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

8447

2011-2012 Regular Sessions

I N A S S E M B L Y

June 15, 2011

Introduced by M. of A. KOLB -- read once and referred to the Committee on Local Governments

AN ACT to amend the state finance law, in relation to establishing a spending cap and increasing the maximum capacity of the rainy day fund (Part A); to amend the legislative law, in relation to unfunded mandates on local governments and school districts (Part B); to amend the executive law and the legislative law, in relation to the unfunded mandate relief reform plan (Part C); to amend the retirement and social security law, in relation to a defined contribution plan (Part D); to amend the civil service law, in relation to collective bargaining (Part E); to amend the social services law, in relation to requiring the state to allow counties to opt out of certain Medicaid services (Part F); to amend chapter 58 of the laws of 2005, relating to authorizing reimbursements for expenditures made by or on behalf of social services districts for medical assistance for needy persons and the administration thereof, in relation to calculating social services district medical assistance expenditure amounts (Part G); to amend the tax law, in relation to the tax credit allowed for the premium paid for long-term care insurance (Part H); to amend the insurance law, in relation to the establishment of freedom health insurance plans (Part I); to amend the general municipal law, in relation to employee contributions to health insurance plans (Part J); to amend the labor law, in relation to exempting certain public works projects from requirements relating to hours, wages and supplements (Part K); to amend the labor law, in relation to hours, wages and supplements for public work, and to amend chapter 678 of the laws of 2007, amending the labor law relating to contracts for public work and building service work, in relation to the effectiveness thereof (Part L); to amend the labor law, in relation to enacting the scaffold reform act (Part M); to amend the county law, the education law, the environmental conservation law, the general municipal law and the public authorities law, in relation to separate specifications for public work and to repeal certain provisions of the general municipal law and the education law relating thereto (Part N); to amend the labor law,

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

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in relation to project labor agreements; and to repeal certain provisions of such law relating thereto (Part O); to amend the general municipal law, in relation to municipal bidding (Part P); authorizing a county to enter into a cooperative agreement with school districts, towns and villages within such county to provide for health care benefits for their employees (Part Q); to amend the education law, in relation to authorizing boards of cooperative educational services to engage in collective bargaining with employee organizations representing teachers and other employees of component school districts (Part R); to amend the education law, in relation to the streamlining of planning and reporting requirements for school districts and boards of cooperative educational services; to amend the education law, in relation to the effectiveness of additional costs to school districts (Part S); and to amend the education law, in relation to the powers of the commissioner of education pertaining to individualized education programs, excluding the issue of the cost of criminal history records searches from collective bargaining negotiations, the adoption of professional development plans for teachers, and the frequency of safety inspections of school buildings and building condition surveys (Part T)

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 enact the New York state taxpayer protection and mandate relief act. Each component is wholly contained within a Part identified as Parts A through R. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section four of this act sets forth the general effective date of this act.

S 2. This act shall be known and may be cited as the "New York state taxpayer protection and mandate relief act".

PART A

Section 1. The state finance law is amended by adding a new article 17 to read as follows:

ARTICLE 17
SPENDING GROWTH CAP ACT

SECTION 250. DEFINITIONS.
251. ESTABLISHMENT OF ANNUAL SPENDING GROWTH CAP.
252. PROVISIONS REGARDING DECLARATION OF EMERGENCY.

S 250. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS, UNLESS OTHERWISE SPECIFIED:

1. "ANNUAL SPENDING GROWTH CAP" SHALL MEAN A PERCENTAGE DETERMINED BY ADDING THE INFLATION RATES FROM EACH OF THE THREE CALENDAR YEARS IMMEDIATELY PRIOR TO THE COMMENCEMENT OF A GIVEN FISCAL YEAR AND THEN DIVIDING THAT SUM BY THREE.

2. "STATE OPERATING FUNDS SPENDING" SHALL MEAN ANNUAL DISBURSEMENTS OF ALL GOVERNMENTAL FUND TYPES INCLUDED IN THE CASH-BASIS FINANCIAL PLAN OF

THE STATE, EXCLUDING DISBURSEMENTS FROM FEDERAL FUNDS AND CAPITAL PROJECT FUNDS.

3. "INFLATION RATE" SHALL MEAN THE PERCENTAGE CHANGE IN THE TWELVE-MONTH AVERAGE OF THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS OR ANY SUCCESSOR AGENCY FOR A GIVEN CALENDAR YEAR COMPARED TO THE PRIOR CALENDAR YEAR.

4. "EXECUTIVE BUDGET" SHALL MEAN THE BUDGET SUBMITTED ANNUALLY BY THE GOVERNOR PURSUANT TO SECTION ONE OF ARTICLE VII OF THE STATE CONSTITUTION.

5. "STATE BUDGET AS ENACTED" SHALL MEAN THE BUDGET ACTED UPON BY THE LEGISLATURE IN A GIVEN FISCAL YEAR, AS SUBJECT TO SECTION FOUR OF ARTICLE VII OF THE STATE CONSTITUTION AND SECTION SEVEN OF ARTICLE IV OF THE STATE CONSTITUTION.

6. "EMERGENCY" SHALL MEAN AN EXTRAORDINARY, UNFORESEEN, OR UNEXPECTED OCCURRENCE, OR COMBINATION OF CIRCUMSTANCES, INCLUDING BUT NOT LIMITED TO A NATURAL DISASTER, INVASION, TERRORIST ATTACK, OR ECONOMIC CALAMITY.

S 251. ESTABLISHMENT OF ANNUAL SPENDING GROWTH CAP. 1. THERE IS HEREBY ESTABLISHED AN ANNUAL SPENDING GROWTH CAP.

2. THE GOVERNOR SHALL NOT SUBMIT, AND THE LEGISLATURE SHALL NOT ACT UPON, A BUDGET THAT CONTAINS A PERCENTAGE INCREASE OVER THE PRIOR FISCAL YEAR IN STATE OPERATING FUNDS SPENDING WHICH EXCEEDS THE ANNUAL SPENDING GROWTH CAP.

3. THE GOVERNOR SHALL CERTIFY IN WRITING THAT STATE OPERATING FUNDS SPENDING IN THE EXECUTIVE BUDGET DOES NOT EXCEED THE ANNUAL SPENDING GROWTH CAP. IF FINAL INFLATION RATE DATA FOR THE PRIOR CALENDAR YEAR IS NOT YET AVAILABLE AT THE TIME THE GOVERNOR SUBMITS HIS OR HER EXECUTIVE BUDGET, HE OR SHE SHALL FURNISH A REASONABLE ESTIMATE OF SUCH PRIOR CALENDAR YEAR INFLATION RATE.

4. THE COMPTROLLER SHALL PROVIDE, WITHIN FIVE DAYS OF ACTION BY THE LEGISLATURE UPON THE BUDGET, A DETERMINATION AS TO WHETHER THE STATE OPERATING FUNDS SPENDING AS SET FORTH IN THE STATE BUDGET AS ENACTED EXCEEDS THE ANNUAL SPENDING GROWTH CAP.

5. IF THE COMPTROLLER FINDS THAT STATE OPERATING FUNDS SPENDING AS SET FORTH IN THE STATE BUDGET AS ENACTED EXCEEDS THE ANNUAL SPENDING GROWTH CAP, THE GOVERNOR SHALL TAKE CORRECTIVE ACTION TO ENSURE THAT FUNDING IS LIMITED TO THE AMOUNT OF THE ANNUAL SPENDING CAP.

S 252. PROVISIONS REGARDING DECLARATION OF EMERGENCY. 1. UPON A FINDING OF AN EMERGENCY BY THE GOVERNOR, HE OR SHE MAY DECLARE AN EMERGENCY BY AN EXECUTIVE ORDER WHICH SHALL SET FORTH THE REASONS FOR SUCH DECLARATION.

2. BASED UPON SUCH DECLARATION, THE GOVERNOR MAY SUBMIT, AND THE LEGISLATURE MAY AUTHORIZE, BY A TWO-THIRDS SUPER MAJORITY, A BUDGET CONTAINING A PERCENTAGE INCREASE OVER THE PRIOR FISCAL YEAR IN STATE OPERATING FUNDS SPENDING THAT EXCEEDS THE ANNUAL SPENDING GROWTH CAP.

S 2. Subdivision 2 of section 92-cc of the state finance law, as added by chapter 1 of the laws of 2007, is amended to read as follows:

2. Such fund shall have a maximum balance not to exceed [three] TEN per centum of the aggregate amount projected to be disbursed from the general fund during the fiscal year immediately following the then-current fiscal year.

S 3. This act shall take effect immediately.

PART B

Section 1. The legislative law is amended by adding a new section 51-a to read as follows:

S 51-A. MORATORIUM ON UNFUNDED MANDATES. 1. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "LOCAL GOVERNMENT" MEANS A COUNTY, CITY, TOWN, VILLAGE, SCHOOL DISTRICT, OR SPECIAL DISTRICT.

(B) "NET ADDITIONAL COST" MEANS THE COST OR COSTS INCURRED OR ANTICIPATED TO BE INCURRED WITHIN A ONE YEAR PERIOD BY A LOCAL GOVERNMENT IN PERFORMING OR ADMINISTERING ANY PROGRAM, PROJECT, OR ACTIVITY AFTER SUBTRACTING THEREFROM ANY REVENUES RECEIVED OR RECEIVABLE BY SUCH LOCAL GOVERNMENT IN RELATION TO SUCH PROGRAM, PROJECT, OR ACTIVITY, INCLUDING BUT NOT LIMITED TO:

(I) FEES CHARGED TO THE RECIPIENTS OF SUCH PROGRAM, PROJECT, OR ACTIVITY;

(II) STATE OR FEDERAL FUNDS RECEIVED FOR SUCH PROGRAM, PROJECT, OR ACTIVITY; AND

(III) AN OFFSETTING SAVINGS RESULTING FROM THE DIMINUTION OR ELIMINATION OF ANY OTHER PROGRAM, PROJECT, OR ACTIVITY THAT STATE LAW REQUIRES SUCH LOCAL GOVERNMENT TO PROVIDE OR UNDERTAKE.

(C) "UNFUNDED MANDATE" MEANS:

(I) ANY STATE LAW THAT REQUIRES A LOCAL GOVERNMENT TO PROVIDE OR UNDERTAKE ANY NEW PROGRAM, PROJECT OR ACTIVITY THAT RESULTS IN AN ANNUAL NET ADDITIONAL COST TO ANY LOCAL GOVERNMENT IN EXCESS OF TEN THOUSAND DOLLARS OR AN AGGREGATE ANNUAL NET ADDITIONAL COST TO ALL LOCAL GOVERNMENTS WITHIN THE STATE IN EXCESS OF ONE MILLION DOLLARS; OR

(II) ANY STATE LAW THAT REQUIRES A LOCAL GOVERNMENT TO PROVIDE A HIGHER LEVEL OF SERVICE OR FUNDING FOR AN EXISTING PROGRAM, PROJECT OR ACTIVITY THAT RESULTS IN AN ANNUAL NET ADDITIONAL COST TO ANY LOCAL GOVERNMENT IN EXCESS OF TEN THOUSAND DOLLARS OR AN AGGREGATE ANNUAL NET ADDITIONAL COST TO ALL LOCAL GOVERNMENTS WITHIN THE STATE IN EXCESS OF ONE MILLION DOLLARS; OR

(III) ANY STATE LAW THAT REQUIRES A LOCAL GOVERNMENT TO GRANT ANY NEW PROPERTY TAX EXEMPTION OR THAT BROADENS THE ELIGIBILITY OR INCREASES THE DOLLAR AMOUNT OF ANY EXISTING PROPERTY TAX EXEMPTION, ON PROPERTY THAT OTHERWISE WOULD HAVE GENERATED REVENUE UNDER THE CURRENT PROPERTY TAX RATE OF SUCH LOCAL GOVERNMENT IN EXCESS OF TEN THOUSAND DOLLARS IN ANY LOCAL GOVERNMENT OR IN EXCESS OF ONE MILLION DOLLARS STATEWIDE; OR

(IV) ANY STATE LAW WITH A LEGAL REQUIREMENT THAT WOULD OTHERWISE LIKELY HAVE THE EFFECT OF RAISING PROPERTY TAXES IN EXCESS OF TEN THOUSAND DOLLARS IN ANY LOCAL GOVERNMENT OR IN EXCESS OF ONE MILLION DOLLARS STATEWIDE.

2. MORATORIUM ON UNFUNDED MANDATES. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO UNFUNDED MANDATES SHALL BE ENACTED.

3. EXEMPTIONS. (A) A STATE LAW SHALL NOT BE CONSIDERED AN UNFUNDED MANDATE WHERE SUCH LAW:

(I) IS REQUIRED BY A COURT ORDER OR JUDGMENT; OR

(II) IS PROVIDED AT THE OPTION OF THE LOCAL GOVERNMENT UNDER A LAW THAT IS PERMISSIVE RATHER THAN MANDATORY; OR

(III) RESULTS FROM THE PASSAGE OF A HOME RULE MESSAGE WHEREBY A LOCAL GOVERNMENT REQUESTS AUTHORITY TO IMPLEMENT THE PROGRAM OR SERVICE SPECIFIED IN THE STATUTE, AND THE STATUTE IMPOSES COSTS ONLY UPON THAT LOCAL GOVERNMENT WHICH REQUESTS THE AUTHORITY TO IMPOSE THE PROGRAM OR SERVICE; OR

(IV) IS REQUIRED BY STATUTE OR EXECUTIVE ORDER THAT IMPLEMENTS A FEDERAL LAW OR REGULATION AND RESULTS FROM COSTS MANDATED BY THE FEDERAL GOVERNMENT TO BE BORNE AT THE LOCAL LEVEL, UNLESS THE STATUTE OR EXECU-

TIVE ORDER RESULTS IN COSTS WHICH EXCEED THE COSTS MANDATED BY THE FEDERAL GOVERNMENT; OR

(V) IS IMPOSED ON BOTH GOVERNMENT AND NON-GOVERNMENT ENTITIES IN THE SAME OR SUBSTANTIALLY SIMILAR CIRCUMSTANCES; OR

(VI) REPEALS OR REVISES A STATE LAW TO EASE AN EXISTING REQUIREMENT THAT A LOCAL GOVERNMENT PROVIDE OR UNDERTAKE A PROGRAM, PROJECT, OR ACTIVITY, OR REAPPORTIONS THE COSTS OF ACTIVITIES BETWEEN LOCAL GOVERNMENTS; OR

(VII) IS NECESSARY TO PROTECT AGAINST AN IMMEDIATE THREAT TO PUBLIC HEALTH OR SAFETY.

(B) THE EFFECTIVE DATE OF ANY ACT ESTABLISHING A MANDATE SHALL PROVIDE A REASONABLE TIME FOR THE STATE AND ANY LOCAL GOVERNMENT TO PLAN IMPLEMENTATION THEREOF AND SHALL BE CONSISTENT WITH THE AVAILABILITY OF REQUIRED FUNDS.

S 2. The legislative law is amended by adding a new section 51-b to read as follows:

S 51-B. SUNSET ON ENACTED LAWS IMPOSING A NET ADDITIONAL COST. EVERY BILL WHICH ENACTS A PROVISION OF LAW THAT IMPOSES AN ANNUAL NET ADDITIONAL COST TO ANY LOCAL GOVERNMENT IN EXCESS OF TEN THOUSAND DOLLARS OR AN AGGREGATE ANNUAL NET ADDITIONAL COST TO ALL LOCAL GOVERNMENTS WITHIN THE STATE IN EXCESS OF ONE MILLION DOLLARS, BEYOND REVENUES RECEIVED BY SUCH LOCAL GOVERNMENT IN RELATION TO SUCH LAW, SHALL PROVIDE FOR THE EXPIRATION OF SUCH LAW WITHIN TWO YEARS AFTER ITS EFFECTIVE DATE.

S 3. Section 51 of the legislative law, as added by chapter 985 of the laws of 1983, is amended to read as follows:

S 51. Fiscal [impact] notes on bills affecting political subdivisions. 1. For the purpose of this section, the term "political subdivision" means any county, city, town, village, special district or school district.

2. [The legislature shall by concurrent resolution of the senate and assembly prescribe rules requiring fiscal notes to accompany, on a separate form, bills and amendments to bills, except as otherwise prescribed by such rules, which] A BILL THAT would substantially affect the revenues or expenses, or both, of any political subdivision SHALL CONTAIN A FISCAL NOTE STATING THE ESTIMATED ANNUAL COST TO THE POLITICAL SUBDIVISION AFFECTED AND THE SOURCE OF SUCH ESTIMATE.

3. Fiscal notes shall not, however, be required for bills: (a) subject to the provisions of section fifty of this chapter, or (b) accompanied by special home rule requests submitted by political subdivisions, or (c) which provide discretionary authority to political subdivisions, or (d) submitted pursuant to section twenty-four of the state finance law.

4. If the estimate or estimates contained in a fiscal note are inaccurate, such inaccuracies shall not affect, impair or invalidate such bill.

S 4. This act shall take effect immediately, provided, however, that sections one and two of this act shall only apply to laws enacted after such effective date.

PART C

Section 1. The executive law is amended by adding a new article 5-A to read as follows:

ARTICLE 5-A

UNFUNDED MANDATE REFORM PLAN

SECTION 75. DUTY OF GOVERNOR TO EXAMINE UNFUNDED MANDATES; LEGISLATIVE PURPOSE.

76. DEFINITIONS.
77. FINDINGS BY GOVERNOR; ISSUANCE OF UNFUNDED MANDATE REFORM PLAN.
78. CONTENTS OF UNFUNDED MANDATE REFORM PLAN.
79. EFFECTIVE DATE OF UNFUNDED MANDATE REFORM PLAN.
80. EXEMPTIONS.

S 75. DUTY OF GOVERNOR TO EXAMINE UNFUNDED MANDATES; LEGISLATIVE PURPOSE. THE GOVERNOR, FROM TIME TO TIME, SHALL EXAMINE THOSE MANDATES IMPOSED BY THE STATE ON LOCAL GOVERNMENTS AND SCHOOL DISTRICTS THAT THE STATE DOES NOT PROVIDE ADEQUATE FUNDING TO SUPPORT, AND SHALL DETERMINE WHICH CHANGES ARE NECESSARY TO REDUCE THE BURDEN OF THESE UNFUNDED MANDATES ON POLITICAL SUBDIVISIONS.

S 76. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "LOCAL GOVERNMENT" MEANS A COUNTY, CITY, TOWN, VILLAGE, SCHOOL DISTRICT, OR SPECIAL DISTRICT.

2. "NET ADDITIONAL COST" MEANS THE COST OR COSTS INCURRED OR ANTICIPATED TO BE INCURRED WITHIN A ONE YEAR PERIOD BY A LOCAL GOVERNMENT IN PERFORMING OR ADMINISTERING ANY PROGRAM, PROJECT, OR ACTIVITY AFTER SUBTRACTING THEREFROM ANY REVENUES RECEIVED OR RECEIVABLE BY SUCH LOCAL GOVERNMENT IN RELATION TO SUCH PROGRAM, PROJECT, OR ACTIVITY, INCLUDING BUT NOT LIMITED TO:

(A) FEES CHARGED TO THE RECIPIENTS OF SUCH PROGRAM, PROJECT, OR ACTIVITY;

(B) STATE OR FEDERAL FUNDS RECEIVED FOR SUCH PROGRAM, PROJECT, OR ACTIVITY; AND

(C) AN OFFSETTING SAVINGS RESULTING FROM THE DIMINUTION OR ELIMINATION OF ANY OTHER PROGRAM, PROJECT, OR ACTIVITY THAT STATE LAW REQUIRES SUCH LOCAL GOVERNMENT TO PROVIDE OR UNDERTAKE.

3. "UNFUNDED MANDATE" MEANS:

(A) ANY STATE LAW THAT REQUIRES A LOCAL GOVERNMENT TO PROVIDE OR UNDERTAKE ANY NEW PROGRAM, PROJECT OR ACTIVITY THAT RESULTS IN AN ANNUAL NET ADDITIONAL COST TO ANY LOCAL GOVERNMENT IN EXCESS OF TEN THOUSAND DOLLARS OR AN AGGREGATE ANNUAL NET ADDITIONAL COST TO ALL LOCAL GOVERNMENTS WITHIN THE STATE IN EXCESS OF ONE MILLION DOLLARS; OR

(B) ANY STATE LAW THAT REQUIRES A LOCAL GOVERNMENT TO PROVIDE A HIGHER LEVEL OF SERVICE OR FUNDING FOR AN EXISTING PROGRAM, PROJECT OR ACTIVITY THAT RESULTS IN AN ANNUAL NET ADDITIONAL COST TO ANY LOCAL GOVERNMENT IN EXCESS OF TEN THOUSAND DOLLARS OR AN AGGREGATE ANNUAL NET ADDITIONAL COST TO ALL LOCAL GOVERNMENTS WITHIN THE STATE IN EXCESS OF ONE MILLION DOLLARS; OR

(C) ANY STATE LAW THAT REQUIRES A LOCAL GOVERNMENT TO GRANT ANY NEW PROPERTY TAX EXEMPTION OR THAT BROADENS THE ELIGIBILITY OR INCREASES THE DOLLAR AMOUNT OF ANY EXISTING PROPERTY TAX EXEMPTION, ON PROPERTY THAT OTHERWISE WOULD HAVE GENERATED REVENUE UNDER THE CURRENT PROPERTY TAX RATE OF SUCH LOCAL GOVERNMENT IN EXCESS OF TEN THOUSAND DOLLARS IN ANY LOCAL GOVERNMENT OR IN EXCESS OF ONE MILLION DOLLARS STATEWIDE; OR

(D) ANY STATE LAW WITH A LEGAL REQUIREMENT THAT WOULD OTHERWISE LIKELY HAVE THE EFFECT OF RAISING PROPERTY TAXES IN EXCESS OF TEN THOUSAND DOLLARS IN ANY LOCAL GOVERNMENT OR IN EXCESS OF ONE MILLION DOLLARS STATEWIDE.

S 77. FINDINGS BY GOVERNOR; ISSUANCE OF UNFUNDED MANDATE REFORM PLAN. 1. WHENEVER THE GOVERNOR FINDS IT TO BE IN THE PUBLIC INTEREST, HE OR SHE MAY SUBMIT TO THE LEGISLATURE AN UNFUNDED MANDATE REFORM PLAN.

2. NOTHING IN THIS ARTICLE SHALL PROHIBIT OR LIMIT THE AUTHORITY OF THE GOVERNOR OR LEGISLATURE TO REPEAL, REVISE OR PROVIDE FUNDING FOR UNFUNDED MANDATES PURSUANT TO ANY OTHER LAWFUL PROCESS.

S 78. CONTENTS OF UNFUNDED MANDATE REFORM PLAN. AN UNFUNDED MANDATE REFORM PLAN SHALL:

1. SET FORTH AS FINDINGS IN SUCH PLAN, A DESCRIPTION OF THE NATURE AND PURPOSES OF THE UNFUNDED MANDATE REFORM PLAN, TOGETHER WITH AN EXPLANATION OF THE ADVANTAGES THAT WILL RESULT FROM ITS IMPLEMENTATION, INCLUDING THE ANTICIPATED SAVINGS AND COSTS ASSOCIATED WITH EACH REPEAL OR REVISION OF AN UNFUNDED MANDATE;

2. DESCRIBE IN DETAIL OTHER ACTIONS, IF ANY, NECESSARY TO IMPLEMENT THAT PLAN;

3. ANY PRELIMINARY ACTIONS WHICH HAVE BEEN TAKEN IN IMPLEMENTING THE PLAN; AND

4. PROVIDE A PROJECTED TIMETABLE FOR COMPLETION OF THE IMPLEMENTATION PROCESS.

S 79. EFFECTIVE DATE OF UNFUNDED MANDATE REFORM PLAN. 1. THE UNFUNDED MANDATE REFORM PLAN SUBMITTED BY THE GOVERNOR SHALL BE VOTED ON BY EACH HOUSE OF THE LEGISLATURE, WITH OR WITHOUT AMENDMENTS, WITHIN SIXTY DAYS AFTER SUCH SUBMISSION. THE GOVERNOR MAY SUBMIT ONLY ONE SUCH PLAN ANNUALLY AND MAY AMEND THAT PLAN ONE TIME WITHIN THE FIRST THIRTY DAYS AFTER SUCH SUBMISSION. WITHOUT THE CONSENT OF BOTH HOUSES OF THE LEGISLATURE, NEITHER A PLAN NOR AN AMENDMENT MAY BE SUBMITTED BY THE GOVERNOR AFTER THE THIRTIETH DAY OF APRIL IN ANY YEAR.

2. UNDER PROVISIONS CONTAINED IN AN UNFUNDED MANDATE REFORM PLAN, A PROVISION OF THE PLAN MAY BE EFFECTIVE AT A TIME LATER THAN THE DATE ON WHICH THE PLAN OTHERWISE IS EFFECTIVE.

S 80. EXEMPTIONS. 1. A STATE LAW SHALL NOT BE CONSIDERED AN UNFUNDED MANDATE WHERE SUCH LAW:

(A) IS REQUIRED BY A COURT ORDER OR JUDGMENT; OR

(B) IS PROVIDED AT THE OPTION OF THE LOCAL GOVERNMENT UNDER A LAW THAT IS PERMISSIVE RATHER THAN MANDATORY; OR

(C) RESULTS FROM THE PASSAGE OF A HOME RULE MESSAGE WHEREBY A LOCAL GOVERNMENT REQUESTS AUTHORITY TO IMPLEMENT THE PROGRAM OR SERVICE SPECIFIED IN THE STATUTE, AND THE STATUTE IMPOSES COSTS ONLY UPON THAT LOCAL GOVERNMENT WHICH REQUESTS THE AUTHORITY TO IMPOSE THE PROGRAM OR SERVICE; OR

(D) IS REQUIRED BY STATUTE OR EXECUTIVE ORDER THAT IMPLEMENTS A FEDERAL LAW OR REGULATION AND RESULTS FROM COSTS MANDATED BY THE FEDERAL GOVERNMENT TO BE BORNE AT THE LOCAL LEVEL, UNLESS THE STATUTE OR EXECUTIVE ORDER RESULTS IN COSTS WHICH EXCEED THE COSTS MANDATED BY THE FEDERAL GOVERNMENT; OR

(E) IS IMPOSED ON BOTH GOVERNMENT AND NON-GOVERNMENT ENTITIES IN THE SAME OR SUBSTANTIALLY SIMILAR CIRCUMSTANCES; OR

(F) REPEALS OR REVISES A STATE LAW TO EASE AN EXISTING REQUIREMENT THAT A LOCAL GOVERNMENT PROVIDE OR UNDERTAKE A PROGRAM, PROJECT, OR ACTIVITY, OR REAPPORTIONS THE COSTS OF ACTIVITIES BETWEEN LOCAL GOVERNMENTS; OR

(G) IS NECESSARY TO PROTECT AGAINST AN IMMEDIATE THREAT TO PUBLIC HEALTH OR SAFETY.

2. THE EFFECTIVE DATE OF ANY ACT ESTABLISHING A MANDATE SHALL PROVIDE A REASONABLE TIME FOR THE STATE AND ANY LOCAL GOVERNMENT TO PLAN IMPLEMENTATION THEREOF AND SHALL BE CONSISTENT WITH THE AVAILABILITY OF REQUIRED FUNDS.

S 2. The legislative law is amended by adding a new section 54-c to read as follows:

S 54-C. UNFUNDED MANDATE REFORM PLAN. THE LEGISLATURE MAY BY CONCURRENT RESOLUTION PRESCRIBE RULES FOR THE CONSIDERATION AND DISPOSITION OF AN UNFUNDED MANDATE REFORM PLAN, AS DEFINED IN ARTICLE FIVE-A OF THE EXECUTIVE LAW.

S 3. This act shall take effect immediately.

PART D

Section 1. The retirement and social security law is amended by adding a new article 23 to read as follows:

ARTICLE 23

DEFINED CONTRIBUTION PLAN

SECTION 1300. APPLICABILITY.
1301. DEFINITIONS.
1302. DEFINED CONTRIBUTION PLAN.
1303. EMPLOYER NOT LIABLE FOR PAYMENT OF BENEFITS.

S 1300. APPLICABILITY. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE PROVISIONS OF THIS ARTICLE SHALL BE APPLICABLE TO ALL EMPLOYEES IN THE NEW YORK STATE RETIREMENT SYSTEM OR NEW YORK CITY RETIREMENT SYSTEM, AS DEFINED IN SECTION THIRTEEN HUNDRED ONE OF THIS ARTICLE, WHO FIRST JOINED SUCH SYSTEM ON OR AFTER APRIL FIRST, TWO THOUSAND TWELVE. UNDER NO CIRCUMSTANCES SHALL AN EMPLOYEE WHO JOINS A NEW YORK STATE RETIREMENT SYSTEM OR A NEW YORK CITY RETIREMENT SYSTEM AFTER APRIL FIRST, TWO THOUSAND TWELVE, BE ELIGIBLE FOR PARTICIPATION IN A DEFINED BENEFIT RETIREMENT PLAN, AS ESTABLISHED UNDER ARTICLE EIGHT, ELEVEN, FOURTEEN, FIFTEEN OR TWENTY-TWO OF THIS CHAPTER, ARTICLE ELEVEN OF THE EDUCATION LAW OR TITLE THIRTEEN OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK.

S 1301. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE THE TERMS: A. "NEW YORK STATE RETIREMENT SYSTEM" SHALL MEAN THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM, THE NEW YORK STATE AND LOCAL POLICE AND FIRE RETIREMENT SYSTEM, AND THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM.

B. "NEW YORK CITY RETIREMENT SYSTEM" SHALL MEAN THE NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM, THE NEW YORK CITY TEACHERS' RETIREMENT SYSTEM, THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT SYSTEM, THE NEW YORK CITY POLICE DEPARTMENT PENSION FUND, AND THE NEW YORK CITY FIRE DEPARTMENT PENSION FUND.

C. "TRUSTEE" SHALL BE: (1) THE NEW YORK STATE COMPTROLLER FOR THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM OR THE NEW YORK STATE AND LOCAL POLICE AND FIRE RETIREMENT SYSTEM; (2) THE BOARD OF TRUSTEES FOR THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM; (3) THE BOARD OF TRUSTEES FOR THE NEW YORK CITY TEACHERS' RETIREMENT SYSTEM; (4) THE BOARD OF TRUSTEES FOR ANY NEW YORK CITY RETIREMENT SYSTEM OR THE CITY COMPTROLLER.

D. "EMPLOYEES' RETIREMENT SYSTEM" SHALL MEAN THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM AND THE NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM.

E. "TEACHERS' RETIREMENT SYSTEM" SHALL MEAN THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM, THE NEW YORK CITY TEACHERS' RETIREMENT SYSTEM AND THE NEW YORK CITY BOARD OF EDUCATION RETIREMENT SYSTEM.

F. "POLICE AND FIRE RETIREMENT SYSTEM" SHALL MEAN THE NEW YORK STATE AND LOCAL POLICE AND FIRE RETIREMENT SYSTEM, THE NEW YORK CITY POLICE DEPARTMENT PENSION FUND, AND THE NEW YORK CITY FIRE DEPARTMENT PENSION FUND.

G. "PARTICIPATING EMPLOYER" SHALL MEAN AN EMPLOYER PARTICIPATING IN A NEW YORK STATE RETIREMENT SYSTEM OR A NEW YORK CITY RETIREMENT SYSTEM.

S 1302. DEFINED CONTRIBUTION PLAN. A. THE DEFINED CONTRIBUTION PLAN IS HEREBY ESTABLISHED. THE TRUSTEE FOR EACH RESPECTIVE NEW YORK STATE RETIREMENT SYSTEM AND NEW YORK CITY RETIREMENT SYSTEM SHALL ADOPT RULES AND REGULATIONS REGARDING THE STANDARDS AND REQUIREMENTS OF THE DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO THIS SECTION, INCLUDING SELECTION OF FINANCIAL ORGANIZATIONS FOR INVESTMENT PURPOSES.

B. (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DEFINED CONTRIBUTION PLAN SHALL BE ESTABLISHED FOR ALL MEMBERS WHO ARE EMPLOYED BY THE STATE OF NEW YORK OR ANY PARTICIPATING EMPLOYER WHICH HAS ELECTED TO PARTICIPATE IN A NEW YORK STATE RETIREMENT SYSTEM OR NEW YORK CITY RETIREMENT SYSTEM ON OR AFTER APRIL FIRST, TWO THOUSAND TWELVE.

(2) THE TRUSTEE FOR EACH RESPECTIVE NEW YORK STATE RETIREMENT SYSTEM AND NEW YORK CITY RETIREMENT SYSTEM SHALL ENTER INTO WRITTEN AGREEMENTS WITH ONE OR MORE FINANCIAL ORGANIZATIONS TO ADMINISTER THE DEFINED CONTRIBUTION PLAN FOR MEMBERS AND TO INVEST FUNDS HELD PURSUANT TO SUCH PLAN.

(3) THE RULES AND REGULATIONS PROMULGATED BY THE TRUSTEE FOR EACH RESPECTIVE NEW YORK STATE RETIREMENT SYSTEM AND NEW YORK CITY RETIREMENT SYSTEM SHALL ESTABLISH STANDARDS FOR THE SELECTION OF FINANCIAL ORGANIZATIONS, AUTHORIZED TO DO BUSINESS IN THIS STATE, TO PARTICIPATE IN SUCH PLANS, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING CRITERIA: (I) RATES OF COMMISSION, BROKERAGE AND OTHER FEES, ADMINISTRATIVE EXPENSES AND RELATED SERVICE CHARGES IMPOSED BY THE FINANCIAL ORGANIZATION; (II) VARIETY OF TYPES OF INVESTMENT OPPORTUNITIES OFFERED BY THE FINANCIAL ORGANIZATION AND/OR AMONG THE FINANCIAL ORGANIZATIONS SELECTED AND THE ABILITY TO TRANSFER AMONG SUCH OPPORTUNITIES; (III) THE STABILITY OF THE FINANCIAL ORGANIZATION AS EVIDENCED BY EXPERIENCE, REPUTATION, ASSETS AND HOLDINGS, AND ABILITY TO GUARANTEE SPECIFIC RATES OF RETURN; (IV) ABILITY TO COMPLY WITH REPORTING REQUIREMENTS TO THE COMPTROLLER AND TO PARTICIPANTS IN SUCH A PLAN; AND (V) SUCH OTHER FACTORS WHICH WOULD BE CONSIDERED BY A PRUDENT INVESTOR IN SUCH A PLAN.

(4) THE PRESIDENT OF THE STATE CIVIL SERVICE COMMISSION, SUBJECT TO THE RULES AND REGULATIONS OF THE TRUSTEE FOR EACH RESPECTIVE NEW YORK STATE RETIREMENT SYSTEM AND NEW YORK CITY RETIREMENT SYSTEM, SHALL PROVIDE ASSISTANCE TO ANY PARTICIPATING EMPLOYER AS IS APPROPRIATE TO THE PROVISIONS OF THIS SECTION.

C. A PARTICIPATING EMPLOYER OF AN EMPLOYEES' RETIREMENT SYSTEM OR A TEACHERS' RETIREMENT SYSTEM SHALL CONTRIBUTE EIGHT PERCENT OF AN EMPLOYEE'S ANNUAL SALARY TOWARDS SUCH DEFINED CONTRIBUTION PLAN. ALL MEMBERS MAY CONTRIBUTE UP TO ONE HUNDRED PERCENT, NOT TO EXCEED THE CONTRIBUTION LIMITATIONS ESTABLISHED ANNUALLY ACCORDING TO SECTION 415(D) OF THE INTERNAL REVENUE CODE, OF HIS OR HER SALARY TOWARDS THE DEFINED CONTRIBUTION PLAN.

D. A PARTICIPATING EMPLOYER OF A POLICE AND FIRE RETIREMENT SYSTEM SHALL CONTRIBUTE TEN PERCENT OF AN EMPLOYEE'S ANNUAL SALARY TOWARDS SUCH DEFINED CONTRIBUTION PLAN. ALL MEMBERS MAY CONTRIBUTE UP TO ONE HUNDRED PERCENT, NOT TO EXCEED THE CONTRIBUTION LIMITATIONS ESTABLISHED ANNUALLY ACCORDING TO SECTION 415(D) OF THE INTERNAL REVENUE CODE, OF HIS OR HER SALARY TOWARDS THE DEFINED CONTRIBUTION PLAN.

E. THE TERM "FINANCIAL ORGANIZATION" SHALL MEAN AN ORGANIZATION AUTHORIZED TO DO BUSINESS IN THE STATE OF NEW YORK AND (1) WHICH IS AN AUTHORIZED FIDUCIARY TO ACT AS A TRUSTEE PURSUANT TO THE PROVISIONS OF AN ACT OF CONGRESS ENTITLED "EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974" AS SUCH PROVISIONS MAY BE AMENDED FROM TIME TO TIME, OR AN INSUR-

ANCE COMPANY; AND (2) (I) IS LICENSED OR CHARTERED BY THE STATE INSURANCE DEPARTMENT; (II) IS LICENSED OR CHARTERED BY THE STATE BANKING DEPARTMENT; (III) IS CHARTERED BY AN AGENCY OF THE FEDERAL GOVERNMENT; (IV) IS SUBJECT TO THE JURISDICTION AND REGULATION OF THE SECURITIES AND EXCHANGE COMMISSION OF THE FEDERAL GOVERNMENT; OR (V) IS ANY OTHER ENTITY OTHERWISE AUTHORIZED TO ACT IN THIS STATE AS A TRUSTEE PURSUANT TO THE PROVISIONS OF AN ACT OF CONGRESS ENTITLED "EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974" AS SUCH PROVISIONS MAY BE AMENDED FROM TIME TO TIME.

S 1303. EMPLOYER NOT LIABLE FOR PAYMENT OF BENEFITS. NO RETIREMENT, DEATH, OR OTHER BENEFITS SHALL BE PAYABLE BY THE STATE, OR ANY ELECTING EMPLOYER UNDER SUCH DEFINED CONTRIBUTION PLAN. SUCH BENEFITS SHALL BE PAID TO EMPLOYEES OR THEIR BENEFICIARIES BY THE DESIGNATED FINANCIAL ORGANIZATION IN ACCORDANCE WITH THE TERMS OF THEIR WRITTEN AGREEMENT.

S 2. This act shall take effect immediately.

PART E

Section 1. The civil service law is amended by adding a new section 209-b to read as follows:

S 209-B. COLLECTIVE BARGAINING; LOCAL OPTION. 1. THE LEGISLATURE HEREBY GIVES AND GRANTS TO EVERY LOCAL GOVERNMENT AND SCHOOL DISTRICT THE RIGHT, POWER AND AUTHORITY TO OPT NOT TO BE SUBJECT TO PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION TWO HUNDRED NINE-A OF THIS ARTICLE.

2. ANY LOCAL GOVERNMENT OR SCHOOL DISTRICT MAY, BY RESOLUTION DULY ADOPTED AND FILED WITH THE SECRETARY OF STATE AND THE STATE CIVIL SERVICE COMMISSION, DETERMINE THAT SUCH LOCAL GOVERNMENT OR SCHOOL DISTRICT SHALL NOT BE SUBJECT TO PARAGRAPH (E) OF SUBDIVISION ONE OF SECTION TWO HUNDRED NINE-A OF THIS ARTICLE.

3. ANY SUCH RESOLUTION ADOPTED BY A LOCAL GOVERNMENT OR SCHOOL DISTRICT MAY BE REPEALED IN THE SAME MANNER AS IT WAS ADOPTED, AND SUCH REPEAL SHALL BECOME EFFECTIVE UPON FILING WITH THE SECRETARY OF STATE AND THE COMMISSION.

S 2. This act shall take effect immediately.

PART F

Section 1. Section 365-a of the social services law is amended by adding a new subdivision 10 to read as follows:

10. (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION OR ANY OTHER PROVISION OF LAW, ON AND AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION, THE STATE IS REQUIRED TO ALLOW COUNTIES TO OPT OUT OF PROVIDING OPTIONAL MEDICAL ASSISTANCE SERVICES TO ANY NEW ENROLLEES WHO HAVE EITHER NEVER RECEIVED SUCH BENEFITS OR WHO HAVE REENROLLED AFTER A PERIOD OF ABSENCE.

(B) THE COMMISSIONER OF HEALTH IS AUTHORIZED TO APPLY FOR ANY AND ALL FEDERAL WAIVERS REQUIRED TO IMPLEMENT THE PROVISIONS OF THIS SUBDIVISION.

S 2. This act shall take effect immediately.

PART G

Section 1. Subdivision (c) of section 1 of part C of chapter 58 of the laws of 2005, relating to authorizing reimbursements for expenditures made by or on behalf of social services districts for medical assistance

for needy persons and the administration thereof, is amended to read as follows:

(c) Commencing with the calendar year beginning January 1, 2006, calendar year social services district medical assistance expenditure amounts for each social services district shall be calculated by multiplying the results of the calculations performed pursuant to paragraph (b) of this section by a non-compounded trend factor, as follows:

(i) 2006 (January 1, 2006 through December 31, 2006): 3.5%;

(ii) 2007 (January 1, 2007 through December 31, 2007): 6.75% (3.25% plus the prior year's 3.5%);

(iii) 2008 (January 1, 2008 through December 31, 2008): 9.75% (3% plus the prior year's 6.75%);

(iv) 2009 (January 1, 2009 through December 31, 2009): 12.75% (3% PLUS THE PRIOR YEAR'S 9.75%);

(V) 2010 (JANUARY 1, 2010 THROUGH DECEMBER 31, 2010): 15.75% (3% PLUS THE PRIOR YEAR'S 12.75%);

(VI) 2011 (JANUARY 1, 2011 THROUGH DECEMBER 31, 2011): 18.75% (3% PLUS THE PRIOR YEAR'S 15.75%);

(VII) 2012 (JANUARY 1, 2012 THROUGH DECEMBER 31, 2012), and each succeeding calendar year: prior year's trend factor percentage [plus 3%].

S 2. This act shall take effect January 1, 2012; provided, however, if this act shall become a law after such date it shall take effect immediately and shall be deemed to have been in full force and effect on and after January 1, 2012.

PART H

Section 1. Paragraph (a) of subdivision 25-a of section 210 of the tax law, as amended by section 18 of part B of chapter 58 of the laws of 2004, is amended to read as follows:

(a) A taxpayer shall be allowed a credit against the tax imposed by this article equal to [twenty] FIFTY percent of the premium paid during the taxable year for long-term care insurance. In order to qualify for such credit, the taxpayer's premium payment must be for the purchase of or for continuing coverage under a long-term care insurance policy that qualifies for such credit pursuant to section one thousand one hundred seventeen of the insurance law.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall apply to all subsequent tax years.

PART I

Section 1. Subsection (l) of section 3216 of the insurance law, as added by chapter 504 of the laws of 1995, is amended to read as follows:

(l) On and after January first, nineteen hundred ninety-seven, no insurer shall offer major medical, comprehensive or other comparable individual contracts, other than for purposes of conversion, unless the benefits of such contracts, including deductibles and coinsurance, are identical to the out-of-plan benefits of the contracts described in section four thousand three hundred twenty-two of this chapter. Such contracts must include a prescription drug benefit complying with the requirements of that section. THE REQUIREMENTS OF THIS SUBSECTION SHALL NOT APPLY TO A POLICY INTENDED TO QUALIFY FOR USE IN A HEALTH SAVINGS ACCOUNT PURSUANT TO SECTION 1201 OF THE FEDERAL MEDICARE PRESCRIPTION

DRUG, IMPROVEMENT AND MODERNIZATION ACT OF 2003. SUCH POLICIES SHALL BE KNOWN AS "FREEDOM POLICIES".

S 2. Section 3221 of the insurance law is amended by adding a new subsection (s) to read as follows:

(S) NO GROUP OR BLANKET ACCIDENT AND HEALTH INSURANCE POLICY ISSUED OR ISSUED FOR DELIVERY IN THIS STATE FOR USE IN A HEALTH SAVINGS ACCOUNT PURSUANT TO SECTION 1201 OF THE FEDERAL MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003 SHALL BE REQUIRED TO MEET THE REQUIREMENTS OF THIS SECTION, OR REGULATIONS ISSUED BY THE SUPERINTENDENT, WITH REGARD TO COVERED HEALTH CARE SERVICES WHICH MUST BE INCLUDED IN THE POLICY. SUCH POLICIES SHALL BE KNOWN AS "FREEDOM POLICIES".

S 3. Subsection (l) of section 4304 of the insurance law, as added by chapter 504 of the laws of 1995, is amended to read as follows:

(l) On and after January first, nineteen hundred ninety-seven, no insurer shall offer major medical, comprehensive or other comparable individual contracts on a direct payment basis, other than for purposes of conversion, unless the benefits of such contracts, including deductibles and coinsurance, are identical to the out-of-plan benefits of the contracts described in section four thousand three hundred twenty-two of this article. Such contracts must include a prescription drug benefit complying with the requirements of such section. THE REQUIREMENTS OF THIS SUBSECTION SHALL NOT APPLY TO A POLICY INTENDED TO QUALIFY FOR USE IN A HEALTH SAVINGS ACCOUNT PURSUANT TO SECTION 1201 OF THE FEDERAL MEDICARE PRESCRIPTION DRUG, IMPROVEMENT AND MODERNIZATION ACT OF 2003. SUCH POLICIES SHALL BE KNOWN AS "FREEDOM POLICIES".

S 4. Section 4304 of the insurance law is amended by adding a new subsection (n) to read as follows:

(N) NO POLICY ISSUED TO A REMITTING AGENT ON BEHALF OF A GROUP PURSUANT TO SUBSECTION (A) OF THIS SECTION, AND NO POLICY ISSUED TO A GROUP PURSUANT TO SECTION FOUR THOUSAND THREE HUNDRED FIVE OF THIS ARTICLE, FOR USE IN A HEALTH SAVINGS ACCOUNT PURSUANT TO SECTION 1201 OF THE FEDERAL MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003 SHALL BE REQUIRED TO MEET THE REQUIREMENTS OF THIS SECTION OR SECTION FOUR THOUSAND THREE HUNDRED FIVE OF THIS ARTICLE, OR REGULATIONS ISSUED BY THE SUPERINTENDENT, WITH REGARD TO COVERED HEALTH CARE SERVICES WHICH MUST BE INCLUDED IN THE POLICY. SUCH POLICIES SHALL BE KNOWN AS "FREEDOM POLICIES".

S 5. Subsection (a) of section 4322 of the insurance law, as amended by chapter 342 of the laws of 2004, is amended to read as follows:

(a) On and after January first, nineteen hundred ninety-six, all health maintenance organizations issued a certificate of authority under article forty-four of the public health law or licensed under this article shall offer to individuals, in addition to the standardized contract required by section four thousand three hundred twenty-one of this article, a standardized individual enrollee direct payment contract on an open enrollment basis as prescribed by section four thousand three hundred seventeen of this article and section four thousand four hundred six of the public health law, and regulations promulgated thereunder, with an out-of-plan benefit system, provided, however, that such requirements shall not apply to a health maintenance organization exclusively serving individuals enrolled pursuant to title eleven of article five of the social services law, title eleven-D of article five of the social services law, title one-A of article twenty-five of the public health law or title eighteen of the federal Social Security Act, and, further provided, that such health maintenance organization shall not discontinue a contract for an individual receiving comprehensive-type

coverage in effect prior to January first, two thousand four who is ineligible to purchase policies offered after such date pursuant to this section or section four thousand three hundred twenty-two of this article due to the provision of 42 U.S.C. 1395ss in effect prior to January first, two thousand four. The out-of-plan benefit system shall either be provided by the health maintenance organization pursuant to subdivision two of section four thousand four hundred six of the public health law or through an accompanying insurance contract providing out-of-plan benefits offered by a company appropriately licensed pursuant to this chapter. On and after January first, nineteen hundred ninety-six, the contracts issued pursuant to this section and section four thousand three hundred twenty-one of this article shall be the only contracts offered by health maintenance organizations to individuals; PROVIDED, HOWEVER, THIS LIMITATION SHALL NOT APPLY TO ONE OR MORE POLICIES INTENDED TO QUALIFY FOR USE IN A HEALTH SAVINGS ACCOUNT PURSUANT TO SECTION 1201 OF THE FEDERAL MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003. SUCH POLICIES SHALL BE KNOWN AS "FREEDOM POLICIES". The enrollee contracts issued by a health maintenance organization under this section and section four thousand three hundred twenty-one of this article shall also be the only contracts issued by the health maintenance organization for purposes of conversion pursuant to sections four thousand three hundred four and four thousand three hundred five of this article. However, nothing in this section shall be deemed to require health maintenance organizations to terminate individual direct payment contracts issued prior to January first, nineteen hundred ninety-six or prohibit health maintenance organizations from terminating individual direct payment contracts issued prior to January first, nineteen hundred ninety-six.

S 6. This act shall take effect immediately.

PART J

Section 1. The general municipal law is amended by adding a new section 93-e to read as follows:

S 93-E. CONTRIBUTIONS OF HEALTH INSURANCE PREMIUMS FOR OFFICERS AND EMPLOYEES OF MUNICIPAL CORPORATIONS AND AGENCIES OR INSTRUMENTALITIES THEREOF. 1. NO MORE THAN NINE-TENTHS OF THE COST OF PREMIUM OR SUBSCRIPTION CHARGES FOR THE COVERAGE OF ANY OFFICER OR EMPLOYEE OF THE MUNICIPALITY OR RETIRED EMPLOYEES WHO ARE ENROLLED IN A HEALTH BENEFIT PLAN SHALL BE PAID BY THE MUNICIPALITY.

2. NO MORE THAN THREE-QUARTERS OF THE COST OF PREMIUM OR SUBSCRIPTION CHARGES FOR THE COVERAGE OF DEPENDENTS OF SUCH MUNICIPAL EMPLOYEES AND RETIRED MUNICIPAL EMPLOYEES WHO ARE ENROLLED IN A HEALTH BENEFIT PLAN SHALL BE PAID BY THE MUNICIPALITY.

3. THE PROVISIONS OF THIS SECTION SHALL APPLY TO AND BE EFFECTIVE WITHIN EVERY CITY, COUNTY, TOWN, VILLAGE, SCHOOL DISTRICT AND ORGANIZED PUBLIC DISTRICT IN THE STATE.

S 2. This act shall take effect immediately.

PART K

Section 1. Paragraph c of subdivision 4 of section 220 of the labor law, as amended by chapter 118 of the laws of 1962, is amended and a new paragraph d is added to read as follows:

c. Engineers, electricians and elevator men in the bureau of building management of the office of general services during the annual session of the legislature[.];

D. ANY PUBLIC WORKS PROJECTS WHERE THE FISCAL OFFICER HAS ANTICIPATED A TOTAL COST OF LESS THAN FIVE HUNDRED THOUSAND DOLLARS.

S 2. This act shall take effect immediately.

PART L

Section 1. Subdivision 2 of section 220 of the labor law, as amended by chapter 678 of the laws of 2007, is amended to read as follows:

2. Each contract to which the state or a public benefit corporation or a municipal corporation or a commission appointed pursuant to law is a party[, and any contract for public work entered into by a third party acting in place of, on behalf of and for the benefit of such public entity pursuant to any lease, permit or other agreement between such third party and the public entity,] and which may involve the employment of laborers, workers or mechanics shall contain a stipulation that no laborer, worker or mechanic in the employ of the contractor, subcontractor or other person doing or contracting to do the whole or a part of the work contemplated by the contract shall be permitted or required to work more than eight hours in any one calendar day or more than five days in any one week except in cases of extraordinary emergency including fire, flood or danger to life or property. No such person shall be so employed more than eight hours in any day or more than five days in any one week except in such emergency. Extraordinary emergency within the meaning of this section shall be deemed to include situations in which sufficient laborers, workers and mechanics cannot be employed to carry on public work expeditiously as a result of such restrictions upon the number of hours and days of labor and the immediate commencement or prosecution or completion without undue delay of the public work is necessary in the judgment of the commissioner for the preservation of the contract site and for the protection of the life and limb of the persons using the same. Upon the application of any person interested, the commissioner shall make a determination as to whether or not on any public project or on all public projects in any area of this state, sufficient laborers, workers and mechanics of any or all classifications can be employed to carry on work expeditiously if their labor is restricted to eight hours per day and five days per week, and in the event that the commissioner determines that there are not sufficient workers, laborers and mechanics of any or all classifications which may be employed to carry on such work expeditiously if their labor is restricted to eight hours per day and five days per week, and the immediate commencement or prosecution or completion without undue delay of the public work is necessary in the judgment of the commissioner for the preservation of the contract site and for the protection of the life and limb of the persons using the same, the commissioner shall grant a dispensation permitting all laborers, workers and mechanics, or any classification of such laborers, workers and mechanics, to work such additional hours or days per week on such public project or in such areas the commissioner shall determine. Whenever such a dispensation is granted, all work in excess of eight hours per day and five days per week shall be considered overtime work, and the laborers, workers and mechanics performing such work shall be paid a premium wage commensurate with the premium wages prevailing in the area in which the work is performed. No such dispensation shall be effective with respect to any

public work unless and until the department of jurisdiction, as defined in this section, certifies to the commissioner that such public work is of an important nature and that a delay in carrying it to completion would result in serious disadvantage to the public. Time lost in any week because of inclement weather by employees engaged in the construction, reconstruction and maintenance of highways outside of the limits of cities and villages may be made up during that week and/or the succeeding three weeks.

S 2. Paragraph (c) of subdivision 3 of section 220 of the labor law, as separately amended by chapter 678 of the laws of 2007 and chapter 7 of the laws of 2008, is amended to read as follows:

(c) It shall be the duty of the fiscal officer, as defined in this section, to ascertain and determine the schedules of supplements to be provided and wages to be paid workers, laborers and mechanics on such public work, prior to the time of the advertisement for bids, and such schedules shall be annexed to and form a part of the specifications for the work. Such fiscal officer shall file with the department having jurisdiction such schedules prior to the time of the commencement of the advertisement for bids on all public works proposed to be constructed. The term "contract" as used in this article also shall include reconstruction and repair of any such public work[, and any public work performed under a lease, permit or other agreement pursuant to which the department of jurisdiction grants the responsibility of contracting for such public work to any third party proposing to perform such work to which the provisions of this article would apply had the department of jurisdiction contracted directly for its performance, or where there is no lease, permit or other agreement and ownership of a public work is intended to be assumed by such public entity at any time subsequent to completion of the public work].

S 3. Section 5 of chapter 678 of the laws of 2007, amending the labor law relating to contracts for public work and building service work, is amended to read as follows:

S 5. This act shall take effect on the sixtieth day after it shall have become a law[, and shall apply to all contracts or other agreements entered into on or after such date; and shall expire and be deemed repealed 5 years after such effective date].

S 4. This act shall take effect immediately.

PART M

Section 1. This act shall be known and may be cited as the "scaffold reform act".

S 2. The labor law is amended by adding a new section 241-c to read as follows:

S 241-C. COUNTIES GRANTED LOCAL OPTION. 1. COUNTIES SHALL BE GRANTED A LOCAL OPTION TO REQUIRE CONTRACTORS WORKING ON PROJECTS WITHIN THEIR RESPECTIVE JURISDICTIONS TO COMPLY WITH THE REGULATIONS AND STANDARDS SET FORTH BY THE UNITED STATES DEPARTMENT OF LABOR OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION AND APPLICABLE STATE REGULATIONS, INSTEAD OF THE REQUIREMENTS OF SECTIONS TWO HUNDRED FORTY, TWO HUNDRED FORTY-ONE AND TWO HUNDRED FORTY-ONE-A OF THIS ARTICLE.

2. CONTRACTORS AND EMPLOYEES IN SUCH COUNTIES THAT OPT NOT TO FOLLOW SUCH PROVISIONS OF SECTIONS TWO HUNDRED FORTY, TWO HUNDRED FORTY-ONE AND TWO HUNDRED FORTY-ONE-A OF THIS ARTICLE SHALL BE SUBJECT TO A CONTRIBUTORY NEGLIGENCE STANDARD THAT HOLD EMPLOYEES RESPONSIBLE FOR THEIR CULPABLE CONDUCT. SUCH CONDUCT SHALL INCLUDE, BUT NOT BE LIMITED TO:

(A) ANY EMPLOYEE WHO FAILS TO FOLLOW SAFETY INSTRUCTIONS OR SAFE WORK PRACTICES PROVIDED IN ACCORDANCE WITH APPROVED TRAINING COURSES, INCLUDING, BUT NOT LIMITED TO, COURSES PROVIDED BY THE UNITED STATES DEPARTMENT OF LABOR OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION OR BY THE DEPARTMENT;

(B) ANY EMPLOYEE WHO FAILS TO USE SAFETY DEVICES FURNISHED ON THE JOB SITE; OR

(C) ANY EMPLOYEE WHO WAS INJURED WHILE IMPAIRED BY THE USE OF ALCOHOL OR DRUGS OR WHILE COMMITTING A CRIME.

3. THE COMMISSIONER SHALL PROMULGATE ANY RULES AND REGULATIONS NECESSARY FOR THE IMPLEMENTATION OF THIS SECTION TO AUTHORIZE COUNTIES TO EXERCISE THIS LOCAL OPTION. THE PROCESS FOR THE IMPLEMENTATION OF SUCH RULES AND REGULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, CONSULTATIONS WITH BUSINESSES AND LABOR, MANDATORY PUBLIC HEARINGS AND APPROVAL BY THE COUNTY GOVERNING BODY.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.

PART N

Section 1. Section 101 of the general municipal law is REPEALED.

S 2. Subdivision 4 of section 279-c of the county law, as added by chapter 504 of the laws of 1997, is amended to read as follows:

4. Every agreement entered into between the district and a private entity, pursuant to subdivision one of this section, for the construction of a wastewater treatment facility, shall require the payment of all applicable prevailing wages pursuant to section two hundred twenty of the labor law, shall require the furnishing to the district of a performance bond in the full amount of the cost of such construction, shall require that each contractor and subcontractor performing work on such construction furnish a payment bond in the full amount of its contract guaranteeing prompt payment of monies that are due to all persons furnishing labor and materials to such contractor or subcontractor[, and shall contain provisions that such construction, if in excess of twenty thousand dollars, shall be conducted pursuant to section one hundred one of the general municipal law]. A copy of the above mentioned payment and performance bonds shall be kept by the district and shall be open to public inspection.

S 3. Paragraph d of subdivision 1 of section 372-a of the education law, as added by chapter 624 of the laws of 1999, is amended to read as follows:

d. Any contracts or leases entered into by the trustees of the state university of New York pursuant to this section shall require the lessee or contracting not-for-profit corporation to comply with the requirements of article fifteen-A of the executive law. Any contract or lease for construction, rehabilitation, or other improvement authorized by this section entered into by the trustees shall require the lessee or contractor and/or subcontractor to comply with the requirements of section two hundred twenty, two hundred thirty, two hundred thirty-one, two hundred forty and two hundred forty-one of the labor law, where applicable, as well as [sections one hundred one and] SECTION one hundred three of the general municipal law, where applicable;

S 4. Subdivision 11 of section 407-a of the education law, as added by chapter 737 of the laws of 1988, is amended to read as follows:

11. Any contract undertaken or financed by the dormitory authority for any construction, reconstruction, rehabilitation or improvement for any

special act school district shall comply with the provisions of [sections one hundred one and] SECTION one hundred three of the general municipal law.

S 5. Subdivision 1 of section 458 of the education law is REPEALED and subdivisions 2 and 2-a are renumbered subdivisions 1 and 2.

S 6. Subdivision 1 of section 482 of the education law is REPEALED and subdivisions 2 and 2-a are renumbered subdivisions 1 and 2.

S 7. Subdivision 3 of section 1726 of the education law, as added by chapter 198 of the laws of 1973, is amended to read as follows:

3. Such agreements shall be subject to the bidding requirements of the general municipal law[, except that the provisions of section one hundred one of the general municipal law shall not apply to lease or lease-purchase of pre-manufactured items delivered to the site, but shall apply to installation and other work to be performed on the site].

S 8. Subdivision (b) of section 6281 of the education law is REPEALED.

S 9. Subparagraph 4 of paragraph c of subdivision 2 of section 27-0707 of the environmental conservation law, as amended by chapter 70 of the laws of 1988, is amended to read as follows:

(4) the applicant has received or will receive the written opinion of counsel to each [muncipality] MUNICIPALITY or public authority which has entered into a contract, lease or rental agreement with the proposed facility that such contract, lease or rental agreement is in compliance with the applicable requirements of sections [one hundred one,] one hundred three and one hundred twenty-w of the general municipal law.

S 10. The closing paragraph of section 99-q of the general municipal law, as added by chapter 825 of the laws of 1987, is amended to read as follows:

All contracts entered into pursuant to the provisions of this section shall be subject to the provisions of [sections one hundred one and] SECTION one hundred three of this chapter.

S 11. The opening paragraph of paragraph (e) of subdivision 4 of section 120-w of the general municipal law, as amended by chapter 552 of the laws of 1980, is amended to read as follows:

It is the intent of the legislature that overall cost should in all cases be a major criterion in the selection of contractors for award of contracts pursuant to this section and that, wherever practical, such contracts which include construction work should be procured through competitive bidding procedures as prescribed by [sections one hundred one and] SECTION one hundred three of this chapter. It is further the intent of the legislature to acknowledge the highly complex and innovative nature of resource recovery technology for processing mixed solid waste, the relative newness of the variety of resource recovery systems now available, the desirability of a single point of responsibility for the development of facilities and the economic and technical utility of contracts for resource recovery projects which include in their scope various combinations of design, construction, operation, management and/or maintenance responsibilities over prolonged periods of time and that in some instances it may be beneficial to the municipality to award a contract on the basis of factors other than cost alone, including but not limited to facility design, system reliability, energy efficiency, compatibility with source separation and other recycling systems and environmental protection. Accordingly, and notwithstanding the provisions of any general, special or local law or charter, a contract entered into between a municipality and any person pursuant to this section may be awarded pursuant to public bidding in compliance with [sections one hundred one and] SECTION one hundred three of this chapter

or pursuant to the following provisions for the award of a contract based on evaluation of proposals submitted in response to a request for proposals prepared by or for the municipality:

S 12. Section 1136 of the public authorities law, as added by chapter 592 of the laws of 1991, is amended to read as follows:

S 1136. Construction and purchase contracts. The authority shall let contracts for construction or purchase of supplies, materials or equipment pursuant to [sections one hundred one and] SECTION one hundred three of the general municipal law. Nothing in this section shall be construed to limit the powers of the authority to do any construction directly by the officers, agents and employees of the authority.

S 13. Section 1137 of the public authorities law, as added by chapter 595 of the laws of 1991, is amended to read as follows:

S 1137. Construction and purchase contracts. The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to [sections one hundred one and] SECTION one hundred three of the general municipal law. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

S 14. Section 1147-u of the public authorities law, as added by chapter 691 of the laws of 1995, is amended to read as follows:

S 1147-u. Construction and purchase contracts. The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to [sections one hundred one and] SECTION one hundred three of the general municipal law and shall be let in accordance with the provisions of state law pertaining to prevailing wages, labor standards, and working hours. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

S 15. Section 1174-q of the public authorities law, as added by chapter 491 of the laws of 1991, is amended to read as follows:

S 1174-q. Construction and purchase contracts. The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to [sections one hundred one and] SECTION one hundred three of the general municipal law. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority or to contract with a public utility, for a term not to exceed five years, for the operation and maintenance of a water supply system acquired from said public utility.

S 16. Section 1198-q of the public authorities law, as added by chapter 868 of the laws of 1990, is amended to read as follows:

S 1198-q. Construction and purchase contracts. The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to [sections one hundred one and] SECTION one hundred three of the general municipal law. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority or to contract with a public utility, for a term not to exceed five years, for the operation and maintenance of a water supply system acquired from said public utility.

S 17. Section 1199-qqq of the public authorities law, as added by chapter 678 of the laws of 1990, is amended to read as follows:

S 1199-qqq. Construction and purchase contracts. The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to [sections one hundred one and] SECTION one hundred

three of the general municipal law. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

S 18. Section 1199-qqqq of the public authorities law, as added by chapter 195 of the laws of 1995, is amended to read as follows:

S 1199-qqqq. Construction and purchase contracts. The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to [sections one hundred one and] SECTION one hundred three of the general municipal law and shall be let in accordance with the provisions of state law pertaining to prevailing wages, labor standards, and working hours. Nothing in this section shall be construed to limit the power of the authority to do any construction directly by the officers, agents and employees of the authority.

S 19. The closing paragraph of subdivision 13 of section 1678 of the public authorities law, as added by chapter 825 of the laws of 1987, is amended to read as follows:

Any contract undertaken or financed by the dormitory authority for any construction, reconstruction, rehabilitation or improvement of any court facilities or combined occupancy structures shall comply with the provisions of [sections one hundred one and] SECTION one hundred three of the general municipal law.

S 20. The opening paragraph of paragraph a of subdivision 2 of section 1680 of the public authorities law, as amended by section 25 of part II of chapter 59 of the laws of 2004, is amended to read as follows:

The dormitory authority is hereby authorized and empowered upon application of the educational institution concerned to acquire, design, construct, reconstruct, rehabilitate and improve, or otherwise provide and furnish and equip dormitories and attendant facilities for any educational institution, provided that THE SPECIFICATIONS FOR any contract undertaken or financed by the dormitory authority for any construction, reconstruction, rehabilitation or improvement of any building or structure commenced after September first, nineteen hundred seventy-four for the Gananda school district or the Gananda educational facilities corporation, or any agency, board or commission therein, or any official thereof, [shall comply with the provisions of section one hundred one of the general municipal law and the specifications for such contract] may provide for assignment of responsibility for coordination of any of the contracts for such work to a single responsible and qualified person, firm or corporation; [provided, however, that all contracts for construction of buildings on behalf of Queens Hospital Center shall be in conformity with the provisions of section one hundred one of the general municipal law;] provided that any contracts for the construction, reconstruction, rehabilitation or improvement of any public work project undertaken by the dormitory authority of any facility for the aged for any political subdivision of the state or any district therein or agency, department, board or commission thereof, or any official thereof, shall comply with the provisions of section one hundred thirty-five of the state finance law; and provided further that any contract undertaken or financed by the dormitory authority for any construction, reconstruction, rehabilitation or improvement of any building commenced after January first, nineteen hundred eighty-nine for the department of health shall comply with the provisions of section one hundred thirty-five of the state finance law.

S 21. Subdivision 1 of section 1734 of the public authorities law, as added by chapter 738 of the laws of 1988, is amended to read as follows:

1. [a.] All contracts for the construction, reconstruction, improvement, rehabilitation, maintenance, repair, furnishing, equipping of or otherwise providing for educational facilities for the city board may be awarded in accordance with the provisions of this section, notwithstanding the provisions of section eight of the public buildings law, section one hundred three of the general municipal law, section one hundred thirty-five of the state finance law, section seven of the New York state financial emergency act for the city of New York or of any other provision of general, special or local law, charter or administrative code.

[b. The authority shall be subject to the provisions of section one hundred one of the general municipal law.]

S 22. Section 1735 of the public authorities law, as added by chapter 738 of the laws of 1988, subdivision 1 as amended by chapter 345 of the laws of 2009, subdivision 4 as amended by chapter 491 of the laws of 2000 and subdivision 6 as amended by chapter 523 of the laws of 2010, is amended to read as follows:

S 1735. Certain contracts of the authority. 1. [Notwithstanding the provisions of paragraph b of subdivision one of section seventeen hundred thirty-four of this title, the award of construction contracts by the authority between July first, nineteen hundred eighty-nine and June thirtieth, two thousand fourteen, shall not be subject to the provisions of section one hundred one of the general municipal law.

2.] Notice of the invitation for bids for contracts to be awarded pursuant to this section shall state the time and place of the receipt and opening of bids.

[3.] 2. All bidders shall submit to the authority, prior to the opening of a bid for the award of a contract under this section, a sealed list identifying the names of each subcontractor each contractor proposes to utilize under the contract for the performance of the following subdivisions of work:

a. Plumbing and gas fitting;

b. Steam heating, hot water heating, ventilating and air conditioning apparatus; and

c. Electric wiring and standard illuminating fixtures.

The low bidder shall specify in such list the estimated value to be paid each such subcontractor for the work to be performed by such subcontractor. After the authority has announced the low bidder at the bid opening, the authority shall open only such low bidder's separate sealed list and shall read aloud such subcontractors listed therein. All such sealed lists except those of the low bidder shall be returned unopened to their respective contractors following the awarding of a contract.

[4.] 3. The authority shall establish a committee to review and report on contracts issued pursuant to this section and on the procedures and methodology of the authority in awarding such contracts. The review shall include, but not be limited to, the degree to which contractors awarded contracts pursuant to [such paragraph] THIS SECTION, and the subcontractors utilized by them, utilize employees who are represented by labor organizations, comply with existing labor standards, maintain harmonious labor relations and recognize state approved apprentice programs. The committee shall, from time to time, issue economic and statistical reports dealing with the costs of construction under this article. Such reports shall deal with the costs of labor, material, equipment and profit. The committee shall have no authority to approve or disapprove contracts. The committee shall be composed of two repre-

sentatives from the authority, one representative from the board, two representatives from construction-related labor organizations and two representatives from the construction industry, at least one of whom shall be involved in the subdivisions of work described in subdivision [three] TWO of this section. The president of the authority shall designate the members of the committee, provided, however, that the president shall designate the representatives of labor organizations from a list of names submitted by the New York state AFL-CIO.

[5.] 4. In awarding contracts pursuant to this section the authority shall, in addition to the factors set forth in subdivision three of section seventeen hundred thirty-four of this title, consider the following factors when establishing a list of pre-qualified bidders for construction work: (a) the degree to which a contractor or subcontractor utilizes employees who are represented by a labor organization; (b) the absence of any intentional misrepresentation with regard to lists of subcontractors previously submitted pursuant to the provisions of subdivision [two] ONE of this section; and (c) the record of the bidder in complying with existing labor standards, maintaining harmonious labor relations and recognizing state approved apprentice programs.

[6.] 5. The authority shall provide in its construction, erection or alteration contracts which implement a five year educational facilities capital plan a provision that shall require each contractor to make prompt payment to its subcontractors performing each subdivision of work listed in subdivision [three] TWO of this section. Within seven calendar days of the receipt of any payment from the authority, the contractor shall pay to each such subcontractor that portion of the proceeds of such payment representing the value of the work performed by such subcontractor, based upon the actual value of the subcontract, which has been approved and paid for by the authority, less an amount necessary to satisfy any claims, liens or judgments against the subcontractor which have not been suitably discharged and less any amount retained by the contractor as provided herein. For such purpose, the subcontract may provide that the contractor may retain not more than five per centum of each payment to the subcontractor or not more than ten per centum of each such payment if prior to entering into the subcontract the subcontractor is unable or unwilling to provide, at the request of the contractor, a performance bond and a labor and material bond both in the amount of the subcontract.

At the time of making a payment to the contractor for work performed by the subcontractors set forth in subdivision [three] TWO of this section, the authority shall file in its office for review a record of such payment. If any such subcontractor shall notify the authority and the contractor in writing that the contractor has failed to make a payment to it as provided herein and the contractor shall fail, within five calendar days after receipt of such notice, to furnish either proof of such payment or notice that the amount claimed by the subcontractor is in dispute, the authority shall withhold from amounts then or thereafter becoming due and payable to the contractor, other than from amounts becoming due and payable to the contractor representing the value of work approved by the authority and performed by other subcontractors and which the contractor is required to pay to such subcontractors within seven calendar days as herein provided, an amount equal to one hundred fifty percent of that portion of the authority's prior payment to the contractor which the subcontractor claims to be due it, shall remit the amount when and so withheld to the subcontractor and deduct such payment from the amounts then otherwise due and payable to

the contractor, which payment shall, as between the contractor and the authority, be deemed a payment by the authority to the contractor. In the event the contractor shall notify the authority as above provided that the claim of the subcontractor is in dispute, the authority shall withhold from amounts then or thereafter becoming due and payable to the contractor, other than from amounts becoming due and payable to the contractor representing the value of work approved by the authority and performed by other subcontractors and which the contractor is required to pay to such subcontractors within seven calendar days as herein provided, an amount equal to one hundred fifty percent of that portion of the authority's prior payment to the contractor which the subcontractor claims to be due it and deposit such amount when and so withheld in a separate interest-bearing account pending resolution of the dispute, and the amount so deposited together with the interest thereon shall be paid to the party or parties ultimately determined to be entitled thereto, or until the contractor and subcontractor shall otherwise agree as to the disposition thereof. In the event the authority shall be required to withhold amounts from a contractor for the benefit of more than one subcontractor, the amounts so withheld shall be applied to or for such subcontractors in the order in which the written notices of nonpayment have been received by the authority, and if more than one such notice was received on the same day, proportionately based upon the amount of the subcontractor claims received on such day. Notwithstanding the foregoing, in lieu of withholding such amount or amounts in dispute, the contractor may post a bond or other form of undertaking guaranteeing payment of such disputed amounts. Nothing herein contained shall prevent the authority from commencing an interpleader action to determine entitlement to a disputed payment in accordance with section one thousand six of the civil practice law and rules, or any successor provision thereto. In the event the authority does not withhold the required amounts within sixty days after the written notification from the subcontractor regarding failure of the contractor to make payment, the subcontractor may file a lien under article two of the lien law as the sole remedy in lieu of the remedy provided under this subdivision.

Payment to a subcontractor shall not relieve the contractor from responsibility for the work covered by the payment. Except as otherwise provided, nothing contained herein shall create any obligation on the part of the authority to pay any subcontractor, nor shall anything provided herein serve to create any relationship in contract or otherwise, implied or expressed, between the subcontractor and the authority.

The provisions of this subdivision shall not be applicable to the subcontractors of a contractor whose contract is limited to the performance of a single subdivision of work listed in subdivision [three] TWO of this section.

[7.] 6. The provisions of this section shall cease to be in effect in the event any of the provisions of this section shall be adjudged to be invalid by the final judgment of a court of competent jurisdiction from which judgment all appeals or applications for relief have been exhausted or the time therefor has expired, provided, however, that such appeals or applications are pursued promptly.

S 23. Section 2052-k of the public authorities law, as added by chapter 683 of the laws of 1992, is amended to read as follows:

S 2052-k. Construction and purchase contracts. The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to [sections one hundred one and] SECTION one hundred three of the general municipal law. Nothing in this section shall be

construed to limit the powers of the authority to do any construction directly by the officers, agents and employees of the authority.

S 24. Subdivision 1 of section 2680-q of the public authorities law, as added by chapter 632 of the laws of 1999, is amended to read as follows:

1. The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to [sections one hundred one and] SECTION one hundred three of the general municipal law. Nothing in this section shall be construed to limit the powers of the authority to do any construction directly by the officers, agents and employees of the authority.

S 25. The opening paragraph of subdivision 9 of section 3303 of the public authorities law, as added by chapter 11 of the laws of 1997, is amended to read as follows:

It is the intent of the legislature that overall cost should in all cases be a major criterion in the selection of project developers for award of contracts pursuant to this section and that, wherever practical, such contracts should be entered into through competitive bidding procedures as prescribed by [sections one hundred one and] SECTION one hundred three of the general municipal law. It is further the intent of the legislature to acknowledge the highly complex and innovative nature of medical technology, diagnostic and treatment devices, the relative newness of a variety of devices, processes and procedures now available, the desirability of a single point of responsibility for the development of medical treatment and diagnostic facilities and the economic and technical utility of contracts for medical projects which include in their scope various combinations of design, construction, operation, management and/or maintenance responsibility over prolonged periods of time and that in some instances it may be beneficial to the corporation to award a contract for a medical project on the basis of factors other than cost alone, including but not limited to facility design, system reliability, efficiency, safety, and compatibility with other elements of patient care. Accordingly, and notwithstanding the provisions of any general, special or local law or chapter, a contract for a medical project entered into between the corporation and any project developer pursuant to this section may be awarded pursuant to public bidding in compliance with [sections one hundred one and] SECTION one hundred three of the general municipal law or pursuant to the following provisions for the award of a contract based on evaluation of proposals submitted in response to a request for proposals prepared by or for the corporation:

S 26. The opening paragraph of subdivision 8 of section 3402 of the public authorities law, as added by chapter 9 of the laws of 1997, is amended to read as follows:

It is the intent of the legislature that overall cost should in all cases be a major criterion in the selection of project developers for award of contracts pursuant to this section and that, wherever practical, such contracts should be entered into pursuant to the provisions of [sections one hundred one and] SECTION one hundred three of the general municipal law. It is further the intent of the legislature to acknowledge the highly complex and innovative nature of medical technology, diagnostic and treatment devices, the relative newness of a variety of devices, processes and procedures now available, the desirability of a single point of responsibility for the development of medical treatment and diagnostic facilities and the economic and technical utility of contracts for medical projects which include in their scope various combinations of design, construction, operation, management and/or main-

tenance responsibility over prolonged periods of time and that in some instances it may be beneficial to the corporation to award a contract for a medical project on the basis of factors other than capital cost alone, including but not limited to facility design, system reliability, efficiency, safety, long-term operating costs and compatibility with other elements of patient care. Accordingly, and notwithstanding the provisions of any general, special or local law or chapter, a contract for a medical project entered into between the corporation and any project developer pursuant to this section may be awarded pursuant to public bidding in compliance with [sections one hundred one and] SECTION one hundred three of the general municipal law or pursuant to the following provisions for the award of a contract based on evaluation of proposals submitted in response to a request for proposals prepared by or for the corporation:

S 27. The opening paragraph of subdivision 8 of section 3603 of the public authorities law, as added by chapter 507 of the laws of 1999, is amended to read as follows:

It is the intent of the legislature that overall costs should in all cases by a major criterion in the selection of project developers for the award of contracts pursuant to this section and that, wherever practical, such contracts should be entered into through competitive bidding procedures as prescribed by [sections one hundred one and] SECTION one hundred three of the general municipal law. It is further the intent of the legislature to acknowledge the highly complex and innovative nature of medical technology, diagnostic and treatment devices, the relative newness of a variety of devices, processes and procedures now available, the desirability of a single point of responsibility for the development of medical treatment and diagnostic facilities and the economic and technical utility of contracts for medical projects which include in their scope various combinations of design, construction, operation, management and/or maintenance responsibility over prolonged periods of time. In some instances it may be beneficial to the corporation to award a contract for a medical project on the basis of factors other than cost alone, including but not limited to facility design, system reliability, efficiency, safety, and compatibility with other elements of patient care. Accordingly, and notwithstanding the provisions of any general, special or local law, a contract for a medical project entered into between the corporation and any project developer pursuant to this article may be awarded pursuant to public bidding in compliance with [sections one hundred one and] SECTION one hundred three of the general municipal law or pursuant to the following provisions for the award of a contract based on evaluation of proposals submitted in response to a request for proposals prepared by or for the corporation:

S 28. The opening paragraph of subdivision 10 of section 3628 of the public authorities law, as added by chapter 143 of the laws of 2003, is amended to read as follows:

It is the intent of the legislature that overall cost shall in all cases be a major criterion in the selection of project developers for award of contracts pursuant to this section and that, whenever practical, such contracts shall be entered into through competitive bidding procedures, as prescribed by [sections one hundred one and] SECTION one hundred three of the general municipal law. It is further the intent of the legislature to acknowledge the highly complex and innovative nature of medical technology and diagnostic and treatment devices, the relative newness of a variety of devices, processes, and procedures now available, the desirability of a single point of responsibility for the

development of medical treatment and diagnostic facilities, and the economic and technical utility of contracts for medical projects which include in their scope various combinations of design, construction, operation, management, or maintenance responsibility, or any combination thereof, over prolonged periods of time, and to acknowledge that, in some instances, it may be beneficial to the corporation to award a contract for a medical project on the basis of factors other than cost alone, including, but not limited to, facility design, system reliability, efficiency, safety, and compatibility with other elements of patient care. Accordingly, and notwithstanding the provisions of any general, special, or local law or charter, a contract for a medical project entered into between the corporation and any project developer pursuant to this section may be awarded pursuant to public bidding in compliance with [sections one hundred one and] SECTION one hundred three of the general municipal law or pursuant to the following provisions for the award of a contract based on an evaluation of proposals submitted in response to a request for proposals prepared by or for the corporation:

S 29. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that the amendments to section 1735 of the public authorities law made by section twenty-two of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

PART O

Section 1. Paragraph (a) of subdivision 2 of section 222 of the labor law, as added by section 18 of part MM of chapter 57 of the laws of 2008, is amended to read as follows:

(a) Any agency, board, department, commission or officer of the state of New York, or of any political subdivision thereof as defined in section one hundred of the general municipal law, municipal corporation as defined in section sixty-six of the general construction law, public benefit corporation, or local or state authority as defined in section two of the public authorities law having jurisdiction over the public work may NOT require [a contractor awarded a contract, subcontract, lease, grant, bond, covenant or other agreement for a project to enter into], BUT MAY OFFER AS AN OPTION, PARTICIPATION IN a project labor agreement [during and for the work involved with such project when such requirement is], AND SHALL NOTIFY EACH CONTRACTOR OF THE OPTION TO INCLUDE OR NOT INCLUDE PARTICIPATION IN A PROJECT LABOR AGREEMENT WITH ITS BID, AS part of the agency, board, department, commission or officer of the state of New York, political subdivision, municipal corporation, public benefit corporation or local or state authority having jurisdiction over the public work request for proposals for the project and when the agency, board, department, commission or officer of the state of New York, political subdivision, municipal corporation, public benefit corporation or local or state authority having jurisdiction over the public work determines that its interest in obtaining the best work at the lowest possible price, preventing favoritism, fraud and corruption, and other considerations such as the impact of delay, the possibility of cost savings advantages, and any local history of labor unrest, are best met by requiring a project labor agreement, BUT SHALL IN ANY EVENT AWARD THE SUBCONTRACT, LEASE, CONTRACT, GRANT, BOND, COVENANT OR OTHER AGREEMENT FOR A PROJECT TO THE CONTRACTOR WITH THE LOW BID REGARDLESS OF WHETHER A PROJECT LABOR AGREEMENT WAS INCLUDED IN THE CONTRACTOR'S BID PROPOSAL.

S 2. Paragraph (b) of subdivision 2 of section 222 of the labor law is REPEALED.
S 3. This act shall take effect immediately.

PART P

Section 1. Subdivision 3 of section 103 of the general municipal law, as amended by chapter 343 of the laws of 2007, is amended to read as follows:
3. Notwithstanding the provisions of subdivision one of this section, any officer, board or agency of a political subdivision or of any district therein authorized to make purchases of materials, equipment or supplies, or to contract for services, may make such purchases, or may contract for services, [other than services subject to article eight or nine of the labor law,] when available, through the county in which the political subdivision or district is located or through any county within the state subject to the rules established pursuant to subdivision two of section four hundred eight-a of the county law; provided that the political subdivision or district for which such officer, board or agency acts shall accept sole responsibility for any payment due the vendor or contractor. All purchases and all contracts for such services shall be subject to audit and inspection by the political subdivision or district for which made. Prior to making such purchases or contracts the officer, board or agency shall consider whether such contracts will result in cost savings after all factors, including charges for service, material, and delivery, have been considered. No officer, board or agency of a political subdivision or of any district therein shall make any purchase or contract for any such services through the county in which the political subdivision or district is located or through any county within the state when bids have been received for such purchase or such services by such officer, board or agency, unless such purchase may be made or the contract for such services may be entered into upon the same terms, conditions and specifications at a lower price through the county.
S 2. This act shall take effect immediately.

PART Q

Section 1. Notwithstanding the provisions of article 47 of the insurance law, or any other provision of law to the contrary, a county shall be authorized to enter into a municipal cooperative agreement authorized by article 5-G of the general municipal law, with one or more school districts, towns, or villages, in order to provide health care benefits or establish a health care plan for their respective employees. Such county shall be authorized to charge an administrative fee to such school districts, towns, or villages for participation in such agreement.
S 2. This act shall take effect immediately.

PART R

Section 1. Subdivision 4 of section 1950 of the education law is amended by adding a new paragraph oo to read as follows:
OO. UPON THE REQUEST OF THE COMPONENT SCHOOL DISTRICTS AND WITH THE APPROVAL OF THE COMMISSIONER, TO PROVIDE COLLECTIVE BARGAINING, PURSUANT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW, ON A SUPERVISORY

DISTRICT-WIDE BASIS WITH THE EMPLOYEE ORGANIZATIONS REPRESENTING THE TEACHERS AND OTHER EMPLOYEES OF THE COMPONENT SCHOOL DISTRICTS.

S 2. This act shall take effect immediately.

PART S

Section 1. Section 215-b of the education law, as amended by chapter 301 of the laws of 1996, is amended to read as follows:

S 215-b. Annual report by commissioner to governor and legislature. The commissioner shall prepare and submit to the governor, the president pro tem of the senate and the speaker of the assembly not later than January first, nineteen hundred ninety-six and by the first day of January in each year thereafter, a report detailing the financial and statistical outcomes of boards of cooperative educational services which shall[, at minimum,] set forth with respect to the preceding school year[: tuition costs for selected programs; standard per pupil cost information for selected services as determined by the commissioner; and aggregate expenditure data for the following categories: administration, instructional services, career education, special education, rent and facilities and other services; and such other information as deemed appropriate] INFORMATION NECESSARY TO ASSURE THE ACCOUNTABILITY OF BOARDS OF COOPERATIVE EDUCATIONAL SERVICES FOR ITS FISCAL AND PROGRAMMATIC RESOURCES, AS SET FORTH IN REGULATIONS TO BE PRESCRIBED by the commissioner. The format for such report shall be developed in consultation with school district officials and the director of the budget. Such report will include changes from the year prior to the report year for each such item for all boards of cooperative educational services. WHERE APPLICABLE, SUCH REPORT SHALL BE SUBMITTED ELECTRONICALLY TO THE DEPARTMENT OVER THE INTERNET THROUGH A SECURE WEBPAGE AS SET FORTH IN REGULATIONS TO BE PRESCRIBED BY THE COMMISSIONER. THIS ELECTRONIC REPORT SHALL TAKE THE PLACE OF FILING PAPER COPIES OF SUCH REPORT EXCEPT IN CIRCUMSTANCES WHERE AN ORIGINAL SIGNATURE IS REQUIRED, THEN ORIGINAL PAPER COPIES MUST BE FILED. THE COMMISSIONER SHALL PROMULGATE ALL RULES AND REGULATIONS NECESSARY TO IMPLEMENT THE ELECTRONIC FILING OF SUCH REPORT. Such report shall be distributed to all school districts and boards of cooperative educational services and shall be made available to all other interested parties upon request.

S 2. Section 305 of the education law is amended by adding two new subdivisions 32 and 32-a to read as follows:

32. A. THE COMMISSIONER SHALL, TO THE EXTENT PRACTICABLE AND CONSISTENT WITH FEDERAL AND STATE LAW, ELIMINATE OR STREAMLINE PROGRAMMATIC REPORTING, PLANNING AND APPLICATION REQUIREMENTS IMPOSED ON SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES, IN ORDER TO ELIMINATE OR MINIMIZE THE PRODUCTION OF REPORTS, APPLICATIONS AND PLANS THAT CONTAIN DUPLICATIVE INFORMATION. WHERE APPLICABLE, THE COMMISSIONER SHALL REQUIRE THAT ALL SUCH REPORTS, APPLICATIONS AND PLANS SHALL BE SUBMITTED ELECTRONICALLY TO THE DEPARTMENT OVER THE INTERNET THROUGH A SECURE WEBPAGE. THESE ELECTRONIC REPORTS, APPLICATIONS AND PLANS SHALL TAKE THE PLACE OF FILING PAPER COPIES OF SUCH REPORTS, APPLICATIONS AND PLANS EXCEPT IN CIRCUMSTANCES WHERE AN ORIGINAL SIGNATURE IS REQUIRED, THEN ORIGINAL PAPER COPIES MUST BE FILED. THE COMMISSIONER SHALL PROMULGATE ALL RULES AND REGULATIONS NECESSARY TO IMPLEMENT THE ELECTRONIC FILING OF SUCH REPORTS, APPLICATIONS AND PLANS. THE COMMISSIONER SHALL REQUIRE ALL SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES TO COMPRESS ALL DISTRICTWIDE PLANNING REQUIREMENTS INTO A SINGLE DISTRICTWIDE COMPREHENSIVE PLAN, WHICH AT A MINIMUM SHALL INCLUDE

THE COMPONENTS PRESCRIBED BY THE COMMISSIONER, INCLUDING BUT NOT LIMITED TO THE DISTRICTWIDE LONG-RANGE CAPITAL FACILITIES PLAN, AND APPLICABLE CURRENT FEDERAL REQUIREMENTS. IN THE CASE OF THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK, A DISTRICTWIDE COMPREHENSIVE PLAN SHALL BE DEVELOPED FOR THE CITY SCHOOL DISTRICT, EACH COMMUNITY SCHOOL DISTRICT, AND THE DISTRICTS OR OTHER ADMINISTRATIVE DIVISIONS RESPONSIBLE FOR OPERATION OF NEW YORK CITY PUBLIC SCHOOLS. THE COMMISSIONER SHALL ALSO REQUIRE ALL SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES TO COMPRESS ALL BUILDING LEVEL PLANNING REQUIREMENTS INTO A SINGLE BUILDING LEVEL COMPREHENSIVE PLAN, WHICH AT A MINIMUM, SHALL INCLUDE THE COMPONENTS PRESCRIBED BY THE COMMISSIONER AND APPLICABLE CURRENT FEDERAL REQUIREMENTS. IT SHALL BE THE DUTY OF THE TRUSTEES OR BOARD OF EDUCATION OF EVERY SCHOOL DISTRICT AND OF THE CHANCELLOR AND EACH COMMUNITY DISTRICT EDUCATIONAL COUNCIL IN THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK AND OF EVERY BOARD OF COOPERATIVE EDUCATIONAL SERVICES TO ASSURE THAT ALL COMPONENTS OF THE DISTRICTWIDE COMPREHENSIVE PLAN AND EACH BUILDING LEVEL COMPREHENSIVE PLAN ARE AS FULLY INTEGRATED AND CONSISTENT AS PRACTICABLE, AND THAT SUCH PLANS ARE CONTINUOUSLY REVIEWED, REFLECT ONGOING ANALYSES OF CURRENT TEACHING AND LEARNING DATA AND ARE UPDATED ON AT LEAST AN ANNUAL BASIS. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, ANY SEPARATE PLAN REQUIREMENTS IMPOSED UNDER THIS CHAPTER OR ANY RULE OR REGULATION SHALL BE DEEMED TO BE FULFILLED BY INCLUSION OF SUCH PLAN IN THE COMPREHENSIVE DISTRICTWIDE OR BUILDING LEVEL PLAN, PROVIDED THAT ALL REQUIRED INFORMATION IS INCLUDED IN THE APPLICABLE COMPREHENSIVE PLAN.

B. THE COMMISSIONER SHALL REQUIRE THE TRUSTEES OR BOARD OF EDUCATION OF EVERY SCHOOL DISTRICT AND THE CHANCELLOR AND EACH COMMUNITY DISTRICT-EDUCATIONAL COUNCIL IN THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK AND EVERY BOARD OF COOPERATIVE EDUCATIONAL SERVICES TO MAKE ITS DISTRICTWIDE COMPREHENSIVE PLAN AND EACH BUILDING LEVEL COMPREHENSIVE PLAN AVAILABLE TO THE PUBLIC, EXCEPT WHERE SUCH PLANS CONTAIN INFORMATION THAT IS CONFIDENTIAL AND NOT SUBJECT TO DISCLOSURE UNDER STATE OR FEDERAL LAW. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, ANY SCHOOL DISTRICT OR BOARD OF COOPERATIVE SERVICES THAT MAKES ITS COMPREHENSIVE DISTRICTWIDE AND/OR BUILDING LEVEL PLANS PUBLICLY AVAILABLE ELECTRONICALLY THROUGH POSTING ON ITS WEBSITE SHALL BE DEEMED TO HAVE FILED SUCH PLANS WITH THE DEPARTMENT AS OF THE DATE OF POSTING AND SHALL NOT BE REQUIRED TO SEPARATELY REPORT THE INFORMATION CONTAINED IN SUCH PLANS TO THE DEPARTMENT, PROVIDED THAT SUCH DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES REPORTS SUCH POSTING TO THE DEPARTMENT, WITH THE WEB ADDRESS AT WHICH SUCH PLANS ARE AVAILABLE, IN THE MANNER PRESCRIBED BY THE DEPARTMENT, AND PROVIDED FURTHER THAT NOTHING IN THIS SUBDIVISION SHALL PRECLUDE THE DEPARTMENT FROM REQUIRING AMENDMENT OF A PLAN OR THE SUBMISSION OF ADDITIONAL INFORMATION WHERE IT DETERMINES THAT THE INFORMATION IN THE COMPREHENSIVE PLANS IS NOT CURRENT OR COMPLETE OR OTHERWISE SUFFICIENT TO MEET STATUTORY OR REGULATORY REQUIREMENTS.

32-A. NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY, THE COMMISSIONER SHALL BE AUTHORIZED AND DIRECTED TO GRANT WAIVERS PURSUANT TO THIS SUBDIVISION FROM ANY ANNUAL REPORTING REQUIREMENTS IMPOSED ON SCHOOL DISTRICTS UNDER THIS CHAPTER, IN WHOLE OR IN PART, PROVIDED SUCH WAIVERS APPLY TO ALL SCHOOL DISTRICTS AND DO NOT CONFLICT WITH FEDERAL REQUIREMENTS. SUCH WAIVERS MAY BE GRANTED UPON FINDINGS BY THE COMMISSIONER THAT:

A. THE PURPOSES OF THE REPORT CAN BE SUBSTANTIALLY MET THROUGH SUBMISSION OF A REPORT ON A TWO-YEAR, THREE-YEAR OR FIVE-YEAR BASIS, AS

SPECIFIED BY THE COMMISSIONER, TAKING INTO ACCOUNT OTHER ANNUAL DATA REPORTING REQUIREMENTS AND INFORMATION MADE PUBLICLY AVAILABLE BY THE SCHOOL DISTRICT ON AN ANNUAL BASIS; AND

B. THE REPORT OR PORTION OF THE REPORT BEING WAIVED DOES NOT CONTAIN FISCAL OR OTHER DATA OR INFORMATION NEEDED FOR PURPOSES OF COMPUTING STATE OR FEDERAL AID OR FOR PURPOSES OF SCHOOL OR SCHOOL DISTRICT ACCOUNTABILITY OR FOR AUDIT PURPOSES.

S 3. Paragraph c of subdivision 4 of section 1950 of the education law, as amended by chapter 378 of the laws of 2010, is amended to read as follows:

c. Make or cause to be made surveys to determine the need for cooperative educational services in the supervisory district and present the findings of their surveys to local school authorities. Each board of cooperative educational services shall prepare long range program plans, including special education and career education program plans, to meet the projected need for such cooperative educational services in the supervisory district for the next five years as may be specified by the commissioner, and shall keep on file and make available for public inspection and review by the commissioner such plans and thereafter annual revisions of such plans on or before the first day of December of each year, provided that such plans [may] SHALL be incorporated into a board of cooperative educational services district-wide comprehensive plan. FURTHER, WHERE APPLICABLE, THE COMMISSIONER SHALL REQUIRE THAT ALL SUCH PLANS SHALL BE SUBMITTED ELECTRONICALLY TO THE DEPARTMENT OVER THE INTERNET THROUGH A SECURE WEBPAGE. THIS ELECTRONIC PLAN SHALL TAKE THE PLACE OF FILING PAPER COPIES OF SUCH PLAN EXCEPT IN CIRCUMSTANCES WHERE AN ORIGINAL SIGNATURE IS REQUIRED, THEN ORIGINAL PAPER COPIES MUST BE FILED. THE COMMISSIONER SHALL PROMULGATE ALL RULES AND REGULATIONS NECESSARY TO IMPLEMENT THE ELECTRONIC FILING OF SUCH PLAN.

S 4. Paragraph b of subdivision 8 of section 3602 of the education law, as amended by chapter 378 of the laws of 2010, is amended to read as follows:

b. District plans of service. Any school district receiving an additional apportionment pursuant to subdivision ten of this section for pupils in career education programs or a payment in lieu of such apportionment or having a public excess cost aid setaside pursuant to subdivision four of this section shall keep on file and make available for public inspection and review by the commissioner AND INCORPORATE INTO ITS DISTRICTWIDE COMPREHENSIVE PLAN an acceptable plan of service describing the student outcomes expected from implementation of the proposed plan, provided that such plan may be incorporated into a school district's district-wide comprehensive plan. The plan of service of a school district receiving an additional apportionment pursuant to this section for pupils with disabilities shall also describe how such district intends to ensure that all instructional materials to be used in the schools of such district will be made available in a usable alternative format for each student with a disability and for each student who is a qualified individual with a disability, at the same time as such instructional materials are available to non-disabled students, provided that such plan may incorporate by reference the alternative format plans developed pursuant to subdivision twenty-nine-a of section sixteen hundred four, subdivision four-a of section seventeen hundred nine, subdivision seven-a of section twenty-five hundred three or subdivision seven-a of section twenty-five hundred fifty-four of this chapter. Such plans shall be in a form prescribed by the commissioner, and except as heretofore provided, shall have the content prescribed by

the commissioner. WHERE APPLICABLE, THE COMMISSIONER SHALL REQUIRE THAT ALL SUCH PLANS SHALL BE SUBMITTED ELECTRONICALLY TO THE DEPARTMENT OVER THE INTERNET THROUGH A SECURE WEBPAGE. THIS ELECTRONIC PLAN SHALL TAKE THE PLACE OF FILING PAPER COPIES OF SUCH PLAN EXCEPT IN CIRCUMSTANCES WHERE AN ORIGINAL SIGNATURE IS REQUIRED, THEN ORIGINAL PAPER COPIES MUST BE FILED. THE COMMISSIONER SHALL PROMULGATE ALL RULES AND REGULATIONS NECESSARY TO IMPLEMENT THE ELECTRONIC FILING OF SUCH PLAN. The commissioner may, from time to time, require amendments of such plans as deemed to be necessary and appropriate to further the educational welfare of the pupils involved.

S 5. Within one year of the effective date of this act, the commissioner of education shall issue a report to the governor and the legislature detailing the reporting requirements that have been eliminated under this act. Such report shall include specific statutory requirements, reports, and regulatory requirements that have been eliminated or rendered null and void as a result of the provisions of this act. Where applicable, the commissioner of education shall require that such report shall be submitted electronically to the state education department over the internet through a secure webpage. This electronic report shall take the place of filing paper copies of such report except in circumstances where an original signature is required, then original paper copies must be filed. The commissioner of education shall promulgate all rules and regulations necessary to implement the electronic filing of such report.

S 6. This act shall take effect immediately.

PART T

Section 1. Section 305 of the education law is amended by adding a new subdivision 42 to read as follows:

42. THE COMMISSIONER SHALL IMPLEMENT REGULATIONS DIRECTING SCHOOL DISTRICTS TO EVALUATE STUDENTS WHO HAVE INDIVIDUALIZED EDUCATION PROGRAMS AND WHO ALSO REQUIRE ACADEMIC INTERVENTION SERVICES, TO DETERMINE WHICH SERVICES, IF ANY, ARE BEING REPEATED BY BOTH THE PROGRAM AND THE SERVICES. THE COMMISSIONER SHALL PROVIDE THAT IF A SCHOOL DISTRICT DETERMINES THAT AN INDIVIDUALIZED EDUCATION PROGRAM AND THE ACADEMIC INTERVENTION SERVICES REQUIRE THE SAME TASK OR SERVICE, THE SCHOOL DISTRICT SHALL NOT BE REQUIRED TO IMPLEMENT SUCH TASK OR PROVIDE SUCH SERVICE MORE THAN ONCE TO THE STUDENT.

S 2. Subdivision 2 of section 3004-b of the education law, as added by chapter 180 of the laws of 2000, is amended to read as follows:

2. Fees. Notwithstanding any [other] provision of law to the contrary, the commissioner is authorized to charge additional fees to applicants for teaching or administrative licenses or certificates in an amount equal to the fees established pursuant to law by the division of criminal justice services and the federal bureau of investigation for the searches mandated by this section. FEES PAYABLE PURSUANT TO THIS SECTION SHALL BE PAID IN ACCORDANCE WITH REGULATIONS AS PROMULGATED BY THE COMMISSIONER, AND PAYMENT OF SUCH FEES SHALL NOT BE SUBJECT TO THE PROVISIONS OF ANY COLLECTIVE BARGAINING AGREEMENT.

S 3. Section 3004 of the education law is amended by adding a new subdivision 7 to read as follows:

7. PROFESSIONAL DEVELOPMENT PLANS REQUIRED TO BE ADOPTED BY SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES, AND IN THE CITY OF NEW YORK EACH COMMUNITY SCHOOL DISTRICT, HIGH SCHOOL DIVISION, SPECIAL EDUCATION DIVISION AND THE CHANCELLOR'S DISTRICT, SHALL BE ADOPTED EVERY THREE YEARS AND SHALL BE REVIEWED ANNUALLY AND AMENDED AS

NEEDED. THE COMMISSIONER SHALL REQUIRE CERTIFICATION, EVERY THREE YEARS, IN A FORM AS PRESCRIBED BY THE COMMISSIONER, THAT:

A. A PROFESSIONAL DEVELOPMENT PLAN IS IN PLACE FOR THE SUCCEEDING SCHOOL YEAR; AND

B. THE REQUIREMENTS OF THE PROFESSIONAL DEVELOPMENT PLAN APPLICABLE TO THE CURRENT SCHOOL YEAR HAVE BEEN COMPLIED WITH.

S 4. Subdivision 6 of section 3033 of the education law, as amended by chapter 886 of the laws of 1986, is amended to read as follows:

6. Each board of education and board of cooperative educational services which participates in the program shall file a report with the commissioner on or before August first [of each] EVERY THIRD school year concerning compliance with the requirements of the program during EACH OF the preceding THREE school [year] YEARS. Such report shall be in such form and in such manner as the commissioner may require. [The commissioner shall evaluate such programs and file a report with the legislature on or before December first, nineteen hundred eighty-seven.]

S 5. Subdivision 1 of section 409-d of the education law, as added by section 1 of part B of chapter 56 of the laws of 1998, is amended to read as follows:

1. Program establishment. The commissioner is authorized and directed to establish, develop and monitor a comprehensive public school building safety program which shall include a uniform inspection, safety rating and monitoring system. Such program shall require ONCE EVERY THREE YEARS the [annual] inspection of all public school buildings throughout New York state; establish a safety rating system for such school buildings to assess the need for maintenance, repairs, rehabilitation, reconstruction, construction and other improvements related to the structural integrity and overall safety of public school buildings including but not limited to building systems related to electrical, plumbing, heating, ventilation, and air conditioning, sanitation and health, fire and accident protection; and require that such ratings be used for the purpose of developing a buildings condition survey as required pursuant to subdivision four of section thirty-six hundred forty-one of this chapter and a five year facilities plan as required pursuant to clause (i) of subparagraph two of paragraph b of subdivision six of section thirty-six hundred two of this chapter.

S 6. Subdivision 3 of section 409-e of the education law, as added by section 1 of part B of chapter 56 of the laws of 1998, is amended to read as follows:

3. Safety rating system. The commissioner shall develop pursuant to regulations a safety rating system to be used by all school districts and boards of cooperative educational services keyed to the structural integrity and overall safety of the building and shall be developed using data obtained from the building's [annual] inspection as required by this article. Such safety rating system shall identify and assess the condition of every major system component of every school building including interior structures; building systems such as heating, ventilation, plumbing and electrical systems; exterior structures including but not limited to roofs, masonry, stairs, and chimneys; and develop a system which rates each building component based on at least the following factors: overall safety; structural integrity; probable useful life; need for repair or replacement; and maintenance. Such safety rating shall include mechanisms which facilitate more frequent inspections and repairs as determined necessary to protect the welfare and safety of students and staff residing in such school buildings. This information shall be used for purposes of developing a buildings condition survey as

required pursuant to section thirty-six hundred forty-one of this chapter [and a five year facilities plan as required pursuant to clause (i) of subparagraph two of paragraph (b) of subdivision six of section thirty-six hundred two of this chapter].

S 7. Paragraph b of subdivision 4 of section 3641 of the education law, as amended by section 27 of part A1 of chapter 58 of the laws of 2006, is amended to read as follows:

b. Building condition surveys. To be eligible for aid pursuant to subdivision six-e of section thirty-six hundred two of this article, building condition surveys shall be conducted by a licensed architect or licensed professional engineer performing under a state contract entered into pursuant to paragraph c of this subdivision AND PAID FOR BY THE DEPARTMENT, shall assess the condition of all major building systems of a school building, and shall be in the form and contain the information prescribed by the commissioner. SUCH BUILDING CONDITION SURVEYS SHALL BE CONDUCTED ONCE EVERY SIX YEARS. For purposes of this paragraph, "major building systems" shall mean the electrical, plumbing, heating, ventilation and air conditioning systems, and the roof and other major structural elements of a school building.

S 8. This act shall take effect immediately provided, however, that sections five, six and seven of this act shall take effect on the first of July next succeeding the date on which it shall have become a law.

S 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 4. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through T of this act shall be as specifically set forth in the last section of such Parts.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would enact the New York State Taxpayer Protection and Mandate Relief Act. Part D of this bill would add Article 23 to the Retirement and Social Security Law which would create a defined contribution plan for members joining a New York state or New York city retirement system on or after April 1, 2012. Participating employers of the New York State Teachers' Retirement System would be required to contribute 8% of an employee's annual salary to the employee's account in this new defined contribution plan. Members would not be required to contribute, but would be permitted to contribute up to 100% of their annual salary to their account provided such contributions do not exceed the contribution limitations established annually according to Section 415(d) of the Internal Revenue Code. The Retirement Board of the New York State Teachers' Retirement System shall adopt rules and regulations regarding the standards and requirements of the defined contribution plan including selection of financial organizations for investment purposes. Retirement, death or other benefits under the defined contribution plan shall be paid to members or their beneficiaries by the designated financial organization in accordance with the terms of their written agreement. Under no circumstances will members joining a New York state or New York city retirement system on or after April 1, 2012 be eligible for participation in a defined benefit retirement plan.

The annual cost to the employers of members of the New York State Teachers' Retirement System who become members on or after April 1, 2012 and are therefore in the defined contribution plan would be 8% of salary each year. The current defined benefit plan would be closed off to new entrants. Its liabilities must still be met however. The System's outstanding liability is funded over the average future remaining working lifetime of its members. If the plan is closed to new entrants, this funding period would decrease, resulting in potentially significantly increasing costs to employers. Additionally, as the defined benefit plan wound down over time, a greater proportion of the defined benefit plan assets would be needed for immediate benefit payroll, thereby reducing and soon eliminating the System's ability to invest in more illiquid, long-term investments which typically yield higher returns. This would reduce the System's ability to generate investment returns and therefore increase employer costs. It is recommended that a full actuarial analysis and report be completed to fully and more quantitatively gauge all the implications before a change of this magnitude is undertaken.

The source of this estimate is Fiscal Note 2011-59 dated June 13, 2011 prepared by the Actuary of the New York State Teachers' Retirement System and is intended for use only during the 2011 Legislative Session.