

2011-12 NEW YORK STATE EXECUTIVE BUDGET

**MERGE STATE ENTITIES
ARTICLE VII LEGISLATION**

MEMORANDUM IN SUPPORT

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MEMORANDUM IN SUPPORT

A BUDGET BILL submitted by the Governor in
Accordance with Article VII of the Constitution

AN ACT relating to constituting chapter 18-A of the consolidated laws in relation to financial regulation; to amend the insurance law, the banking law, the executive law, the education law, the energy law, the state technology law, the real property law, the general business law, the public authorities law, the public health law, the public service law, the New York state defense emergency act, the state finance law, the criminal procedure law, the tax law, and chapter 784 of the laws of 1951, constituting the New York state defense emergency act, in relation to the creation of the department of financial regulation; to amend chapter 322 of the laws of 2007, amending the banking law relating to the power of banks, private bankers, trust companies, savings banks, savings and loan associations, credit unions and foreign banking corporations to exercise the rights of national banks, federal savings associations, federal credit unions and federal branches and agencies of foreign banks, in relation to the effectiveness of certain provisions of such chapter; to transfer certain authority with respect to consumer protection from the executive law to the department of financial regulation; to amend chapter 3 of the laws of 1997, amending the banking law and the insurance law relating to authorizing the banking board to permit banks and trust companies to exercise the rights of national banks, in relation to making certain provisions of such chapter permanent and to repeal certain provisions of the banking law, the insurance law, the executive law, the agriculture and markets law, the general business law, the tax law, the criminal procedure law and chapter 610 of the laws of 1995, amending the insurance law relating to investments relating to financial regulation and to making technical corrections (Part A); to amend the executive law, the labor law, the public health law, the social services law, the criminal procedure law, the family court act, the correction law and the education law, in relation to merging the office of victims services, state commission of correction and office for the prevention of domestic violence into the division of

criminal justice services; to repeal section 576 of the executive law relating to the batterers project; and to repeal subdivision 3-a of section 844-b of the executive law, relating to reports of the New York state committee for the coordination of police services to elderly persons (Part B); to amend the correction law and the executive law, in relation to merging the department of correctional services and division of parole into the department of corrections and community supervision; and repealing certain provisions of the correction law relating thereto and article 12-B of the executive law relating to the state division of parole (Subpart A); and to amend the correction law, abandoned property law, alcoholic beverage control law, civil practice law and rules, civil rights law, civil service law, county law, court of claims act, criminal procedure law, education law, election law, environmental conservation law, executive law, facilities development corporation act, family court act, general business law, general municipal law, labor law, legislative law, mental hygiene law, municipal home rule law, penal law, public buildings law, public health law, public officers law, railroad law, retirement and social security law, social services law, state administrative procedure act, state finance law, state technology law, surrogate's court procedure act, tax law, town law, vehicle and traffic law, and the workers' compensation law, in relation to making conforming technical changes; and to repeal certain provisions of the correction law relating thereto (Subpart B) (Part C); and to amend the New York state urban development corporation act, in relation to the elimination of the New York state foundation for science, technology and innovation and the transfer of functions to the New York state urban development corporation, and to repeal certain provisions of the public authorities law relating thereto (Part D)

PURPOSE: This bill contains provisions needed to implement the 2011-12 Executive Budget. The bill provides for several State entity mergers to enhance operational effectiveness and efficiencies.

This memorandum describes Parts A through D of the bill which are described wholly within the parts listed below.

Part A – Merge the operations of the Department of Insurance, the Banking Department and the consumer financial protection programs of the Consumer Protection Board into the Department of Financial Regulation.

Purpose:

This bill consolidates financial regulation and consumer and investor protection under the auspices of a single state agency to be named the Department of Financial Regulation, by merging the operations of the Insurance Department and the Banking Department and the consumer financial protection programs of the Consumer Protection Board, and by granting broad regulatory authority to the Department over other financial products.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

The financial industry has evolved with increasing speed and complexity over the last decade. As new financial products and services become available to consumers and investors, there is a corresponding need for robust supervision of these financial products and services. Recent experience has shown the dire consequences of inadequate or poorly targeted oversight.

This bill proposes to implement a unified financial regulatory and consumer protection structure in New York. It merges the functions of the Banking Department and the Insurance Department and the consumer financial protection programs of the Consumer Protection Board under a unified Department of Financial Regulation (DFR). This consolidation satisfies the dual public policy objectives of better serving the consumers, businesses and investors in the State and making government more cost-effective. The bill also enables the DFR to supervise financial products and services that are currently unregulated and provide more effective and efficient consumer and investor protection relating to financial products and services.

The functions, duties and responsibilities of the Banking and Insurance Departments will be merged under the new DFR. All of the existing supervisory, regulatory and enforcement powers contained within the Banking and Insurance Laws will remain intact, as will both Chapters of Law. The Superintendent of Financial Regulation will assume the responsibilities of the Superintendents of the Banking and Insurance Departments, as well as expanded responsibilities to oversee consumer and investor protection over financial products, services and transactions. This structure will allow the Superintendent and the DFR to be more responsive to developments in the financial industry.

The Superintendent also will administer a newly created Financial Frauds and Consumer Protection Unit (FFCPU). The FFCPU will function as a central repository for consumer financial complaints, and will have broad authority to investigate activities that

may constitute financial fraud or misconduct. The FFCPU is given authority to impose civil penalties, and recover restitution for consumers who are harmed by financial frauds.

Section 1 of the bill adds a new chapter 18-A of the Consolidated Laws to establish the “Financial Regulation and Protection Law” (FRPL). The FRPL contains five Articles, as follows:

- Article I establishes and organizes the FRPL, establishes the DFR, and provides for the consolidation of the Banking and Insurance Departments into the DFR, as follows:
 - § 101 creates a new chapter entitled “Financial Regulation and Protection Law.”
 - § 102 declares that the purpose of establishing the FRPL is to consolidate the functions of financial regulation and consumer and investor protection, as well as the responsibilities of the Insurance and Banking Departments under the DFR.
 - § 103 organizes the FRPL.
 - § 104 contains definitions, including a definition for financial products and services, over which the DFR will have jurisdiction.
- Article II organizes the DFR and provides for the methods by which the DFR may levy assessments, as follows:
 - § 201 provides a declaration of policy and legislative intent.
 - § 202 establishes the Superintendent as the head of the DFR.
 - § 203 allows the Superintendent to appoint first deputy Superintendents and such other deputies and employees as needed.
 - § 204 provides that the DFR must maintain offices in Albany and New York City, and may establish additional offices as needed.
 - § 205 allows the Superintendent to establish divisions, bureaus or other units within the DFR.
 - § 206 prescribes the method by which the DFR may levy assessments to fund the operating expenses of the DFR. Paragraphs (a) through (g) provide that:
 - (a) beginning in State Fiscal Year (SFY) 2012-13 the Superintendent shall determine costs to the DFR for the regulation and supervision of the banking and insurance industries respectively, and shall levy assessments in such proportions as the Superintendent deems just and reasonable;
 - (b) beginning in SFY 2012-13, assessments shall be paid in 25% increments on March 10th of the preceding SFY, and June 10th, September 10th and December 10th of the current SFY;
 - (c) examination expenses for bank holding companies may be assessed by the Superintendent;
 - (d) examination expenses for banking organization affiliates and non-banking subsidiaries of banking affiliates may be assessed by the Superintendent;

- (e) the Superintendent may, upon notice, suspend the license, registration certificate or authority granted to any entity pursuant to banking or insurance law for failure to pay an assessment; and
 - (f) expenses of every examination of the affairs of any regulated person subject to the insurance law, with certain considerations, must be borne and paid by the insurer or other person or organization being examined.
- Article III provides administrative and procedural provisions, as follows:
 - § 301 provides the powers of the Superintendent.
 - § 302 provides the Superintendent with the authority to issue regulations, including over financial products and services not subject to exclusive regulatory oversight by the federal government or substantial regulation by other state entities.
 - § 303 requires that orders of the Superintendent be in writing.
 - § 304 provides notice requirements.
 - § 305 provides requirements for hearings before the Superintendent and DFR.
 - § 306 provides the Superintendent with subpoena powers.
 - § 307 grants immunity from prosecution under certain conditions.
 - § 308 clarifies that regulations and orders of the Superintendent are subject to judicial review.
 - § 309 allows the Superintendent to seek injunctive relief for violations of the FRPL.
 - § 310 allows certificates sealed with the official seal of the DFR to be received as evidence, and includes specific provisions to address the same.
- Article IV provides for the prevention of financial frauds.
 - § 401 provides the title of this article, the “Financial Frauds Prevention Act.”
 - § 402 provides the legislative declaration.
 - § 403 requires that the Superintendent establish the FFCPU within the DFR.
 - § 404 provides the powers of the FFCPU, which includes broad authority to investigate activities that may constitute financial frauds.
 - § 405 grants immunity to persons reporting, or providing information concerning, financial frauds to the DFR, as well as to employees and the Superintendent for actions taken and reports issued in good faith regarding financial frauds.
 - § 406 protects against the impairment or preemption of other agencies and other powers granted to the Superintendent by other laws.
 - § 407 establishes that no person or entity shall commit financial fraud.
 - § 408 provides for imposition of civil penalties and restitution for each violation of the FRPL, Banking Law or Insurance Law.
 - § 409 provides for required reporting.
- Article V provides for certain restrictions on the officers and employees of the DFR.
 - § 501 provides for certain restrictions on officers and employees of the DFR related to their ability to transact business with entities regulated by the DFR.

Section 2 of the bill repeals Banking Law Article 2-B (the Financial Frauds Prevention Act), which created the Banking Department's Criminal Investigations Bureau.

Section 3 of the bill amends Insurance Law § 401, to provide technical corrections consistent with the establishment of the DFR.

Section 4 of the bill repeals Insurance Law § 402, which establishes the Insurance Frauds Bureau.

Section 5 of the bill repeals Insurance Law § 403(c), which provides for specific civil penalties for violations of the Insurance Law.

Section 6 of the bill amends Insurance Law § 404(a) to make corrections consistent with the establishment of the DFR.

Section 7 of the bill amends Insurance Law § 405 to make corrections consistent with the establishment of the DFR.

Section 8 of the bill repeals Insurance Law §§ 406, 407-a, and 410, the provisions of which are moved to the FRPL as established by this bill.

Section 9 of the bill amends Insurance Law § 410(c)(1) to provide technical corrections consistent with the establishment of the DFR.

Section 10 of the bill amends Insurance Law § 411(b)(1) to provide technical corrections consistent with the establishment of the DFR.

Section 11 of the bill amends Banking Law § 11 to change references from the Banking Department to references to the DFR, and deletes the final sentence of subdivision 1, which establishes the Banking Department's principal office.

Section 12 of the bill repeals Banking Law § 12, which constitutes the Superintendent of Banks as the head of the Banking Department, provides for the appointment of the Superintendent of Banks, and provides certain powers and duties of the Superintendent of Banks.

Section 12-a of the bill repeals Insurance Law §§ 204, 301, 302, 303, 304, 305, 306, 313, 326 and 327, which contain administrative provisions that were moved to the FRPL.

Section 13 of the bill amends Insurance Law § 107(a)(17) and (41), to amend definitions to reflect the establishment of the DFR and the Superintendent of Financial Regulation.

Section 13-a of the bill amends the Banking Law to define the "Department" as the DFR and the "Superintendent" as the Superintendent of Financial Regulation.

Section 14 of the bill amends Executive Law § 169(1)(b) and (e), to provide for the salary for the Superintendent of Financial Regulation and delete the salary of the Chairman and Executive Director of the Consumer Protection Board.

Section 15 of the bill repeals Insurance Law § 332, to provide for the method of assessing the insurance industry to fund certain expenses, to be consistent with § 206 of the FRPL created by § 1 of this bill.

Section 16 of the bill repeals Banking Law § 17, to provide for the method of assessing the banking industry to fund certain expenses, to be consistent with § 206 of the FRPL created by § 1 of this bill.

Section 17 of the bill repeals Banking Law § 13, which establishes the Banking Board.

Section 18 of the bill repeals Insurance Law § 201, which establishes the Superintendent of Insurance.

Section 19 of the bill repeals Insurance Law § 202, which provides for the authority of the Superintendent of Insurance to appoint employees.

Section 20 of the bill repeals Article 20 of the Executive Law, which establishes the Consumer Protection Board (CPB).

Section 21 of the bill repeals Agriculture & Markets Law § 192-d, which establishes the inactive Advisory Council on Petroleum Product Standards.

Section 22 of the bill repeals Agriculture & Markets Law § 285, which establishes the inactive Direct Marketing Advisory Council for Statewide Activities.

Section 23 of the bill amends Education Law § 5010 to replace the Executive Director of the CPB on the Advisory Council for Registered Business and Licensed Trade Schools with the Superintendent of Financial Regulation.

Section 24 of the bill amends Energy Law § 6-102 to remove the CPB from the Energy Planning Board.

Section 25 of the bill amends Energy Law § 12-101-a to transfer administration over the Solar Energy Products Warranty Act from the CPB to the New York Energy Research and Development Authority (NYSERDA).

Section 26 of the bill amends Energy Law § 17-102 to transfer administration over the Truth in Heating Act from the CPB to the New York Energy Research and Development Authority (NYSERDA).

Section 27 of the bill amends State Technology Law § 208(7)(a) to replace the CPB with the DFR on the list of state agencies to be notified in the event of a person's acquisition of private information without authorization.

Section 28 of the bill repeals Article 14-A of the General Business Law (GBL) , setting forth the Airline Passenger Bill of Rights, the material portion of which was held preempted by federal law in *Air Transport Ass'n of America, Inc. v. Cuomo*, 520 F.3d 218 (2d Cir. 2008).

Section 29 of the bill replaces the Executive Director of the CPB on the State Real Estate Board with the Superintendent of Financial Regulation.

Sections 30 through 33 of the bill amend various provisions of GBL Article 28-E to transfer administration over the Children's Product Safety and Recall Effectiveness Act of 2008 from the CPB to the Department of Health.

Section 34 of the bill amends GBL § 349-d to replace the CPB with the DFR on the list of agencies that can refer complaints under the Energy Services Company Consumers Bill of Rights to the Attorney General.

Section 35 of the bill amends GBL § 372 (b)(c) to require the Department of Taxation and Finance to consult with the DFR in certain instances relating to the distribution of information about tax preparers; this consultation was previously between the Department and the CPB.

Section 36 of the bill amends GBL §380-t(g) to transfer from the CPB to the DFR the duty to monitor technology relating to a consumer's ability to lift a credit security freeze.

Section 37 of the bill amends GBL § 390-c(3) to move the responsibility over establishing an internet security website or webpage provided for by that section from the CPB to the DFR.

Section 38 of the bill amends GBL § 399-dd(2) to transfer authority to issue regulations concerning playgrounds from the CPB to the Office of Parks, Recreation and Historic Preservation.

Sections 39 through 41 of the bill amend GBL § 399-zz to transfer responsibility over administration of the State's Do-Not-Call Law List from the CPB to the Department of State.

Section 42 of the bill amends GBL § 791(1) to remove the Chair and Executive Director of the CPB.

Section 43 of the bill amends GBL § 899-aa(8)(a) to provide that the DFR, not the CPB, must be notified in the event of certain unauthorized acquisitions of private information.

Section 44 of the bill amends Insurance Law § 3217(c) to remove the requirement that the CPB be consulted in regard to regulations issued concerning the content and sale of accident and health insurance policies.

Section 45 of the bill amends Public Authorities Law § 1898(1)(a) to remove the Chair of the CPB from the Green Jobs-Green New York Advisory Council.

Section 46 of the bill amends Public Health Law § 2803-s to remove the CPB's role in the design of a leaflet on consumer product safety information to be distributed to new parents; such leaflet will be prepared solely by the Department of Health.

Section 47 of the bill amends Public Service Law § 24-a to provide that notice of various utility rate filings be provided to the Department of State, not the CPB.

Sections 48 through 50 amend Public Service Law §§ 71, 84, and 89-i to remove the option of commencing various Public Service Commission investigations by notice to the CPB.

Section 51 of the bill amends Public Service Law § 96(3) to remove a reference to the PSC's ability to commence investigations based on complaints by the CPB.

Section 52 of the bill amends Tax Law § 1817(n)(2) to remove a reference to cooperation with the CPB in regard to the Department of Taxation and Finance's monitoring of retail motor and diesel fuel prices.

Section 53 of the bill amends State Finance Law § 97-www to repurpose the Consumer Protection Account from supporting administration of the State's Do-Not Call Law to supporting the DFR's consumer fraud and investor protection unit, and providing additional funding for such account from certain penalties collected by the FFCPU.

Section 54 of the bill is intentionally omitted.

Section 55 of the bill amends Insurance Law § 109(c)(1) to include every person or entity licensed, certified, registered, or authorized pursuant to the Insurance Law among those upon whom the superintendent may impose a monetary penalty for a willful violation of the Insurance Law or the regulations promulgated thereunder. This amendment also increases the monetary penalty to \$10,000 for all of these persons or entities, except those persons or entities licensed pursuant to Articles 21 or 68 of the Insurance Law.

Section 56 of the bill repeals Insurance Law § 203, which requires the Insurance Department to have offices in New York City and Albany. This requirement is moved to § 204 of the FRPL.

Section 57 repeals Insurance Law § 209. Subsection (a) requires the Superintendent to make a report by January 31, 1986 on the operation and results of Chapter 781 of the Laws of 1983 and the Insurance Law relating to motor vehicle liability insurance notices of termination, procedures for lack of financial security, and exemption for certain vehicles. Subsection (b) requires the Superintendent to appoint an advisory panel to develop standardized medical claim forms and to report its findings by July 1, 1993.

Section 58 of the bill repeals Insurance Law § 210-a, which requires the Superintendent to make available to insurance brokers information regarding long term care insurance coverage and the New York State Partnership for long term care insurance coverage,

created by Executive Law § 544. The Legislature repealed Executive Law § 544 as part of Chapter 642 of the Laws of 2004.

Section 59 of the bill repeals Insurance Law § 211, which requires the Superintendent to order a study of the utilization trends and experience and the rate and premium impact to health insurance consumers, and to issue a report by September 1, 1999.

Section 60 of the bill repeals Insurance Law § 212, which requires the Superintendent to order a study of the Healthy New York program, and to issue a report by January 1 of each year.

Section 61 of the bill amends Insurance Law § 214, to move the date by which the Superintendent needs to make an annual report to March 15 of each year, rather than January 1 of each year.

Section 62 of the bill repeals Insurance Law § 308(d), which requires the Superintendent to issue a report by September 1, 2007 on the compensation insurance rating board.

Section 63 of the bill repeals §§ 498-a and 562 of the Banking Law, the subject matter of which is covered by § 305 of the FRPL.

Section 64 amends Insurance Law § 337, which applies to the annual consumer guide on automobile insurance.

Section 65 of the bill repeals Insurance Law § 338, which requires a biennial report on the automobile insurance plan.

Section 66 of the bill repeals Insurance Law § 339, which requires the Superintendent to furnish a report by May 1, 1996 providing an assessment of the market availability of gap insurance.

Section 67 of the bill repeals Insurance Law § 402, which establishes the Insurance Frauds Bureau. The functions of the Insurance Frauds Bureau are being carried into the newly constituted Financial Frauds and Consumer Protection Unit established by § 403 of the FRPL.

Section 68 of the bill amends Insurance Law § 1504(b) to permit the Superintendent to examine every holding company and every controlled person within a holding company system if the Superintendent has cause to believe that the operations of such person may affect the operations, management or financial condition of any controlled insurer within the system, regardless of the materiality of such effect.

Section 69 of the bill amends Insurance Law § 2102 to permit the Superintendent to impose a monetary penalty not to exceed \$500 for each transaction on any person, firm, association, or corporation who or that violates section 2102 (acting without a license), except as provided in section 2102(a)(2).

Section 70 of the bill amends Insurance Law § 2117(g) to change the penalty from \$500 for the first offense and an additional \$500 for each month during which the person or entity continues to act in violation of section 2117, to \$500 for each transaction, if any person, firm, association, or corporation acts for, or aids, an unlicensed or unauthorized insurer or health maintenance organization.

Section 71 of the bill amends Insurance Law § 2402(b) to add Insurance Law §§ 1102(a) (doing an insurance business without a license), 2102 (acting without a license), and 2117 (acting for or aiding an unlicensed or unauthorized insurer or health maintenance organization) to the definition of a “defined violation.”

Section 72 of the bill repeals Insurance Law § 2706, which requires the Superintendent to make a report, with regard to the Holocaust Victims Insurance Act of 1998, one year from the effective date of Article 27, which took effect in 1998, and annually for the next 10 years.

Sections 73-75 of the bill are intentionally omitted.

Section 76 of the bill repeals Insurance Law § 5514, which requires the Superintendent to issue a report, from time to time, evaluating the operation of Article 55 (Medical Malpractice Insurance Association or “MMIA”). The MMIA no longer exists.

Section 77 of the bill repeals Insurance Law § 7006(d), which requires the Superintendent to issue an annual report on the number and type of captive insurers, the lines of insurance written through them, and their overall effect on the New York insurance market.

Section 78 of the bill amends Criminal Procedure Law § 2.10(47) to reflect the transfer of peace officers from the Insurance Frauds Bureau to the Department.

Section 78-a of the bill repeals Criminal Procedure Law §2.10(61) to reflect the transfer of peace officers from the Criminal Investigations Bureau in the Banking Department to the Department.

Section 79 of the bill amends Public Health Law § 1370-b(1) to remove the Superintendent of Insurance from the New York State Advisory Council on Lead Poisoning Prevention.

Section 80 of the bill amends Public Health Law § 2553(1)(b) to remove the Superintendent of Insurance from the Early Intervention Coordinating Council.

Section 81 of the bill amends Public Health law § 4602(1) to remove the Superintendent of Insurance from the Continuing Care Retirement Community Council.

Sections 82 and 83 of the bill amend Tax Law § 11(a)(5) and (12) to change the definition of “department” to the Department of Economic Development and the definition of “superintendent” to the Commissioner of Economic Development, with

regard to any application, certification, report, submission, filing, or other action required or governed by section 11 occurring on or after August 1, 2011.

Section 84 of the bill repeals Tax law § 11(j), which requires the Superintendent of Insurance to issue an annual report on certified capital companies.

Section 85 of the bill amends Unconsolidated Laws § 9120(1) to remove the Superintendent of Insurance from the State Civil Defense Commission.

Section 86 of the bill repeals Section 4 of Chapter 610 of the Laws of 1995, which requires the Superintendent of Insurance to submit an annual report regarding authorized life insurers' investments, activities, or other contributions described in Insurance Law § 4233(b)(11).

Section 87 of the bill repeals Banking Law § 3, which establishes 10 banking districts, a concept no longer used in the Banking Law.

Section 88 of the bill makes amendments to the so-called wild card provision of the Banking Law, which is found in section 12-a. Subdivisions 1, 2 and 6 are unchanged. Subdivisions 3 and 4 cover applications from regulated entities, and wild cards recommended by the Superintendent on his own account.

Section 88-a repeals subdivision 8 of Section 12-a of the Banking Law, which provided for an annual report on whether the wild card powers have retained banks in New York.

Section 89 of the bill provides that the functions, powers and obligations of the Banking Board are transferred to the Superintendent of Financial Regulation. This is a technical provision to effectuate the purposes of the consolidation.

Section 90 of the bill amends Banking Law § 14 to reflect the transfer of the powers of the Banking Board to the Superintendent of Financial Regulation.

Section 91 of the bill provides that references in the Banking Law to the Banking Board will be deemed to refer to the Superintendent of Financial Regulation.

Section 92 of the bill repeals Banking Law § 15, which authorizes the Superintendent to appoint deputies, provides for an oath of office for deputies and examiners, and provides certain protections for deputies who previously served as examiners and are later removed from the position of deputy. The substance of subdivisions 1 and 3 has been moved to § 203 of the FRPL. The requirement for an oath of office, now in § 15(2) of the Banking Law, is now covered by § 10 of the Public Officers Law.

Section 93 of the bill repeals Banking Law § 16, dealing with restrictions on officers and employees of the department. The substance of this section has been transferred to section 501 of the FRPL.

Section 94 of the bill deletes the small farm and small business report that the Superintendent is required to make annually under Banking Law § 9-q.

Section 95 and 95-a of the bill would make the wild card authority permanent.

Section 96 of the bill repeals Banking Law § 75-g, which provides for an annual report on ATM safety violations.

Section 97 of the bill amends Banking Law § 42(19) to require the Superintendent to post in the Department's bulletin a notice that he or she plans to recommend adoption of a wild card.

Section 98 of the bill transfers all of the functions, powers, obligations and duties of the Banking and Insurance Departments to the DFR.

Section 99 of the bill abolishes the Banking and Insurance Departments.

Section 100 of the bill continues the authority of the Banking and Insurance Departments for the purposes of succession, as necessary to effectuate the transfer of its functions, powers, obligations and duties to the DFR.

Section 101 of the bill transfers the books, papers, records and property of the Banking and Insurance Departments to the DFR.

Section 102 of the bill allows the DFR to complete any unfinished business or matters commenced by the Banking and Insurance Departments.

Section 103 of the bill requires that any legal or contractual references to the Banking and Insurance Departments be deemed to refer to the DFR, and requires that in any case where both the Superintendents of Banking and Insurance sit on the same Board, statutory references or designations shall be deemed to refer solely to the Superintendent of Financial Regulation.

Section 104 of the bill directs the Legislative Bill Drafting Commission to change all statutory references to the Departments and Superintendents of Banking and Insurance, to reflect the DFR and Superintendent of Financial Regulation.

Section 105 of the bill provides that no rights or remedies of the state shall be lost, impaired or otherwise affected by the enactment of this act.

Section 106 of the bill provides that no actions or proceedings to which the Superintendents or Departments of Banking and Insurance are a party will be affected by the enactment of this act, and that in the case of open actions or proceedings against either, the DFR shall be substituted as a party.

Section 107 of the bill continues, and transfers to the DFR, all rules, regulations, acts, determinations and decisions of the Banking and Insurance Departments.

Section 108 of the bill provides for the transfer to the DFR of all appropriations and reappropriations made to the Banking and Insurance Departments.

Section 109 of the bill provides for the transfer to the DFR of all employees of the Banking and Insurance Departments. The employees shall remain in the same collective bargaining unit and retain their civil service status, classification and rights.

Section 110 of the bill requires that in SFY 2011-12 the Director of the Budget shall notify the Superintendent of the expenses that will be incurred for the forthcoming fiscal year. Assessments to fund these amounts will be levied according to existing banking and insurance law prior to the enactment of this statute, such that the assessments levied on one industry correlate to the costs incurred in the regulation and supervision of that assessed industry.

Section 111 of the bill requires that the Superintendent coordinate administrative, clerical and human resource functions, and any other functions, in a manner to achieve cost savings.

Section 112 of the bill provides that the Governor shall designate an acting Superintendent when the bill becomes effective, who shall serve with the full authority of Superintendent provided that the Governor nominates a Superintendent within sixty days of the effective date of the act.

Section 113 of the bill provides a severability clause.

Section 114 of the bill provides the effective date.

Budget Implications:

Enactment of this bill is necessary to implement the 2011-12 Executive Budget as it is expected to produce an undetermined amount of savings, through agency consolidation and streamlining of agency operations. Furthermore, it is anticipated that the more robust protections against financial frauds provided for under this legislation will generate significant savings to the taxpayers of New York, and will contribute substantially to the overall economic health of the State.

Effective Date:

Most provisions of the bill take effect on April 1, 2011. However, the provisions addressing assessments in §§ 15 and 16 will not become effective until April 1, 2012; employees with holdings that are not in compliance with § 501 of the FRPL will have until April 1, 2012 to be in compliance; and sections 30 through 33, transferring CPB's authority for product safety literature to the Department of Health, will take effect in the same manner as Chapter 539 of the laws of 2010.

Part B – Merge the operations of the Office for the Prevention of Domestic Violence, Office of Victim Services, and the State Commission of Correction into the Division of Criminal Justice Services.

Purpose:

This bill consolidates the operations of the Office for the Prevention of Domestic Violence (OPDV), Office of Victim Services (OVS), and the State Commission of Correction (SCOC) into the Division of Criminal Justice Services (DCJS).

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

DCJS shares many of the same functions carried out by OPDV, OVS, and SCOC, including data collection and analysis, administration of State and federal criminal justice funds, grant-making, and support of criminal justice-related agencies across the State. Consolidating these agencies within DCJS will create operational efficiencies, foster improved coordination of policies and programs, and provide for the more efficient and cost-effective delivery of the programs and services for which the agencies are responsible.

This bill restructures OPDV, OVS, and SCOC as specialized entities under the umbrella of DCJS. Each of the new offices of OPDV and OVS will be headed by a Director who will report to the Commissioner of DCJS. The State Commission of Correction will continue to have three members appointed by the Governor, with the chair designated by the Governor. Under this bill, the Chair of the Commission will be responsible for operations of the Commission and will report to the DCJS commissioner. The compensation of the other two SCOC members will be changed from salaried to per diem. The directors of OPDV and OVS and the Chair of SCOC will continue to coordinate and recommend policy in their respective program areas. The bill also provides for the transfer of employees and records, continuity of authority, continuation of rules and regulations, and the transfer of assets and liabilities from the existing agencies to DCJS.

The 2010-11 Executive Budget included a proposal to merge the Division of Probation and Correctional Alternatives (DPCA), Crime Victims Board (CVB), and OPDV into DCJS. Only DPCA was merged into DCJS in the 2010-11 Enacted Budget. In addition, CVB's three-member board was eliminated and CVB was reconstituted as the Office of Victim Services.

Budget Implications:

Enactment of this bill is necessary to implement the 2011-2012 Executive Budget as it is expected to produce an undetermined amount of savings.

Effective Date

This bill takes effect April 1, 2011.

Part C – Merge the Department of Correctional Services and the Division of Parole into the new Department of Corrections and Community Supervision.

Purpose:

This bill merges the operations of the Department of Correctional Services (DOCS) and the Division of Parole (DOP) into the Department of Corrections and Community Supervision (DCCS).

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

A merger of DOCS and DOP, which now have duplicative re-entry functions and related staff, will enhance operational effectiveness and efficiency. Consolidating in one agency the responsibility for supervision of an offender for the entire term of his or her sentence will allow for the dedication of resources to better coordinate programming provided inside and outside of prison. This coordinated effort will enhance the prospects of offenders returning to their home communities.

The Board of Parole will continue to function as an independent body regarding decisions to release an individual from prison. It will receive administrative support from the new agency.

In addition to the programmatic benefits of the merger, there are several specific provisions which will improve operational efficiency. They include: shifting responsibility for setting conditions of parole supervision from the Board of Parole to staff of the merged agency; streamlining the manner in which a victim can be involved in release decisions; permitting DCCS to issue certificates of relief and certificates of good conduct instead of the Board of Parole; and reducing the number of Parole Board members from nineteen to thirteen;. Since Board of Parole presently has only thirteen sitting members, this limitation will not require the termination of any such members prior to the conclusion of their terms.

Currently, DOCS and the DOP are separate agencies. DOP was established in 1930 and merged with, but not integrated into, DOCS in 1970. The two agencies were separated in 1977.

Budget Implications:

Enactment of this bill is necessary to implement the 2011-12 Executive Budget as it is expected to produce savings through the elimination of duplicative functions.

Effective Date:

This bill takes effect April 1, 2011.

Part D – Merge the Foundation for Science, Technology and Innovation (NYSTAR) and the existing high technology and research and development programs to the Empire State Development Corporation.

Purpose:

This bill authorizes the consolidation of the Foundation for Science, Technology and Innovation and the New York State Urban Development Corporation, by transferring the functions of the former to the latter.

Statement in Support, Summary of Provisions, Existing Law, and Prior Legislative History:

This bill allows the consolidation of two of the State's major economic development entities to further streamline and improve the delivery of economic development services in the areas of high technology and research and development and eliminates duplicative administrative functions.

Budget Implications:

Enactment of this bill is necessary to implement the 2011-12 Executive Budget. This consolidation would save \$1.9 million in State taxpayer dollars.

Effective Date:

This bill takes effect April 1, 2011.

The provisions of this act shall take effect immediately, provided, however, that the applicable effective date of each part of this act shall be as specifically set forth in the last section of such part.