The Legislature of Rockland County

PHILIP SOSKIN
LEGISLATOR-DISTRICT 7
CHAIR, MULTI-SERVICES COMMITTEE

AGENDA
MULTI-SERVICES COMMITTEE
TUESDAY MARCH 11, 2014
6:00 PM

ROLL CALL

ADOPTION OF MINUTES OF THE FEBRUARY 25, 2014 MEETING.

1. REF. # 7844 — APPROVING THE EXTENSION OF AND AMENDMENT TO THE AGREEMENT IN EXCESS OF $100,000 WITH MICHELE KATZ, PH.D. FOR FORENSIC PSYCHOLOGIST CONSULTING SERVICES ON AN AS NEEDED BASIS BY INCREASING THE AMOUNT OF THE AGREEMENT BY $75,000 AND EXTENDING THE TERM OF THE AGREEMENT FROM APRIL 1, 2014 THROUGH MARCH 31, 2015 WITH ONE (1) REMAINING ONE (1) YEAR OPTION FOR A TOTAL AMOUNT NOT TO EXCEED $222,500 FOR THE PERIOD FROM APRIL 1, 2011 THROUGH MARCH 31, 2015 FOR THE DEPARTMENT OF MENTAL HEALTH UNDER REP-RC-2010-031 AND AUTHORIZING ITS EXECUTION BY THE COUNTY EXECUTIVE [DEPARTMENT OF GENERAL SERVICES – DIVISION OF PURCHASING] ($222,500)
(GERRY WALSH COMMISSIONER OF DGS-PURCHASING)

2. REF. #6760 — APPROVING AN AGREEMENT IN EXCESS OF $100,000 WITH THE ROCKLAND COUNTY BAR ASSOCIATION INC. IN THE AMOUNT OF $110,000 FOR THE PERIOD FROM JANUARY 1, 2014 THROUGH DECEMBER 31, 2014 [DEPARTMENT OF BUDGET AND FINANCE] ($110,000)
(STEPHEN DEGROAT COMMISSIONER OF BUDGET AND FINANCE)

3. REF. #5231 — REQUESTING THAT THE NEW YORK STATE ASSEMBLY PASS BILL A.8770 AND THE NEW YORK SENATE PASS BILL S.6620- THE VOTER INTIMIDATION PROTECTION ACT
(HONS. SCHOENBERGER, AND WIEDER LEGISLATURE)

4. REF. #9364 — REQUESTING THAT THE NEW YORK STATE ASSEMBLY PASS BILL A.1328 AND THE NEW YORK STATE SENATE PASS BILL S.1781- THE NEW YORK STATE SCHOOL TAXPAYERS' PROTECTION ACT
(HON. BARRY S. KANTROWITZ LEGISLATURE)

5. REF. #9359 — REQUESTING THAT THE NEW YORK STATE ASSEMBLY PASS BILL A.8198 AND THE NEW YORK STATE SENATE PASS BILL S.6204 TO CONSOLIDATE ALL PRIMARY ELECTION ON THE FOURTH TUESDAY OF JUNE EVERY GENERAL ELECTION
(HON. ILAN S. SCHOENBERGER LEGISLATURE)

6. REF. #2973 DISCUSSION ITEM: CONTINUATION OF DISCUSSION UPDATE FROM ROCKLAND COUNTY DEPARTMENT OF MENTAL HEALTH CONCERNING TRANSFER OF SERVICES AND REMAINING DUTIES.
(HON. PHILIP SOSKIN LEGISLATURE)

The Rockland County Legislature is committed to full compliance with the Americans with Disabilities Act. To that end, the Legislature is committed to creating an accessible environment for all. To request accommodations that you may require, please call Damaris Alvarez at 845-638-5248 (845-708-7899 for TTY/TDD). Please request these accommodations three (3) days in advance so that we can seek to meet your needs."

MS..AGA3/11/14, LS

7844

Introduced by: DRAFT Referral No.

RESOLUTION NO. OF 2014
APPROVING THE EXTENSION OF AND AMENDMENT TO THE AGREEMENT IN EXCESS OF $100,000 WITH MICHELE KATZ, PH.D. FOR FORENSIC PSYCHOLOGIST CONSULTING SERVICES ON AN AS NEEDED BASIS BY INCREASING THE AMOUNT OF THE AGREEMENT BY $75,000 AND EXTENDING THE TERM OF THE AGREEMENT FROM APRIL 1, 2014 THROUGH MARCH 31, 2015 WITH ONE (1) REMAINING ONE (1) YEAR OPTION FOR A TOTAL AMOUNT NOT TO EXCEED $222,500 FOR THE PERIOD FROM APRIL 1, 2011 THROUGH MARCH 31, 2015 FOR THE DEPARTMENT OF MENTAL HEALTH UNDER RFP-RC-2010-031 AND AUTHORIZING ITS EXECUTION BY THE COUNTY EXECUTIVE [DEPARTMENT OF GENERAL SERVICES – DIVISION OF PURCHASING] ($222,500)

WHEREAS, The Director of Purchasing issued RFP-RC-2010-031 (the "RFP") for a qualified suppliers list ("QSL") for forensic psychologist consulting services on an as needed basis for the Department of Mental Health for the period of one (1) year with four (4) additional one (1) year option terms; and

WHEREAS, The specifications for the RFP include an "Open Enrollment" clause which permits the County to add qualified vendors to the QSL if the County needs additional coverage; and

WHEREAS, One hundred twenty-two (122) vendors were notified of the RFP through the electronic bid notification system, eight (8) vendors downloaded the RFP and the County received responses from the following two (2) individuals: (1) Charles Heller, Ph.D. and (2) Michele Katz, Ph.D.; and

WHEREAS, The Department of Mental Health evaluated the responses and recommended contracts with both individuals; and

WHEREAS, On June 2, 2011, the County entered into a contract with Michele Katz, Ph.D., under the RFP in the amount of $12,350 for the period from April 1, 2011 through March 31, 2012 with four (4) one (1) year options; and

WHEREAS, By letter dated March 21, 2012, the County extended the term of the agreement from April 1, 2012 through March 31, 2013 with three (3) remaining one (1) year options; and

WHEREAS, The Purchasing Division reached out to a New York State list of providers and advertised in the New York State Contract Reporter during the fall of 2012 to increase the vendors on the QSL; and

WHEREAS, The Purchasing Division received two (2) additional responses but at much higher rates, therefore no additional vendors were placed on the QSL; and

WHEREAS, By letter dated April 4, 2012, the County increased the amount of the agreement by $12,650 for a total contract amount not to exceed $25,000; and

WHEREAS, By letter dated July 17, 2012, the County increased the amount of the agreement by $40,000 for a total contract amount not to exceed $65,000; and

WHEREAS, Michele Katz, Ph.D. has agreed to hold her originally offered pricing for the 2013 term even though the Consumer Price Index (CPI) for All Urban Consumers for the previous twelve months increased by 1.7%, thereby resulting in a savings to the County in the amount of $1,492 for these forensic psychologist services; and

WHEREAS, By Resolution No. 212 of 2013, the Legislature of Rockland County approved the amendment and extension to the agreement with Michele Katz, Ph.D. for forensic psychologist consulting services on an as needed basis for the Department of Mental Health under RFP-RC-2010-031 by increasing the amount of the agreement by $82,500 for a total amount not to exceed $147,500 and extending the term of the agreement from April 1, 2013 through March 31, 2014 with two (2) remaining one (1) year options; and

WHEREAS, The Director of Purchasing and Commissioner of Mental Health recommends to the County Executive and the Legislature of Rockland County approve the amendment and extension to the agreement in excess of $100,000 with Michele Katz, Ph.D., 18 Maiden Lane, New City, New York 10965 for forensic psychologist consulting services on an as needed basis for Department of Mental Health under the RFP by increasing the amount of the agreement by $75,000 and extending the term of the agreement from April 1, 2014 through March 31, 2015 with one (1) remaining one (1) year option for a total amount not to exceed $222,500 for the period from April 1, 2011 through March 31, 2015; and

WHEREAS, Sufficient funding for the amendment and extension to this agreement is provided for in the 2014 Budget of DMH and is contingent upon 2015 budget appropriations; and

WHEREAS, Local Law No. 18 of 1996 provides for the Legislature to approve the "execution of all contracts in excess of $100,000 entered into by the County"; and

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7844

WHEREAS, The Committees of the Legislature have met, considered and approved this resolution; now, therefore, be it

RESOLVED, That the Legislature of Rockland County hereby approves the amendment and extension to the agreement in excess of $100,000 with Michele Katz, Ph.D., 18 Maiden Lane, New City, New York 10965 for forensic psychologist consulting services on an as needed basis for Department of Mental Health under the RFP by increasing the amount of the agreement by $75,000 and extending the term of the agreement from April 1, 2014 through March 31, 2015 with one (1) remaining one (1) year option for a total amount not to exceed $222,500 for the period from April 1, 2011 through March 31, 2015 and authorizes the County Executive to execute such amendment and extension to the agreement, subject to the approval of the County Attorney; and be it further

RESOLVED, That sufficient funding for the amendment and extension to this agreement is provided for in the 2014 Budget of the Department of Mental Health and is contingent upon 2015 budget appropriations.

TS: lo
2014-00462
2/11/14

6760

DRAFT

Introduced by: Referral No.

RESOLUTION NO. OF 2014
APPROVING AN AGREEMENT IN EXCESS OF $100,000 WITH THE ROCKLAND COUNTY BAR ASSOCIATION INC. IN THE AMOUNT OF $110,000 FOR THE PERIOD FROM JANUARY 1, 2014 THROUGH DECEMBER 31, 2014 [DEPARTMENT OF BUDGET AND FINANCE] ($110,000)

WHEREAS, The Legislature of Rockland County appropriated $110,000 to the Rockland County Bar Association for coordination of the Assigned Counsel Plan pursuant to 18-B of the County Law; and

WHEREAS, The Commissioner of the Finance is recommending to the County Executive and the Rockland County Legislature that the County enter into an agreement with the Rockland County Bar Association, 337 North Main Street, New City, New York 10956 for services provided in the attached Schedule "A", in the amount of $110,000 for the period from January 1, 2014 through December 31, 2014; and

WHEREAS, Sufficient funding for this agreement exists within the 2014 Adopted County Budget, ACP-1172-E4090; and

WHEREAS, Local Law No. 18 of 1996 provides for the Legislature to approve "execution of all contracts in excess of $100,000 entered into by the County;" and

WHEREAS, The Committee of the Legislature has met, considered and approved this resolution; now therefore be it

RESOLVED, That the Legislature of Rockland County approves the agreement in excess of $100,000 with the Rockland County Bar Association Inc., 337 North Main Street, New City, New York 10956 for services provided in the attached Schedule "A", in the amount of $110,000 for the period from January 1, 2014 through December 31, 2014 and authorizes its execution by the County Executive subject to the approval of the County Attorney; and be it further

RESOLVED, That sufficient funding for this agreement exists in the 2014 Adopted County Budget, ACP-1172-E4090.

TM:lo
2014-00420
2/10/14

6760

Federal ID# 13-2703640

AGREEMENT

THIS AGREEMENT made the ____ day of _____, 2014 by and between the **COUNTY OF ROCKLAND**, a municipal corporation of the State of New York, having its principal office at 11 New Hempstead Road, New City, New York 10956, hereinafter described as "COUNTY," and **ROCKLAND COUNTY BAR ASSOCIATION,** a New York State not-for-profit corporation, with offices located at 337 North Main Street, New City, New York 10956 hereinafter called "AGENCY," in the manner following:

W I T N E S S E T H:

WHEREAS, AGENCY is a not-for-profit corporation which provides services as per Schedule "A" attached and made a part hereof, and

WHEREAS, the COUNTY desires such services as AGENCY provides, for the benefit of County residents, and

WHEREAS, the Rockland County Charter, Article III, Section 3.02(u), authorizes the County Executive to execute this agreement, and

WHEREAS, the COUNTY wishes to enter into an agreement with the AGENCY for services as provided in Schedule "A" attached hereto, and

WHEREAS, the Legislature of Rockland County authorized this agreement by **Resolution No. 612 of 2013** appropriating the necessary funds for the services of AGENCY to the COUNTY for administration of the assigned counsel plan pursuant to Article 18-B of the County Law.

NOW, THEREFORE, in consideration of the promises and the mutual agreement herein expressed, the parties hereto agree as follows:

1. TERM: The services to be rendered by AGENCY under this agreement shall commence **January 1, 2014** and terminate **December 31, 2014.**

2. SERVICES: The AGENCY shall provide services as set forth in Schedule "A", annexed and made part of this agreement. The AGENCY warrants and represents that it and its employees, agents and servants possess the skills and experience to render the services provided for this agreement.

3. PAYMENT: The COUNTY will pay to the AGENCY a sum not to exceed **ONE HUNDRED TEN THOUSAND DOLLARS and 00/100 ($110,000.00)** for services as set forth in the attached Schedule "A", and made a part hereof.

Payment will be made after this agreement is properly executed, and after submission to and approval by the Commissioner of Finance of a certified and signed voucher in a form approved and authorized by the Commissioner of Finance as follows:

PAYMENT SCHEDULE

# of Payments	Date
First Payment	On or About April 30th
Second Payment	On or About October 31st

The financial statements as required in the agreement must be on file with the Commissioner of Finance **before** the second payment will be made. Failure to comply with any provision under this agreement may result in the delay or forfeiture of the aforementioned payments.

4. LIABILITY ONLY FOR MONIES BUDGETED: This agreement shall be deemed executory to the extent of the monies appropriated in the COUNTY'S current budget for the purposes of this agreement, and no liability shall be incurred by the COUNTY, or any department, beyond the monies budgeted and available for this purpose. The agreement is not a general obligation of the COUNTY. Neither the full faith and credit nor the taxing power of the COUNTY are pledged to the payment of any amount due or to become due under this agreement. It is understood that neither this agreement nor any representation by any COUNTY employee or officer creates any obligation to appropriate or make monies available for the purpose of the agreement. **This agreement shall not be effective unless the monies to be paid hereunder by the COUNTY are appropriated in the COUNTY budget. Furthermore, neither this contract nor the appropriation shall constitute any obligation expressed or implied that the County of Rockland will continue to appropriate funding in the future.**

5. FINANCIAL RECORDS/AUDIT: The AGENCY shall maintain records of all its financial transactions, including all expenses and disbursements, which relate to this agreement. Such records shall be kept in accordance with GAAP (Generally Accepted Accounting Practices) and/or County record-keeping requirements, and each transaction shall be documented. Such records shall be made available to the COUNTY for inspection or audit upon request. **The AGENCY shall file with the Commissioner of Finance such reports and statements as are required to be filed with the Attorney General of the State of New York pursuant to Article 7-A of the Executive Law and Section 8-1.4 of the Estates, Powers and Trust Law, on or before the first day of July after the close of such fiscal year.** Upon the failure to file reports and statements no further compensation or fee for services will be due to the AGENCY unless or until financial statements have been filed with the Rockland County Department of Finance.

6. FUNDING/RESERVATION OF RIGHTS: COUNTY monies provided to the AGENCY pursuant to this agreement, may be based upon and/or subject to funding

statements, or actual funds provided to the COUNTY, from New York State or the Federal Government, either directly or by reimbursement; in such case the COUNTY retains the right and discretion to adjust payments of COUNTY funds to the AGENCY, based on the actual amounts COUNTY receives or is to receive from New York State or Federal Government.

7. INDEMNIFY AND HOLD HARMLESS: The AGENCY agrees to protect, indemnify and hold harmless the COUNTY and its respective officers, employees and agents from and against all claims, actions and suits, including but not limited to suits claiming that the appropriation to the AGENCY was illegal, and will defend the COUNTY and its respective officers, employees and agents, at its own cost and at no cost to the COUNTY, in any suit, action or claim, including appeals, for personal injury to, or death of, any person, or loss or damage to property arising out of, or resulting from, the activities or omissions of the AGENCY. These indemnification provisions are for the protection of the COUNTY and its respective officers, employees and agents only, and shall not establish, of themselves, any liability to third parties. The provisions of this section shall survive the termination of this Agreement.

8. INDEPENDENT CONTRACTOR: The AGENCY is an independent contractor, and covenants and agrees that it, its agents, servants and/or employees, will neither hold itself/themselves out as, nor claim to be an employee, servant or agent of the COUNTY, and that it, its agents and employees will not make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the COUNTY, including, but not limited to, Workers' Compensation coverage, unemployment insurance benefits, Social Security coverage or retirement membership or credit.

9. COMPLY WITH AMERICANS WITH DISABILITIES ACT OF 1990: The AGENCY agrees to comply with the provisions of the Americans With Disabilities Act of 1990 (ADA) prohibiting discrimination on the basis of disability with regard to employment policies and procedures, structural and program accessibility, transportation and telecommunications.

10. INJURY, PROPERTY DAMAGE: The AGENCY shall be responsible for all damages and/or injury to life and property due to, or resulting from, the activities or omissions of the AGENCY, its agents or employees in connection with its work, activities or services under this agreement. The AGENCY represents and warrants that its agents and employees possess the experience, knowledge and skills and independence necessary for the work/services to be performed in connection with this agreement.

11. INSURANCE REQUIREMENTS: The CONTRACTOR shall, at its/his/her own cost and expense, procure and maintain insurance to cover its/his/her work, services, employees, owners, servants and/or agents under the terms of this agreement which shall include, but may not be limited to those policies indicated:

{ } **A** Commercial General Liability Insurance not less than $1,000,000

(One Million) for each occurrence and a general aggregate not less than $2,000,000 (Two Million) per project

{ } **B** Automobile Liability Insurance not less than $1,000,000 (One Million) Combined Single Limit for each accident

{ **X** } **C** Excess Umbrella Liability Insurance not less than $2,000,000 (Two Million) over General Liability, Employers Liability (if not unlimited on the workers compensation policy),Auto Liability and Professional Liability, if required, for each occurrence and a general aggregate not less than $2,000,000 (Two Million)

{ } **D** Workers Compensation and Employers Liability Insurance in accordance with statutory requirements of the NYS Workers Compensation Law

{ } **E** Disability Insurance in accordance with provisions and requirements of the NYS Disability Law

{ } **F** Professional Liability Insurance (or Errors and Omissions or Malpractice) not less than $1,000,000 (One Million) for each claim, or if not included on the excess umbrella the limits should equal $1,000,000 plus the required excess limit

{ X } * All other insurance as required by law

{ X } A check mark in the box indicates that the type of insurance specified **IS NOT REQUIRED**

The Contractor warrants and represents to the County of Rockland that it/he/she has sufficient funds to satisfy the amount of the self insured retention limit (deductible) required of each liability policy as it applies to this agreement, and that said amount is available to settle, compromise, or pay any suit or claim for negligence, gross negligence, medical malpractice, or intentional acts or omissions, made against it/he/she arising out of or during the term of this agreement. The Contractor shall provide, at the request of the County of Rockland, proof or guarantee of financial responsibility, as it deems necessary.

The COUNTY OF ROCKLAND shall be named as an additional insured on general liability insurance policies and policy endorsements, and the policies and policy endorsements shall provide that the insurance shall not be cancelled or terminated without thirty (30) days prior written notice to the County of Rockland. Unless and until AGENCY obtains such insurance, this agreement shall not be effective and no monies shall be paid or given to the AGENCY.

12. LAWS OF THE STATE OF NEW YORK: This Agreement shall be governed by the Laws of the State of New York.

13. LABOR LAW AND EXECUTIVE LAW: The AGENCY shall comply with all of the provisions of the Labor Law of the State of New York including, but not limited to, prevailing wage provisions, **if required by law**, and with Article 15 of the Executive

Law of the State of New York relating to unlawful discriminatory practices insofar as the provisions are applicable to the work and/or services to be performed under this Agreement.

14. LOCAL LAWS AND RESOLUTIONS: The AGENCY shall comply with all local laws and resolutions of the Legislature of Rockland County, including, but not limited to, filing of Disclosure Statements and Affirmative Action Plans, **if required by law or resolution**.

15. REPRESENTATIONS AND WARRANTIES OF THE AGENCY: AGENCY represents and warrants to the COUNTY OF ROCKLAND as follows:

(a) AGENCY is a corporation duly organized and validly existing under the laws of New York, and is duly qualified to do business in New York. AGENCY has full power and authority to conduct its business as now carried on, and to carry out and perform its undertakings and obligations as provided herein. The execution and delivery by AGENCY of this agreement and the consummation of the transactions contemplated herein have been duly authorized by the Board of Directors of AGENCY and will not conflict with or breach any provision of the Certificate of Incorporation or Bylaws of AGENCY. The copies of the documents pertaining to the organization of the AGENCY provided by AGENCY to the COUNTY OF ROCKLAND are true and complete copies of said documents.

(b) No action, approval, consent or authorization, including without limitation any action, approval, consent or authorization of any governmental or quasi-governmental agency, commission, board, bureau or instrumentality, is necessary for AGENCY to constitute this agreement the binding and enforceable obligation of AGENCY or to consummate the transactions contemplated hereby.

(c) There are no violations of any law or governmental rule or regulation pending or, to the best of AGENCY's knowledge, threatened against AGENCY. The AGENCY has complied with all laws and governmental rules and regulations applicable to its business operations.

(d) There are no judgments, liens, suits, actions or proceedings pending or, to the best of AGENCY's knowledge, threatened against AGENCY. The AGENCY is not a party to, subject to or bound by any agreement or any judgment or decree of any court, governmental body or arbitrator which would conflict with or be breached by the execution, delivery or performance of this agreement, or which could prevent the carrying out of the transactions provided for in this agreement, or which could prevent the performance of its obligations under this agreement or adversely affect the conduct of its business.

(e) The AGENCY has filed each tax return, including without limitation all income, excise, property, gain, sales, franchise and license tax returns, required to be filed by the AGENCY prior to the date hereof. Each such return is true, complete and correct, and the AGENCY has paid all taxes, assessments and charges of any governmental authority required to be paid by it, including but not limited to any County, Town, Village real property tax or School tax, and has created reserves or made provision for all taxes accrued but not yet payable. No government is now asserting, or to AGENCY's knowledge threatening to assert, any deficiency or assessment for additional taxes or any interest, penalties or fines with respect to the AGENCY.

(f) The financial statements, balance sheets and other information pertaining to the AGENCY and provided to the COUNTY OF ROCKLAND are true, correct and complete as of the dates and for the periods set forth therein; have been prepared in accordance with generally accepted accounting principles consistently applied; and fairly represent the financial position of the AGENCY at such dates and for such periods. The AGENCY had at said dates no liabilities or obligations of any kind, contingent or otherwise, not reflected in the financial statements provided to the COUNTY OF ROCKLAND. Since said dates and periods, there has been no material adverse change in the financial condition, assets or liabilities of the AGENCY.

16. NO ASSIGNMENT: The AGENCY shall not assign, sublet or transfer or otherwise dispose of its interest in this agreement without the prior written consent of the COUNTY.

17. APPROVAL OF FEDERAL, STATE AND LOCAL AGENCY: Notwithstanding any other provisions of this Agreement, the COUNTY shall not be liable for any payment or compensation to the AGENCY until the services rendered by the AGENCY under this Agreement meet the approval and standards of any other Federal, State or local agency, authority, commission or body, which has jurisdiction over the services to be rendered under this Agreement which provides funding in whole or in part for the services provided under this agreement.

18. FUND RAISING: All fund raising affairs of the AGENCY shall be included within the borders of Rockland County, whenever possible, pursuant to Resolution No. 119 of 1992.

19. TERMINATION/AMENDMENT: This agreement may be terminated or amended on at least thirty (30) days written notice by the COUNTY.

20. AGENCY agrees that it shall not discriminate on the basis of race, creed, sex, ethnic background, age or national origin, and that its services will be available to all residents of Rockland County.

21. ENTIRE AGREEMENT/NO MODIFICATION: This Agreement constitutes the entire Agreement between the parties and supersedes all prior negotiations, representations or agreements, either oral or written. It may not be modified except by a writing signed by the parties.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first written.

ROCKLAND COUNTY BAR ASSOCIATION

By:_____
Sandria Garvin
Executive Director

Dated:_____

DEPARTMENT OF LAW
Approved for signature
of County Executive

By:_____
Thomas M. Mascola
Senior Assistant County Attorney

Dated:_____

COUNTY OF ROCKLAND

By:_____
Edwin J. Day
County Executive

Dated:_____

NFP-2014-00205-1172

STATE OF NEW YORK, COUNTY OF ROCKLAND}ss.:

On the ____ day of _____, 2014, before me came **EDWIN J. DAY**, to me known, being duly sworn by me, did depose and say that he is the County Executive of Rockland County, a municipal corporation; his office address is 11 New Hempstead Road, New City, New York, and he executed the foregoing instrument on behalf of the County of Rockland.

_____
NOTARY PUBLIC

ATTESTATION:

As Clerk to the Legislature, I hereby attest that I know the seal of the Legislature of Rockland County, and that the seal affixed to this instrument is such seal.

_____
LAURENCE O. TOOLE
Clerk to the Legislature

STATE OF NEW YORK, COUNTY OF _____}ss.:

On the ____ day of _____in the year 2014, before me, the undersigned, personally appeared **SANDRIA GARVIN** personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
NOTARY PUBLIC

SCHEDULE A

The Rockland County Bar Association coordinates the Assigned Counsel Plan (18-B). We receive all intake of cases from the Public Defender's Office, Family Court and Family Treatment Court. We determine qualification of criminal cases (felonies/misdemeanors) and make assignments accordingly. When necessary, we resolve scheduling and coordination problems with attorneys and the courts. We maintain a computerized date base system containing all assigned counsel personnel and their assignments. This is utilized to avoid conflicts and in cases with multiple co-defendants and enables us to maintain a history of assignments of repeat respondents/defendants.

We assist in the coordination of all mandatory and voluntary continuing legal education programs for assigned counsel. We insure assigned counsel attorneys are aware of the programs and encourage attendance. We arrange mailings, handouts and videotaping of seminars. (Videotapes and handouts are also available to those attorneys who were unable to attend the seminar.)

We coordinate emergency preliminary hearings in local justice courts/court courts with the Public Defender's Office, Family Court and assigned attorneys, relaying up to date information as it becomes available. The completed attorneys' vouchers are examined and then processed for submission to the Department of Finance. A monthly report is generated to insure the utilization of Assigned Counsel Plan attorneys on a rotation basis.

We have an extensive application and assist those new attorneys applying for Assigned Counsel membership, by working with the Chairperson of the Assigned Counsel program in determining their eligibility and experience. Each new applicant is interviewed by the Chairperson with a staff member present. If an attorney requires mentoring before becoming an ACP attorney, a mentor is assigned to that attorney. We track the mentoring program and communicate with the mentor until such time as a recommendation and reapplication is made when the new attorney is qualified and prepared to take on cases.

5231

DRAFT

Introduced by:
Hon. Ilan S. Schoenberger, Sponsor
Hon. Aron B. Wieder, Sponsor

Referral No.
, 2014

RESOLUTION NO. OF 2014
REQUESTING THAT THE NEW YORK STATE ASSEMBLY PASS BILL A.8770 AND THE NEW YORK STATE SENATE PASS BILL S.6620 – THE VOTER INTIMIDATION PROTECTION ACT

WHEREAS, during the 2012 presidential election and the 2013 primary and general elections, the Office of the Attorney General operated an Election Day hotline to protect the ability to vote of minority-language speakers, people with disabilities, and other persons; and

WHEREAS, the hotline was staffed with lawyers from the Attorney General's Civil Rights Bureau who received and responded to numerous election-related complaints from across the state; and

WHEREAS, the Attorney General received several reports of baseless challenges to voter-eligibility at two predominantly African-American polling sites, as well as other unwarranted challenges throughout New York; and

WHEREAS, baseless challenges not only intimidate many New Yorkers seeking to exercise their Constitutionally-protected right to vote, but also subject those challenges to harassment; and

WHEREAS, under current law, voters whose right to cast a ballot is challenged are required to recite an oath affirming their right to vote, while the challenger has no such obligation and is in fact required to do nothing at all other than state an objection; and

WHEREAS, the Voter Intimidation Protection Act seeks to correct this imbalance by requiring those who challenge registrations to state the actual basis of their challenge and affirm their right to challenge such voter. This requirement is actually in place when an applicant seeking to register to vote is challenged, but not such protection exists at the polls on Election Day; and

WHEREAS, the Committee has met, considered and by a vote, approved this resolution; now therefore be it

RESOLVED, that the Legislature of Rockland County hereby requests that the New York State Assembly pass New York State Assembly Bill A.8770 and the New York State Senate pass Bill S.6620 – the Voter Intimidation Prevention Act - and that the Governor of New York sign such legislation; and be it further

RESOLVED, That the Clerk to the Legislature be and he is hereby authorized and directed to send a copy of this resolution to Hon. Andrew M. Cuomo, Governor of the State of New York; Hon. David Carlucci, Hon. William J. Larkin, Jr., New York State Senators, Hon. Kenneth P. Zebrowski, Jr., Hon. Ellen C. Jaffee, and Hon. James G. Skoufis, Members of the New York State Assembly; the President Pro Tem of the New York State Senate; the Speaker of the New York State Assembly; the Majority and Minority Leaders of the New York State Senate and Assembly; and to such other persons as the Clerk, in his discretion, may deem proper in order to effectuate the purpose of this resolution.

LG3313
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2/27/14
2/28/14

STATE OF NEW YORK

8770

IN ASSEMBLY

February 12, 2014

Introduced by M. of A. CAMARA -- (at request of the Department of Law) -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to completing and filing watcher certificates and the form and manner of challenges of voter qualifications

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 4-117 of the election law is amended by adding a
2 new subdivision 4 to read as follows:
3 4. ANY PERSON, OTHER THAN AN ELECTION OFFICER, WHO MAILS OR CAUSES TO
4 BE MAILED, BETWEEN AUGUST FIRST AND DECEMBER THIRTY-FIRST OF ANY CALEN-
5 DAR YEAR, ANY FIRST CLASS NONFORWARDABLE MAIL, WHERE SUCH PERSON KNOWS
6 OR REASONABLY SHOULD KNOW THAT SUCH NONFORWARDABLE MAIL: (A) IS INTENDED
7 TO BE DELIVERED TO A REGISTERED VOTER OR VOTER REGISTRATION APPLICANT;
8 AND (B) MAY BE USED BY A CHALLENGER, OTHER THAN AN ELECTION OFFICER, ON
9 ELECTION DAY TO CHALLENGE THE QUALIFICATIONS OF A VOTER, SHALL FILE
10 WITHIN TWO BUSINESS DAYS OF SUCH MAILING, A DUPLICATE COPY OF SUCH
11 NONFORWARDABLE MAIL, A DUPLICATE COPY OF NAMES AND ADDRESSES TO WHICH
12 SUCH NONFORWARDABLE MAIL WAS SENT, AND A COMPLETED FORM PRESCRIBED BY
13 THE STATE BOARD OF ELECTIONS. THE FAILURE TO COMPLY WITH THE PROVISIONS
14 OF THIS SUBDIVISION SHALL BE PUNISHABLE AS A MISDEMEANOR.
15 S 2. Subdivision 1-a of section 8-104 of the election law, as amended
16 by chapter 164 of the laws of 2010, is amended to read as follows:
17 1-a. The election inspectors shall conspicuously post in the polling
18 place before the opening of the polls, a voter information posting,
19 which shall include: (a) the sample ballot and instructions for the use
20 of ballot scanners and ballot marking devices required pursuant to
21 section 7-118 of this chapter; (b) a statement that "today is election
22 day" and the hours during which polling places will be open; (c)
23 instructions on how to cast an affidavit ballot and a concise statement
24 of a voter's right to such a ballot; (d) instructions relating to
25 requirements for voting on ballot scanners by those registrants who must
26 provide identification pursuant to the federal Help America Vote Act of
27 2002; (e) instructions for first-time voters; (f) a voter's bill of

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

LBD08789-09-3

1 rights describing voter's rights under applicable federal and state law,
2 including the right of accessibility and alternate language accessibil-
3 ity; (g) information pertaining to voting by election day paper ballot,
4 including information about the consequence of casting an overvote,
5 steps to prevent unintentional undervoting and spoiled ballots; (h)
6 instructions on how to contact the appropriate officials if a voter's
7 right to vote or right to otherwise participate in the electoral process
8 has been violated; [and] (i) general information on federal and state
9 laws regarding prohibitions on acts of fraud and misrepresentation; AND
10 (J) INFORMATION ABOUT THE REQUIREMENTS OF A CHALLENGE ON ELECTION DAY AS
11 PROVIDED IN SUBDIVISION THREE OF SECTION 8-502 OF THIS ARTICLE. The
12 state board of elections shall prescribe the form and content of the
13 voter information posting, which may be comprised of one or more pages,
14 provided each page shall be posted separately. The state board of
15 elections shall prescribe an official version of such voter information
16 posting for every language which appears on any general, primary or
17 special election ballot in any election district in the state and for
18 such other languages as such board, in its opinion, determines is appro-
19 priate. Such posting shall be used in all jurisdictions, and a separate
20 posting shall be made by election inspectors for each language appearing

on the ballot and for such additional languages as the board of elections may require. A board of elections may modify or supplement the voter information posting used in its jurisdiction to provide additional or local information; provided, however, any such modification or supplementation shall be submitted to the state board of elections for prior approval.

S 3. Section 8-500 of the election law, as amended by chapter 9 of the laws of 1978, subdivisions 1 and 3 as amended by chapter 373 of the laws of 1978, is amended to read as follows:

S 8-500. Watchers; provision for. 1. At any general, special, town or village election, any party committee or independent body whose candidates are upon the ballot, and at any primary election, any two or more candidates and any political committee may have for each election district three watchers at any one time, not more than one of whom may be within the guard rail at any one time. Watchers shall be appointed by the [chairman] CHAIRPERSON OR SECRETARY of any such party, committee or independent body or by the candidates.

2. Watchers may be present at the polling place at least fifteen minutes before the unlocking and examination of any voting machine or ballot box at the opening of the polls, until after the signing of the inspectors' returns and proclamation of the result; PROVIDED, HOWEVER, THAT UPON ENTERING ANY POLLING PLACE, EACH WATCHER SHALL DELIVER A COMPLETED CERTIFICATE, ISSUED PURSUANT TO SUBDIVISION THREE OF THIS SECTION, TO THE APPOINTED OR DESIGNATED CHAIRPERSON OF THE ELECTION INSPECTORS, AS PROVIDED FOR IN SECTION 3-400 OF THIS CHAPTER, AT EACH ELECTION DISTRICT WHERE SUCH WATCHER IS PERMITTED TO SERVE BY SUCH CERTIFICATE.

2-A. THE APPOINTED OR DESIGNATED CHAIRPERSON OF THE ELECTION INSPECTORS, AS PROVIDED FOR IN SECTION 3-400 OF THIS CHAPTER, SHALL INITIAL EACH WATCHER CERTIFICATE UPON DELIVERY. AT THE CLOSE OF AN ELECTION, THE INSPECTORS SHALL PLACE EACH WATCHER CERTIFICATE INSIDE THE LEDGER OF REGISTRATION RECORDS OR COMPUTER GENERATED REGISTRATION LIST, AS PROVIDED FOR IN SECTION 8-510 OF THIS TITLE.

3. The appointment of watchers for any election shall be by a certificate in writing issued by the [chairman] CHAIRPERSON or secretary of the political party, PARTY COMMITTEE or independent body, or the candi-

dates. [Such certificate shall be delivered to an inspector at the election district.] THE STATE BOARD OF ELECTIONS SHALL PRESCRIBE THE CONTENT AND FORM OF WATCHER CERTIFICATES FOR USE AT ANY GENERAL, SPECIAL, TOWN OR VILLAGE ELECTION AND AT ANY PRIMARY ELECTION. THE INFORMATION PROVIDED ON SUCH CERTIFICATE SHALL INCLUDE, BUT NOT BE LIMITED TO, THE WATCHER'S FIRST AND LAST NAME, THE WATCHER'S RESIDENTIAL ADDRESS, THE FIRST AND LAST NAME OF THE CHAIRPERSON OR SECRETARY OF THE POLITICAL PARTY, COMMITTEE OR INDEPENDENT BODY, OR THE CANDIDATES THAT ISSUED SUCH CERTIFICATE, THE SIGNATURE OF SUCH CHAIRPERSON OR SECRETARY OF THE POLITICAL PARTY, COMMITTEE OR INDEPENDENT BODY, AND THE TOWN OR CITY, WARD (IF APPLICABLE) AND ELECTION DISTRICT FOR WHICH THE WATCHER CERTIFICATE WAS ISSUED.

4. Each watcher must be a qualified voter of the city or county in which he OR SHE is to serve.

S 4. Section 8-502 of the election law, as amended by chapter 373 of the laws of 1978, is amended to read as follows:

S 8-502. Challenges; generally. 1. Before his OR HER vote is cast at an election any person may, IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, be challenged as to his OR HER right to vote, or his OR HER right to vote by absentee, military, special federal or special presidential ballot. Such challenge may be made by an inspector or clerk, by any duly appointed watcher, or by any registered voter properly in the polling place.

2. An inspector shall challenge every person offering to vote, whom he OR SHE shall know or suspect is not entitled to vote in the district, and every person whose name appears on the list of persons to be challenged on election day which is furnished by the board of elections.

3. ANY PERSON, OTHER THAN AN INSPECTOR OR CLERK, MAY CHALLENGE THE QUALIFICATIONS OF A VOTER ONLY BY COMPLETING, EXECUTING AND DELIVERING TO THE BOARD OF INSPECTORS A CHALLENGE AFFIDAVIT THAT SATISFIES THE REQUIREMENTS OF SECTION 8-503 OF THIS TITLE.

S 5. The election law is amended by adding a new section 8-503 to read as follows:

S 8-503. CHALLENGE AFFIDAVIT. 1. THE STATE BOARD OF ELECTIONS SHALL PRESCRIBE THE CONTENT AND FORM OF A CHALLENGE AFFIDAVIT FOR USE AT ANY

36 GENERAL, SPECIAL, TOWN OR VILLAGE ELECTION AND AT ANY PRIMARY ELECTION.
37 SUCH AFFIDAVIT SHALL CONTAIN THE AFFIANT'S FULL NAME, RESIDENCE, AND
38 BUSINESS ADDRESS, THE NAME OF HIS OR HER EMPLOYER, THE REGISTRATION
39 SERIAL NUMBER OF THE PERSON CHALLENGED AND A RECITAL OF THE REASONS AND
40 THE FACTS SUPPORTING THE AFFIANT'S BELIEF THAT THE PERSON CHALLENGED
41 LACKS ONE OR MORE OF THE QUALIFICATIONS FOR VOTING PRESCRIBED IN SECTION
42 5-102 OR 5-106 OF THIS CHAPTER AND SPECIFIED IN SUCH AFFIDAVIT. THE
43 AFFIDAVIT SHALL STATE IF THE REASONS FOR CHALLENGE ARE BASED UPON THE
44 AFFIANT'S PERSONAL KNOWLEDGE, OR UPON INFORMATION RECEIVED FROM ANOTHER
45 PERSON. IF THE AFFIANT'S BELIEF IS BASED UPON INFORMATION FURNISHED BY
46 ANOTHER, THE AFFIDAVIT SHALL RECITE THE NAME OF THE PERSON FURNISHING
47 THE INFORMATION AND THE BASIS FOR HIS OR HER INFORMATION. AFTER THE
48 AFFIANT HAS SIGNED SUCH AFFIDAVIT, AN INSPECTOR SHALL READ TO HIM OR HER
49 AND REQUEST HIM OR HER TO SIGN THE FOLLOWING OATH, WHICH SHALL BE
50 SUBSCRIBED BY SUCH AFFIANT: "I DO SOLEMNLY SWEAR (OR AFFIRM) THAT I AM
51 A QUALIFIED VOTER OF THE CITY OR COUNTY IN WHICH THIS AFFIDAVIT IS
52 SIGNED AND THAT THE FOREGOING STATEMENT MADE BY ME ON (INSERT DAY, MONTH
53 AND YEAR) IS A TRUTHFUL DISCLOSURE OF THE REASONS FOR MY BELIEF THAT THE
54 REGISTERED VOTER THEREIN NAMED IS NOT QUALIFIED TO CONTINUE TO VOTE IN
55 THE ELECTION DISTRICT IN WHICH HE OR SHE IS NOW REGISTERED." IF THE
56 AFFIANT SHALL TAKE AND SIGN SUCH OATH, AN INSPECTOR SHALL SIGN HIS OR

1 HER NAME AS A WITNESS BELOW THE AFFIANT'S SUBSCRIPTION TO SUCH OATH.
2 EACH CHALLENGE AFFIDAVIT MAY ONLY CHALLENGE THE QUALIFICATIONS OF ONE
3 VOTER.
4 2. THE BOARD OF ELECTIONS SHALL MAKE CHALLENGE AFFIDAVIT FORMS AVAIL-
5 ABLE TO ALL QUALIFIED VOTERS.
6 S 6. Paragraphs (b) and (e) of subdivision 2 of section 8-508 of the
7 election law, as amended by chapter 200 of the laws of 1996, are amended
8 to read as follows:
9 (b) The second section of such report shall be reserved for the board
10 of inspectors to enter the name, address and registration serial number
11 of each person who is challenged on the day of election, together with
12 the reason for the challenge, THE NAME AND ADDRESS OF THE PERSON CHAL-
13 LENGING THE QUALIFICATIONS OF SUCH VOTER, IF SUCH PERSON CHALLENGING THE
14 QUALIFICATIONS IS NOT AN INSPECTOR OR CLERK, AND THE WORDS "PERMITTED TO
15 VOTE" OR "REFUSED TO TAKE OATH". If no voters are challenged, the board
16 of inspectors shall enter the words "No Challenges" across the space
17 reserved for such names. In lieu of preparing section two of the chal-
18 lenge report, the board of elections may provide, next to the name of
19 each voter on the computer generated registration list, a place for the
20 inspectors of election to record the information required to be entered
21 in such section two, or provide at the end of such computer generated
22 registration list, a place for the inspectors of election to enter such
23 information.
24 (e) At the foot of such report and at the end of any such computer
25 generated registration list shall be printed a certificate that such
26 report contains the names of all persons who were challenged on the day
27 of election, and [that each voter so reported as having been challenged
28 took the oaths as required] THE REASON FOR SUCH CHALLENGE AND THE NAMES
29 AND ADDRESSES OF ALL CHALLENGERS WHO ARE NOT INSPECTORS OR CLERKS, that
30 such report contains the names of all voters to whom such board gave or
31 allowed assistance and lists the nature of the disability which required
32 such assistance to be given and the names and family relationship, if
33 any, to the voter of the persons by whom such assistance was rendered;
34 that each such assisted voter informed such board under oath that he OR
35 SHE required such assistance and that each person rendering such assist-
36 ance took the required oath; that such report contains the names of all
37 voters who were permitted to vote although their registration poll
38 records were missing; that the entries made by such board are a true and
39 accurate record of its proceedings with respect to the persons named in
40 such report.
41 S 7. Subdivision 3 of section 8-510 of the election law, as amended by
42 chapter 43 of the laws of 1988, is amended to read as follows:
43 3. The inspectors shall place such completed report, EACH CHALLENGE
44 AFFIDAVIT, EACH WATCHER CERTIFICATE and each court order, if any,
45 directing that a person be permitted to vote, inside a ledger of regis-
46 tration records or computer generated registration lists between the
47 front cover, and the first registration record and then shall close and
48 seal each ledger of registration records or computer generated registra-
49 tion lists, affix their signature to the seal, lock such ledger in the
50 carrying case furnished for that purpose and enclose the keys in a

sealed package or seal such list in the envelope provided for that purpose.

S 8. Subdivisions 1 and 2 of section 17-108 of the election law, as amended by chapter 373 of the laws of 1978, are amended to read as follows:

1. Any person who wilfully loses, alters, destroys or mutilates A WATCHER CERTIFICATE, the list of voters or registration poll ledgers , A CHALLENGE AFFIDAVIT, OR A CHALLENGE REPORT in any election district, or a certified copy thereof, is guilty of a misdemeanor.

2. An applicant for registration who shall make, incorporate or cause to be incorporated a material false statement in an application for registration, or in any challenge or other affidavit required for or made or filed in connection with registration or voting, and any person who knowingly takes a false oath before a board of inspectors of election, and any person who makes a material false statement in a medical certificate, CHALLENGE AFFIDAVIT or an affidavit filed in connection with an application for registration, is guilty of a misdemeanor.

S 9. Section 17-150 of the election law is amended to read as follows:

S 17-150. Duress and intimidation of voters. 1. Any person or corporation who directly or indirectly:

[1.] (A) Uses or threatens to use any force, violence or restraint, or inflicts or threatens to inflict any injury, damage, harm or loss, or in any other manner practices intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting for or against any particular person or for or against any proposition submitted to voters at such election, or to place or cause to be placed or refrain from placing or causing to be placed his OR HER name upon a registry of voters, or on account of such person having voted or refrained from voting at such election, or having voted or refrained from voting for or against any particular person or persons, or for or against any proposition submitted to voters at such election, or having registered or refrained from registering as a voter; or,

[2.] (B) By abduction, duress or any forcible or fraudulent device or contrivance whatever impedes, prevents or otherwise interferes with the free exercise of the elective franchise by any voter, or compels, induces or prevails upon any voter to give or refrain from giving his OR HER vote for or against any particular person at any election; or,

[3.] (C) Being an employer pays his [employess] OR HER EMPLOYEES the salary or wages due in "pay envelopes," in which there is enclosed or upon which there is written or printed political motto, device or argument containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employees, or within ninety days of a general election puts or otherwise exhibits in the establishment or place where his OR HER employees are engaged in labor, any handbill or placard containing any threat, notice or information, that if any particular ticket or candidate is elected or defeated, work in his OR HER place or establishment will cease, in whole or in part, his OR HER establishment will be closed up, or the wages of his OR HER employees reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of his OR HER employees, is guilty of a misdemeanor, and, if a corporation, shall in addition forfeit its charter.

2. IT SHALL BE PRESUMPTIVE EVIDENCE THAT A PERSON HAS PRACTICED INTIMIDATION UPON OR AGAINST ANOTHER PERSON IN ORDER TO INDUCE SUCH OTHER PERSON TO REFRAIN FROM VOTING FOR OR AGAINST ANY PARTICULAR PERSON OR FOR OR AGAINST ANY PROPOSITION, WITHIN THE MEANING OF PARAGRAPH (A) OF SUBDIVISION ONE OF THIS SECTION, WHERE HE OR SHE:

(A) BEING OTHER THAN AN INSPECTOR OR CLERK, CHALLENGES THE QUALIFICATIONS OF MORE THAN TEN VOTERS DURING AN ELECTION, AND WHERE THE BOARD OF ELECTIONS, FOLLOWING AN INVESTIGATION PURSUANT TO PARAGRAPH (F) OF

SUBDIVISION TWO OF SECTION 8-508 OF THIS CHAPTER, FINDS AT LEAST TEN OF SUCH CHALLENGED VOTERS TO BE QUALIFIED VOTERS; OR

(B) BEING OTHER THAN AN INSPECTOR OR CLERK, CHALLENGES THE QUALIFICATIONS OF A VOTER AT ANY GENERAL, PRIMARY, SPECIAL, TOWN OR VILLAGE ELECTION AND THEREAFTER, WITHOUT GOOD CAUSE, FAILS TO COMPLY WITH THE REQUIREMENTS OF SECTION 8-503 OF THIS CHAPTER.

S 10. Subdivision 1 of section 17-154 of the election law is amended to read as follows:

9 1. (A) Intimidate, threaten or coerce, or to attempt to intimidate,
10 threaten or coerce, any other person for the purpose of interfering with
11 the right of such other person to vote or to vote as he may choose, or
12 for the purpose of causing such other person to vote for, or not to vote
13 for, any candidate for the office of governor, lieutenant-governor,
14 attorney-general, comptroller, judge of any court, member of the senate,
15 or member of the assembly at any election held solely or in part for the
16 purpose of selecting a governor, lieutenant-governor, attorney-general,
17 comptroller, any judge or any member of the senate or any member of the
18 assembly; [or,]
19 (B) IT SHALL BE PRESUMPTIVE EVIDENCE THAT A PERSON HAS VIOLATED PARA-
20 GRAPH (A) OF THIS SUBDIVISION WHEN, DURING ANY ELECTION ENUMERATED IN
21 SUCH SUBDIVISION, HE OR SHE:
22 (I) BEING OTHER THAN AN INSPECTOR OR CLERK, CHALLENGES THE QUALIFICA-
23 TIONS OF MORE THAN TEN VOTERS DURING SUCH ELECTION, AND WHERE THE BOARD
24 OF ELECTIONS, FOLLOWING AN INVESTIGATION PURSUANT TO PARAGRAPH (F) OF
25 SUBDIVISION TWO OF SECTION 8-508 OF THIS CHAPTER, FINDS AT LEAST TEN OF
26 SUCH CHALLENGED VOTERS TO BE QUALIFIED VOTERS; OR
27 (II) BEING OTHER THAN AN INSPECTOR OR CLERK, CHALLENGES THE QUALIFICA-
28 TIONS OF A VOTER AT ANY SUCH ELECTION AND FAILS TO COMPLY WITH THE
29 REQUIREMENTS OF SECTION 8-503 OF THIS CHAPTER; OR
30 S 11. This act shall take effect one year after it shall have become a
31 law.

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DRAFT

Introduced by:
Hon. Barry S. Kantrowitz, Sponsor

Referral No.
, 2014

RESOLUTION NO. OF 2014
REQUESTING THAT THE NEW YORK STATE ASSEMBLY PASS BILL A.1328 AND THE NEW YORK STATE SENATE PASS BILL S.1781 – THE NEW YORK STATE SCHOOL TAXPAYERS' PROTECTION ACT

WHEREAS, various counties in New York have recently experienced a series of public school district financial scandals; and

WHEREAS; a Suffolk County grand jury recently issued a thorough and comprehensive set of recommendations concerning the numerous public school financial misdeeds that occurred in that county. The grand jury found that each episode involved malfeasance by individuals or small groups in an environment where strong internal financial controls in school business offices were lacking and viewed as optional luxuries; and

WHEREAS, this legislation arises out of that grand jury investigation and reflects virtually all the legislative recommendations made by that grand jury; and

WHEREAS, bills A.1328 and S.1781 create the office of the Inspector General for education and give it broad authority to investigate allegations of corruption, financial improprieties, unethical misconduct or other criminal conduct within school districts outside of New York City that are causing waste and abuse of school taxpayers' hard-earned dollars. They also incorporate extensive financial safeguards and sanctions for violations of school district finance laws; and

WHEREAS, the Committee has met, considered and by a vote, approved this resolution; now therefore be it

RESOLVED, that the Legislature of Rockland County hereby urges the New York State Assembly to pass Bill A.1328 and the New York State Senate to pass Bill S.1781 – The New York State School Taxpayers' Protection Act, and that the Governor of New York sign such legislation; and be it further

RESOLVED, That the Clerk to the Legislature be and he is hereby authorized and directed to send a copy of this resolution to Hon. Andrew M. Cuomo, Governor of the State of New York; Hon. David Carlucci, Hon. William J. Larkin, Jr., New York State Senators, Hon. Kenneth P. Zebrowski, Jr., Hon. Ellen C. Jaffee, and Hon. James G. Skoufis, Members of the New York State Assembly; the President Pro Tem of the New York State Senate; the Speaker of the New York State Assembly; the Majority and Minority Leaders of the New York State Senate and Assembly; and to such other persons as the Clerk, in his discretion, may deem proper in order to effectuate the purpose of this resolution.

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STATE OF NEW YORK

S. 1781 A. 1328

2013-2014 Regular Sessions

SENATE-ASSEMBLY

(PREFILED)

January 9, 2013

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Education

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Education

AN ACT to amend the education law, the executive law, the general municipal law, the labor law, the penal law and the retirement and social security law, in relation to enacting the "New York state school taxpayers' protection act"

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York state school taxpayers' protection act".
3 S 2. Legislative findings and intent. Public school districts in New
4 York state have recently experienced numerous instances of financial
5 scandals. These scandals have been unprecedented in both the number and
6 diversity of financial malfeasance. Furthermore, such scandals result in
7 the diversion of hard-earned property taxpayers' money from their proper
8 use in school instruction to improper and illegal purposes that do not
9 further the school districts' essential mission of educating New York
10 children. Therefore, the legislature finds that it is necessary to
11 establish a new, independent state agency charged with the function of
12 investigating allegations of corruption, financial improprieties, uneth-
13 ical conduct, misconduct or other criminal conduct within public school
14 districts outside of New York city. In addition, the legislature further
15 finds that the current laws must be amended to incorporate school
16 district financial safeguards and establish sanctions for violations of
17 school district finance laws.
18 S 3. The education law is amended by adding a new section 2116-d to
19 read as follows:

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

LBD01690-01-3

1 S 2116-D. PERSONS AND OFFICIALS REQUIRED TO REPORT CASES OF SUSPECTED
2 CORRUPTION, OTHER CRIMINAL ACTIVITY OR CONFLICT OF INTEREST OCCURRING
3 WITHIN THE OPERATIONS OF A SCHOOL DISTRICT. 1. THE FOLLOWING PERSONS AND
4 OFFICIALS ARE REQUIRED TO REPORT OR CAUSE A REPORT TO BE MADE IN ACCORD-
5 ANCE WITH THIS SECTION WHEN THEY DISCOVER INFORMATION CONCERNING CONDUCT
6 WHICH IS KNOWN OR SHOULD REASONABLY BE KNOWN TO INVOLVE CORRUPTION OR
7 OTHER CRIMINAL ACTIVITY OR CONFLICT OF INTEREST BY EITHER A PUBLIC
8 SCHOOL DISTRICT EMPLOYEE THAT RELATES TO THEIR EMPLOYMENT OR BY A
9 PERSON, PERSONS OR ENTITIES DOING BUSINESS WITH A PUBLIC SCHOOL DISTRICT
10 WITH RESPECT TO THEIR TRANSACTIONS WITH THE SCHOOL DISTRICT, ANY SCHOOL
11 DISTRICT OFFICER, AND ANY SCHOOL DISTRICT EMPLOYEE.
12 2. ANY PERSON OR OFFICIAL MANDATED TO REPORT CASES OF SUSPECTED

13 CORRUPTION, OTHER CRIMINAL ACTIVITY OR CONFLICT OF INTEREST PURSUANT TO
14 SUBDIVISION ONE OF THIS SECTION SHALL IMMEDIATELY REPORT THE INFORMATION
15 THEY HAVE TO THE NEW YORK STATE INSPECTOR GENERAL FOR EDUCATION, AS
16 ESTABLISHED IN ARTICLE FOUR-B OF THE EXECUTIVE LAW.
17 3. ANY SCHOOL DISTRICT WHICH EMPLOYS PERSONS MANDATED TO REPORT
18 SUSPECTED INCIDENTS OF CORRUPTION, OTHER CRIMINAL ACTIVITY OR CONFLICT
19 OF INTEREST PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL PROVIDE
20 SUCH CURRENT AND NEW EMPLOYEES WITH WRITTEN INFORMATION EXPLAINING THE
21 REPORTING REQUIREMENTS SET OUT IN SUBDIVISION ONE OF THIS SECTION.
22 4. ANY PERSON OR OFFICIAL REQUIRED BY THIS SECTION TO REPORT CERTAIN
23 INFORMATION AS SPECIFIED IN THIS SECTION WHO WILLFULLY FAILS TO DO SO
24 SHALL BE GUILTY OF A CLASS A MISDEMEANOR.
25 5. ANY PERSON OR OFFICIAL REQUIRED BY THIS SECTION TO REPORT CERTAIN
26 INFORMATION AS SPECIFIED IN THIS SECTION WHO KNOWINGLY AND WILLFULLY
27 FAILS TO DO SO SHALL BE CIVILLY LIABLE FOR THE DAMAGES PROXIMATELY
28 CAUSED BY SUCH FAILURE.
29 6. ANY PERSON OR OFFICIAL PARTICIPATING IN GOOD FAITH IN THE MAKING OF
30 A REPORT UNDER THIS SECTION SHALL HAVE IMMUNITY FROM ANY LIABILITY,
31 CIVIL OR CRIMINAL, THAT MIGHT OTHERWISE RESULT BY REASON OF SUCH
32 ACTIONS. FOR THE PURPOSE OF ANY PROCEEDING, CIVIL OR CRIMINAL, THE GOOD
33 FAITH OF ANY SUCH PERSON OR OFFICIAL REQUIRED TO REPORT UNDER THIS
34 SECTION SHALL BE PRESUMED, PROVIDED SUCH PERSON OR OFFICIAL WAS ACTING
35 IN DISCHARGE OF THEIR DUTIES AND WITHIN THE SCOPE OF THEIR EMPLOYMENT,
36 AND THAT SUCH LIABILITY DID NOT RESULT FROM THE WILLFUL MISCONDUCT OR
37 GROSS NEGLIGENCE OF SUCH PERSON OR OFFICIAL.
38 S 4. Subdivision 6 of section 2122 of the education law is amended to
39 read as follows:
40 6. Such treasurer shall[, whenever required by such trustees,] report
41 to [them] SUCH TRUSTEES a detailed [statement] ANNUAL REPORT of the
42 moneys received by him OR HER and of his OR HER disbursements, and at
43 the annual meeting of such district he OR SHE shall render a full
44 account of all moneys received by him OR HER and from what source, and
45 when received, and all disbursements made by him OR HER and to whom and
46 the dates of such disbursements respectively, and the balance of moneys
47 remaining in his OR HER hands. THE TREASURER SHALL CERTIFY IN SUCH
48 ANNUAL REPORT THAT HE OR SHE HAS: REVIEWED THE ANNUAL REPORT; THAT
49 BASED ON THE TREASURER'S KNOWLEDGE, THE REPORT DOES NOT CONTAIN ANY
50 UNTRUE STATEMENT OF A MATERIAL FACT OR OMIT TO STATE A MATERIAL FACT
51 NECESSARY IN ORDER TO MAKE THE STATEMENTS MADE, IN LIGHT OF THE CIRCUM-
52 STANCES UNDER WHICH SUCH STATEMENTS WERE MADE, NOT MISLEADING; AND BASED
53 ON SUCH TREASURER'S KNOWLEDGE, THE FINANCIAL STATEMENTS, AND OTHER
54 FINANCIAL INFORMATION INCLUDED IN THE REPORT, FAIRLY PRESENT IN ALL
55 MATERIAL RESPECTS THE FINANCIAL CONDITION AND RESULTS OF OPERATIONS OF
56 THE SCHOOL DISTRICT AS OF, AND FOR, THE PERIODS PRESENTED IN THE REPORT.

1 S 5. Section 1720 of the education law is amended by adding a new
2 subdivision 3 to read as follows:
3 3. THE TREASURER OF THE DISTRICT SHALL ISSUE AN ANNUAL REPORT WITH A
4 FULL AND DETAILED ACCOUNT OF ALL MONEYS RECEIVED BY THE BOARD OR SUCH
5 TREASURER, FOR ITS ACCOUNT AND USE, AND OF ALL THE MONEYS EXPENDED
6 THEREFOR, GIVING THE ITEMS OF EXPENDITURE IN FULL. THE TREASURER SHALL
7 CERTIFY IN SUCH ANNUAL REPORT THAT HE OR SHE HAS: REVIEWED THE ANNUAL
8 REPORT; THAT BASED ON THE TREASURER'S KNOWLEDGE, THE REPORT DOES NOT
9 CONTAIN ANY UNTRUE STATEMENT OF A MATERIAL FACT OR OMIT TO STATE A MATE-
10 RIAL FACT NECESSARY IN ORDER TO MAKE THE STATEMENTS MADE, IN LIGHT OF
11 THE CIRCUMSTANCES UNDER WHICH SUCH STATEMENTS WERE MADE, NOT MISLEADING;
12 AND BASED ON SUCH TREASURER'S KNOWLEDGE, THE FINANCIAL STATEMENTS, AND
13 OTHER FINANCIAL INFORMATION INCLUDED IN THE REPORT, FAIRLY PRESENT IN
14 ALL MATERIAL RESPECTS THE FINANCIAL CONDITION AND RESULTS OF OPERATIONS
15 OF THE SCHOOL DISTRICT AS OF, AND FOR, THE PERIODS PRESENTED IN THE
16 REPORT.
17 S 6. Section 2215 of the education law is amended by adding a new
18 subdivision 17 to read as follows:
19 17. TO CERTIFY IN THE ANNUAL REPORT ISSUED PURSUANT TO EITHER SECTION

20 SEVENTEEN HUNDRED TWENTY OF THIS CHAPTER OR SECTION TWENTY-ONE HUNDRED
21 TWENTY-TWO OF THIS CHAPTER THAT HE OR SHE HAS: REVIEWED THE ANNUAL
22 REPORT; THAT BASED ON THE SUPERINTENDENT'S KNOWLEDGE, THE REPORT DOES
23 NOT CONTAIN ANY UNTRUE STATEMENT OF A MATERIAL FACT OR OMIT TO STATE A
24 MATERIAL FACT NECESSARY IN ORDER TO MAKE THE STATEMENTS MADE, IN LIGHT
25 OF THE CIRCUMSTANCES UNDER WHICH SUCH STATEMENTS WERE MADE, NOT MISLEAD-
26 ING; AND BASED ON SUCH SUPERINTENDENT'S KNOWLEDGE, THE FINANCIAL STATE-
27 MENTS, AND OTHER FINANCIAL INFORMATION INCLUDED IN THE REPORT, FAIRLY
28 PRESENT IN ALL MATERIAL RESPECTS THE FINANCIAL CONDITION AND RESULTS OF
29 OPERATIONS OF THE SCHOOL DISTRICT AS OF, AND FOR, THE PERIODS PRESENTED
30 IN THE REPORT.
31 S 7. The education law is amended by adding a new section 2116-e to
32 read as follows:
33 S 2116-E. COMPENSATION COMMITTEES. 1. EVERY SCHOOL DISTRICT, EXCEPT
34 THOSE EMPLOYING FEWER THAN EIGHT TEACHERS, SHALL ESTABLISH BY A RESOL-
35 UTION OF THE TRUSTEES OR BOARD OF EDUCATION A LOCAL SCHOOL DISTRICT
36 COMPENSATION COMMITTEE TO OVERSEE AND REPORT TO THE TRUSTEES OR BOARD ON
37 THE PROPOSED CONTRACTS OF ALL SCHOOL DISTRICT BARGAINING UNITS, ADMINIS-
38 TRATORS AND SUPERINTENDENTS.
39 2. THE COMPENSATION COMMITTEE SHALL BE ESTABLISHED NO LATER THAN JANU-
40 ARY FIRST, TWO THOUSAND FOURTEEN AS A COMMITTEE OF THE TRUSTEES OR
41 BOARD, AS AN ADVISORY COMMITTEE, OR AS A COMMITTEE OF THE WHOLE.
42 3. THE COMPENSATION COMMITTEE SHALL CONSIST OF AT LEAST THREE MEMBERS,
43 AT LEAST TWO OF WHOM SHALL NOT BE A TRUSTEE OR BOARD MEMBER. THE COMPEN-
44 SATION COMMITTEE MEMBERS SHALL SERVE WITHOUT COMPENSATION. EMPLOYEES OF
45 THE SCHOOL DISTRICT ARE PROHIBITED FROM SERVING ON THE COMPENSATION
46 COMMITTEE. A MEMBER OF A COMPENSATION COMMITTEE SHALL BE DEEMED A SCHOOL
47 DISTRICT OFFICER FOR THE PURPOSES OF SECTIONS THIRTY-EIGHT HUNDRED ELEV-
48 EN THROUGH THIRTY-EIGHT HUNDRED THIRTEEN OF THIS CHAPTER, BUT SHALL NOT
49 BE REQUIRED TO BE A RESIDENT OF THE SCHOOL DISTRICT.
50 4. THE ROLE OF A COMPENSATION COMMITTEE SHALL BE ADVISORY AND ANY
51 RECOMMENDATIONS IT PROVIDES TO THE TRUSTEES OR BOARD UNDER SUBDIVISION
52 FIVE OF THIS SECTION SHALL NOT SUBSTITUTE FOR ANY REQUIRED REVIEW AND
53 ACTION BY THE TRUSTEES OR BOARD OF EDUCATION.
54 5. IT SHALL BE THE RESPONSIBILITY OF THE COMPENSATION COMMITTEE TO:

1 (A) REVIEW EVERY CONTRACT BETWEEN THE DISTRICT AND ANY BARGAINING
2 UNITS, EMPLOYEES, ADMINISTRATORS AND SUPERINTENDENTS NEGOTIATED AFTER
3 JANUARY FIRST, TWO THOUSAND FOURTEEN;
4 (B) RECEIVE AND REVIEW PROPOSED CONTRACTS BETWEEN THE DISTRICT AND ANY
5 BARGAINING UNITS, EMPLOYEES, ADMINISTRATORS AND SUPERINTENDENTS PRIOR TO
6 SUCH CONTRACTS' APPROVAL; AND
7 (C) PROVIDE RECOMMENDATIONS TO THE TRUSTEES OR BOARD REGARDING THE
8 SALARY, FRINGE BENEFITS AND OTHER FORMS OF COMPENSATION GIVEN AND
9 PROPOSED TO BE GIVEN TO ALL SCHOOL DISTRICT EMPLOYEES, ADMINISTRATORS
10 AND SUPERINTENDENTS.
11 6. NOTWITHSTANDING ANY PROVISION OF ARTICLE SEVEN OF THE PUBLIC OFFI-
12 CERS LAW OR ANY OTHER LAW TO THE CONTRARY, A SCHOOL DISTRICT COMPEN-
13 SATION COMMITTEE MAY CONDUCT AN EXECUTIVE SESSION PURSUANT TO SECTION
14 ONE HUNDRED FIVE OF THE PUBLIC OFFICERS LAW PERTAINING TO ANY MATTER SET
15 FORTH IN PARAGRAPHS (A) AND (B) OF SUBDIVISION FIVE OF THIS SECTION.
16 7. THE COMMISSIONER IS AUTHORIZED TO PROMULGATE REGULATIONS WITH
17 RESPECT TO COMPENSATION COMMITTEES AS ARE NECESSARY FOR THE PROPER
18 PERFORMANCE OF THEIR DUTIES.
19 8. AS LONG AS THE CHANCELLOR OF A SCHOOL DISTRICT IN A CITY HAVING A
20 POPULATION OF ONE MILLION OR MORE INHABITANTS SHALL ANNUALLY CERTIFY TO
21 THE COMMISSIONER THAT SUCH DISTRICT HAS A PROCESS FOR REVIEW BY A
22 COMPENSATION COMMITTEE OF THE DISTRICT'S CONTRACTS WITH ANY BARGAINING
23 UNITS, EMPLOYEES, ADMINISTRATORS AND SUPERINTENDENTS, THE PROVISIONS OF
24 THIS SECTION SHALL NOT APPLY TO SUCH SCHOOL DISTRICT.
25 S 8. The education law is amended by adding a new section 2009-a to
26 read as follows:
27 S 2009-A. ADDITIONAL REQUIREMENTS OF NOTICE PRIOR TO AUTHORIZATION OF
28 SCHOOL DISTRICT EMPLOYMENT CONTRACTS. WHERE ANY COLLECTIVE BARGAINING

29 AGREEMENT, EMPLOYMENT CONTRACT OR AMENDMENTS TO SUCH AGREEMENT OR
30 CONTRACT IS TO BE SUBMITTED TO A DISTRICT MEETING FOR A VOTE, THE SCHOOL
31 DISTRICT BOARD OR TRUSTEES SHALL GIVE NOTICE, AT LEAST FIVE WEEKS PRIOR
32 TO SUCH MEETING, THROUGH A DISTRICT-WIDE MAILING OF THE AVAILABILITY OF
33 THE AGREEMENT, CONTRACT OR AMENDMENT AT PUBLIC LIBRARIES WITHIN THE
34 DISTRICT, AT THE SCHOOL DISTRICT OFFICES AND ON THE SCHOOL DISTRICT'S
35 INTERNET WEBSITE, IF ONE EXISTS.
36 S 9. Subdivision 4 of section 1608 of the education law, as amended by
37 chapter 640 of the laws of 2008, is amended to read as follows:
38 4. Commencing with the proposed budget for the nineteen hundred nine-
39 ty-eight--ninety-nine school year, such proposed budget shall be
40 presented in three components: a program component, a capital component
41 and an administrative component which shall be separately delineated in
42 accordance with regulations of the commissioner after consultation with
43 local school district officials. The administrative component shall
44 include, but need not be limited to, office and central administrative
45 expenses, traveling expenses and all compensation, salaries and benefits
46 of all school administrators and supervisors, including business admin-
47 istrators, superintendents of schools and deputy, assistant, associate
48 or other superintendents under all existing employment contracts or
49 collective bargaining agreements, AND TEACHERS UNDER EXISTING EMPLOYMENT
50 CONTRACTS, any and all expenditures associated with the operation of the
51 office of trustee or board of trustees, the office of the superintendent
52 of schools, general administration, the school business office, consult-
53 ing costs not directly related to direct student services and programs,
54 planning and all other administrative activities. The program component
55 shall include, but need not be limited to, all program expenditures of
56 the school district, including the salaries and benefits of teachers and

1 any school administrators or supervisors who spend a majority of their
2 time performing teaching duties, and all transportation operating
3 expenses. The capital component shall include, but need not be limited
4 to, all transportation capital, debt service, and lease expenditures;
5 costs resulting from judgments in tax certiorari proceedings or the
6 payment of awards from court judgments, administrative orders or settled
7 or compromised claims; and all facilities costs of the school district,
8 including facilities lease expenditures, the annual debt service and
9 total debt for all facilities financed by bonds and notes of the school
10 district, and the costs of construction, acquisition, reconstruction,
11 rehabilitation or improvement of school buildings, provided that such
12 budget shall include a rental, operations and maintenance section that
13 includes base rent costs, total rent costs, operation and maintenance
14 charges, cost per square foot for each facility leased by the school
15 district, and any and all expenditures associated with custodial sala-
16 ries and benefits, service contracts, supplies, utilities, and mainte-
17 nance and repairs of school facilities. For the purposes of the develop-
18 ment of a budget for the nineteen hundred ninety-eight--ninety-nine
19 school year, the trustee or board of trustees shall separate the
20 district's program, capital and administrative costs for the nineteen
21 hundred ninety-seven--ninety-eight school year in the manner as if the
22 budget for such year had been presented in three components.
23 S 10. Subdivision 4 of section 1716 of the education law, as amended
24 by chapter 640 of the laws of 2008, is amended to read as follows:
25 4. Commencing with the proposed budget for the nineteen hundred nine-
26 ty-eight--ninety-nine school year, such proposed budget shall be
27 presented in three components: a program component, a capital component
28 and an administrative component which shall be separately delineated in
29 accordance with regulations of the commissioner after consultation with
30 local school district officials. The administrative component shall
31 include, but need not be limited to, office and central administrative
32 expenses, traveling expenses and all compensation, salaries and benefits
33 of all school administrators and supervisors, including business admin-
34 istrators, superintendents of schools and deputy, assistant, associate
35 or other superintendents under all existing employment contracts or

36 collective bargaining agreements, AND TEACHERS UNDER EXISTING EMPLOYMENT
37 CONTRACTS, any and all expenditures associated with the operation of the
38 board of education, the office of the superintendent of schools, general
39 administration, the school business office, consulting costs not direct-
40 ly related to direct student services and programs, planning and all
41 other administrative activities. The program component shall include,
42 but need not be limited to, all program expenditures of the school
43 district, including the salaries and benefits of teachers and any school
44 administrators or supervisors who spend a majority of their time
45 performing teaching duties, and all transportation operating expenses.
46 The capital component shall include, but need not be limited to, all
47 transportation capital, debt service, and lease expenditures; costs
48 resulting from judgments in tax certiorari proceedings or the payment of
49 awards from court judgments, administrative orders or settled or compro-
50 mised claims; and all facilities costs of the school district, including
51 facilities lease expenditures, the annual debt service and total debt
52 for all facilities financed by bonds and notes of the school district,
53 and the costs of construction, acquisition, reconstruction, rehabili-
54 tation or improvement of school buildings, provided that such budget
55 shall include a rental, operations and maintenance section that includes
56 base rent costs, total rent costs, operation and maintenance charges,

1 cost per square foot for each facility leased by the school district,
2 and any and all expenditures associated with custodial salaries and
3 benefits, service contracts, supplies, utilities, and maintenance and
4 repairs of school facilities. For the purposes of the development of a
5 budget for the nineteen hundred ninety-eight--ninety-nine school year,
6 the board of education shall separate the district's program, capital
7 and administrative costs for the nineteen hundred ninety-seven--ninety-
8 eight school year in the manner as if the budget for such year had been
9 presented in three components.
10 S 11. Subdivision 2 of section 1608 of the education law, as amended
11 by chapter 640 of the laws of 2008, is amended to read as follows:
12 2. Such statement shall be completed at least seven days before the
13 budget hearing at which it is to be presented and copies thereof shall
14 be prepared and made available[, upon request and] at the school
15 district offices, at any public library or free association library
16 within the district and on the school district's internet website, if
17 one exists, to residents within the district during the period of [four-
18 teen] THIRTY days immediately preceding the annual meeting and election
19 or special district meeting at which the budget vote will occur and at
20 such meeting or hearing. The board shall also as a part of the notice
21 required by section two thousand three of this chapter give notice of
22 the date, time and place of the budget hearing and that a copy of such
23 statement may be obtained by any resident in the district at each
24 schoolhouse in the district in which school is maintained during certain
25 designated hours on each day other than a Saturday, Sunday or holiday
26 during the [fourteen] THIRTY days immediately preceding such meeting.
27 The board shall include notice of the availability of such statement at
28 least once during the school year in any district-wide mailing distrib-
29 uted.
30 S 12. Subdivision 2 of section 1716 of the education law, as amended
31 by chapter 640 of the laws of 2008, is amended to read as follows:
32 2. Such statement shall be completed at least seven days before the
33 budget hearing at which it is to be presented and copies thereof shall
34 be prepared and made available[, upon request and] at the school
35 district offices, at any public library or free association library
36 within the district and on the school district's internet website, if
37 one exists, to residents within the district during the period of [four-
38 teen] THIRTY days immediately preceding the annual meeting and election
39 or special district meeting at which the budget vote will occur and at
40 such meeting or hearing. The board shall also as a part of the notice
41 required by section two thousand four of this chapter give notice of the
42 date, time and place of the budget hearing and that a copy of such

statement may be obtained by any resident in the district at each schoolhouse in the district in which school is maintained during certain designated hours on each day other than a Saturday, Sunday or holiday during the [fourteen] THIRTY days immediately preceding such meeting. The board shall include notice of the availability of such statement at least once during the school year in any district-wide mailing distributed.

S 13. Paragraph (c) of subdivision 3 of section 2116-a of the education law, as added by chapter 263 of the laws of 2005, is amended to read as follows:

(c) Notwithstanding the provisions of subparagraph one of paragraph (b) of subdivision four of section thirty-five of the general municipal law, each school district shall (i) prepare a corrective action plan in response to any findings contained in the annual external audit report

or management letter, or any final audit report issued by the state comptroller, within ninety days of receipt of such report or letter, and (ii) to the extent practicable, begin implementation of such corrective action plan no later than the end of the next fiscal year. EACH SCHOOL DISTRICT SHALL NOTIFY THE DISTRICT RESIDENTS OF THE AVAILABILITY OF THE CORRECTIVE ACTION PLAN AT PUBLIC LIBRARIES WITHIN THE DISTRICT, AT THE SCHOOL DISTRICT OFFICES AND ON THE SCHOOL DISTRICT'S INTERNET WEBSITE, IF ONE EXISTS. ANY SCHOOL DISTRICT WHICH FAILS TO COMPLY WITH THE REQUIRED NOTIFICATION OF AVAILABILITY OF THE CORRECTIVE ACTION PLAN SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS UPON AN ADMINISTRATIVE DETERMINATION BY THE COMMISSIONER.

S 14. The education law is amended by adding a new section 1527-a to read as follows:

S 1527-A. FUNDING OF MANDATES IMPOSED ON SCHOOL DISTRICTS. 1. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE CONTEXT SHALL OTHERWISE REQUIRE:

(A) "MANDATE" SHALL MEAN:

(I) ANY STATE LAW, RULE OR REGULATION WHICH CREATES A NEW PROGRAM OR REQUIRES A HIGHER LEVEL OF SERVICE FOR AN EXISTING PROGRAM WHICH A SCHOOL DISTRICT ORGANIZED EITHER BY SPECIAL LAWS OR PURSUANT TO THE PROVISIONS OF A GENERAL LAW, IS REQUIRED TO PROVIDE; OR

(II) ANY GENERAL LAW WHICH GRANTS A NEW PROPERTY TAX EXEMPTION OR INCREASES AN EXISTING PROPERTY TAX EXEMPTION WHICH ANY SUCH SCHOOL DISTRICT IS REQUIRED TO PROVIDE.

(B) "UNFUNDED MANDATE" SHALL MEAN:

(I) ANY STATE LAW, RULE OR REGULATION WHICH CREATES A NEW PROGRAM OR REQUIRES A HIGHER LEVEL OF SERVICE FOR AN EXISTING PROGRAM WHICH ANY SUCH SCHOOL DISTRICT IS REQUIRED TO PROVIDE AND WHICH RESULTS IN A NET ADDITIONAL COST TO SUCH SCHOOL DISTRICT;

(II) ANY ALTERATION IN FUNDING PROVIDED TO ANY SUCH SCHOOL DISTRICT FOR THE PURPOSE OF DEFRAYING THE COSTS OF A PROGRAM WHICH IT IS REQUIRED TO PROVIDE, THEREBY RESULTING IN A NET ADDITIONAL COST TO SUCH SCHOOL DISTRICT; OR

(III) ANY GENERAL LAW WHICH GRANTS A NEW PROPERTY TAX EXEMPTION OR INCREASES AN EXISTING PROPERTY TAX EXEMPTION WHICH ANY SUCH SCHOOL DISTRICT IS REQUIRED TO PROVIDE, THEREBY RESULTING IN A NET ADDITIONAL COST TO SUCH SCHOOL DISTRICT.

(C) "NET ADDITIONAL COST" MEANS THE COST OR COSTS INCURRED OR ANTICIPATED TO BE INCURRED WITHIN A ONE YEAR PERIOD BY A SCHOOL DISTRICT IN PERFORMING OR ADMINISTERING A MANDATE AFTER SUBTRACTING THEREFROM ANY REVENUES RECEIVED OR RECEIVABLE BY THE SCHOOL DISTRICT ON ACCOUNT OF THE MANDATED PROGRAM OR SERVICE, INCLUDING BUT NOT LIMITED TO:

(I) FEES CHARGED TO THE RECIPIENTS OF THE MANDATED PROGRAM OR SERVICE;

(II) STATE OR FEDERAL AID PAID SPECIFICALLY OR CATEGORICALLY IN CONNECTION WITH THE PROGRAM OR SERVICE; AND

(III) AN OFFSETTING SAVINGS RESULTING FROM THE DIMINUTION OR ELIMINATION OF ANY OTHER PROGRAM OR SERVICE DIRECTLY ATTRIBUTABLE TO THE PERFORMANCE OR ADMINISTRATION OF THE MANDATED PROGRAM.

2. FUNDING OF SCHOOL DISTRICT MANDATES. NOTWITHSTANDING ANY OTHER

50 PROVISION OF LAW, NO UNFUNDED MANDATE SHALL BE ENACTED WHICH CREATES AN
51 ANNUAL NET ADDITIONAL COST TO ANY SCHOOL DISTRICT IN EXCESS OF FIVE
52 THOUSAND DOLLARS OR AN AGGREGATE ANNUAL NET ADDITIONAL COST TO ALL
53 SCHOOL DISTRICTS IN EXCESS OF FIVE HUNDRED THOUSAND DOLLARS.
54 3. EXEMPTIONS TO THE FUNDING OF SCHOOL DISTRICT MANDATES REQUIREMENT.
55 (A) THE STATE SHALL NOT BE REQUIRED TO FUND ANY NEW OR EXPANDED PROGRAMS
56 FOR SCHOOL DISTRICTS IF: (I) THE MANDATE IS REQUIRED BY A COURT ORDER

1 OR JUDGMENT; (II) THE MANDATE IS PROVIDED AT THE OPTION OF THE SCHOOL
2 DISTRICT UNDER A LAW, REGULATION, RULE, OR ORDER THAT IS PERMISSIVE
3 RATHER THAN MANDATORY; (III) THE MANDATE RESULTS FROM THE PASSAGE OF A
4 HOME RULE MESSAGE WHEREBY A SCHOOL DISTRICT REQUESTS AUTHORITY TO
5 IMPLEMENT THE PROGRAM OR SERVICE SPECIFIED IN THE STATUTE, AND THE
6 STATUTE IMPOSES COSTS ONLY UPON THAT SCHOOL DISTRICT WHICH REQUESTS THE
7 AUTHORITY TO IMPOSE THE PROGRAM OR SERVICE; (IV) THE MANDATE IS REQUIRED
8 BY, OR ARISES FROM, AN EXECUTIVE ORDER OF THE GOVERNOR EXERCISING HIS OR
9 HER EMERGENCY POWERS; OR (V) THE MANDATE IS REQUIRED BY STATUTE OR EXEC-
10 UTIVE ORDER THAT IMPLEMENTS A FEDERAL LAW OR REGULATION AND RESULTS FROM
11 COSTS MANDATED BY THE FEDERAL GOVERNMENT TO BE BORNE AT THE LOCAL LEVEL,
12 UNLESS THE STATUTE OR EXECUTIVE ORDER RESULTS IN COSTS WHICH EXCEED THE
13 COSTS MANDATED BY THE FEDERAL GOVERNMENT.
14 (B) EACH ACT ESTABLISHING A MANDATE SHALL PROVIDE THAT THE EFFECTIVE
15 DATE OF ANY SUCH MANDATE IMPOSED ON SCHOOL DISTRICTS SHALL BE CONSIST-
16 ENT WITH THE NEEDS OF THE STATE AND SCHOOL DISTRICTS TO PLAN IMPLEMENTA-
17 TION THEREOF, AND ALSO CONSISTENT WITH THE AVAILABILITY OF REQUIRED
18 FUNDS.
19 S 15. The executive law is amended by adding a new article 4-B to read
20 as follows:
21 ARTICLE 4-B
22 OFFICE OF THE STATE INSPECTOR GENERAL FOR EDUCATION

23 SECTION 57. ESTABLISHMENT AND ORGANIZATION.
24 58. FUNCTIONS AND DUTIES.
25 59. POWERS.
26 S 57. ESTABLISHMENT AND ORGANIZATION. 1. THERE IS HEREBY ESTABLISHED
27 THE OFFICE OF THE STATE INSPECTOR GENERAL FOR EDUCATION. THE HEAD OF THE
28 OFFICE SHALL BE THE EDUCATION INSPECTOR GENERAL, WHO SHALL BE APPOINTED
29 BY THE BOARD OF THE OFFICE OF THE STATE INSPECTOR GENERAL FOR EDUCA-
30 TION. SUCH OFFICE SHALL BE INDEPENDENT OF THE DEPARTMENT OF EDUCATION
31 AND OF ANY OTHER OFFICE, AGENCY, BOARD OR COMMISSION OF THE STATE OR ANY
32 OF ITS POLITICAL SUBDIVISIONS.
33 2. THE EDUCATION INSPECTOR GENERAL MAY EMPLOY AND AT THEIR PLEASURE
34 REMOVE SUCH PERSONNEL AS THEY DEEM NECESSARY FOR THE PERFORMANCE OF THE
35 OFFICE, AND MAY FIX THEIR COMPENSATION WITH AMOUNTS AVAILABLE THEREFOR.
36 3. THERE IS HEREBY ESTABLISHED THE BOARD OF THE OFFICE OF THE STATE
37 INSPECTOR GENERAL FOR EDUCATION WHICH SHALL CONSIST OF ELEVEN MEMBERS,
38 AND SHALL HAVE AND EXERCISE THE POWERS AND DUTIES OF THE OFFICE OF THE
39 STATE INSPECTOR GENERAL FOR EDUCATION.
40 4. THE BOARD MEMBERS SHALL BE APPOINTED AS FOLLOWS:
41 (A) THREE MEMBERS SHALL BE APPOINTED BY THE GOVERNOR, ONE OF WHOM
42 SHALL BE DESIGNATED BY THE GOVERNOR AS THE CHAIR OF THE BOARD;
43 (B) THREE MEMBERS SHALL BE APPOINTED BY THE TEMPORARY PRESIDENT OF THE
44 SENATE;
45 (C) THREE MEMBERS SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY;
46 (D) ONE MEMBER SHALL BE APPOINTED BY THE MINORITY LEADER OF THE ASSEM-
47 BLY; AND
48 (E) ONE MEMBER SHALL BE APPOINTED BY THE MINORITY LEADER OF THE
49 SENATE.
50 5. THE BOARD MEMBERS SHALL SERVE FOR TERMS OF FIVE YEARS.
51 6. THE CHAIR OF THE BOARD OR ANY FIVE MEMBERS THEREOF MAY CALL A MEET-
52 ING OF THE BOARD.
53 7. ANY VACANCY OCCURRING ON THE BOARD SHALL BE FILLED WITHIN SIXTY
54 DAYS OF ITS OCCURRENCE, IN THE SAME MANNER AS THE MEMBER WHOSE VACANCY
55 IS BEING FILLED WAS APPOINTED. A PERSON APPOINTED TO FILL A VACANCY

1 OCCURRING OTHER THAN BY EXPIRATION OF A TERM OF OFFICE SHALL BE
2 APPOINTED FOR THE UNEXPIRED TERM OF THE MEMBER HE OR SHE SUCCEEDS.
3 8. SIX MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM AND THE BOARD
4 SHALL HAVE THE POWER TO ACT BY MAJORITY VOTE OF THE TOTAL NUMBER OF
5 MEMBERS OF THE BOARD WITHOUT VACANCY.
6 9. THE BOARD MEMBERS SHALL NOT RECEIVE COMPENSATION BUT SHALL BE REIM-
7 BURSED FOR REASONABLE EXPENSES INCURRED IN THE PERFORMANCE OF THEIR
8 OFFICIAL DUTIES.
9 10. THE BOARD SHALL APPOINT AN EDUCATION INSPECTOR GENERAL WHO SHALL
10 PERFORM THE POWERS AND DUTIES SET FORTH IN SECTIONS FIFTY-EIGHT AND
11 FIFTY-NINE OF THIS ARTICLE, AND WHO SHALL SERVE FOR A TERM OF FIVE
12 YEARS AND MAY ONLY BE DISMISSED FOR CAUSE OR BY A THREE-QUARTERS VOTE OF
13 THE BOARD. THE BOARD MAY FIX THE COMPENSATION OF THE EDUCATION INSPEC-
14 TOR GENERAL.
15 11. NO BOARD MEMBER, NOR THE EDUCATION INSPECTOR GENERAL, SHALL HOLD
16 ANY ELECTED PUBLIC OFFICE OR OFFICE IN ANY POLITICAL PARTY, NOR SHALL
17 ANY MEMBER BE AN EMPLOYEE OF OR UNDER THE SUPERVISION OF ANY PERSON WHO
18 HOLDS SUCH ELECTED PUBLIC OFFICE OR OFFICE OF A POLITICAL PARTY. NO
19 MEMBER OF THE BOARD SHALL SERVE IN ANY PUBLIC OR POLITICAL OFFICE WITH-
20 IN FIVE YEARS OF THE MEMBER'S PERIOD OF SERVICE.
21 12. THE EDUCATION INSPECTOR GENERAL SHALL, PRIOR TO THEIR APPOINTMENT,
22 HAVE HAD AT LEAST TEN YEARS EXPERIENCE IN AUDITING OR LAW ENFORCEMENT OR
23 INVESTIGATION, OR IN PROSECUTING OR AIDING IN THE PROSECUTION OF FRAUD.
24 13. MEMBERS OF THE BOARD SHALL, PRIOR TO THEIR APPOINTMENT, HAVE HAD
25 AT LEAST THREE YEARS EXPERIENCE IN AUDITING OR INVESTIGATION OF GOVERN-
26 MENTAL OR SCHOOL DISTRICT OPERATIONS, OR IN THE PRACTICE OF LAW, LAW
27 ENFORCEMENT OR IN SERVICES RELATED TO DEVELOPMENT AND MANAGEMENT OF
28 INFORMATION TECHNOLOGY OR DATABASE CREATION AND MAINTENANCE.
29 S 58. FUNCTIONS AND DUTIES. THE EDUCATION INSPECTOR GENERAL SHALL
30 HAVE THE FOLLOWING DUTIES AND RESPONSIBILITIES:
31 1. TO RECEIVE AND INVESTIGATE COMPLAINTS FROM ANY SOURCE, OR UPON HIS
32 OR HER OWN INITIATIVE, CONCERNING ALLEGATIONS OF CORRUPTION, FINANCIAL
33 IMPROPRIETIES, UNETHICAL CONDUCT, MISCONDUCT OR OTHER CRIMINAL CONDUCT
34 WITHIN PUBLIC SCHOOL DISTRICTS OUTSIDE OF A CITY WITH A POPULATION OF
35 ONE MILLION OR MORE;
36 2. TO INVESTIGATE AND REPORT ON CORRUPTION AND OTHER CRIMINAL ACTIV-
37 ITY, SCHOOL BOARD ELECTION FRAUD, BIDDING IRREGULARITIES AND CONFLICTS
38 OF INTEREST BY PUBLIC SCHOOL DISTRICT EMPLOYEES WHOSE ACTIONS RELATE TO
39 THEIR EMPLOYMENT, PERSONS OR ENTITIES DOING BUSINESS WITH A PUBLIC
40 SCHOOL DISTRICT CONCERNING THEIR TRANSACTIONS WITH THE SCHOOL DISTRICT,
41 AND SCHOOL BOARD MEMBERS WHOSE ACTIONS RELATE TO THEIR OFFICE;
42 3. TO DETERMINE WITH RESPECT TO SUCH ALLEGATIONS WHETHER DISCIPLINARY
43 ACTION, CIVIL OR CRIMINAL PROSECUTION, OR FURTHER INVESTIGATION BY AN
44 APPROPRIATE FEDERAL, STATE OR LOCAL AGENCY IS WARRANTED, AND TO ASSIST
45 IN SUCH INVESTIGATIONS;
46 4. TO REVIEW AND EXAMINE PERIODICALLY THE POLICIES AND PROCEDURES OF
47 PUBLIC SCHOOL DISTRICTS WITH REGARD TO THE PREVENTION AND DETECTION OF
48 CORRUPTION, FINANCIAL IMPROPRIETIES, UNETHICAL CONDUCT, MISCONDUCT,
49 OTHER CRIMINAL CONDUCT, SCHOOL BOARD ELECTION FRAUD, BIDDING IRREGULARI-
50 TIES AND CONFLICTS OF INTEREST OR ABUSE;
51 5. TO RECOMMEND REMEDIAL ACTION TO PREVENT OR ELIMINATE CORRUPTION,
52 FINANCIAL IMPROPRIETIES, UNETHICAL CONDUCT, MISCONDUCT, OTHER CRIMINAL
53 CONDUCT, SCHOOL BOARD ELECTION FRAUD, BIDDING IRREGULARITIES, CONFLICTS
54 OF INTEREST OR ABUSE BY PUBLIC SCHOOL DISTRICT OFFICIALS AND EMPLOYEES;
55 6. TO ESTABLISH PROGRAMS FOR TRAINING PUBLIC SCHOOL OFFICIALS AND
56 EMPLOYEES REGARDING THE PREVENTION AND ELIMINATION OF CORRUPTION, FINAN-

1 CIAL IMPROPRIETIES, UNETHICAL CONDUCT, MISCONDUCT, OTHER CRIMINAL
2 CONDUCT, SCHOOL BOARD ELECTION FRAUD, BIDDING IRREGULARITIES AND
3 CONFLICTS OF INTEREST OR ABUSE;
4 7. TO PREPARE AN ANNUAL REPORT THAT PROVIDES THE RESULTS OF THE EDUCA-
5 TION INSPECTOR GENERAL'S FINDINGS WITH RESPECT TO ALL INVESTIGATIONS

AND DETAILED ANALYSIS OF THE CURRENT FINANCIAL STATUS OF THOSE SCHOOL DISTRICTS THAT HAVE BEEN REVIEWED;

8. TO INCLUDE IN SUCH REPORT ANY FINDINGS REGARDING THE FINANCIAL PRACTICES OF THE SCHOOL DISTRICT THAT THE EDUCATION INSPECTOR GENERAL BELIEVES VIOLATED, OR COULD POTENTIALLY VIOLATE, EXISTING STATE RULES OR REGULATIONS OR MAY BE OF CONCERN IN THAT INCOMPETENCE OR LACK OF TRAINING MAY RESULT IN FINANCIAL PRACTICES THAT VIOLATE STATE RULES AND REGULATIONS;

9. TO ISSUE THE REPORT TO THE LEGISLATURE, THE COMPTROLLER AND THE DEPARTMENT OF EDUCATION WITH EACH ANNUAL REPORT POSTED ON A PUBLIC INTERNET WEBSITE FOR AT LEAST FIVE YEARS FROM THE DATE OF ISSUANCE.

S 59. POWERS. THE EDUCATION INSPECTOR GENERAL SHALL HAVE THE POWER TO:

1. SUBPOENA AND ENFORCE THE ATTENDANCE OF WITNESSES, INCLUDING THE POWER TO SUBPOENA DOCUMENTS AND RECORDS NECESSARY TO ANY INVESTIGATION FROM ANY PUBLIC SCHOOL DISTRICT OUTSIDE OF A CITY WITH A POPULATION OF ONE MILLION OR MORE AND FROM VENDORS WHO DO BUSINESS WITH SUCH PUBLIC SCHOOL DISTRICTS;

2. ADMINISTER OATHS OR AFFIRMATIONS AND EXAMINE WITNESSES UNDER OATH;

3. REQUIRE THE PRODUCTION OF ANY BOOKS AND PAPERS DEEMED RELEVANT OR MATERIAL TO ANY INVESTIGATION, EXAMINATION OR REVIEW;

4. NOTWITHSTANDING ANY LAW TO THE CONTRARY, EXAMINE AND COPY OR REMOVE DOCUMENTS OR RECORDS OF ANY KIND PREPARED, MAINTAINED OR HELD BY ANY PUBLIC SCHOOL DISTRICT COVERED BY THIS ARTICLE;

5. REQUIRE ANY PUBLIC SCHOOL DISTRICT EMPLOYEE TO ANSWER QUESTIONS CONCERNING ANY MATTER RELATED TO THE PERFORMANCE OF HIS OR HER OFFICIAL DUTIES. NO STATEMENT OR OTHER EVIDENCE DERIVED THEREFROM MAY BE USED AGAINST SUCH OFFICER OR EMPLOYEE IN ANY SUBSEQUENT CRIMINAL PROSECUTION OTHER THAN FOR PERJURY OR CONTEMPT ARISING FROM SUCH TESTIMONY. THE REFUSAL OF ANY OFFICER OR EMPLOYEE TO ANSWER QUESTIONS SHALL BE CAUSE FOR REMOVAL FROM OFFICE OR EMPLOYMENT OR OTHER APPROPRIATE PENALTY;

6. MONITOR THE IMPLEMENTATION BY PUBLIC SCHOOL DISTRICTS OF ANY RECOMMENDATIONS MADE BY THE EDUCATION INSPECTOR GENERAL;

7. PERFORM ANY OTHER FUNCTIONS THAT ARE NECESSARY OR APPROPRIATE TO FULFILL THE DUTIES AND RESPONSIBILITIES OF THE OFFICE.

S 16. Subparagraphs 2 and 3 of paragraph b of subdivision 2 of section 33 of the general municipal law, as amended by section 24 of subpart F of part C of chapter 97 of the laws of 2011, are amended and a new subparagraph 4 is added to read as follows:

(2) assessing the current financial practices of school districts, BOCES and charter schools to ensure that they are consistent with established standards, including whether any school district that uses a risk-based or sampling methodology to determine which claims are to be audited in lieu of auditing all claims has adopted a methodology that provides reasonable assurance that all the claims represented in the sample are proper charges against the school district; [and]

(3) determining that school districts, BOCES, and charter schools provide for adequate protections against any fraud, theft, or professional misconduct[.]; AND

(4) AUDITING FEDERAL AND STATE GRANT PROGRAM EXPENDITURES IN ALL SCHOOL DISTRICTS, BOCES AND CHARTER SCHOOLS.

S 17. Paragraph d of subdivision 2 of section 33 of the general municipal law, as added by chapter 267 of the laws of 2005, is amended to read as follows:

d. The office of the state comptroller shall upon making a finding of misconduct refer any findings of fraud, abuse or other conduct constituting a crime that are uncovered during the course of an audit, as appropriate, to the commissioner of education, THE NEW YORK STATE INSPECTOR GENERAL FOR EDUCATION, the charter entity, the attorney general, United States attorney or district attorney having jurisdiction for appropriate action, together with any documents supporting the auditors' findings.

S 18. The labor law is amended by adding a new section 742 to read as

13 follows:
14 S 742. PROHIBITION; PUBLIC SCHOOL DISTRICT EMPLOYER WHO PENALIZES
15 EMPLOYEES BECAUSE OF COMPLAINTS OF EMPLOYER MALFEASANCE. 1. DEFI-
16 NITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE
17 FOLLOWING MEANINGS:
18 (A) "EMPLOYEE" MEANS ANY PERSON WHO PERFORMS SERVICES FOR AND UNDER
19 THE CONTROL AND DIRECTION OF ANY PUBLIC SCHOOL DISTRICT OUTSIDE OF A
20 CITY WITH A POPULATION OF ONE MILLION OR MORE FOR WAGES OR OTHER REMUN-
21 ERATION.
22 (B) "EMPLOYER" MEANS ANY PUBLIC SCHOOL DISTRICT OUTSIDE OF A CITY WITH
23 A POPULATION OF ONE MILLION OR MORE.
24 (C) "AGENT" MEANS ANY INDIVIDUAL, PARTNERSHIP, ASSOCIATION, CORPO-
25 RATION, OR GROUP OF PERSONS ACTING ON BEHALF OF AN EMPLOYER.
26 (D) "PUBLIC BODY" MEANS:
27 (1) THE UNITED STATES CONGRESS, ANY STATE LEGISLATURE, OR ANY ELECTED
28 LOCAL GOVERNMENTAL BODY, OR ANY MEMBER OR EMPLOYEE THEREOF;
29 (2) THE NEW YORK STATE INSPECTOR GENERAL FOR EDUCATION;
30 (3) THE STATE COMPTROLLER;
31 (4) THE ATTORNEY GENERAL;
32 (5) ANY FEDERAL, STATE OR LOCAL REGULATORY, ADMINISTRATIVE OR PUBLIC
33 AGENCY OR AUTHORITY, OR INSTRUMENTALITY THEREOF;
34 (6) ANY FEDERAL, STATE OR LOCAL LAW ENFORCEMENT AGENCY, PROSECUTORIAL
35 OFFICE, OR POLICE OR PEACE OFFICER;
36 (7) ANY FEDERAL, STATE OR LOCAL DEPARTMENT OF AN EXECUTIVE BRANCH OF
37 GOVERNMENT; OR
38 (8) ANY DIVISION, BOARD, BUREAU, OFFICE, COMMITTEE OR COMMISSION OF
39 ANY OF THE PUBLIC BODIES DESCRIBED IN SUBPARAGRAPH ONE, TWO, THREE,
40 FOUR, FIVE, SIX OR SEVEN OF THIS PARAGRAPH.
41 (E) "RETALIATORY ACTION" MEANS THE DISCHARGE, SUSPENSION, DEMOTION,
42 PENALIZATION OR DISCRIMINATION AGAINST AN EMPLOYEE, OR OTHER ADVERSE
43 EMPLOYMENT ACTION TAKEN AGAINST AN EMPLOYEE IN THE TERMS AND CONDITIONS
44 OF EMPLOYMENT.
45 (F) "SUPERVISOR" MEANS ANY PERSON WITHIN AN EMPLOYER'S ORGANIZATION
46 WHO HAS THE AUTHORITY TO DIRECT AND CONTROL THE WORK PERFORMANCE OF AN
47 EMPLOYEE, OR WHO HAS THE AUTHORITY TO TAKE CORRECTIVE ACTION REGARDING
48 FRAUD, CRIMINAL ACTIVITY OR OTHER MALFEASANCE TO WHICH AN EMPLOYEE
49 SUBMITS A COMPLAINT.
50 2. RETALIATORY ACTION PROHIBITED. NOTWITHSTANDING ANY OTHER PROVISION
51 OF LAW, NO EMPLOYER SHALL TAKE RETALIATORY ACTION AGAINST ANY EMPLOYEE
52 BECAUSE THE EMPLOYEE DOES ANY OF THE FOLLOWING:
53 (A) DISCLOSES OR THREATENS TO DISCLOSE TO A SUPERVISOR, OR TO A PUBLIC
54 BODY AN ACTIVITY, POLICY OR PRACTICE OF THE EMPLOYER OR AGENT THAT THE
55 EMPLOYEE, IN GOOD FAITH, REASONABLY BELIEVES CONSTITUTES FRAUD, CRIMI-
56 NAL ACTIVITY OR OTHER MALFEASANCE; OR

1 (B) OBJECTS TO, OR REFUSES TO PARTICIPATE IN ANY ACTIVITY, POLICY OR
2 PRACTICE OF THE EMPLOYER OR AGENT THAT THE EMPLOYEE, IN GOOD FAITH,
3 REASONABLY BELIEVES CONSTITUTES FRAUD, CRIMINAL ACTIVITY OR OTHER
4 MALFEASANCE.
5 3. ENFORCEMENT. AN EMPLOYEE MAY SEEK ENFORCEMENT OF THIS SECTION
6 PURSUANT TO PARAGRAPH (E) OF SUBDIVISION FOUR OF SECTION SEVEN HUNDRED
7 FORTY OF THIS ARTICLE.
8 4. RELIEF. IN ANY COURT ACTION BROUGHT PURSUANT TO THIS SECTION IT
9 SHALL BE A DEFENSE THAT THE PERSONNEL ACTION WAS PREDICATED UPON GROUNDS
10 OTHER THAN THE EMPLOYEE'S EXERCISE OF ANY RIGHTS PROTECTED BY THIS
11 SECTION.
12 S 19. Subdivision 4 of section 740 of the labor law is amended by
13 adding a new paragraph (e) to read as follows:
14 (E) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (A) AND (C) OF THIS
15 SUBDIVISION, AN EMPLOYEE WHO HAS BEEN THE SUBJECT OF A RETALIATORY
16 ACTION BY AN EMPLOYER IN VIOLATION OF SECTION SEVEN HUNDRED FORTY-TWO OF
17 THIS ARTICLE MAY INSTITUTE A CIVIL ACTION IN A COURT OF COMPETENT JURIS-
18 DICTION FOR RELIEF AS SET FORTH IN SUBDIVISION FIVE OF THIS SECTION
19 WITHIN TWO YEARS AFTER THE ALLEGED RETALIATORY PERSONNEL ACTION WAS

20 TAKEN. IN ADDITION TO THE RELIEF SET FORTH IN SUCH SUBDIVISION FIVE, THE
21 COURT, IN ITS DISCRETION, BASED UPON A FINDING THAT THE EMPLOYER ACTED
22 IN BAD FAITH IN THE RETALIATORY ACTION, MAY ORDER THE EMPLOYER TO TERMI-
23 NATE THE SUPERVISOR WHO RETALIATED AGAINST THE EMPLOYEE.
24 S 20. The penal law is amended by adding a new section 190.73 to read
25 as follows:
26 S 190.73 DEFRAUDING A PUBLIC PENSION PLAN.
27 A PERSON IS GUILTY OF DEFRAUDING A PUBLIC PENSION PLAN WHEN HE OR SHE
28 ENGAGES IN A SCHEME CONSTITUTING A SYSTEMATIC ONGOING COURSE OF CONDUCT
29 WITH INTENT TO OBTAIN A BENEFIT OR ASSET, OR ASSIST A THIRD PARTY TO
30 OBTAIN A BENEFIT OR ASSET, FROM A PUBLIC PENSION PLAN TO WHICH HE OR SHE
31 OR THE THIRD PARTY IS NOT OTHERWISE ENTITLED TO PURSUANT TO THE
32 RESTRICTION OF SECTION TWO HUNDRED ELEVEN OF THE RETIREMENT AND SOCIAL
33 SECURITY LAW.
34 DEFRAUDING A PUBLIC PENSION PLAN IS A CLASS E FELONY.
35 S 21. Section 211 of the retirement and social security law is amended
36 by adding a new subdivision 9 to read as follows:
37 9. A RETIRED PERSON RECEIVING A RETIREMENT ALLOWANCE WHO IS EMPLOYED
38 AND EARNING COMPENSATION IN A PUBLIC SERVICE POSITION OR POSITIONS WITH
39 THE TOTAL COMPENSATION EXCEEDING THE LIMITATIONS SET FORTH IN SECTION
40 TWO HUNDRED TWELVE OF THIS ARTICLE AND SUCH PERSON HAS NOT OBTAINED THE
41 REQUISITE WAIVER SET FORTH IN THIS SECTION, AS WELL AS ANY PERSON WHO
42 KNOWINGLY ASSISTS ANOTHER PERSON IN RECEIVING A RETIREMENT ALLOWANCE
43 WHILE RECEIVING TOTAL COMPENSATION IN A PUBLIC SERVICE POSITION OR POSI-
44 TIONS EXCEEDING THE LIMITS OF SECTION TWO HUNDRED TWELVE OF THIS ARTICLE
45 AND NOT HAVING OBTAINED THE REQUISITE WAIVER, IS GUILTY OF LARCENY AND
46 PUNISHABLE AS PROVIDED IN THE PENAL LAW.
47 S 22. This act shall take effect January 1, 2014.

9359

DRAFT

Introduced by:
Hon. Ilan S. Schoenberger, Sponsor
Hon. Alden H. Wolfe, Sponsor

Referral No.

, 2014

RESOLUTION NO. OF 2014
REQUESTING THAT THE NEW YORK STATE ASSEMBLY PASS BILL A.8198 AND THE NEW YORK STATE SENATE PASS BILL S.6204 TO CONSOLIDATE ALL PRIMARY ELECTIONS ON THE FOURTH TUESDAY OF JUNE BEFORE EVERY GENERAL ELECTION

WHEREAS, the federal Military Overseas Voter Empowerment (MOVE) Act, enacted on 2009, expanded the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) which allowed members of the armed services, their families and US citizens living outside the US to register and vote absentee in federal elections; and

WHEREAS, the MOVE act provided further protections of these voting rights by, among other provisions, requiring states to send out requested absentee ballots to UOCAVA voters no less than 45 days before a federal election, except where the state has been granted an undue hardship waiver approved by the Department of Defense; and

WHEREAS, New York Election Law as currently written is not in compliance with the 45-day requirement of the MOVE Act, although they did obtain a hardship waiver in 2010; and

WHEREAS, in order to bring New York Election Law into compliance and change the timeframe in which military and overseas ballots must be mailed, there must be various changes to the overall structure of the deadlines and due dates in the Election Law, culminating with a change in the primary date; and

WHEREAS, the federal non-presidential primary date is currently the fourth Tuesday in June; and

WHEREAS, there are three benefits to merging the federal and state primary dates: 1) such a merger will ensure that military and overseas voters will have the opportunity to vote; 2) it will prevent New Yorkers from having to vote in three separate primaries in a presidential election year; and 3) it will save New York state approximately $50 million dollars in election costs; and

WHEREAS, according to the Rockland County Board of Elections, merging the primaries will save Rockland County approximately $400,000 per year; and

WHEREAS, bill A.8198 and S.6204 would make various changes to the structure of deadlines and due dates in the Election Law, culminating with changing the state and local primary date to the fourth Tuesday in June, the same day as federal non-presidential primaries; and

WHEREAS, the Committee has met, considered and by a vote, approved this resolution; now therefore be it

RESOLVED, that the Legislature of Rockland County hereby requests that the New York State Assembly pass New York State Assembly Bill A.8198 and the New York State Senate pass Bill S.6204 to consolidate all primary elections on the fourth Tuesday of June before every general election and that the Governor of New York sign such legislation; and be it further

RESOLVED, That the Clerk to the Legislature be and he is hereby authorized and directed to send a copy of this resolution to Hon. Andrew M. Cuomo, Governor of the State of New York; Hon. David Carlucci, Hon. William J. Larkin, Jr., New York State Senators, Hon. Kenneth P. Zebrowski, Jr., Hon. Ellen C. Jaffee, and Hon. James G. Skoufis, Members of the New York State Assembly; the President Pro Tem of the New York State Senate; the Speaker of the New York State Assembly; the Majority and Minority Leaders of the New York State Senate and Assembly; and to such other persons as the Clerk, in his discretion, may deem proper in order to effectuate the purpose of this resolution.

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3/5/14

STATE OF NEW YORK

8198

2013-2014 Regular Sessions

IN ASSEMBLY

October 21, 2013

Introduced by M. of A. SILVER, CUSICK, FARRELL, MORELLE, WRIGHT, GOTTFRIED, GALEF, AUBRY, DINOWITZ, MILLMAN, CAHILL, MARKEY, PAULIN, O'DONNELL, HEVESI, JAFFEE, DenDEKKER, ABINANTI, BRONSON, SIMOTAS, BRINDISI, SIMANOWITZ, MOSLEY, SKOUFIS, MAYER, McDONALD, ROZIC, ROSA, STIRPE, FAHY, SEPULVEDA -- Multi-Sponsored by -- M. of A. BENEDETTO, BRAUNSTEIN, BUCHWALD, COOK, KAVANAGH, KELLNER, LAVINE, MAGNARELLI, MILLER, MOYA, NOLAN, OTIS, RODRIGUEZ, RYAN, SCHIMEL, SCHIMMINGER, SWEENEY, THIELE, WEINSTEIN, WEISENBERG, ZEBROWSKI -- read once and referred to the Committee on Election Law

AN ACT to amend the election law, in relation to primary elections and amending certain deadlines to facilitate the timely transmission of ballots to military voters stationed overseas; to amend the public officers law, in relation to filling vacancies in elective offices; and to amend the election law, in relation to date of primary elections

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 1-106 of the election law, as
2 amended by chapter 700 of the laws of 1977, is amended to read as
3 follows:
4 1. All papers required to be filed pursuant to the provisions of this
5 chapter shall, unless otherwise provided, be filed between the hours of
6 nine A.M. and five P.M. If the last day for filing shall fall on a
7 Saturday, Sunday or legal holiday, the next business day shall become
8 the last day for filing. All papers sent by mail in an envelope post-
9 marked prior to midnight of the last day of filing shall be deemed time-
10 ly filed and accepted for filing when received, except THAT ALL CERTIF-
11 ICATES AND PETITIONS OF DESIGNATION, CERTIFICATES OF ACCEPTANCE OR
12 DECLINATION OF SUCH DESIGNATIONS, CERTIFICATES OF AUTHORIZATION FOR SUCH
13 DESIGNATIONS, CERTIFICATES OF DISQUALIFICATION, CERTIFICATES OF SUBSTI-
14 TUTION FOR SUCH DESIGNATIONS AND OBJECTIONS AND SPECIFICATIONS OF

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

LBD11845-07-3

1 OBJECTIONS TO SUCH CERTIFICATES AND PETITIONS REQUIRED TO BE FILED WITH
2 THE STATE BOARD OF ELECTIONS OR A BOARD OF ELECTIONS OUTSIDE OF THE CITY
3 OF NEW YORK SHALL BE DEEMED TIMELY FILED AND ACCEPTED FOR FILING IF SENT
4 BY MAIL OR OVERNIGHT DELIVERY SERVICE AS DEFINED IN PARAGRAPH SIX OF
5 SUBDIVISION (B) OF RULE TWENTY-ONE HUNDRED THREE OF THE CIVIL PRACTICE
6 LAW AND RULES IN AN ENVELOPE POSTMARKED OR SHOWING RECEIPT BY THE OVER-
7 NIGHT DELIVERY SERVICE PRIOR TO MIDNIGHT OF THE LAST DAY OF FILING, AND
8 RECEIVED NO LATER THAN TWO BUSINESS DAYS AFTER THE LAST DAY TO FILE SUCH
9 CERTIFICATES, PETITIONS, OBJECTIONS OR SPECIFICATIONS. FAILURE OF THE
10 POST OFFICE OR ANY OTHER PERSON OR ENTITY TO DELIVER ANY SUCH PETITION,
11 CERTIFICATE OR OBJECTION TO SUCH BOARD OF ELECTIONS OUTSIDE THE CITY OF
12 NEW YORK NO LATER THAN TWO BUSINESS DAYS AFTER THE LAST DAY TO FILE SUCH
13 CERTIFICATES, PETITIONS, OBJECTIONS OR SPECIFICATIONS SHALL BE A FATAL
14 DEFECT. EXCEPTED FURTHER that all certificates and petitions of desig-
15 nation or nomination, certificates of acceptance or declination of such
16 designations and nominations, certificates of substitution for such
17 designations or nominations and objections and specifications of
18 objections to such certificates and petitions required to be filed with
19 the board of elections of the city of New York must be actually received
20 by such city board of elections on or before the last day to file any

for the receipt of such petitions, certificates and objections until midnight on the last day to file any such petition, certificate or objection. Failure of the post office or any other person or entity to deliver any such petition, certificate or objection to such city board of elections on or before such last day shall be a fatal defect.

S 2. Subdivision 1 of section 4-104 of the election law, as amended by chapter 180 of the laws of 2005, is amended to read as follows:

1. Every board of elections shall, in consultation with each city, town and village, designate the polling places in each election district in which the meetings for the registration of voters, and for any election may be held. The board of trustees of each village in which general and special village elections conducted by the board of elections are held at a time other than the time of a general election shall submit such a list of polling places for such village elections to the board of elections. A polling place may be located in a building owned by a religious organization or used by it as a place of worship. If such a building is designated as a polling place, it shall not be required to be open for voter registration on any Saturday if this is contrary to the religious beliefs of the religious organization. In such a situation, the board of elections shall designate an alternate location to be used for voter registration. Such polling places must be designated by [May first] MARCH FIFTEENTH, of each year, and shall be effective for one year thereafter. Such a list required to be submitted by a village board of trustees must be submitted at least four months before each general village election and shall be effective until four months before the subsequent general village election. No place in which a business licensed to sell alcoholic beverages for on premises consumption is conducted on any day of local registration or of voting shall be so designated. If, within the discretion of the board of elections a particular polling place so designated is subsequently found to be unsuitable or unsafe or should circumstances arise that make a designated polling place unsuitable or unsafe, then the board of elections is empowered to select an alternative meeting place. In the city of New York, the board of elections shall designate such polling places and

alternate registration places if the polling place cannot be used for voter registration on Saturdays.

S 3. Subdivisions 1 and 2 of section 4-106 of the election law, subdivision 2 as amended by chapter 635 of the laws of 1990, are amended to read as follows:

1. The state board of elections shall, [at least eight months before each] BY FEBRUARY FIRST IN THE YEAR OF THE general election, make and transmit to the board of elections of each county, a certificate stating each office, except county, city, village and town offices to be voted for at such election in such county.

2. Each county, city, village and town clerk, [at least eight months before each] BY FEBRUARY FIRST IN THE YEAR OF THE general election, shall make and transmit to the board of elections a certificate stating each county, city, village or town office, respectively to be voted for at each such election. Each village clerk, at least five months before each general village election conducted by the board of elections, shall make, and transmit to such board, a certificate stating each village office to be filled at such election.

S 4. Paragraph b of subdivision 1 of section 4-108 of the election law, as amended by chapter 117 of the laws of 1985, is amended to read as follows:

b. Whenever any proposal, proposition or referendum as provided by law is to be submitted to a vote of the people of a county, city, town, village or special district, at an election conducted by the board of elections, the clerk of such political subdivision, at least [thirty-six] SEVENTY days prior to the election at which such proposal, proposition or referendum is to be submitted, shall transmit to each board of elections a certified copy of the text of such proposal, proposition or referendum and a statement of the form in which it is to be submitted. If a special election is to be held, such transmittal shall also give the date of such election.

S 5. Section 4-110 of the election law, as amended by chapter 434 of the laws of 1984, is amended to read as follows:

S 4-110. Certification of primary election candidates; state board of elections. The state board of elections not later than [thirty-six] FIFTY-FOUR days before a primary election OR A PRESIDENTIAL PRIMARY

38 residence of each candidate to be voted for within the political subdi-
39 vision of such board for whom a designation has been filed with the
40 state board; the title of the office or position for which the candidate
41 is designated; the name of the party upon whose primary ballot his OR
42 HER name is to be placed; and the order in which the names of the candi-
43 dates are to be printed as determined by the state board. Where an
44 office or position is uncontested, such certification shall state such
45 fact.
46 S 6. Subdivision 1 of section 4-112 of the election law, as amended by
47 chapter 4 of the laws of 2011, is amended to read as follows:
48 1. The state board of elections, not later than [thirty-six]
49 FIFTY-FOUR days before a general election, or fifty-three days before a
50 special election, shall certify to each county board of elections the
51 name and residence of each candidate nominated in any valid certificate
52 filed with it or by the returns canvassed by it, the title of the office
53 for which nominated; the name of the party or body specified of which he
54 OR SHE is a candidate; the emblem chosen to distinguish the candidates
55 of the party or body; and a notation as to whether or not any litigation
56 is pending concerning the candidacy. Upon the completion of any such

1 litigation, the state board of elections shall forthwith notify the
2 appropriate county boards of elections of the results of such liti-
3 gation.
4 S 7. Section 4-114 of the election law, as amended by chapter 99 of
5 the laws of 2013, is amended to read as follows:
6 S 4-114. Determination of candidates and questions; county board of
7 elections. The county board of elections, not later than the [thirty-
8 fifth] FIFTY-THIRD day before the day of a primary [or], general
9 [election, or the fifty-third day before a], special, OR PRESIDENTIAL
10 PRIMARY election, shall determine the candidates duly nominated for
11 public office and the questions that shall appear on the ballot within
12 the jurisdiction of that board of elections. Provided, however, in any
13 year in which there has been a run-off election in the city of New York,
14 the board of elections of such city shall, not later than the twenty-
15 eighth day before the general election in that year, determine the
16 candidates duly nominated for public office and the questions that shall
17 appear on the ballot within the jurisdiction of the board of elections
18 of the city of New York.
19 S 7-a. Section 4-114 of the election law, as amended by chapter 4 of
20 the laws of 2011, is amended to read as follows:
21 S 4-114. Determination of candidates and questions; county board of
22 elections. The county board of elections, not later than the [thirty-
23 fifth] FIFTY-THIRD day before the day of a primary [or], general
24 [election, or the fifty-third day before a], OR special election, shall
25 determine the candidates duly nominated for public office and the ques-
26 tions that shall appear on the ballot within the jurisdiction of that
27 board of elections.
28 S 8. Subdivision 1 of section 4-117 of the election law, as amended by
29 chapter 288 of the laws of 2009, is amended to read as follows:
30 1. The board of elections, [between August first and August fifth of
31 each year] NOT LESS THAN SIXTY-FIVE DAYS NOR MORE THAN SEVENTY DAYS
32 BEFORE THE PRIMARY ELECTION IN EACH YEAR, shall send by first class mail
33 on which is endorsed "ADDRESS CORRECTION REQUESTED" and which contains a
34 request that any such mail received for persons not residing at the
35 address be dropped back in the mail, a communication, in a form approved
36 by the state board of elections, to every registered voter who has been
37 registered without a change of address since the beginning of such year,
38 except that the board of elections shall not be required to send such
39 communications to voters in inactive status. The communication shall
40 notify the voter of the days and hours of the ensuing primary and gener-
41 al elections, the place where he OR SHE appears by his OR HER registra-
42 tion records to be entitled to vote, the fact that voters who have moved
43 or will have moved from the address where they were last registered must
44 re-register or, that if such move was to another address in the same
45 county or city, that such voter may either notify the board of elections
46 of his OR HER new address or vote by paper ballot at the polling place
47 for his OR HER new address even if such voter has not re-registered, or
48 otherwise notified the board of elections of the change of address. If
49 the location of the polling place for the voter's election district has
50 been moved, the communication shall contain the following legend in bold
51 type: "YOUR POLLING PLACE HAS BEEN CHANGED. YOU NOW VOTE AT.....".
52 The communication shall also indicate whether the polling place is

53 accessible to physically disabled voters, that a voter who will be out
54 of the city or county on the day of the primary or general election or a
55 voter who is ill or physically disabled may obtain an absentee ballot,
56 that a physically disabled voter whose polling place is not accessible

1 may request that his OR HER registration record be moved to an election
2 district which has a polling place which is accessible, the phone number
3 to call for applications to move a registration record or for absentee
4 ballot applications, the phone number to call for the location of regis-
5 tration and polling places, the phone number to call to indicate that
6 the voter is willing to serve on election day as an election inspector,
7 poll clerk, interpreter or in other capacities, the phone number to call
8 to obtain an application for registration by mail, and such other infor-
9 mation concerning the elections or registration as the board may
10 include. In lieu of sending such communication to every registered
11 voter, the board of elections may send a single communication to a
12 household containing more than one registered voter, provided that the
13 names of all such voters appear as part of the address on such communi-
14 cation.
15 S 9. Subdivision 1 of section 5-604 of the election law, as amended by
16 chapter 28 of the laws of 2010, is amended to read as follows:
17 1. The board of elections shall also cause to be published for each
18 election district a complete list of the registered voters of each
19 election district. Such list shall, in addition to the information
20 required for registration lists, include the party enrollment of each
21 voter. At least as many copies of such list shall be prepared as the
22 required minimum number of registration lists.
23 Lists for all the election districts in a ward or assembly district
24 may be bound together in one volume. The board of elections shall also
25 cause to be published a complete list of names and residence addresses
26 of the registered voters, including the party enrollment of each voter,
27 for each town and city over which the board has jurisdiction. The names
28 for each town and city may be arranged according to street and number or
29 alphabetically. Such lists shall be published before the first day of
30 [April] FEBRUARY. The board shall keep at least five copies for public
31 inspection at each main office or branch office of the board. Surplus
32 copies of the lists shall be sold at a charge not exceeding the cost of
33 publication.
34 S 10. Paragraph a of subdivision 5 of section 5-708 of the election
35 law, as added by chapter 659 of the laws of 1994, is amended to read as
36 follows:
37 a. At least once each year during the month of [May] FEBRUARY, each
38 board of elections shall obtain through the National Change of Address
39 System, the forwarding address for every voter registered with such
40 board of elections for whom the United States Postal Service has such a
41 forwarding address together with the name of each such voter whom the
42 Postal Service records indicate has moved from the address at which he
43 is registered without leaving a forwarding address.
44 S 11. Subdivision 1 of section 6-108 of the election law, as amended
45 by chapter 160 of the laws of 1996, is amended to read as follows:
46 1. In any town in a county having a population of over seven hundred
47 fifty thousand inhabitants, as shown by the latest federal decennial or
48 special population census, party nominations of candidates for town
49 offices shall be made at the primary preceding the election. In any
50 other town, nominations of candidates for town offices shall be made by
51 caucus or primary election as the rules of the county committee shall
52 provide, except that the members of the county committee from a town may
53 adopt by a two-thirds vote, a rule providing that the party candidates
54 for town offices shall be nominated at the primary election. If a rule
55 adopted by the county committee of a political party or by the members
56 of the county committee from a town, provides that party candidates for

1 town offices, shall be nominated at a primary election, such rule shall
2 not apply to nor affect a primary held less than four months after a
3 certified copy of the rule shall have been filed with the board of
4 elections. After the filing of such a rule, the rule shall continue in
5 force until a certified copy of a rule revoking the same shall have been
6 filed with such board at least four months before a subsequent primary.
7 Such a caucus shall be held no earlier than the first day on which
8 designating petitions for the [fall] primary election may be signed.
9 S 12. Subdivisions 1 and 2 of section 6-147 of the election law, as

amended by chapter 434 of the laws of 1984, are amended to read as follows:

1. The name of a person designated on more than one petition as a candidate for a party position to be filled by two or more persons shall be printed on the ballot with the group of candidates designated by the petition first filed unless such person, in a certificate duly acknowledged by him OR HER and filed with the board of elections not later than the [eighth] TENTH Tuesday preceding the primary election or five days after the board of elections mails such person notice of his OR HER designation in more than one group, whichever is later, specifies another group in which his OR HER name shall be printed.

2. A person designated as a candidate for the position of member of the county committee in more than one election district shall be deemed to have been designated in the lowest numbered election district unless such person, in a certificate duly acknowledged by him OR HER, and filed with the board of elections not later than the [eighth] TENTH Tuesday preceding the primary election or five days after the board of elections mails such person notice of his OR HER designation in more than one election district whichever is later, specifies that he OR SHE wishes to be deemed designated in a different election district.

S 13. Subdivisions 1, 4, 5, 6, 9, 11, 12 and 14 of section 6-158 of the election law, subdivisions 1, 4, 11 and 12 as amended by chapter 434 of the laws of 1984, subdivision 6 as amended by chapter 79 of the laws of 1992, and subdivision 9 as amended by chapter 517 of the laws of 1986, are amended to read as follows:

1. A designating petition shall be filed not earlier than the [tenth] THIRTEENTH Monday before, and not later than the [ninth] TWELFTH Thursday preceding the primary election.

4. A petition of enrolled members of a party requesting an opportunity to write in the name of an undesignated candidate for a public office or party position at a primary election shall be filed not later than the [eighth] ELEVENTH Thursday preceding the primary election. However, where a designating petition has been filed and the person named therein has declined such designation and another person has been designated to fill the vacancy, then in that event, a petition for an opportunity to ballot in a primary election shall be filed not later than the [seventh] TENTH Thursday preceding such primary election.

5. A judicial district convention shall be held not earlier than the [Tuesday] THURSDAY following the [third Monday in September] FIRST MONDAY IN AUGUST preceding the general election and not later than [the fourth Monday in September preceding such election] SIX DAYS THEREAFTER.

6. (A) A certificate of a party nomination made other than at the primary election for an office to be filled at the time of a general election shall be filed not later than [seven] THIRTY days after the [fall] primary election, (B) except that a certificate of nomination for an office which becomes vacant after the seventh day preceding such primary election shall be filed not later than [fourteen] THIRTY DAYS

AFTER THE PRIMARY ELECTION OR TEN days after the creation of such vacancy, WHICHEVER IS LATER, and (C) except, further, that a certificate of party nomination of candidates for elector of president and vice-president of the United States shall be filed not later than [fourteen] SEVENTY-SIX days after the [fall] primary election, and except still further that a certificate of party nomination made at a judicial district convention shall be filed not later than the day after the last day to hold such convention and the minutes of such convention, duly certified by the chairman and secretary, shall be filed within seventy-two hours after adjournment of the convention. A certificate of party nomination for an office to be filled at a special election shall be filed not later than ten days following the issuance of a proclamation of such election.

9. A petition for an independent nomination for an office to be filled at the time of a general election shall be filed not earlier than [twelve] TWENTY-FOUR weeks and not later than [eleven] TWENTY-THREE weeks preceding such election. A petition for an independent nomination for an office to be filled at a special election shall be filed not later than twelve days following the issuance of a proclamation of such election. A petition for trustee of the Long Island Power Authority shall be filed not earlier than seven weeks and not later than six weeks preceding the day of the election of such trustees.

11. A certificate of acceptance or declination of an independent nomi-

shall be filed not later than the third day after the [eleventh] TWENTY-THIRD Tuesday preceding such election except that a candidate who files such a certificate of acceptance for an office for which there have been filed certificates or petitions designating more than one candidate for the nomination of any party, may thereafter file a certificate of declination not later than the third day after the primary election. A certificate of acceptance or declination of an independent nomination for an office to be filled at a special election shall be filed not later than fourteen days following the issuance of a proclamation of such election.

12. A certificate to fill a vacancy caused by a declination of an independent nomination for an office to be filled at the time of a general election shall be filed not later than the sixth day after the [eleventh] TWENTY-THIRD Tuesday preceding such election. A certificate to fill a vacancy caused by a declination of an independent nomination for an office to be filled at a special election shall be filed not later than sixteen days following the issuance of a proclamation of such election.

14. A vacancy occurring THREE MONTHS before [September twentieth of] THE GENERAL ELECTION IN any year in any office authorized to be filled at a general election, except in the offices of governor, lieutenant-governor, or United States senator shall be filled at the general election held next thereafter, unless otherwise provided by the constitution, or unless previously filled at a special election.

S 14. Paragraph (a) of subdivision 1 of section 8-100 of the election law, as amended by chapter 17 of the laws of 2007, is amended to read as follows:

(a) A primary election[, to be known as the fall primary,] shall be held on the [first] FOURTH Tuesday [after the second Monday] in [September] JUNE before every general election unless otherwise changed by an act of the legislature. MEMBERS OF THE STATE AND COUNTY COMMITTEES AND ASSEMBLY DISTRICT LEADERS AND ASSOCIATE DISTRICT LEADERS AND ALL OTHER

PARTY POSITIONS TO BE ELECTED SHALL BE ELECTED AT SUCH PRIMARY AND ALL NOMINATIONS FOR PUBLIC OFFICE REQUIRED TO BE MADE AT A PRIMARY ELECTION IN SUCH YEAR SHALL BE MADE AT SUCH PRIMARY. In each year in which electors of president and vice president of the United States are to be elected an additional primary election, to be known as the spring primary, shall be held on the first Tuesday in February unless otherwise changed by an act of the legislature, for the purpose of electing delegates to the national convention[, members of state and county committees and assembly district leaders and associate assembly district leaders].

S 15. Subdivision 1 of section 9-208 of the election law, as amended by chapter 163 of the laws of 2010, is amended to read as follows:

1. Within [fifteen] TWENTY-ONE days after each general, special or primary election, and within seven days after every village election conducted by the board of elections at which ballot scanners are used, the board of elections, or a bipartisan committee of or appointed by said board shall, in each county using ballot scanners, make a record of the serial number of each ballot scanner used in each election district in such general, special or primary election. No person who was a candidate at such election shall be appointed to membership on the committee. Such board of elections or bipartisan committee shall recanvass the tabulated result tape from each ballot scanner used in each election district by comparing such tape with the numbers as recorded on the return of canvass. The said board or committee shall also make a recanvass of any election day paper ballots that have not been scanned and were hand counted pursuant to subdivision two of section 9-110 of this article and compare the results with the number as recorded on the return of canvass. The board or committee shall then recanvass write-in votes, if any, on ballots which were otherwise scanned and canvassed at polling places on election night. The board or committee shall validate and prove such sums. Before making such canvass the board of elections, with respect to each election district to be recanvassed, shall give notice in writing to the voting machine custodian thereof, to the state and county chair of each party or independent body which shall have nominated candidates for the said general or special election or nominated or elected candidates at the said primary election and to each individual candidate whose name appears on the office ballot, of the time and place where such canvass is to be made; and the state and county chair of each such party or independent body and each such individual candidate may send a representative to be present at such recanvass.

Each candidate whose name appears on the official ballot, or his or her representative, shall have the right personally to examine and make a record of the vote recorded on the tabulated result tape and any ballots which were hand counted.

S 16. Subdivision 1 of section 9-211 of the election law, as added by chapter 181 of the laws of 2005, is amended to read as follows:

1. Within [fifteen] TWENTY-ONE days after each general or special election, and within [seven] TWENTY-ONE days after every primary or village election conducted by the board of elections, the board of elections or a bipartisan committee appointed by such board shall manually audit the voter verifiable audit records from three percent of voting machines or systems within the jurisdiction of such board. Voting machines or systems shall be selected for audit through a random, manual process. At least five days prior to the time fixed for such selection process, the board of elections shall send notice by first class mail to each candidate, political party and independent body entitled to have had watchers present at the polls in any election district in such

board's jurisdiction. Such notice shall state the time and place fixed for such random selection process. The audit shall be conducted in the same manner, to the extent applicable, as a canvass of paper ballots. Each candidate, political party or independent body entitled to appoint watchers to attend at a polling place shall be entitled to appoint such number of watchers to observe the audit.

S 17. Paragraph (a) of subdivision 1 of section 10-108 of the election law, as amended by chapter 99 of the laws of 2013, is amended to read as follows:

(a) Ballots for military voters shall be mailed or otherwise distributed by the board of elections, in accordance with the preferred method of transmission designated by the voter pursuant to section 10-107 of this article, as soon as practicable but in any event not later than [thirty-two] FORTY-FIVE days before a primary or general election[; twenty-five days before], a New York city community school board district or city of Buffalo school district election; fourteen days before a village election conducted by the board of elections; and forty-five days before a special election. Notwithstanding the foregoing provisions of this section, in any year in which there has been a run-off election in the city of New York, ballots for military voters shall be mailed or otherwise distributed by the board of elections of such city in accordance with the preferred method of transmission designated by the voter pursuant to section 10-107 of this article, as soon as practicable but in any event not later than twenty-five days before a general election in that year. A voter who submits a military ballot application shall be entitled to a military ballot thereafter for each subsequent election through and including the next two regularly scheduled general elections held in even numbered years, including any run-offs which may occur; provided, however, such application shall not be valid for any election held within seven days after its receipt. Ballots shall also be mailed to any qualified military voter who is already registered and who requests such military ballot from such board of elections in a letter, which is signed by the voter and received by the board of elections not later than the seventh day before the election for which the ballot is requested and which states the address where the voter is registered and the address to which the ballot is to be mailed. The board of elections shall enclose with such ballot a form of application for military ballot. In the case of a primary election, the board shall deliver only the ballot of the party with which the military voter is enrolled according to the military voter's registration records. In the event a primary election is uncontested in the military voter's election district for all offices or positions except the party position of member of the ward, town, city or county committee, no ballot shall be delivered to such military voter for such election; and the military voter shall be advised of the reason why he or she will not receive a ballot.

S 17-a. Paragraph (a) of subdivision 1 of section 10-108 of the election law, as amended by chapter 4 of the laws of 2011, is amended to read as follows:

(a) Ballots for military voters shall be mailed or otherwise distributed by the board of elections, in accordance with the preferred method of transmission designated by the voter pursuant to section 10-107 of this article, as soon as practicable but in any event not later than

55 twenty-five days before], a New York city community school board
56 district or city of Buffalo school district election; fourteen days

1 before a village election conducted by the board of elections; and
2 forty-five days before a special election. A voter who submits a mili-
3 tary ballot application shall be entitled to a military ballot thereaft-
4 er for each subsequent election through and including the next two regu-
5 larly scheduled general elections held in even numbered years, including
6 any run-offs which may occur; provided, however, such application shall
7 not be valid for any election held within seven days after its receipt.
8 Ballots shall also be mailed to any qualified military voter who is
9 already registered and who requests such military ballot from such board
10 of elections in a letter, which is signed by the voter and received by
11 the board of elections not later than the seventh day before the
12 election for which the ballot is requested and which states the address
13 where the voter is registered and the address to which the ballot is to
14 be mailed. The board of elections shall enclose with such ballot a form
15 of application for military ballot. In the case of a primary election,
16 the board shall deliver only the ballot of the party with which the
17 military voter is enrolled according to the military voter's registra-
18 tion records. In the event a primary election is uncontested in the
19 military voter's election district for all offices or positions except
20 the party position of member of the ward, town, city or county commit-
21 tee, no ballot shall be delivered to such military voter for such
22 election; and the military voter shall be advised of the reason why he
23 or she will not receive a ballot.
24 S 18. Subdivision 4 of section 11-204 of the election law, as amended
25 by chapter 4 of the laws of 2011, is amended to read as follows:
26 4. If the board of elections shall determine that the applicant making
27 the application provided for in this section is qualified to receive and
28 vote a special federal ballot, it shall, as soon as practicable after it
29 shall have so determined, or not later than [thirty-two] FORTY-FIVE days
30 before each general or primary [election and forty-five days before
31 each] OR special election OR PRESIDENTIAL PRIMARY ELECTION in which such
32 applicant is qualified to vote, or three days after receipt of such an
33 application, whichever is later, mail to him or her at the residence
34 address outside the United States shown in his or her application, a
35 special federal ballot, an inner affirmation envelope and an outer
36 envelope, or otherwise distribute same to the voter in accordance with
37 the preferred method of transmission designated by the voter pursuant to
38 section 11-203 of this title. The board of elections shall also mail, or
39 otherwise distribute in accordance with the preferred method of trans-
40 mission designated by the voter pursuant to section 11-203 of this
41 title, a special federal ballot to every qualified special federal voter
42 who is already registered and who requests such special federal ballot
43 from such board of elections in a letter, which is signed by the voter
44 and received by the board of elections not later than the seventh day
45 before the election for which the ballot is first requested and which
46 states the address where the voter is registered and the address to
47 which the ballot is to be mailed. The board of elections shall enclose
48 with such ballot a form of application for a special federal ballot.
49 S 19. Subdivision 4 of section 16-102 of the election law, as added by
50 chapter 135 of the laws of 1986, is amended to read as follows:
51 4. A final order INCLUDING THE RESOLUTION OF ANY APPEALS in any
52 proceeding involving the names of candidates on ballots or voting
53 machines shall be made, if possible, at least five weeks before the day
54 of the election at which such ballots or voting machines are to be used,
55 or if such proceeding is commenced within five weeks of such election,
56 no later than the day following the day on which the case is heard.

1 S 20. Subdivisions 3 and 4 of section 16-104 of the election law,
2 subdivision 3 as added by chapter 136 of the laws of 1978 and subdivi-
3 sion 4 as amended by chapter 117 of the laws of 1985, are amended to
4 read as follows:
5 3. A proceeding pursuant to subdivision two of this section must be
6 instituted within [fourteen] SEVEN days after the last day to certify
7 the wording of any such abstract or form of submission.
8 4. A final order INCLUDING THE RESOLUTION OF ANY APPEALS in any
9 proceeding involving the contents of official ballots on voting machines
10 shall be made, if possible, at least five weeks before the day of the
11 election at which such voting machines are to be used, or if such

12 proceeding is commenced within five weeks of an election, no later than
13 the day following the day on which the case is heard.
14 S 21. Subdivisions 1 and 4 of section 42 of the public officers law,
15 subdivision 1 as amended by chapter 878 of the laws of 1946 and subdivi-
16 sion 4 as amended by chapter 317 of the laws of 1954, are amended to
17 read as follows:
18 1. A vacancy occurring THREE MONTHS before [September twentieth of]
19 THE GENERAL ELECTION IN any year in any office authorized to be filled
20 at a general election, except in the offices of governor or lieutenant-
21 governor, shall be filled at the general election held next thereafter,
22 unless otherwise provided by the constitution, or unless previously
23 filled at a special election.
24 4. A special election shall not be held to fill a vacancy in the
25 office of a representative in congress unless such vacancy occurs on or
26 before the first day of July of the last year of the term of office, or
27 unless it occurs thereafter and a special session of congress is called
28 to meet before the next general election, or be called after [September
29 nineteenth of] THREE MONTHS BEFORE THE GENERAL ELECTION IN such year;
30 nor to fill a vacancy in the office of state senator or in the office of
31 member of assembly, unless the vacancy occurs before the first day of
32 April of the last year of the term of office, or unless the vacancy
33 occurs in either such office of senator or member of assembly after such
34 first day of April and a special session of the legislature be called to
35 meet between such first day of April and THE NEXT GENERAL ELECTION OR BE
36 CALLED AFTER THREE MONTHS BEFORE the next general election [or be called
37 after September nineteenth] in such year. If a special election to fill
38 an office shall not be held as required by law, the office shall be
39 filled at the next general election.
40 S 22. This act shall take effect immediately; provided, however, that
41 the amendments to section 4-114 of the election law made by section
42 seven of this act and the amendments to paragraph (a) of subdivision 1
43 of section 10-108 of the election law made by section seventeen of this
44 act shall be subject to the expiration and reversion of such section and
45 paragraph, respectively, pursuant to chapter 99 of the laws of 2013, as
46 amended, when upon such date the provisions of sections seven-a and
47 seventeen-a of this act shall take effect.