

(R) ENSURE THAT CASES ELIGIBLE FOR JUDICIAL DIVERSION PURSUANT TO ARTICLE TWO HUNDRED SIXTEEN OF THE CRIMINAL PROCEDURE LAW SHALL BE ASSIGNED TO COURT PARTS IN THE MANNER PROVIDED BY THE CHIEF ADMINISTRATOR AND THAT, TO THE EXTENT PRACTICABLE, SUCH CASES ARE PRESIDED OVER BY JUDGES WHO, BY VIRTUE OF THE STRUCTURE, CASELOAD AND RESOURCES OF THE PARTS AND THE JUDGES' TRAINING, ARE IN THE BEST POSITION TO PROVIDE EFFECTIVE SUPERVISION OVER SUCH CASES, SUCH AS THE DRUG TREATMENT COURTS. IN COMPLIANCE WITH THESE PROVISIONS, THE CHIEF ADMINISTRATOR SHALL GIVE DUE WEIGHT TO THE NEED FOR DIVERTED DEFENDANTS TO MAKE REGULAR COURT APPEARANCES, AND BE CLOSELY SUPERVISED BY THE COURT, FOR THE DURATION OF DRUG TREATMENT AND THE PENDENCY OF THE CRIMINAL CHARGE.

S 16. Section 19.07 of the mental hygiene law is amended by adding a new subdivision (h) 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 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 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.

S 17. Subdivisions 3 and 5 of section 60.04 of the penal law, as added by chapter 738 of the laws of 2004, are amended to read as follows:

3. Class B felonies. Every person convicted of a class B felony must be sentenced to imprisonment in accordance with the applicable provisions of section 70.70 of this [title] CHAPTER, [unless such person is convicted of a class B felony and is sentenced to] A DEFINITE SENTENCE OF IMPRISONMENT WITH A TERM OF ONE YEAR OR LESS OR probation in accordance with section 65.00 of this [title] CHAPTER PROVIDED, HOWEVER, A PERSON CONVICTED OF CRIMINAL SALE OF A CONTROLLED SUBSTANCE TO A CHILD AS DEFINED IN SECTION 220.48 OF THIS CHAPTER MUST BE SENTENCED TO A DETERMINATE SENTENCE OF IMPRISONMENT IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF SECTION 70.70 OF THIS CHAPTER OR TO A SENTENCE OF PROBATION IN ACCORDANCE WITH THE OPENING PARAGRAPH OF PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION 65.00 OF THIS CHAPTER.

5. Multiple felony offender. Where the court imposes a sentence PURSUANT TO SUBDIVISION THREE OF SECTION 70.70 OF THIS CHAPTER upon a second felony drug offender, as defined in paragraph (b) of subdivision one of section 70.70 of this [title] CHAPTER, it must sentence such offender to imprisonment in accordance with the applicable provisions of section 70.70 of this [title] CHAPTER, A DEFINITE SENTENCE OF IMPRISONMENT WITH A TERM OF ONE YEAR OR LESS, OR PROBATION IN ACCORDANCE WITH SECTION 65.00 OF THIS CHAPTER, PROVIDED, HOWEVER, THAT WHERE THE COURT IMPOSES A SENTENCE UPON A CLASS B SECOND FELONY DRUG OFFENDER, IT MUST SENTENCE SUCH OFFENDER TO A DETERMINATE SENTENCE OF IMPRISONMENT IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF SECTION 70.70 OF THIS CHAPTER OR TO A SENTENCE OF PROBATION IN ACCORDANCE WITH THE OPENING PARAGRAPH OF PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION 65.00 OF THIS CHAPTER. WHEN THE COURT IMPOSES SENTENCE ON A SECOND FELONY DRUG OFFENDER PURSUANT TO SUBDIVISION FOUR OF SECTION 70.70 OF THIS CHAPTER, IT MUST IMPOSE A DETERMINATE SENTENCE OF IMPRISONMENT IN ACCORDANCE WITH SUCH SUBDIVISION.

S 18. Section 60.04 of the penal law is amended by adding a new subdivision 7 to read as follows:

7. A. SHOCK INCARCERATION PARTICIPATION. WHEN THE COURT IMPOSES A SENTENCE OF IMPRISONMENT WHICH REQUIRES A COMMITMENT TO THE DEPARTMENT OF CORRECTIONAL SERVICES 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 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, INCLUDING WITHOUT LIMITATION THOSE RULES AND REGULATIONS ESTABLISHING 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 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 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.

S 19. The opening paragraph of paragraph (b) of subdivision 1 of section 65.00 of the penal law, as amended by chapter 410 of the laws of 1979, is amended to read as follows:

The court, with the concurrence of either the administrative judge of the court or of the judicial district within which the court is situated or such administrative judge as the presiding justice of the appropriate appellate division shall designate, may sentence a person to a period of probation upon conviction of a class A-II felony [or a class B felony] defined in article two hundred twenty, THE CLASS B FELONY DEFINED IN SECTION 220.48 OF THIS CHAPTER OR ANY OTHER CLASS B FELONY DEFINED IN ARTICLE TWO HUNDRED TWENTY OF THIS CHAPTER WHERE THE PERSON IS A SECOND FELONY DRUG OFFENDER AS DEFINED IN PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION 70.70 OF THIS CHAPTER, if the prosecutor either orally on the record or in a writing filed with the indictment recommends that the court sentence such person to a period of probation upon the ground that such person has or is providing material assistance in the investigation, apprehension or prosecution of any person for a felony defined in article two hundred twenty or the attempt or the conspiracy to commit any such felony, and if the court, having regard to the nature and circumstances of the crime and to the history, character and condition of the defendant is of the opinion that:

S 20. Subparagraphs (i) and (ii) of paragraph (a) of subdivision 3 of section 65.00 of the penal law, subparagraph (i) as amended by chapter 264 of the laws of 2003, subparagraph (ii) as amended by chapter 738 of the laws of 2004, are amended to read as follows:

(i) For a felony, other than a class A-II felony [or a class B felony] defined in article two hundred twenty of this chapter OR THE CLASS B FELONY DEFINED IN SECTION 220.48 OF THIS CHAPTER, OR ANY OTHER CLASS B FELONY DEFINED IN ARTICLE TWO HUNDRED TWENTY OF THIS CHAPTER COMMITTED BY A SECOND FELONY DRUG OFFENDER, or a sexual assault, the period of probation shall be five years;

(ii) For a class A-II felony [controlled substance] DRUG offender as defined in paragraph (a) of subdivision one of section 70.71 of this [chapter or a class B second felony drug offender as defined in paragraph (b) of subdivision one of section 70.70 of this] chapter AS

DESCRIBED IN PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION, OR A CLASS B FELONY COMMITTED BY A SECOND FELONY DRUG OFFENDER DESCRIBED IN PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION, the period of probation shall be life[, and for a class B felony drug offender as defined in paragraph (a) of subdivision one of section 70.70 of this chapter, the period of probation shall be twenty-five years] AND FOR A CLASS B FELONY DEFINED IN SECTION 220.48 OF THIS CHAPTER, THE PERIOD OF PROBATION SHALL BE TWENTY-FIVE YEARS;

S 21. Subparagraph (i) of paragraph (a) of subdivision 2 of section 70.70 of the penal law, as amended by chapter 436 of the laws of 2006, is amended to read as follows:

(i) for a class B felony, the term shall be at least one year and shall not exceed nine years, except that for the class B felony of criminal sale of a controlled substance in or near school grounds as defined in subdivision two of section 220.44 of this chapter or on a school bus as defined in subdivision seventeen of section 220.00 of this chapter OR CRIMINAL SALE OF A CONTROLLED SUBSTANCE TO A CHILD AS DEFINED IN SECTION 220.48 OF THIS CHAPTER, the term shall be at least two years and shall not exceed nine years;

S 22. Paragraph (b) of subdivision 2 of section 70.70 of the penal law, as added by chapter 738 of the laws of 2004, is amended to read as follows:

(b) Probation. Notwithstanding any other provision of law, the court may sentence a defendant convicted of a class B, class C, class D or class E felony offense defined in article two hundred twenty or two hundred twenty-one of this chapter to probation in accordance with the provisions of [section] SECTIONS 60.04 AND 65.00 of this chapter.

S 23. Paragraph (c) of subdivision 2 and paragraphs (a) and (b) of subdivision 3 of section 70.70 of the penal law, as added by chapter 738 of the laws of 2004, are amended and subdivision 2 is amended by adding a new paragraph (d) to read as follows:

(c) Alternative definite sentence for CLASS B, class C, class D, and class E felonies. If the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose a determinate sentence upon a person convicted of a class C, class D or class E felony offense defined in article two hundred twenty or two hundred twenty-one of this chapter, OR A CLASS B FELONY DEFINED IN ARTICLE TWO HUNDRED TWENTY OF THIS CHAPTER, OTHER THAN THE CLASS B FELONY DEFINED IN SECTION 220.48 OF THIS CHAPTER, AS ADDED BY A CHAPTER OF THE LAWS OF TWO THOUSAND NINE the court may impose a definite sentence of imprisonment and fix a term of one year or less.

(D) THE COURT MAY DIRECT THAT A DETERMINATE SENTENCE IMPOSED ON A DEFENDANT CONVICTED OF A CLASS B FELONY, OTHER THAN THE CLASS B FELONY DEFINED IN SECTION 220.48 OF THIS CHAPTER, PURSUANT TO THIS SUBDIVISION BE EXECUTED AS A SENTENCE OF PAROLE SUPERVISION IN ACCORDANCE WITH SECTION 410.91 OF THE CRIMINAL PROCEDURE LAW.

(a) Applicability. This subdivision shall apply to a second felony drug offender whose prior felony conviction was not a violent felony.

(b) Authorized sentence. Except as provided in [paragraph] PARAGRAPHS (c) [or], (d) AND (E) of this subdivision, when the court has found pursuant to the provisions of section 400.21 of the criminal procedure law that a defendant is a second felony drug offender who stands convicted of a class B, class C, class D or class E felony offense defined in article two hundred twenty or two hundred twenty-one of this

chapter the court shall impose a determinate sentence of imprisonment. Such determinate sentence shall include as a part thereof a period of post-release supervision in accordance with section 70.45 of this article. The terms of such determinate sentence shall be imposed by the court in whole or half years as follows:

(i) for a class B felony, the term shall be at least [three and one-half] TWO years and shall not exceed twelve years;

(ii) for a class C felony, the term shall be at least [two] ONE AND ONE-HALF years and shall not exceed eight years;

(iii) for a class D felony, the term shall be at least one and one-half years and shall not exceed four years; and

(iv) for a class E felony, the term shall be at least one and one-half years and shall not exceed two years.

S 24. Paragraph (c) 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:

(c) [Lifetime probation] PROBATION. Notwithstanding any other provision of law, the court may sentence a [defendant] SECOND FELONY DRUG OFFENDER convicted of a class B felony [defined in article two hundred twenty of this chapter] to lifetime probation in accordance with the provisions of section 65.00 of this chapter AND MAY SENTENCE A SECOND FELONY DRUG OFFENDER CONVICTED OF A CLASS C, CLASS D OR CLASS E FELONY TO PROBATION IN ACCORDANCE WITH THE PROVISIONS OF SECTION 65.00 OF THIS CHAPTER.

S 25. Subdivision 3 of section 70.70 of the penal law is amended by adding a new paragraph (e) to read as follows:

(E) ALTERNATE DEFINITE SENTENCE FOR CLASS C, CLASS D AND CLASS E FELONIES. IF THE COURT, HAVING REGARD TO THE NATURE AND CIRCUMSTANCES OF THE CRIME AND TO THE HISTORY AND CHARACTER OF THE DEFENDANT, IS OF THE OPINION THAT A SENTENCE OF IMPRISONMENT IS NECESSARY BUT THAT IT WOULD BE UNDULY HARSH TO IMPOSE A DETERMINATE SENTENCE UPON A PERSON CONVICTED OF A CLASS C, CLASS D OR CLASS E FELONY OFFENSE DEFINED IN ARTICLE TWO HUNDRED TWENTY OR TWO HUNDRED TWENTY-ONE OF THIS CHAPTER, THE COURT MAY IMPOSE A DEFINITE SENTENCE OF IMPRISONMENT AND FIX A TERM OF ONE YEAR OR LESS.

S 26. Paragraph (a) of subdivision 2 of section 70.71 of the penal law, as added by chapter 738 of the laws of 2004, is amended and a new subdivision 5 is added to read as follows:

(a) Applicability. Except as provided in subdivision three [or], four OR FIVE of this section, this subdivision shall apply to a person convicted of a class A felony as defined in article two hundred twenty of this chapter.

5. SENTENCE OF IMPRISONMENT FOR OPERATING AS A MAJOR TRAFFICKER.

(A) APPLICABILITY. THIS SUBDIVISION SHALL APPLY TO A PERSON CONVICTED OF THE CLASS A-I FELONY OF OPERATING AS A MAJOR TRAFFICKER AS DEFINED IN SECTION 220.77 OF THIS CHAPTER.

(B) AUTHORIZED SENTENCE. EXCEPT AS PROVIDED IN PARAGRAPH (C) OF THIS SUBDIVISION, THE COURT SHALL IMPOSE AN INDETERMINATE TERM OF IMPRISONMENT FOR AN A-I FELONY, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 70.00 OF THIS ARTICLE.

(C) ALTERNATIVE DETERMINATE SENTENCE. IF A DEFENDANT STANDS CONVICTED OF VIOLATING SECTION 220.77 OF THIS CHAPTER, AND IF THE COURT, HAVING REGARD TO THE NATURE AND CIRCUMSTANCES OF THE CRIME AND THE HISTORY AND CHARACTER OF THE DEFENDANT, IS OF THE OPINION THAT A SENTENCE OF IMPRISONMENT IS NECESSARY BUT THAT IT WOULD BE UNDULY HARSH TO IMPOSE THE INDETERMINATE SENTENCE FOR A CLASS A-I FELONY SPECIFIED UNDER SECTION

70.00 OF THIS ARTICLE, THE COURT MAY INSTEAD IMPOSE THE DETERMINATE SENTENCE OF IMPRISONMENT AUTHORIZED BY CLAUSE (I) OF SUBPARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION FOR A CLASS A-I DRUG FELONY; IN SUCH CASE, THE REASONS FOR THE COURT'S OPINION SHALL BE SET FORTH ON THE RECORD.

S 27. Section 220.00 of the penal law is amended by adding three new subdivisions 18, 19 and 20 to read as follows:

18. "CONTROLLED SUBSTANCE ORGANIZATION" MEANS FOUR OR MORE PERSONS SHARING A COMMON PURPOSE TO ENGAGE IN CONDUCT THAT CONSTITUTES OR ADVANCES THE COMMISSION OF A FELONY UNDER THIS ARTICLE.

19. "DIRECTOR" MEANS A PERSON WHO IS THE PRINCIPAL ADMINISTRATOR, ORGANIZER, OR LEADER OF A CONTROLLED SUBSTANCE ORGANIZATION OR ONE OF SEVERAL PRINCIPAL ADMINISTRATORS, ORGANIZERS, OR LEADERS OF A CONTROLLED SUBSTANCE ORGANIZATION.

20. "PROFITEER" MEANS A PERSON WHO: (A) IS A DIRECTOR OF A CONTROLLED SUBSTANCE ORGANIZATION; (B) IS A MEMBER OF A CONTROLLED SUBSTANCE ORGANIZATION AND HAS MANAGERIAL RESPONSIBILITY OVER ONE OR MORE OTHER MEMBERS OF THAT ORGANIZATION; OR (C) ARRANGES, DEVISES OR PLANS ONE OR MORE TRANSACTIONS CONSTITUTING A FELONY UNDER THIS ARTICLE SO AS TO OBTAIN PROFITS OR EXPECTED PROFITS. A PERSON IS NOT A PROFITEER IF HE OR SHE IS ACTING ONLY AS AN EMPLOYEE; OR IF HE OR SHE IS ACTING AS AN ACCOMMODATION TO A FRIEND OR RELATIVE; OR IF HE OR SHE IS ACTING ONLY UNDER THE DIRECTION AND CONTROL OF OTHERS AND EXERCISES NO SUBSTANTIAL, INDEPENDENT ROLE IN ARRANGING OR DIRECTING THE TRANSACTIONS IN QUESTION.

S 28. The penal law is amended by adding a new section 220.48 to read as follows:

S 220.48 CRIMINAL SALE OF A CONTROLLED SUBSTANCE TO A CHILD.

A PERSON IS GUILTY OF CRIMINAL SALE OF A CONTROLLED SUBSTANCE TO A CHILD WHEN, BEING OVER TWENTY-ONE YEARS OLD, HE OR SHE KNOWINGLY AND UNLAWFULLY SELLS A CONTROLLED SUBSTANCE IN VIOLATION OF SECTION 220.34 OR 220.39 OF THIS ARTICLE TO A PERSON LESS THAN SEVENTEEN YEARS OLD.

CRIMINAL SALE OF A CONTROLLED SUBSTANCE TO A CHILD IS A CLASS B FELONY.

S 29. The penal law is amended by adding a new section 220.77 to read as follows:

S 220.77 OPERATING AS A MAJOR TRAFFICKER.

A PERSON IS GUILTY OF OPERATING AS A MAJOR TRAFFICKER WHEN:

1. SUCH PERSON ACTS AS A DIRECTOR OF A CONTROLLED SUBSTANCE ORGANIZATION DURING ANY PERIOD OF TWELVE MONTHS OR LESS, DURING WHICH PERIOD SUCH CONTROLLED SUBSTANCE ORGANIZATION SELLS ONE OR MORE CONTROLLED SUBSTANCES, AND THE PROCEEDS COLLECTED OR DUE FROM SUCH SALE OR SALES HAVE A TOTAL AGGREGATE VALUE OF SEVENTY-FIVE THOUSAND DOLLARS OR MORE; OR

2. AS A PROFITEER, SUCH PERSON KNOWINGLY AND UNLAWFULLY SELLS, ON ONE OR MORE OCCASIONS WITHIN SIX MONTHS OR LESS, A NARCOTIC DRUG, AND THE PROCEEDS COLLECTED OR DUE FROM SUCH SALE OR SALES HAVE A TOTAL AGGREGATE VALUE OF SEVENTY-FIVE THOUSAND DOLLARS OR MORE.

3. AS A PROFITEER, SUCH PERSON KNOWINGLY AND UNLAWFULLY POSSESSES, ON ONE OR MORE OCCASIONS WITHIN SIX MONTHS OR LESS, A NARCOTIC DRUG WITH INTENT TO SELL THE SAME, AND SUCH NARCOTIC DRUGS HAVE A TOTAL AGGREGATE VALUE OF SEVENTY-FIVE THOUSAND DOLLARS OR MORE.

OPERATING AS A MAJOR TRAFFICKER IS A CLASS A-I FELONY.

S 30. Paragraph (a) of subdivision 1 of section 460.10 of the penal law, as separately amended by chapters 312 and 472 of the laws of 2008, is amended to read as follows:

(a) Any of the felonies set forth in this chapter: sections 120.05, 120.10 and 120.11 relating to assault; sections 125.10 to 125.27 relating to homicide; sections 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and 135.25 relating to kidnapping; section 135.35 relating to labor trafficking; section 135.65 relating to coercion; sections 140.20, 140.25 and 140.30 relating to burglary; sections 145.05, 145.10 and 145.12 relating to criminal mischief; article one hundred fifty relating to arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health care fraud; article one hundred sixty relating to robbery; sections 165.45, 165.50, 165.52 and 165.54 relating to criminal possession of stolen property; sections 165.72 and 165.73 relating to trademark counterfeiting; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and 176.30 relating to insurance fraud; sections 178.20 and 178.25 relating to criminal diversion of prescription medications and prescriptions; sections 180.03, 180.08, 180.15, 180.25, 180.40, 180.45, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.20, 200.22, 200.25, 200.27, 215.00, 215.05 and 215.19 relating to bribery; sections 187.10, 187.15, 187.20 and 187.25 relating to residential mortgage fraud, sections 190.40 and 190.42 relating to criminal usury; section 190.65 relating to schemes to defraud; sections 205.60 and 205.65 relating to hindering prosecution; sections 210.10, 210.15, and 215.51 relating to perjury and contempt; section 215.40 relating to tampering with physical evidence; sections 220.06, 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41, 220.43, 220.46, 220.55 [and], 220.60 AND 220.77 relating to controlled substances; sections 225.10 and 225.20 relating to gambling; sections 230.25, 230.30, and 230.32 relating to promoting prostitution; section 230.34 relating to sex trafficking; sections 235.06, 235.07, 235.21 and 235.22 relating to obscenity; sections 263.10 and 263.15 relating to promoting a sexual performance by a child; sections 265.02, 265.03, 265.04, 265.11, 265.12, 265.13 and the provisions of section 265.10 which constitute a felony relating to firearms and other dangerous weapons; and sections 265.14 and 265.16 relating to criminal sale of a firearm; and section 275.10, 275.20, 275.30, or 275.40 relating to unauthorized recordings; and sections 470.05, 470.10, 470.15 and 470.20 relating to money laundering; or

S 31. Paragraphs (a) and (b) of subdivision 7 of section 480.00 of the penal law, as added by chapter 655 of the laws of 1990, are amended to read as follows:

(a) a conviction of a person for a violation of section 220.18, 220.21, 220.41, [or] 220.43, OR 220.77 of this chapter, or where the accusatory instrument charges one or more of such offenses, conviction upon a plea of guilty to any of the felonies for which such plea is otherwise authorized by law or a conviction of a person for conspiracy to commit a violation of section 220.18, 220.21, 220.41, [or] 220.43, OR 220.77 of [the penal law] THIS CHAPTER, where the controlled substances which are the object of the conspiracy are located in the real property which is the subject of the forfeiture action; or

(b) three or more violations of any of the felonies defined in section 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41, 220.43, 220.77, or 221.55 of this chapter, which violations do not constitute a single criminal offense as defined in subdivision one of section 40.10 of the criminal procedure law, or a single criminal transaction, as defined in paragraph (a) of subdivision two of section 40.10 of the

criminal procedure law, and at least one of which resulted in a conviction of such offense, or where the accusatory instrument charges one or more of such felonies, conviction upon a plea of guilty to a felony for which such plea is otherwise authorized by law; or

S 32. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid and after exhaustion of all further judicial review, the 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 of this act directly involved in the controversy in which the judgment shall have been rendered.

S 33. This act shall take effect immediately; provided however that:

(a) section three of this act shall take effect on the sixtieth day after it shall have become a law;

(b) sections four and ten of this act shall take effect six months after this act shall have become a law;

(c) sections eleven, twenty-six, twenty-seven, twenty-eight, twenty-nine, thirty and thirty-one of this act shall take effect on the first of November next succeeding the date on which it shall have become a law;

(d) section sixteen of this act shall take effect on the one hundred twentieth day after it shall have become a law;

(e) section nine of this act shall take effect six months after it shall have become a law, except that the amendments to subdivision 4 of section 440.46 of the criminal procedure law made by section nine of this act shall take effect immediately;

(f) sections four, five, six, seven, eight, seventeen, nineteen, twenty, twenty-two, twenty-three, twenty-four, and twenty-five of this act shall apply to offenses committed on or after the date this act shall have become a law, and shall also apply to offenses committed before such date provided that sentence upon conviction for such offense has not been imposed on or before such date; and

(g) provided further that the amendments to section 410.91 of the criminal procedure law made by sections six and eight of this act shall not affect the repeal of such section and shall be deemed to be repealed therewith.

S 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.

S 3. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through AAA of this act shall be as specifically set forth in the last section of such Parts.