

March 31, 2019

By Senator Antonacci and Senator Tedisco

Amend Senate Bill No. 1505C as follows:

On page 70, after section 14, insert:

§15. The state finance law is amended by adding a new section 92-t to read as follows:

§ 92-t. New York state early voting fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a fund to be known as the New York state early voting fund.

2. Such fund shall consist of all revenues received from the abandoned property fund pursuant to subdivision five of section ninety-five of this article.

3. Moneys of the fund, following appropriation by the legislature, may be expended for the purpose of making payments to the board of elections of each county and the city of New York to reimburse any actual costs incurred by such boards of elections to provide polling places for early voting, including the cost of staffing such polling places and electronic poll books, in any general, primary, or special election in which early voting is required by the election law. Moneys shall be paid out of the fund upon audit and warrant by the state comptroller on vouchers certified or approved by the state board of elections, or its duly designated representative, in the manner prescribed by law.

4. Boards of elections seeking moneys from this fund shall submit documentation detailing the costs described in subdivision three of this section in a manner prescribed by the state board of elections.

5. The state board of elections and state comptroller shall issue any such rules and regulations necessary to implement the provisions of this section.

§ 16. Section 95 of the state finance law is amended by adding a new subdivision 5 to read as follows:

5. (a) As often as necessary, the co-chairs of the state board of elections shall certify the amount such co-chairs have determined necessary to fund estimated payments from the New York state early voting fund established by section ninety-two-t of this article.

(b) Notwithstanding any provision of this section authorizing the transfer of any moneys in the abandoned property fund to the general fund, the comptroller, after reserving amounts sufficient to pay claims against the abandoned property fund, shall, based upon a certification of the state board of elections pursuant to paragraph (a) of this subdivision, and at the direction of the director of the budget, transfer the requested amount from remaining available monies in the abandoned property fund to the New York state early voting fund established by section ninety-two-t of this article.

On page 75, strike all after the conclusion of line 14, and Insert the following:

## PART DDD

Section 1. This Part enacts into law components of legislation concerning mandate relief and regulatory reform. Each component is wholly contained within a Subpart identified as Subparts A through F. The effective date for each particular provision contained within such Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Subpart in which it is found. Section three of this Part sets forth the general effective date of this Part.

### SUBPART A

Section 1. The Act shall be known, and may be cited as, the Mandate Relief Act of 2019.

§2. The general municipal law is amended by adding a new section 25 to read as follows:

**§ 25. Funding of mandates. 1. Definitions. As used in this section, the following terms shall have the following meanings unless the context shall otherwise require:**

**(a) "Mandate" means:**

- (i) any state law, rule or regulation which establishes a new program or requires a higher level of service for an existing program which a municipal corporation is required to provide; or**
- (ii) any provision of general law which grants a new property tax exemption or abatement or increases an existing property tax exemption or abatement which a municipal corporation is required to provide.**

**(b) "Unfunded mandate" shall mean:**

- (i) any state law, rule or regulation which establishes a new program or requires a higher level of service for an existing program which a municipal corporation is required to provide, and which results in a net additional cost to such municipal corporation;**
- (ii) any alteration in funding provided to a municipal corporation 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 municipal corporation; or**
- (iii) any provision of general law which grants a new property tax exemption or abatement or increases an existing property tax exemption or abatement which any municipal corporation is required to provide, thereby resulting in a net additional cost to such municipal corporation.**

**(c) "Net additional cost" means the increased cost or costs incurred or anticipated to be incurred within a one year period by a municipal corporation in performing or administering a mandate after subtracting therefrom any revenues received or receivable by such municipal corporation 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 municipal corporation mandates. Notwithstanding any other provision of law to the contrary, no unfunded mandate shall be enacted which creates an increased annual net additional cost to any municipal corporation. Each mandate which imposes a net additional cost upon a municipal corporation shall provide for compensation or funding by the state of the full amount of the net additional cost thereof. In the event such compensation or funding is not provided, the mandate shall be void.**

**3. Exemptions to the funding of municipal corporation mandates requirement. (a) The state shall not be required to fund any mandate if:**

**(i) The mandate is required by a court order or judgment;**

**(ii) The mandate is provided at the option of the local government under a law, regulation, rule or order that is permissive rather than mandatory;**

**(iii) The mandate results from the enactment of legislation requested by the municipal corporation in a home rule message requesting authority to implement the program or service specified in the statute, and the statute imposes costs only upon that municipal corporation which requests the authority to implement the program or service;**

**(iv) The mandate is required by, or arises from, an executive order of the governor exercising his or her emergency powers; or**

**(v) The mandate is required by statute or executive order that implements a federal law or regulation and results from costs mandated by the federal government to be borne at the local level, unless the statute or executive order results in costs which exceed the costs mandated by the federal government.**

**(b) Every statute, rule or regulation establishing a mandate shall provide that the effective date of any such mandate imposed on municipal corporations shall be consistent with the needs of the state and municipal corporations to plan implementation thereof and be consistent with the availability of required funds.**

§3. This Act shall take effect immediately.

## SUBPART B

Section 1. This Act shall be known, and may be cited as, the Mandate Relief Council Act of 2019.

§2. The general municipal law is amended by adding a new article 19-C to read as follows:

### **ARTICLE 19-C** **MANDATE RELIEF COUNCIL**

**Section 991. Short title.**

**992. Legislative findings and determinations.**

**993. New York state mandate relief council.**

**993-a. Powers and duties of the council.**

**993-b. Assistance of other agencies.**

**994. Determination of unfunded mandate.**

**994-a. Request by a city, town, village or county government.**

**994-b. Request by a school district.**

**994-c. Request by a fire district, water district or other special district.**

**994-d. New Regulations proposed by state government.**

**995. Consideration of the issue of repeal of an unfunded mandate.**

**995-a. Repeal of unfunded mandates contained in current regulations.**

**995-b. Repeal of unfunded mandates contained in proposed regulations.**

**995-c. Repeal of unfunded mandates contained in statute.**

**996. Reports and recommendations of the New York state mandate relief council.**

**997. Comptroller report of unfunded mandates.**

**998. Fiscal notes for bills enacting mandates upon local governments.**

999. Severability.

§ 991. Short title. This article shall be known and may be cited as the "New York State mandate relief council act".

§ 992. Legislative findings and determinations. The legislature hereby finds and determines that unfunded mandates established by the state upon its local governments, school districts, and fire districts, present a tremendous financial burden upon these localities, as well as the people of the state of New York.

The legislature hereby further finds and determines that the cost of these unfunded mandates has seriously contributed to the financial challenges of these local governments, school districts, and fire districts, and have cost the taxpayers of the state of New York an enormous burden in real property taxes, as well as limiting the ability of these local governments, school districts, and fire districts to enact measures which would save both taxpayer dollars and responsively provide for improved community services.

The legislature hereby additionally finds and determines that there is a pressing need to develop comprehensive legislative and administrative changes to end unfunded mandates and accomplish mandate relief, and that important mandate relief measures are immediately necessary in order to accomplish this goal. That is the goal of this legislation, in establishing the council on mandate relief, to create an effective mechanism to eliminate unfunded mandates, and to begin to relieve local governments, school districts, and fire districts, and the taxpayers they represent, of the crushing burden that real property taxes currently place upon all New Yorkers.

§ 993. New York state mandate relief council. There shall be a council of mandate relief, which shall be independent of the legislative, executive and judicial branches of state government. The council shall consist of nine members appointed as follows:

1. One member appointed by the governor;
2. One member appointed by the temporary president of the senate;
3. One member appointed by the speaker of the assembly;
4. One member appointed by the minority leader of the senate;
5. One member appointed by the minority leader of the assembly;
6. One member appointed by the president of the New York State Business Council;
7. One member appointed by the executive director of the New York State Association of Counties;
8. One member appointed by the executive director of the New York State Association of Towns; and
9. One member appointed by the executive director of the New York State Conference of Mayors and Municipal Officials.

The term of office of the members of the council shall be five years. Vacancies in the council occurring otherwise than by expiration of term, shall be filled for the unexpired term in the same manner as their original appointment. The council shall elect a chair and vice-chair from among its members. The chair shall be the executive officer of the council, and shall be responsible for the calling of all meetings of the council. The chair, within budget appropriations therefore, may also appoint such employees, prescribe their duties, and fix their compensation, as necessary for the successful operation of the council. No member of the council shall receive a salary, but may be reimbursed for their necessary and reasonable expenses.

§ 993-a. Powers and duties of the council. The council shall have the following powers and duties:

1. To make a determination, upon a review, pursuant to section nine hundred ninety-four of this article, as to whether a statute, regulation, rule or order identified in the resolution, constitutes an unfunded mandate;

2. To repeal a regulation, rule, or order, determined, according to section nine hundred ninety-four of this article, to be an unfunded mandate, pursuant to section nine hundred ninety-five, section nine hundred ninety-five-a and/or section nine hundred ninety-five-b of this article;
3. To recommend to the state legislature to repeal a statute, determined according to section nine hundred ninety-four of this article to be an unfunded mandate, pursuant to section nine hundred ninety-five and section nine hundred ninety-five-c of this article; 4. To issue reports and recommendations to the governor and members of the legislature regarding mandate relief, pursuant to section nine hundred ninety-six of this article;
5. To meet as a public body not less than once a month, upon the call of the chair of the council, for the accomplishment of the purposes and provisions of this article;
6. To establish rules, regulations and procedures as necessary to accomplish the purposes and provisions of this article;
7. To enter into contracts, within amounts appropriated therefor, with individuals, partnerships, corporations or organizations as necessary to accomplish the purposes and provisions of this article;
8. To make and sign any agreements, and to do and to perform any acts, that may be necessary, desirable or proper to carry out the purposes of this article;
9. To maintain an official record of its meetings, discussions, deliberations and determinations;
10. To maintain an official website and email addresses for its members;
11. To accept gifts, contributions and bequests of unrestricted funds from individuals, partnerships, corporations or organizations as necessary to accomplish the purposes and provisions of this article; and
12. To exercise and perform such other powers and duties as necessary to accomplish the purposes and provisions of this article.

§ 993-b. Assistance of other agencies. To effectuate the purposes of this article, the council may request from any department, board, bureau, commission or other agency of the state, and the same are authorized to provide, such assistance, services and data as will enable the council properly to carry out its powers and duties as provided in subdivision two of this section.

§ 994. Determination of unfunded mandate. 1. Upon the request of the governing body of a city, town, village or county government, pursuant to section nine hundred ninety-four-a of this article, or upon a request of a school district, pursuant to section nine hundred ninety-four-b of this article, or upon a request of a fire district, water district or other special district pursuant to section nine hundred ninety-four-c of this article, the council shall make a determination as to whether a statute, regulation, rule or order is an unfunded mandate.

2. Upon the submission of a department, division, office, bureau or other agency of state government, pursuant to section nine hundred ninety-four-d of this article, the council shall make a determination as to whether a statute, regulation, rule or order is an unfunded mandate.

3. The council, upon receipt of the request or submission pursuant to section nine hundred ninety-four-a, section nine hundred ninety-four-b, section nine hundred ninety-four-c or nine hundred ninety-four-d of this article shall have ninety days to make a determination as to whether the statute, regulation, rule or order contained in the request or submission shall be deemed to constitute an unfunded mandate. In making such determination, the council shall consider if the statute, regulation, rule or order legally requires the city, town, village or county government, school district, fire district, water district or other special district to perform an act, or refrain from acting, in a material manner and with a material cost. In further making its determination, the council shall further consider if the cost incurred as a result of the government or district complying with the statute, regulation, rule or order is not reimbursed to the

government or district by either the federal or state government, or if such government or district is not otherwise provided with the ability to collect a fee or other monies in return for the compliance with such statute, regulation, rule or order.

4. The council need not consider a request for determination pursuant to subdivision one of this section if the council has previously made a determination within five years of the request, regarding the same exact statutory provision or regulation. In the event that the council declines to consider a request for a determination pursuant to subdivision one of this section, the council shall notify the city, town, village or county, in writing, of its declination to consider the request, and shall provide the city, town, village or county within such notification with a copy of the council's previous determination on the same exact statutory provision or regulation.

5. The council shall make its determination as to whether the statute, regulation, rule or order contained in the request or submission constitutes an unfunded mandate, by means of a majority vote of all the members of the council, after due consideration of the facts and upon due deliberation and discussion of the members. The meeting to consider whether a requested statute, regulation, rule or order contained in the request constitutes an unfunded mandate, and all the deliberations and discussions at such meeting, shall be subject to the provisions of article seven of the public officers law. In the event that the council determines that the statute, regulation, rule or order constitutes an unfunded mandate, it shall notify the government or district who made the request, or the department, division, office, bureau or other agency of state government that made the submission, and post and publish a record of such determination on the official website of the council.

6. Notwithstanding anything in this subdivision to the contrary, the following categories of statutes, regulations, rules or orders, shall not be considered unfunded mandates:

a. Those which are required to comply with federal laws or rules or to meet eligibility standards for federal entitlements;

b. Those which repeal, revise or ease an existing requirement or mandate or which reapportion the costs of activities between boards of education, counties, and municipalities; c. Those which stem from failure to comply with previously enacted laws or rules or regulations issued pursuant to law;

d. Those which implement the provisions of the state constitution; and

e. Those statutes which are enacted after a public hearing, held after public notice that unfunded mandates will be considered, for which a fiscal analysis is available at the time of the public hearing and which, in addition to complying with all other constitutional requirements with regard to the enactment of laws, are passed by an affirmative vote of the members of each house of the legislature and signed into law by the governor.

7. Notwithstanding the determination of any court of competent jurisdiction, the council shall resolve any dispute regarding whether such a statute, regulation, rule or order constitutes such an unfunded mandate. The decisions of the council with respect to whether a statute, regulation, rule or order, which constitutes an unfunded mandate shall not be judicial determinations.

§ 994-a. Request by a city, town, village or county government. Any city, town, village or county government may make a request of the council to review a statute, regulation, rule or order of state government, to determine whether such statute, regulation, rule or order constitutes an unfunded state mandate. The request for a determination shall be made by means of a resolution passed by a majority of the total members of the governing body of the city, town, village or county and transmitted to the council within ninety days of the passing of such resolution. The request of the governing body shall also specifically identify the statute, regulation, rule or order in question. A request of the governing body shall further contain only one statute, regulation, rule or order upon which a determination is sought. No city, town, village or county government, shall make more than ten requests of the council for a determination in any calendar year.

**§ 994-b. Request by a school district. Any school district may make a request of the council to review a statute, regulation, rule or order of state government, to determine whether such statute, regulation, rule or order constitutes an unfunded state mandate. The request for a determination shall be made by means of a resolution passed by a majority of the total members of the governing body of the school district and transmitted to the council within ninety days of the passing of such resolution. The request of the governing body shall also specifically identify the statute, regulation, rule or order in question. A request of the governing body shall further contain only one statute, regulation, rule or order upon which a determination is sought. No school district, shall make more than five requests of the council for a determination in any calendar year.**

**§ 994-c. Request by a fire district, water district or other special district. Any fire district, water district or other special district may make a request of the council to review a statute, regulation, rule or order of state government, to determine whether such statute, regulation, rule or order constitutes an unfunded state mandate. The request for a determination shall be made by means of a resolution passed by a majority of the total members of the governing body of the fire district, water district or other special district and transmitted to the council within ninety days of the passing of such resolution. The request of the governing body shall also specifically identify the statute, regulation, rule or order in question. A request of the governing body shall further contain only one statute, regulation, rule or order upon which a determination is sought. No fire district, water district or other special district, shall make more than two requests of the council for a determination in any calendar year.**

**§ 994-d. New regulations proposed by state government. All departments, divisions, offices, bureaus or other agencies of state government, upon the promulgation of a new regulation, rule or order, or the amendment of an existing regulation, rule or order, which would require any city, town, village or county, school district, fire district, water district or other special district, to take any action, perform any duty, make any expenditure, or incur any cost, must be submitted to the council for a determination, pursuant to section nine hundred ninety-four of this article, as to whether such new regulation, rule or order, or the amendment of an existing regulation, rule or order constitutes an unfunded mandate. The submission by the department, division, office, bureau or other agency of state government, shall provide the regulation, rule or order in question, together with an analysis and justification for regulation, rule or order in question, prepared by the counsel for the department, division, office, bureau or other agency of the state government, a counsel within the governor's counsel's office or an attorney from the New York state department of law. No regulation, rule or order required to be submitted pursuant to this section shall take effect prior to a determination of the council that such regulation, rule or order is not an unfunded mandate, or prior to a determination of the council that such regulation, rule or order is an unfunded mandate but that such regulation, rule or order should not be repealed pursuant to section nine hundred ninety-five-b of this article, unless the counsel for the department, division, office, bureau or other agency of state government, a counsel within the governor's counsel's office or an attorney from the New York state department of law, provides a legal determination with the submission required pursuant to this section, that the failure to immediately establish the regulation, rule or order would result in substantial and immediate harm to the people of the state of New York.**

**§ 995. Consideration of the issue of repeal of an unfunded mandate. Within twenty-one days of making a determination that a statute, regulation, rule or order constitutes an unfunded mandate, the council shall meet to consider the issue of the repeal of the statute, regulation, rule or order. The meeting to consider the issue of the repeal of the statute, regulation, rule or order determined to be an unfunded mandate, and all the deliberations and discussions at such meeting, shall be subject to the provisions of article seven of the public officers law.**

**§ 995-a. Repeal of unfunded mandates contained in current regulations. Upon meeting to consider the issue of a repeal of an unfunded mandate, pursuant to section nine hundred ninety-five of this article, the council shall make its determination as to whether the regulation, rule or order determined to be an unfunded mandate pursuant to a request made under subdivision one of section nine hundred ninety-four of this article, shall be repealed, by means of a majority vote of all the members of the council, after due consideration of the facts and upon due deliberation and discussion of the members. In the event the council determines that the regulation, rule or order in question shall be repealed, the council shall inform, in writing, the department, division, office, bureau or other agency of state government which promulgated or issued the regulation, rule or order in question, as well as the government or district that requested it to be determined an unfunded mandate, and thereafter such regulation, rule or order shall expire and be deemed repealed, within sixty days of the date upon which the council informed, in writing, the department, division, office, bureau or other agency of state government which promulgated or issued the regulation, rule or order in question. In no event shall the department, division, office, bureau or other agency of state government which promulgated or issued the original regulation, rule or order in question, repromulgate, reissue or reinstate the regulation, rule or order in question, without having first obtained statutory permission to do the same by means of an act of the state legislature.**

**§ 995-b. Repeal of unfunded mandates contained in proposed regulations. Upon meeting to consider the issue of a repeal of an unfunded mandate, pursuant to section nine hundred ninety-five of this article, the council shall make its determination as to whether the regulation, rule or order, determined to be an unfunded mandate pursuant to a submission made under subdivision two of section nine hundred ninety-four of this article, shall be repealed, by means of a majority vote of all the members of the council, after due consideration of the facts and upon due deliberation and discussion of the members. In the event the council determines that the regulation, rule or order in question shall be repealed, the council shall inform, in writing, the department, division, office, bureau or other agency of state government which promulgated or issued the regulation, rule or order in question, and thereafter such regulation, rule or order shall expire and be deemed repealed, within sixty days of the date upon which the council informs, in writing, the department, division, office, bureau or other agency of state government which promulgated or issued the regulation, rule or order in question. In no event shall the department, division, office, bureau or other agency of state government which promulgated or issued the original regulation, rule or order in question, repromulgate, reissue or reinstate the regulation, rule or order in question, without having first obtained statutory permission to do the same by means of an act of the state legislature.**

**§ 995-c. Repeal of unfunded mandates contained in statute. 1. Upon meeting to consider the issue of a repeal of an unfunded mandate, pursuant to section nine hundred ninety-five of this article, the council shall make its determination as to whether the statute determined to be an unfunded mandate pursuant to section nine hundred ninety-four of this article, should be endorsed by the council for repeal, by means of a majority vote of all the members of the council, after due consideration of the facts and upon due deliberation and discussion of the members. In the event the council determines that the statute should be endorsed by the council for repeal, the council shall inform, in writing, all the entities affected by such statute in question, as well as the government or district that requested it to be determined an unfunded mandate pursuant to section nine hundred ninety-four of this article, and thereafter the council shall forward such statute, together with its endorsement, to the legislature, as provided by this section.**

**2. Whenever the council votes to endorse the repeal of a statute as an unfunded mandate, pursuant to the procedures of subdivision one of this section, it shall prepare a bill for possible submission to the legislature, concerning the repeal of the statute endorsed for repeal that the council determined to be an unfunded mandate pursuant to section nine hundred ninety-four of this article. Such bill shall include the**



necessary provisions for repeal of such statute, as well as any other provisions necessary to effectuate the continued operations of state or local government, which would be required as a result of the repeal.

3. Upon the drafting of the bill as provided in subdivision two of this section, the council shall consider whether it should present such bill to the legislature as an endorsed statutory repeal bill. The meeting to consider whether the council shall present such bill to the state legislature as an endorsed statutory repeal bill of the council, and all the deliberations and discussions at such meeting, shall be subject to the provisions of article seven of the public officers law. The council shall make its determination as to whether the council should present such bill to the legislature as an endorsed statutory repeal bill of the council, by means of a majority vote of all the members of the council, after due consideration of the facts and upon due deliberation and discussion of the members. In the event the council determines that the council shall present such bill to the state legislature as an endorsed statutory repeal bill of the council, the council shall inform, in writing, all the entities affected by the repeal of such statute in question, as well as the government or district that requested it to be determined an unfunded mandate, and thereafter the council shall forward such endorsed statutory repeal bill of the council, to both houses of the legislature, by means of the office of the speaker of the assembly and by means of the office of the temporary president of the senate, together with copies of such endorsed statutory repeal bill of the commission to the office of the governor and the office of the minority leader of the assembly and the office of the minority leader in the senate.

4. In no event shall the council present an endorsed statutory repeal bill to the legislature: a. More than twice in any month;

b. If the legislature is not in regular session; and/or

c. If more than sixty days has elapsed since the vote was taken by the council to endorse the repeal of the statute in question pursuant to subdivision one of this section.

5. In the event the legislature was not in regular session within the sixty days after the vote was taken by the council to endorse the repeal of the statute in question, the council may present such endorsed statutory repeal bill to the legislature, in the manner provided in subdivision three of this section, any time within the first seven days the legislature next convenes or reconvenes in regular session. In no event however, may the council present more than fifteen endorsed statutory repeal bills to the legislature in any calendar year.

6. Upon its proper presentment to the legislature, the endorsed statutory repeal bill shall be voted on by each house of the legislature, without amendment as presented by the council, within thirty days after its proper presentment. The council may amend the endorsed statutory repeal bill one time within such thirty day period, whereupon both houses of the legislature shall then have thirty days from the submission of such amendment to vote on the amended endorsed statutory repeal bill. Without the consent of both houses of the legislature, neither an endorsed statutory repeal bill, nor an amendment may be submitted by the council after the thirtieth day of May in any year.

7. Under provisions contained in an endorsed statutory repeal bill, a provision of such bill may be effective at a time later than the date on which the bill otherwise is effective.

§ 996. Reports and recommendations of the New York state mandate relief council. In addition to all other activities of the council, it shall also make, upon a majority vote of the members of its board, such public reports and recommendations as it deems necessary for the advancement of its powers and duties. All meetings to consider whether to make or issue such a public report or recommendation, and all the deliberations and discussions at such meetings, shall be subject to the provisions of article seven of the public officers law. In addition to all other reports and recommendations that the council may vote to make, the council shall produce and provide an annual report of the council, its activities, and the issues, statutes, regulations, rules and orders which it examined and considered. Such annual report shall be produced and issued no later than the fifteenth day of December, and shall be presented to each house of the legislature,

by means of the office of the speaker of the assembly and by means of the office of the temporary president of the senate, together with copies of such annual report to the office of the governor and the office of the minority leader of the assembly and the office of the minority leader in the senate. The annual report of the council shall also be posted for public review upon the council's website.

§ 997. Comptroller report of unfunded mandates. On or before the thirty-first day of December, two thousand nineteen, and then every five years thereafter, the office of the state comptroller shall issue a report to the legislature, by means of the office of the speaker of the assembly and by means of the office of the temporary president of the senate, together with copies of such annual report to the office of the governor and the office of the minority leader of the assembly and the office of the minority leader in the senate on the issue of unfunded mandates by the federal and state government upon the cities, towns, villages and county governments, school districts, fire districts, water districts, and other special districts throughout New York state. Such report shall detail, in specificity, the financial implications of such mandates upon such governments and districts, and their real property taxpayers, as well at the methods and means that have been used by such governments and districts to address such mandates. Such report shall further offer recommendations to the state legislature and to cities, towns, villages and county governments, school districts, fire districts, water districts and other special districts throughout New York state.

§ 998. Fiscal notes for bills enacting mandates upon local governments. Any bill which requires a city, town, village or county government, school district, fire district, water district or other special district to take any action, or refrain from taking any action, and which does not contain an appropriation for such city, town, village or county government, school district, fire district, water district or other special district to cover the cost of taking such required action, or refraining from taking such action, shall contain a fiscal note, printed on the bottom of the bill, stating the estimated annual cost such city, town, village or county government, school district, fire district, water district or other special district will incur in the event such bill is enacted, and the source of such estimate. For the purpose of complying with this section, the office of the state comptroller, upon a request from a member of the senate or assembly for such a fiscal note, shall issue and provide such fiscal note to such member of the senate or assembly, within fifteen days of such request.

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

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

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

2. ~~[The]~~ In addition to the provisions of section nine hundred ninety-eight of the general municipal law, the legislature ~~[shall]~~ may by concurrent resolution of the senate and assembly prescribe rules requiring fiscal notes to accompany, on a separate form, bills and amendments to bills, except as otherwise prescribed by such rules, which would substantially affect the revenues or expenses, or both, of any political subdivision.

3. ~~[Fiscal]~~ Except as to the extent required in the provisions of section nine hundred ninety-eight of the general municipal law, fiscal notes shall not, however, be required for bills: (a) subject to the provisions of section fifty of this chapter, or (b) accompanied by special home rule requests submitted by political subdivisions,

or (c) which provide discretionary authority to political subdivisions, or (d) submitted pursuant to section twenty-four of the state finance law.

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

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

**§ 54-c. Endorsed statutory repeal bills from the New York state mandate relief council. The legislature may by concurrent resolution prescribe rules for the consideration and disposition of endorsed statutory repeal bills from the New York State mandate relief council, as defined in article nineteen-C of the general municipal law.**

§ 5. This act shall take effect immediately

## SUBPART C

Section 1. This Act shall be known, and may be cited as, the Regulatory Relief Act of 2019.

§ 2. Paragraphs (a) and (b) of subdivision 6 of section 202 of the state administrative procedure act, paragraph (a) as added by chapter 17 of the laws of 1984 and paragraph (b) as amended by chapter 483 of the laws of 1988, are amended to read as follows:

(a) Notwithstanding any other provision of law, if an agency finds **for a good cause** that the immediate adoption of a rule is necessary for the preservation of the public health, safety or general welfare [~~and that compliance with the requirements of subdivision one of this section would be contrary to the public interest, the agency may dispense with all or part of such requirements and adopt the rule on an emergency basis~~], **and one or more of the following conditions are met, the agency may dispense with all or part of the requirements of subdivision one of this section and adopt the rule on an emergency basis:**

- (i) **the usual rule making procedures are impractical because there is an emergency that poses an imminent and actual threat to public health or safety; or**
- (ii) **the delay involved in adopting the rule through the usual rule making procedure would cause the agency to be out of compliance with a judicial decision, federal or state law; or**
- (iii) **the delay in adopting the rule through the usual rule making procedure would result in a loss of federal funds; or**
- (iv) **the delay involved in adopting the rule through the usual rule making procedure provided in subdivision one of this section would lead to irreparable injury.**

**(a-1) Within thirty days of the adoption of the emergency rule, the agency shall separately submit a notice of proposed rule making for such rule to the secretary of state to commence the usual rule making procedures set forth in subdivision one of this section.**

(b) Unless otherwise provided by law, such emergency rule shall not remain in effect for longer than ninety days after being filed with the secretary of state unless within such time the agency complies with the requirements of subdivision one of this section and adopts the rule pursuant to the provisions of subdivision five of this section, provided, however, if such emergency rule is readopted prior to the expiration of such ninety day period such readoption and any subsequent readoptions shall remain in effect for no longer than sixty days. **Upon any readoption, the agency shall publish and make available to the public an assessment of public comments received on the emergency rule or the separate notice of proposed rulemaking for such rule. The emergency rule may remain in effect, at the latest, for as long as the separate notice of proposed rulemaking remains in effect pursuant to subdivision two of this section. When the separate notice of proposed rulemaking expires pursuant to subdivision two of this section, the emergency rule shall also expire and be ineffective for the purposes of this section.**

§ 3. This act shall take effect immediately.

## SUBPART D

Section 1. This Act shall be known, and may be cited as, the Small Business Regulatory Relief Act of 2019.

§ 2. The executive law is amended by adding a new section 170-c to read as follows:

**§ 170-c. Regulatory fines for small businesses. 1. Notwithstanding any other law, rule or regulation to the contrary, no state agency shall fine a small business for a first violation of such agency's rules or regulations, unless the agency determines that the violation directly affected public health or safety. Upon such first violation, a state agency shall (a) provide the small business with a copy of any applicable small business regulation guides pursuant to section one hundred two-a of the state administrative procedure act and any other helpful compliance information detailing the agency's rules and regulations, or (b) hold an inperson meeting with the small business to help assist such small business with compliance with the agency's rules and regulations.**

**2. "Small business" as used in this section shall mean a business which is resident in this state, independently owned and operated, not dominant in its field and employs one hundred or less persons.**

§ 3. The state administrative procedure act is amended by adding a new section 102-b to read as follows:

**§ 102-b. Small business liaison. Each agency shall designate an existing employee to serve as its liaison to small businesses regulated by such agency. The direct contact information of the small business liaison shall be prominently posted and easily accessible on the agency website. The small business liaison shall:**

- (a) serve as an initial primary contact for small businesses to contact with any inquiries; (b) be equipped to provide small businesses with basic information on the agency and its regulations;**
- (c) help small businesses navigate the agency bureaucracy to identify and contact the appropriate staff person within the agency, either at the state or regional level, for more specific information pertaining to the small business;**
- (d) hear the concerns of small businesses, report those concerns to appropriate agency staff and offer possible solutions to such concerns;**
- (e) advocate within the agency on behalf of small businesses, and make recommendations to the agency head on matters affecting small businesses;**
- (f) initiate and encourage small business education and outreach programs on behalf of the agency, as appropriate;**
- (g) collaborate with the appropriate agency staff on any small business regulation guide pursuant to section one hundred two-a of this article and any small business regulatory flexibility analysis pursuant to section two hundred two-b of this chapter; and**
- (h) coordinate his or her activities with the division for small business within the department of economic development, and the small business development center.**

§ 4. On or before January 1, 2020, the small business liaison shall report to the agency head the number of inquiries he or she has received from small businesses in 2019, and the agency head shall determine whether a separate full-time employee will be needed for such position going forward and make any appropriate budget request to the governor and legislature for the ensuing fiscal year.

§ 5. This act shall take effect immediately.

## SUBPART E

Section 1. Section 1. This Act shall be known, and may be cited as, the Administrative Regulations Review Commission Relief Act of 2019.

§ 2. Section 87 of the legislative law is amended by adding a new subdivision 4 to read as follows:

**4. The commission shall have the power to object to all, or a portion of any administrative rule or regulation that has been adopted or that has been proposed by an agency pursuant to the rule making procedures of section two hundred two of the state administrative procedure act. Should in the performance of its duties, a majority of members of the commission find that an administrative rule or a portion of an administrative rule is (i) arbitrary, capricious, an abuse of agency discretion, or is otherwise not in accordance with law; or (ii) is contrary to constitutional, right power, privilege or immunity; or (iii) is inconsistent with, or in excess of statutory jurisdiction, authority, or limitations, or is short of statutory right; or (iv) has been adopted or has been proposed without substantial observance of the procedures required by law; the commission may, in writing, notify the agency of their objection and reason or reasons for their objection. A written letter of objection must be mailed or delivered to the agency responsible for the adoption or proposal of the objected to rule. A valid letter of objection must be signed by each member of the commission that has decided to object to the rule in its entirety, or in part. The commission must also file a certified copy of the letter of objection with the department of state, division of administrative rules.**

§ 3. Paragraph (a) of subdivision 9 of section 202 of the state administrative procedure act is amended by adding three new subparagraphs (vi), (vii) and (viii) to read as follows:

**(vi) following receipt of a valid letter of objection that is written and signed by a majority of the members of the administrative regulations review commission, publish such letter in the next issue of the state register.**

**(vii) following receipt of a valid response to a letter of objection written and signed by the commissioner, director or counsel of that agency, publish such written response in the next issue of the state register.**

**(viii) reject any letter of objection or any written response to a letter of objection that is deficient for lacking at least a minimal explanation of an objectionable issue, or the requisite signature or signatures, and give prompt notice of deficiency to the administrative regulations review commission or agency.**

§ 4. Section 202 of the state administrative procedure act is amended by adding a new subdivision 10 to read as follows:

**10. Objection. (a) If in the performance of their duties, as specified in subdivision one of section eighty-seven of the legislative law, a majority of the members of the administrative regulations review commission decide to object to an administrative rule or a portion of an administrative rule that has been adopted or that has been proposed, an objection must be made in accordance with the procedures specified in subdivision four of section eighty-seven of the legislative law.**

**(b) An agency that receives a letter of objection pertaining to a rule that has been proposed, but has not been adopted must read and consider the objection and issue a written response prior to adoption of the objected to rule. Agencies must provide written responses to letters of objection to the department of state, division of administrative rules for publication in the state register. A written response to a letter of objection must state that the agency has either (i) agreed to change the rule in whole, or in part in accordance with the objection and will publish the requisite notice of revised rule making, or (ii) needs additional time to consider the objection and possible changes and will publish a notice of withdrawal, or (iii) that the agency has decided against making any changes to the proposed rule. Written responses to letters of objection must state that the objection was read and considered and include at least a brief**

explanation of the agency's rationale for either agreeing with the objection, or requiring additional time for consideration, or for disagreeing with the objection. Any agency decision to stop, extend, or proceed with promulgation of all or part of an objected to rule, must be done in accordance with the rule making requirements of this section.

(c) An agency that receives a letter of objection pertaining to all or part of a rule that has been adopted must read and consider the objection and issue a written response within forty-five days of receiving the letter of objection. Agencies must provide written responses to letters of objection to the administrative regulations review commission as well as a certified copy of any such response to the department of state, division of administrative rules for publication in the state register. A written response to a letter of objection must state that the agency either (i) agrees to change the rule in whole, or in part in accordance with the objection and will publish a notice of proposed rule making needed to promulgate a new corrected rule, or (ii) needs additional time to consider the objection and possible changes, or (iii) that the agency has decided against making any changes to the rule. Written responses to letters of objection must acknowledge that the objection was read and considered and include at least a brief explanation of the agency's decision to agree with the objection, or to require additional time for consideration of the objection, or to disagree with the objection. Should an agency decide that additional time is needed to consider the objection as well as possible solutions, an agency will be provided up to an additional fortyfive days to provide a written response to the objection.

(d) An agency will not be compelled by the administrative regulations review commission to change an adopted or proposed rule in response to a letter of objection; however refusal to do so, can be used as evidence by a petitioner in action challenging an administrative rule or a portion of an administrative rule in an adjudicatory hearing pursuant to article three of this chapter, or an action for declaratory judgment pursuant to section two hundred five of this article, or in a proceeding made against an agency pursuant to article seventy-eight of the civil practice law and rules.

§ 5. Section 102 of the executive law is amended by adding a new subdivision 6 to read as follows:

6. All letters of objection that state at least a brief explanation of an objectionable issue pertaining to an adopted or a proposed administrative rule in its entirety, or in part, that are written and signed by a majority of the members of the administrative regulations review commission; as well as any written response to a letter of objection that includes at least a brief response to the objection and the signature of the commissioner, director or counsel of a state agency must be included in the official compilation of codes, rules and regulations of the state of New York. All such letters of objection and written responses to objections shall be made available to members of the public and shall be included within any published unofficial compilations of the codes, rules and regulations of the state of New York, including the unofficial version that is linked to on the department of state website. Letters of objection and written agency responses to objections shall be received, recorded and compiled consistent with all other requirements of this section and sections one hundred one-a, one hundred one-b, one hundred three, one hundred four, one hundred five, one hundred six and one hundred six-a of this article.

§ 6. Section 87 of the legislative law is amended by adding a new subdivision 4 to read as follows:

4. The commission shall have the power to delay the adoption of a proposed administrative rule. Should in the performance of its duties, a majority of the members of the commission agree that a proposed administrative rule raises one or more questions or concerns in relation to any of the four issues for consideration that are specified in subdivision one of this section, the commission may, in writing, notify the agency responsible for the proposed rule that the commission has decided to delay the adoption of the rule by ninety days. A written letter to delay adoption of a proposed rule must be mailed or delivered to

**the agency that proposed the rule at issue. A valid letter to delay adoption of a rule must be signed by each member of the commission that has agreed to delay the adoption and must include at least a brief explanation of the commission's one or more questions or concerns regarding the proposed rule. The commission must also file a certified copy of the letter to delay adoption of a rule with the department of state, division of administrative rules.**

§ 7. Subparagraphs (iv) and (v) of paragraph (a) of subdivision 9 of section 202 of the state administrative procedure act, subparagraph (iv) as amended and subparagraph (v) as added by chapter 490 of the laws of 2016, are amended and three new subparagraphs (vi), (vii) and (viii) are added to read as follows:

(iv) **publish all notices and statements, required by this section and section two hundred one-a of this [chapter] article, in the state register as soon as practicable; [and]**

(v) **prescribed guidance, developed in consultation with the office of information technology services, for online posting of text and information pursuant to this section[-];**

(vi) **following the receipt of a certified copy of a valid letter to delay adoption of a rule, publish such a letter in the next issue of the state register;**

(vii) **publish a clear and conspicuous notice of delay, which shall state that the rule making process for the proposed rule will be delayed ninety days; such notices shall be published to accompany related letters to delay the adoption of a rule in the state register; and**

(viii) **reject any letter to delay adoption of a rule that is deficient for lacking at least a minimal explanation of the questions or concerns pertaining to the proposed rule, or the requisite signatures and give prompt notice of the deficiency to the administrative regulations review commission.**

§ 8. Section 202 of the state administrative procedure act is amended by adding a new subdivision 10 to read as follows:

**10. Delay adoption of a proposed rule. (a) If in the performance of their duties, as specified in subdivision one of section eighty-seven of the legislative law, a majority of the members of the administrative regulations review commission agree that a proposed administrative rule raises one or more questions or concerns in relation to any of the four issues for consideration that are specified in subdivision one of section eighty-seven of the legislative law, the commission may, delay the adoption of such a rule by ninety days, pursuant to the requirements of subdivision four of section eighty-seven of the legislative law.**

**(b) The ninety day period to delay rule making shall begin on the date that the notice of delay is published in the state register and shall end ninety days following the publication of the notice of delay.**

**(c) If a ninety day period of delay begins during the public comment period for a proposed rule, the agency responsible for the proposed rule will be required to consider all public comments received during that period of delay.**

**(d) Any agency that receives a letter to delay adoption of a rule shall consider every question or concern raised by the administrative regulations review commission within that letter. Agencies must also consider proposing alternative means in order to address the one or more questions or concerns that are stated in the letter to delay adoption of a rule. (e) Following consideration of all questions or concerns, as well as alternatives, agencies shall be allowed to withdraw or revise a proposed rule during or after the ninety day period of delay has ended, pursuant to the rule making requirements of this section.**

**(f) No agency shall be compelled to change a proposed rule in response to a letter to delay adoption of a rule. However, any agency that receives a letter to delay adoption of a rule must at least respond to each specific question or concern raised in that letter, within the assessment of public comment made pursuant to the notice of adoption requirements of paragraph (b) of subdivision five of this section.**

**(g) The administrative regulations review commission will have no ability to delay a rule that is adopted on an emergency basis pursuant to subdivision six of this section.**

§ 9. This act shall take effect immediately.

## SUBPART F

Section 1. This act shall be known and may be cited as the "unfunded mandate review act".

§ 2. The executive law is amended by adding a new section 50-a to read as follows:

**§ 50-a. Review of legislation affecting political subdivisions. 1. Continuing mandate study. The comptroller shall conduct a study of legislative proposals containing an unfunded mandate upon a political subdivision. In conducting this continuing study, the comptroller shall solicit and consider information or comments from elected officials, business representatives and taxpayers. To the extent accurate estimates are reasonably feasible, the estimates shall include future costs to the extent that such differ significantly from or extend beyond five years.**

**2. Cost of regulations. The comptroller shall prepare a comparison between the estimated costs of implementing a regulation provided by the relevant agency and the administrative regulation review commission, and provide the comparison to the legislative committee chairman and the ranking minority member of the committee from which the request pursuant to section two hundred eight of the state administrative procedure act originated.**

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

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

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