



New York State Senate Majority Coalition

**Finance Committee / Counsel Staff**

**Analysis of the FY 2015 Executive Budget**

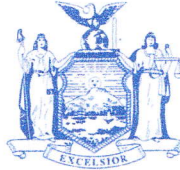


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January 27, 2014

Dear Senators:

Please find attached the "Staff Analysis of the FY 2015 Executive Budget." It is intended to assist the members of the Finance Committee and the Senate as a whole, in their deliberations. We hope that our readers find it useful.

This analysis of the Executive Budget begins with a summary of the spending plan. It then examines an explanation of proposed changes that affect receipts and provides for Senate Issues in Focus. Finally, it provides a summary of the Executive's Article VII language bills submitted as part of the Executive Budget. The report provides an analysis of the appropriations recommended this year and an analysis of the Governor's recommendations.

Each member of the Senate Finance Committee devotes considerable time and effort to the passage of a budget that serves the interest of every New Yorker. I am most grateful for their cooperation. It is also a pleasure to thank the staffs of both the Senate Finance Committee, and the Counsel and Program Office, whose assistance has been invaluable.

Sincerely,

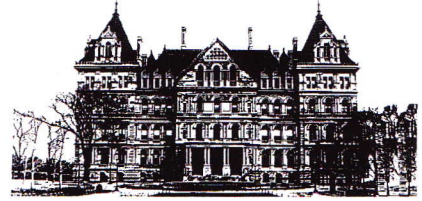
A handwritten signature in black ink, reading "John A. DeFrancisco".

John A. DeFrancisco



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# Report of the Senate Finance Committee



## STAFF ANALYSIS OF THE FY 2015 EXECUTIVE BUDGET

As Prepared by the Senate Majority Coalition Finance Committee / Counsel Staff

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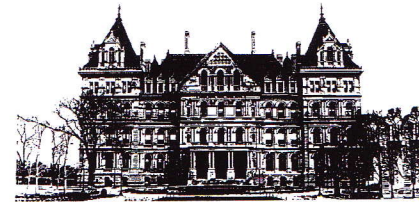
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# Report of the Senate Finance Committee



## Staff Analysis Of The FY 2015 Executive Budget

As Prepared by the Senate Majority Coalition Finance/Counsel Staff

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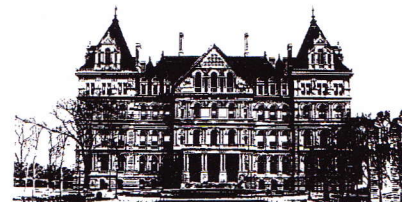
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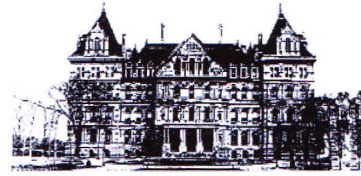
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# Public Protection: Fact Sheet

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The Executive Budget proposes total All Funds cash disbursements of \$6.9 billion a decrease of 28 percent from Fiscal Year 2014. This decrease primarily reflects spending for Superstorm Sandy costs.

- **FY 2015 Executive Storm Plan:** The Executive FY 2015 State Storm Plan announced on January 7, 2014 includes \$17 billion in Federal and State funding. State funding totals \$26 million and includes: \$15 million for the proposed new SUNY College of Emergency Preparedness, Homeland Security and Cybersecurity; \$10 million for fuel reserves; and \$1 million for Citizens First Responder Corps.
- **Prison Closures:** On July 26, 2013, the Executive, announced plans to close four correctional facilities: Butler (Medium Security) in Wayne County, Chateaugay (Medium Security) in Franklin County, Mt. McGregor (Medium Security) in Saratoga County and Monterey Shock (Minimum Security) in Schuyler County. The Department of Corrections and Community Supervision (DOCCS) expects a net savings of \$30 million and a reduction of 1,324 beds within the prison system. Current State statute requires the Executive to provide a one-year notification prior to closing a prison. Since the Executive announcement was in July 2013, the facilities could be closed as early as July 2014.
- **Statewide Interoperable Communications Grant Funding:** The Executive proposes new funding of \$10 million from the Statewide Public Safety Account for formula based grants to counties for operating costs of public safety dispatch centers in the Division of Homeland Security and Emergency Services.
- **District Attorney Salaries:** The Executive includes \$4.2 million for District Attorney salary reimbursement and an additional \$350,000 to fund the April 2014 increase related to Judicial salaries. The Executive modifies language associated with District Attorney Salaries to provide reimbursement to six counties not included in the original language. This additional funding provides mandate relief to these counties. ✓
- **Alternatives To Incarceration Programs (ATI):** The Executive proposes combining two existing Alternative to Incarceration (ATI), Drug and Alcohol Treatment programs and one ATI contract totaling \$5.5 million. The funding is combined under one appropriation through a competitive process to target high risk offenders. In addition, two existing programs, ATI/Employment and Demonstration funding of \$5.1 million are being combined and allocated via a competitive process.



- Judiciary:** All Funds total \$2.03 billion, an increase of \$53 million. The Judiciary Budget increases funding for: ✓

- \$8.4 million for previously authorized judicial salary increases;
- \$17 million increase for indigent legal services, for a total of \$57 million; and
- \$15 million increase for civil legal services, for a total of \$55 million.

The Judiciary extends courtroom hours from 4:30 p.m. to 5 p.m; and establishes 20 new Family Court Judge positions.

• **Department of Law:**

- Increases General Fund appropriations by \$3.3 million to hire an additional 34 FTE employees. Includes a capital appropriation of \$9 million to improve phone systems, develop a mobile communications/disaster response van, and construct a new case management system.
- New language is included to allow the Attorney General to be reimbursed up to \$5.2 million for prior year costs.

EXECUTIVE ANNOUNCED PRISON CLOSURES (July 2013)						
FACILITY	COUNTY	TOTAL NUMBER OF JOBS IMPACTED	TOTAL NUMBER OF INMATES	BEDS	SAVINGS	
Butler	Wayne	132	177	240	9,669,687.14	
Chateaugay	Franklin	117	234	240	8,714,448.24	
Monterey Shock	Schuyler	120	158	300	8,447,219.50	
Mt. McGregor	Saratoga	321	455	544	22,019,039.98	
TOTAL PERSONAL SERVICE AND NONPERSONAL SERVICE COSTS		690	1,024	1,324	\$48,850,394.86	
TOTAL INMATE DRIVEN COSTS					\$5,320,000.00	
REINVESTMENT OF 200 SECURITY POSITIONS @\$65,300					\$13,060,000.00	
TOTAL SAVINGS					\$30,470,394.86	
INMATE POPULATION/BEDS As of July 22, 2013: Source DOCCS.						
NUMBER OF JOBS IMPACTED Source: Division of the Budget January 21, 2014.						
INFORMATION ON SAVINGS: Source DOCCS SEPTEMBER 25, 2013.						

### Division of Criminal Justice Services (DCJS)

#### DCJS FY 2014 Enacted Adjustments

The Executive Budget includes the transfer of \$20.4 million to the Office of Information Technology Services (OITS). This funding is related to the Executive FY 2014 proposal to consolidate information technology services into a single agency and transfer \$567,000 from the Division of State Police associated with personal service (14 Full-Time Equivalent Employees (FTE) positions) and nonpersonal service costs associated with the Safe Act of 2013.

#### DCJS FY 2015 Executive Budget Recommendations

The Executive Budget recommends \$242.6 million in All Funds appropriations for DCJS, an increase of \$17.8 million from FY 2014 levels. This primarily reflects a decrease of \$10.7 million in Aid to Localities Funding; \$5.4 million in Special Revenue spending; and \$1.7 million in Special Revenue spending from the Crimes Against Revenue Account.

#### Traditional Criminal Justice Aid to Localities Program Funding

The Executive proposes a decrease of \$10.7 million in General Fund Local Assistance and Probation Programs, primarily from the elimination of \$6.7 million in Legislative funding; \$2 million for the DNA Crime Laboratories Program; \$1 million for the New York Defenders Association; \$1 million for the Executive's Law Enforcement initiatives; and a \$380,000 transfer to the Department of Corrections and Community Supervision (DOCCS) associated with the Albion Family Tele-visiting and Queensboro Re-entry services contracts.

The Executive eliminates \$15.2 million for the Operation IMPACT Program, which provides grants to 17 counties with the highest Crime Index. The Executive proposes a new \$15.2 million initiative called Gun-Involved Violence Elimination (GIVE), which would be offered to the same recipients that received Operation IMPACT funding, focusing only on reducing gun violence.

These decreases are offset by an increase of \$350,000 for District Attorney Salary Reimbursement. The Executive recommends technical language changes to the District Attorney Salary reimbursement to allow six



counties (Essex, Hamilton, Lewis, Schoharie, Seneca, and Wyoming) that are not covered by section 183-a of the Judiciary Law be reimbursed.

The Executive recommends the following changes to Alternative to Incarceration funding:

- Existing Alternative to Incarceration (ATI), Drug and Alcohol Treatment programs and one ATI contract totaling \$5.5 million would be combined and distributed through a competitive process to target high risk offenders;

- Two existing programs ATI/Employment and Demonstration funding of \$5.1 million would be combined and allocated through a competitive process; and

- ATI contracts: Albion Family Tele-visiting (\$130,000); and Queensboro Re-entry Services (\$250,000) ATI funding would be transferred to the Department of Corrections and Community Supervision.

The changes to local assistance are outlined in the table on the following page:

appropriations of \$75.6 million, same as FY 2014 levels.

### State Commission of Corrections

The Executive Budget includes the transfer of \$21,000 to the Office of Information Technology Services (OITS) for the continuation of consolidation of information technology into a single agency. The FY 2015 Executive Budget recommends maintaining All Funds appropriations of \$2.9 million.

### Department of Law

The FY 2015 Executive Budget proposes All Funds spending authority of \$233 million, an increase of \$12.3 million, or 5.6 percent, from FY 2014. The amount reflects an increase of \$3.3 million in operating costs for 34 new FTEs and a \$9 million capital appropriation.

The Department would allocate the new \$9 million capital appropriation for three specific purposes. It intends to develop a new case management system, improve its phone system with VOIP-enabled technology, and develop a mobile communications van to provide assistance in disaster areas.

The Executive also includes language to allow the Department to apply up to \$5.2 million in credits to appropriations in the Litigation Settlement Account. This would allow the Department to be reimbursed for expenses incurred from prior-year cases.

### Judiciary

The FY 2015 Executive Budget proposes All Funds spending of \$2.03 billion, an increase of \$53 million, or 2.7 percent. Three anticipated phase-ins – increases in judicial salaries, indigent legal services, and civil legal services – help drive this appropriation.

The final phase of a three-year increase in judicial salaries would provide an additional \$8.4

million in compensation to the State's judges. This action is the result of the recommendations of the Special Commission on Judicial Compensation.

A \$17 million increase for indigent legal services represents the final year of statutorily mandated enhancements. Total cost of the program in FY 2015 would be \$57 million, a 42.5 percent increase from FY 2014.

Judiciary Wide Maintenance Undistributed would increase by \$15 million, from \$40 million to \$55 million, a 37.5 percent increase designated for additional resources to nonprofit organizations that provide civil legal services for indigent persons as part of the Civil Legal Services Program. A \$2.6 million increase for overtime costs is intended to extend courtroom hours for the general public from 4:30 p.m. to 5 p.m.

An additional schedule of \$5 million is included to establish 20 new Family Court Judges. There are currently 149 Family Court Judges, and this would represent a 13 percent increase. Separate legislation would be required to establish the new judgeships and their location. The new Judges would take the bench in January 2015, and would cost \$20 million in FY 2016, their first full year of service. The remaining \$5 million increase is attributable to a number of personal and nonpersonal service increases.

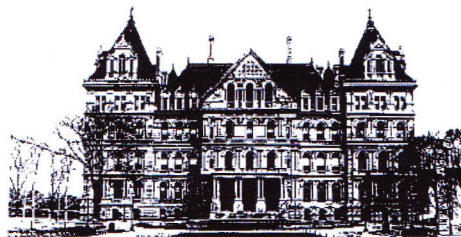
### Judicial Commissions

The Executive Budget recommends the following amounts for the State's three judicial commissions: The Commission on Judicial Conduct (\$5.4 million), Commission on Judicial Nomination (\$30,000), and the Judicial Screening Committees (\$38,000). Each program would receive the same level of funding as in FY 2014.



Public Protection Proposed Disbursements - All Funds (Thousands of Dollars)					
Agency	Estimated FY 2014	Proposed FY 2015	Change Amount	Percent	
Department of Corrections and Community Supervision	2,849,921	2,828,757	(21,164)	-0.74%	
Division of Criminal Justice Services	261,281	226,280	(35,001)	-13.40%	
Division of State Police	676,460	691,704	15,244	2.25%	
Office of Victim Services	67,363	66,908	(455)	-0.68%	
Commission of Correction	2,672	2,651	(21)	-0.79%	
Judicial Commissions	5,344	5,452	108	2.02%	
Division of Military and Naval Affairs	94,068	110,764	16,696	17.75%	
Division of Homeland Security and Emergency Services (Public Security and Emergency Response)	5,630,370	2,937,593	(2,692,777)	-47.83%	
Office of Indigent Legal Services	67,200	67,217	17	0.03%	
Office for the Prevention of Domestic Violence	2,298	2,281	(17)	-0.74%	
<b>Totals:</b>	<b>9,656,977</b>	<b>6,939,607</b>	<b>(2,717,370)</b>	<b>-28.14%</b>	
Judiciary	2,646,700	2,723,103	76,403	2.89%	
Department of Law	219,616	222,612	2,996	1.36%	

# **MORELAND ACT COMMISSION TO INVESTIGATE PUBLIC CORRUPTION**



## **Background**

On July 2, 2013 the Executive issued Executive Order # 106 which established a Moreland Act Commission to Investigate Public Corruption (hereinafter "The Commission.")

The Commission was tasked with investigating:

- Criminal statutes for corruption and misconduct by public officials
- Campaign financing law reforms;
- Compliance and effectiveness of existing lobbying laws;
- Adequacy and enforcement of the State's election laws.

The Commission is comprised of 3 co-chairs, Nassau County District Attorney Kathleen Rice; Onondaga County District Attorney William Fitzpatrick and Milton Williams, Jr. a partner at the law firm of Vladeck, Waldman, Elias & Engelhard, P.C. The Commission has 22 additional members, 1 Special Counsel and 3 Special Advisors, in addition to an unknown number of staff.

The Executive Order deputized the appointed attorneys as deputy attorneys general pursuant to Executive Law § 63 (8). Together with the power of Executive Law § 6, the Commission was granted the authority to issue subpoenas provided that the three Co-Chairs unanimously agreed, and as a condition precedent that the Commission adopted rules governing its processes and procedures.

The Commission issued a preliminary report on December 1, 2013.

A Moreland Act Commission is constrained by statute only to investigate Executive Branch agencies, departments, boards and commissions. It does not have statutory authority to investigate the Legislature.

The legislative recommendations advanced by the Commission encompassed almost identical legislation that the Executive had already proposed.

## **The Preliminary Report**

The Commission's Preliminary Report made findings that the Governor's proposed legislation, delivered to the Legislature late in the 2013 Legislative Session, comprised necessary changes in state laws related to public corruption, Election Law enforcement and Campaign Finance Reform including creation of a system of Taxpayer-funded Campaigns.

Additionally, the Commission recommended that there be additional requirements for public official's Annual Statements of Financial Disclosure.

The Preliminary Report further notes that the Commission has issued over 200 subpoenas. It is evident from a review of the Report that the scope of the investigations related to public officials are uniquely focused on the Legislature and not Executive branch public officers.

## **Moreland Proposed Appropriation**

Despite persistent news reports demonstrating that a number of staff of the Executive Chamber



and the Department of Law are being retained to carry out the purposes of the Executive Order #106, the State Operations appropriation for the Moreland Commission remains at the level appropriated in SFY 2013-2014 at \$270,000 for “contractual services.” (See, L. 2013 Ch. 50). In 2012, the Executive had appointed another Moreland Act Commission on Utility Storm Preparation and Response to investigate public utility responses to Superstorm Sandy, which did continue to operate in SFY 2013-2014 and would have utilized that appropriation authority.

The Department of Law has no corresponding appropriation for the deputies attorneys general assigned to the Moreland Act Commission or even more broadly any inquiry related to the “public peace, public safety and public justice” as required by Executive Law § 63 (8).

The lack of appropriated funding for this Commission continues to be a concern for the Senate as it eliminates the independence of this Commission. The Commission must rely on the discretion of the Executive and the Attorney General to fund staff and its investigative needs.

#### Litigation

The Senate and Assembly, together with employers of several members subpoenaed by the Moreland Commission, have filed suit to quash the Moreland Commission subpoenas which have been issued to employers of legislators without requisite authority, and for a declaration that the Commission as constituted violates the Separation of Powers of the New York Constitution. These cases, New York State Senate v. Commission to Investigation Public Corruption, 160935/2013, and New York State Senate v. Rice, 160941/2013, are currently pending in Supreme Court, New York County.

### **Moreland Proposed Legislation- Part H- S. 6355 Public Protection and General Government.**

#### **SUBPART A – “Public Trust Act”**

- Proposes to make numerous changes to the laws relative to public corruption, including lengthening statute of limitations; eliminating transactional immunity for public corruption crimes; allows use of wiretaps for any public corruption crime; enhancing penalties while simultaneously lessening required standards of proof for existing crimes; creating permanent bars for holding civil or elective offices, or receipt of pension benefits, corporate or personal tax benefits or state contracts. Creates new crimes and penalty enhancements for any crime where a state entity is the victim. Proposes new language to require further disclosure of public official’s outside clients, where the client, whether in representation by the firm or not has any nexus with the State.

#### **SUBPART B – Independent Chief Enforcement Counsel**

- Creates the position of chief enforcement counsel within the State Board of Elections (SBOE). The Governor alone<sup>1</sup> appoints the chief enforcement counsel to a fixed term of four years, who has sole authority to hire or fire personnel within the enforcement unit. The chief enforcement counsel may be removed by the Governor only for good cause.
- Grants the chief enforcement counsel the authority to investigate any matter related to

<sup>1</sup> The appropriation language in S.6350 State Operations Budget allows for the advice and consent of the Senate in this appointment although the Article VII legislation does not. The Enforcement Counsel Article VII legislation is incorporated into the appropriation of additional resources for the State Board of Elections; despite the findings of the Moreland Commission that the existing appropriations are inadequate to discharge existing statutory duties.



the election law, on his or her own initiative or upon complaint. Gives power to issue subpoenas, search warrants, attend a court or grand jury proceeding for a civil or criminal matter related to the election law.

- Allows the chief enforcement counsel to refer over-contribution for administrative assessment of civil penalties before a hearing officer by the SBOE, or to directly commence a special proceeding in supreme court. For criminal violations, the chief enforcement counsel to commence a criminal prosecution or refer to any other prosecutorial body.

#### **SUBPART C – Election law clarification and decreasing donation limits**

- Creates a new requirement to report the names of “intermediaries” on campaign finance filings, commonly known as “bundlers.”
- Creates a definition for “independent expenditure,” which includes any expenditure which unambiguously refers to and advocates for or against a candidate or ballot proposal. Provides exemptions for: news stories by broadcast stations, candidate debates, internet communications, or internal communications within membership organizations (such as labor unions). Any communications paid for by an independent expenditure must state the person or entity who paid for the communication and that it was not authorized by any candidate. Requires the registration and disclosure on an expedited basis for independent expenditure committees.
- Caps contributions to party housekeeping accounts at \$25,000 per year.

#### **SUBPART D – Public Financing**

- Creates a new taxpayer-funded form of Campaign Finance. Creates an oversight unit within the State Board, which shall promulgate advisory opinions; create an electronic database of public information and shall develop education and guidance; audit all disclosures and require repayment of any excess funds.
- The Program would mirror the existing New York City program by providing a 6:1 taxpayer match for each contribution of up to \$175 which will be funded by Abandoned Property Fund, or an additional tax-payer voluntary check-off of \$40 each year. If these resources are insufficient, then the State’s General Fund will backfill any necessary amounts.
- Imposes lower contribution limits than current law whether a candidate participates in the taxpayer financed system or not. Caps the amount of taxpayer matching funds at spending levels varied based on the office sought.
- Eliminates the CPI indexing for the current contribution limits except for the New York City offices.
- Limits transfers by party committees to candidates to \$5,000 plus up to \$500 received from each contributor, which are currently unlimited.
- Prohibits a candidate from contributing to their own campaign above a certain threshold; caps contributions to party committees are capped at \$25,000.
- Limited liability companies (LLCs) are treated as corporations for purposes of contribution limits; and the annual maximum for any corporate entity is reduced from \$5,000 to \$1,000.



- Limits the personal use of campaign money for the exclusively personal benefit of the candidate, provides specific examples of prohibited personal uses.