

BEFORE THE NEW YORK STATE SENATE FINANCE  
AND ASSEMBLY WAYS AND MEANS COMMITTEES

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JOINT LEGISLATIVE HEARING  
In the Matter of the  
2012-2013 EXECUTIVE BUDGET  
ON PUBLIC PROTECTION

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Hearing Room B  
Legislative Office Building  
Albany, New York

January 30, 2012  
9:33 a.m.

PRESIDING:

Senator John DeFrancisco  
Chair, Senate Finance Committee

Assemblyman Herman D. Farrell, Jr.  
Chair, Assembly Ways & Means Committee

PRESENT:

Senator Liz Krueger  
Senate Finance Committee (RM)

Assemblyman Clifford W. Crouch  
Assembly Ways & Means Committee (RM)

Senator John J. Bonacic  
Chair, Senate Committee on Judiciary

Assemblywoman Helene E. Weinstein  
Chair, Assembly Committee on Judiciary

Senator Stephen Saland M. Saland  
Chair, Senate Committee on Codes

Assemblyman Joseph R. Lentol  
Chair, Assembly Committee on Codes

2012-2013 Executive Budget  
Public Protection  
1-30-12

PRESENT: (Continued)

Senator Michael F. Nozzolio  
Chair, Senate Committee on Crime Victims,  
Crime and Correction

Assemblyman Jeffrion L. Aubry  
Chair, Assembly Committee on Correction

Senator Greg Ball  
Chair, Senate Committee on Veterans,  
Homeland Security and Military Affairs

Senator Gustavo Rivera

Assemblyman Alfred C. Graf

Senator Ruth Hassell-Thompson

Assemblyman Philip M. Boyle

Senator Elizabeth O'C. Little

Senator Martin Golden

Assemblyman Joseph M. Giglio

Senator Patricia A. Ritchie

Assemblyman William Colton

Senator Velmanette Montgomery

Assemblywoman Michelle Schimel

2012-2013 Executive Budget  
Public Protection  
1-30-12

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Acting  
Commissioner  
Byrne  
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[1] this by expanding the databank to include  
[2] convictions for all felonies under the laws  
[3] of New York as well as convictions for  
[4] misdemeanors defined in the Penal Law.

[5] Continuing with violent crime,  
[6] preliminary data shows that all crime,  
[7] including violent crime, declined in New York  
[8] State in 2011, with the largest recorded drop  
[9] in homicides. When final figures are in, it  
[10] is projected that through 2011 New York State  
[11] will report more than a 10 percent reduction  
[12] in homicide compared to 2010. Homicides will  
[13] be at the lowest number reported since  
[14] statewide crime reporting began 37 years ago.

[15] The success of Operation IMPACT and  
[16] the growing sophistication of regional crime  
[17] analysis centers played a vital part in that  
[18] dramatic reduction. Funding for the 17  
[19] Operation IMPACT sites and the crime analysis  
[20] centers located in Albany, Buffalo,  
[21] Rochester, and Syracuse will be continued at  
[22] the same levels as last year.

[23] One of the most effective ways,  
[24] however, to break the cycle of crime is to

[1] departments, local Alternatives to  
[2] Incarceration programs, and County Reentry  
[3] Task Forces continues at the same levels  
[4] funded in fiscal year 2011-2012.

[5] The Executive Budget also recommends  
[6] an increase in funding of \$530,000 to provide  
[7] payments to counties for costs associated  
[8] with district attorney minimum salary  
[9] increases, which are tied to judicial  
[10] compensation increases scheduled to take  
[11] effect April 1, 2012.

[12] In sum, Governor Cuomo's public  
[13] safety budget builds on the success of last  
[14] year by continuing our fiscal discipline and  
[15] spending restraint while making our  
[16] government operations more efficient and  
[17] effective.

[18] The Governor's budget is designed to  
[19] continue the historic progress we have made  
[20] in reducing crime, recognizing that when we  
[21] invest in initiatives that drive down crime  
[22] there is a ripple-effect return on that  
[23] investment. Fewer crimes mean fewer crime  
[24] victims, which mean fewer hospital bills,

[1] reduce reoffending by helping former  
[2] offenders to successfully integrate into  
[3] their communities. The 2012-2013 Executive  
[4] Budget continues to support programs that  
[5] will improve offender outcomes in several  
[6] ways.

[7] First, the Governor's budget advances  
[8] legislation which would give sentencing  
[9] judges greater discretion when setting the  
[10] length of a probation sentence. This  
[11] legislation would authorize a judge to impose  
[12] a period of probation of either three, four  
[13] or five years for a felony conviction and a  
[14] period of probation of either two or three  
[15] years for a Class A misdemeanor conviction,  
[16] bringing New York State's probation laws in  
[17] line with the national average.

[18] Second, the Governor's budget would  
[19] also extend three critical community programs  
[20] which provide jobs for ex-offenders. Our  
[21] research has consistently shown that  
[22] employment makes the biggest difference in  
[23] reducing the odds of reoffending.

[24] Last, funding for county probation

[1] less strain on the insurance industry, fewer  
[2] people on parole and probation, and fewer  
[3] people in our jails and prisons. It means  
[4] businesses can operate safely and people can  
[5] work and shop in our cities without fear.

[6] Thank you. I'd be glad to answer any  
[7] questions you might have.

[8] **CHAIRMAN DeFRANCISCO:** Thank you.  
[9] Senator Saland.

[10] **SENATOR SALAND:** Thank you,  
[11] Mr. Chairman.

[12] Thank you very much,  
[13] Commissioner Byrne. I just have a couple of  
[14] questions on a couple of subject areas.

[15] One of the things that concerns me,  
[16] you made reference to an additional \$530,000  
[17] for district attorney salaries to compensate  
[18] for the anticipated increase in judicial  
[19] salaries which can take effect as of  
[20] April 1st of this year. Can you tell me how  
[21] you arrived at that?

[22] Because given the fact that we are  
[23] required to provide funding to maintain the  
[24] difference in salary between whatever the DAs

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[1] were making when that law was enacted  
[2] sometime back in the 1980s and the County  
[3] Court salary, I'm just puzzled as to how  
[4] \$530,000 is going to cover all those  
[5] salaries.

[6] **ACTING COMMISSIONER BYRNE:** Yes,  
[7] Senator. How the number was arrived at, we  
[8] took last year's base appropriation and then  
[9] calculated the differential between the  
[10] salaries currently in effect and to come into  
[11] effect on April 1st, and provided funding  
[12] roughly equal to 40 percent of that  
[13] differential.

[14] **SENATOR SALAND:** Why 40 percent?

[15] **ACTING COMMISSIONER BYRNE:** That was  
[16] the amount of money that we could provide for  
[17] this initiative in the current environment.  
[18] We weren't -- that's it.

[19] **SENATOR SALAND:** Did not the original  
[20] enabling legislation require the state to  
[21] hold the counties harmless for the  
[22] difference?

[23] **ACTING COMMISSIONER BYRNE:** Would you  
[24] repeat that, please?

[1] the state over a base set as determined by  
[2] the salaries of district attorneys at a  
[3] specific year.

[4] **SENATOR SALAND:** So am I then  
[5] incorrect in my assumption that that means  
[6] we're supposed to be holding the counties  
[7] harmless? Is this a change in the formula  
[8] from previous years?

[9] **ACTING COMMISSIONER BYRNE:** This is a  
[10] change in the formulas from previous years,  
[11] yes, Senator.

[12] **SENATOR SALAND:** So then this could  
[13] safely be called an unfunded mandate imposed  
[14] upon counties vis-a-vis what the law had been  
[15] previously.

[16] **ACTING COMMISSIONER BYRNE:** We funded  
[17] \$537,000 dollars of the salary change,  
[18] Senator, in the budget.

[19] **SENATOR SALAND:** Thank you.  
[20] Just one other question, or one other  
[21] area. You made reference to a proposed  
[22] change in probation, the manner by which  
[23] probation would be administered, and you're  
[24] looking at providing alternatives, three,

[1] **SENATOR SALAND:** The question was,  
[2] did not the original enabling legislation  
[3] require the state to hold the counties  
[4] harmless for the difference in salary  
[5] between, again, whatever that base was at the  
[6] time it was enacted and whatever would be the  
[7] pay received or salary received by a  
[8] County Court judge?

[9] **ACTING COMMISSIONER BYRNE:** The  
[10] Executive Law links the compensation for  
[11] district attorneys to the salaries set in the  
[12] Judiciary Law and says that the state shall  
[13] fund the increase over a certain base year  
[14] when the Executive Law provision was entered  
[15] into the statutes.

[16] **SENATOR SALAND:** I'm sorry, if you  
[17] could speak into your -- you said "the  
[18] Executive Law," and I lost you. If you could  
[19] speak into your mic.

[20] **ACTING COMMISSIONER BYRNE:** Sure.  
[21] The Executive Law links the salaries  
[22] for district attorneys to funding for judges  
[23] in the Judiciary Law and says that any  
[24] increase in the funding shall be funded by

[1] four and five years for felonies, two and  
[2] three for misdemeanors.

[3] **ACTING COMMISSIONER BYRNE:** Yes.  
[4] **SENATOR SALAND:** If my memory serves  
[5] me correctly, that is very similar to a  
[6] proposal that New York City had last year.

[7] The difference between this proposal  
[8] and that proposal was that under the New York  
[9] City proposal, if the probationer violated  
[10] the terms of their probation, they could be  
[11] subject to the original five or  
[12] reincarcerated, obviously -- but the original  
[13] five or the three or, again, reincarcerated.

[14] Is there a reason why in this  
[15] proposal we chose or you chose or the  
[16] Executive chose to omit that additional  
[17] proviso?

[18] **ACTING COMMISSIONER BYRNE:** This  
[19] proposal was not fashioned after the New York  
[20] City bill that you give reference to. This  
[21] proposal -- you undoubtedly know that in  
[22] New York State, Class A misdemeanants get a  
[23] probation term of three years and felons get  
[24] a probation term of five years.