

**RULES, ENACTMENTS AND INTERGOVERNMENTAL RELATIONS COMMITTEE
AGENDA
WEDNESDAY, FEBRUARY 14, 2018
3:30 P.M.**

*****2ND REVISION*****

COMMITTEE MEMBERS: Thomas J. Faggione, Chair
Michael Amo, John S. Vero, Barry J. Cheney, Katie Bonelli, Kevin W. Hines, James M. Kulisek, Michael D. Paduch

I. STEVEN M. NEUHAUS, COUNTY EXECUTIVE

Request confirmation of reappointments to the Orange County Board of Ethics for a term expiring December 31, 2020 (R. Golden, P. Johnson) (LR#027)

II. L. STEPHEN BRESCIA, CHAIRMAN, ORANGE COUNTY LEGISLATURE

- a. **Resolution of the Orange County Legislature urging the New York State Legislature and the Governor of the State of New York to enact legislation amending New York State General Municipal Law Section 72-c to provide reciprocal reimbursement to County Sheriffs by other municipal corporations for all reimbursable expenses relating to police training school for its members who have terminated employment and commenced employment with a municipal corporation**
- ** b. **A Local Law amending Local Law No. 8 of 1968, known as the Orange County Charter, and Local Law No. 10 of 1969, known as the Orange County Administrative Code, as previously amended, providing for the compensation of members of the Legislature serving as officers or in a special capacity**

III. ANTOINETTE REED, LEGISLATIVE COUNSEL

A Local Law amending Local Law No. 13 of 2013 as previously amended now to be known as the "Pay-to-Play and Disclosure Local Law"

IV. LANGDON CHAPMAN, COUNTY ATTORNEY

- *** **Resolution authorizing the acceptance of a Tax Litigation Settlement with the United States Postal Service, whereby the County will receive the principal due and owing for a parcel in the Town of Montgomery, Section 309, Block 9, Lot 1, in the amount of \$456.15 with the interest and penalties forgiven (LR#030)**



Jean

County of Orange LEGISLATIVE REQUEST FORM

Legislative Request #: (rev. 1/18)

2018 + 021

(County Executive Dept.'s Use Only)

DATE:*	DATE LEGISLATIVE ACTION REQUIRED:*	DEPARTMENT/DIVISION:
January 25, 2018		Office of the County Executive
SYNOPSIS:*		
Confirmation of reappointments to the Orange County Board of Ethics pursuant to Local Law 2 of 1994 for a term expiring December 31, 2020.		
GOLDEN, Richard, 55 Neelytown Road, Campbell Hall, NY 10916		
JOHNSON, Paul K., 488 East Main Street, Middletown, NY 10940		
INITIAL		DATE
Komm		1/23/18

I.

COUNTY EXECUTIVE'S CONCEPTUAL APPROVAL	
COMMENTS	
INITIAL	DATE
[Signature]	25 JAN 2018

COUNTY ATTORNEY APPROVAL	
COMMENTS	
INITIAL	DATE
[Signature]	1/25/18

PERSONNEL DEPARTMENT REQUEST		
TITLE:*	GRADE:*	STEP:*
DEPARTMENT COMMENTS:*		
PERSONNEL DEPARTMENT COMMENT:		
N/A		
INITIAL	DATE	
[Signature]	1/25/18	

BUDGET					
BUDGETED:*	AMOUNT*	FUNDING - STATE*	FUNDING - FEDERAL*	OTHER FUNDING:*	FUNDING - COUNTY*
<input type="checkbox"/> YES <input type="checkbox"/> NO					\$ 0.00
BUDGET COMMENTS:					
N/A					
				INITIAL	DATE
				[Signature]	1/31/18

COUNTY EXECUTIVE'S FINAL APPROVAL	
COMMENTS	
INITIAL	DATE
[Signature]	01/31/18

LEGISLATIVE ACTION (SYNOPSIS VOTING AND COMMENTS)			
STATUTORY:*	NAME:	DATE:	TIME:
*	✓ Rules	2/14/18	3:30 p.m.
*	NAME:	DATE:	TIME:
*	NAME:	DATE:	TIME:
SPECIAL:**	NAME:	DATE:	TIME:

rec'd 2/2/18

ORANGE COUNTY LEGISLATURE

Committee: Rules, Enactments and Intergovernmental Relations; Public Safety and
Emergency Services

Sponsors:

Co-Sponsor:

II a.

Agenda No.

RESOLUTION NO. OF 2018

RESOLUTION OF THE ORANGE COUNTY LEGISLATURE URGING THE NEW YORK STATE LEGISLATURE AND THE GOVERNOR OF THE STATE OF NEW YORK TO ENACT LEGISLATION AMENDING NEW YORK STATE GENERAL MUNICIPAL LAW SECTION 72-c TO PROVIDE RECIPROCAL REIMBURSEMENT TO COUNTY SHERIFFS BY OTHER MUNICIPAL CORPORATIONS FOR ALL REIMBURSABLE EXPENSES RELATING TO POLICE TRAINING SCHOOL FOR ITS MEMBERS WHO HAVE TERMINATED EMPLOYMENT AND COMMENCED EMPLOYMENT WITH A MUNICIPAL CORPORATION.

WHEREAS, pursuant to New York State General Municipal Law Section 72-c ("GML Section 72-c), employer municipal corporations are authorized to raise money by taxation to pay annual expenses of members of their police departments to attend police training school and other reasonable related expenses including: salary, tuition, enrollment fees, books and the cost of transportation. Should a police officer or peace officer terminate their employment with the employer municipal corporation and be hired by another municipal corporation or a county sheriff, the police training expenses for the previous three years must be reimbursed by the hiring municipal corporation or county sheriff on a pro rata basis. However, GML Section 72-c does not provide for like-kind reimbursement to an employer county sheriff should one of its member police officers or peace officers terminate employment and obtain employment as a police or peace officer with a municipal corporation;

WHEREAS, for many years, the Orange County Sheriff's Office has hired, trained and schooled new police and peace officers, only to lose them to local and out of county municipal corporations. There is no means by which the County Sheriff's office can recoup county taxation dollars for the investment made in educating and training these new members; and

WHEREAS, this Legislature finds that the inequity in police training school reimbursements to employer county sheriffs under GML Section 72-c has cost county taxpayers \$_____ over the last ___ years. An amendment to GML Section 72-c is, therefore, appropriate and necessary.

NOW, THEREFORE, be it hereby

RESOLVED, that We, the Orange County Legislature, hereby urge the New York State Senate and Assembly and the Governor of the State of New York to amend General Municipal Law Section 72-c to provide for reciprocal reimbursement to County Sheriff's offices for police school training and related expenses from municipal corporations, when its members terminate employment and are hired by municipal corporations; and be it further

RESOLVED, that the Clerk of the Orange County Legislature forward a certified copy of this resolution to the Honorable Andrew Cuomo, Governor of the State of New York, the Speaker of the

New York State Assembly, the Majority Leader of the New York State Senate and all Senators and Assembly Members whose Legislative Districts are in Orange County.

**STATE OF NEW YORK
COUNTY OF ORANGE**

THIS IS TO CERTIFY THAT I, JEAN M. RAMPPEN, Clerk of the County Legislature of said County of Orange, have compared the foregoing copy of resolution with the original resolution now on file in my office and which was passed by the County Legislature of said County of Orange on the 1st day of March 2018 and that the same is a correct and true transcript of such original resolution and the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and the official seal of said County Legislature this 2nd day of March 2018.

Clerk of the County Legislature of the County of Orange

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LOCAL LAW INTRODUCTORY NO. ____ OF 2018

A LOCAL LAW AMENDING LOCAL LAW NO. 8 OF 1968, KNOWN AS THE ORANGE COUNTY CHARTER, AND LOCAL LAW NO. 10 OF 1969, KNOWN AS THE ORANGE COUNTY ADMINISTRATIVE CODE, AS PREVIOUSLY AMENDED, PROVIDING FOR THE COMPENSATION OF MEMBERS OF THE LEGISLATURE SERVING AS OFFICERS OR IN A SPECIAL CAPACITY.

BE IT ENACTED, by the County Legislature of the County of Orange, State of New York as follows:

SECTION 1. PURPOSE

This Legislature seeks to amend Article II, Section 2.02 (s) and 2-2 (s) respectively, of the Orange County Charter and Orange County Administrative Code to provide compensation for members of the Legislature who serve as officers or in a special capacity.

SECTION 2. AMENDMENTS

A. Local Law No. 8 of the Year 1968, as amended from time to time, known as the Orange County Charter, Article II, Section 2.02 "County Legislature; Powers and Duties," is hereby amended to read as follows:

(s) From time to time, by local law, fix the amount and method of paying compensation to: its members, its Chairman, its Majority and Minority Leaders, **a party¹ leader, who at the time of his/her election for the county legislative district seat, was enrolled in the political party for which he/she holds the position of "party" leader, and the Chairmen of a Legislative Statutory, Standing or Special Committee, established by resolution of the Legislature.** Any such local law that increases compensation of any Legislator during his term of office shall be subject to a permissive referendum.

¹ New York State Election Law Section 1-104:

"3. The term "party" means any political organization which at the last preceding election for governor polled at least fifty thousand votes for its candidate for governor."

- B. Local Law No. 10 of 1968, as amended from time to time, known as the Orange County Administrative Code, Article II Section 2-2 County Legislature: powers and duties;" is hereby amended to read as follows:

...

(s) From time to time, by local law, fix the amount and method of paying compensation to: its members, its Chairman, its Majority and Minority Leaders, **a party² leader, who at the time of his/her election for the county legislative district seat, was enrolled in the political party for which he/she holds the position of "party" leader, and the Chairmen of a Legislative Statutory, Standing or Special Committee, established by resolution of the Legislature.** Any such local law that increases compensation of any Legislator during his term of office shall be subject to a permissive referendum.

SECTION 3. EFFECTIVE DATE

This Local Law amending the Orange County Charter and Administrative Code shall take effect in the manner provided in the Municipal Home Rule Law and upon the completion of the requisite filings and procedures.

² New York State Election Law Section 1-104:

"3. The term "party" means any political organization which at the last preceding election for governor polled at least fifty thousand votes for its candidate for governor."

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IV

ORANGE COUNTY LEGISLATURE
LOCAL LAW INTRODUCTORY NO. OF 2018

A LOCAL LAW AMENDING LOCAL LAW NO. 13 OF 2013 AS PREVIOUSLY AMENDED NOW TO BE KNOWN AS THE "PAY-TO-PLAY AND DISCLOSURE LOCAL LAW."

Section 1. This Legislature does wish to amend Local Law No. 13 of 2013 to provide consistency with the County's procurement policy and federal and state law.

Section 2. Local Law No. 13 of 2013 is hereby amended and restated as follows:

BE IT ENACTED, by the County Legislature of the County of Orange as follows:

WHEREAS, large political contributions from those seeking or doing business with the County ("Pay-to-Play"), may raise concerns on the part of taxpayers and residents; and

WHEREAS, it is important to foster public confidence in governmental operations by preventing any actual, or even any perception of corruption; and

WHEREAS, Federal and state courts continue to examine and strike a balance between First Amendment Free Speech rights and government rights to regulate campaign contributions targeting corruption or the appearance thereof. The United States Supreme Court has held that campaign contribution and expenditure limitations "operate in an area of the most fundamental First Amendment activities." *Buckley v. Valeo*, 424 U.S. 1 at 15, 96 S.Ct. 612 (1976). "In order to be valid, any regulation of campaign contributions must target " 'quid pro quo' corruption or its appearance," that is, the "direct exchange of an official act for money," or "dollars for political favors." See, *McCutcheon v. Fed. Election Comm'n*, 134 S.Ct. 1434 at 1441 (2014); and

WHEREAS, Local governments, including counties, are authorized to enact local laws which are not inconsistent with the Constitution or any general laws, relating to their property, affairs or government¹ and are granted broad police powers. Local governments can enact local laws, consistent with the Constitution and general laws, relating to the government, protection, order, conduct, safety, health and well-being of persons or property within the county.² This is the broad grant of police power to counties and other local governments upon which this County relied upon.

However, such powers are not unlimited. Local laws must be consistent with the Constitution and general state laws. See, *New York State Club Assn., Inc. v City of New York*, 69 NY2d 211 (1987), *aff'd*, 487 US 1 (1988). A local government may not exercise its police power or other home rule authority where the Legislature has preempted the area of regulation. *New York State Club Assn. v City of New York*, 69 NY2d at 217; *Consolidated Edison Co. v Town of Red Hook*, 60 NY2d at 105.

¹ See, NY Const, Art IX, § 2(c)(i); Municipal Home Rule Law § 10(1)(i).
² NY Const, Art IX, § 2(c)(ii) (10); Municipal Home Rule Law § 10(1)(i)(a) (12)

WHEREAS, In *Castine v Zurlo*, a New York Supreme Court provided an historical review and in-depth analysis of the legislative intent of the Election Law, generally and Section 1-102, specifically.

The Court concluded that the language of Section 1-102,

"Where a specific provision of law exists in any other law which is inconsistent with the provisions of this chapter, such provision shall apply unless a provision of this chapter specifies that such provision of this chapter shall apply notwithstanding any other provision of law,"

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does not apply to local government local laws.

The Court held that the Election Law (read in totality) and Section 1-102 does not authorize local governments to preempt Election Law by local law. See, *Castine v Zurlo*, 46 Misc. 3d 995, 999-1002 [Clinton County, Sup Ct 2014], ³; and

WHEREAS, since the adoption of Orange County's Pay-to-Play local law, many other New York counties have considered adopting such a law but have not acted on them questioning their constitutionality and compliance with the New York State Election Law. *Castine v Zurlo*, now provides clarity to local governments on their home rule powers to preempt New York State's Election Law; and

WHEREAS, this Legislature has sought guidance from the County Attorney⁴ and from its Legal Counsel and finds that it must revisit its Pay-to-Play Local Law so that it is constitutional and in conformance with the New York State Election Law.

NOW THEREFORE,

BE IT ENACTED, by the Legislature of Orange County, New York, as follows:

Section 1. Title.

³ Section 1-102 provides, in pertinent part:

*"This chapter shall govern the conduct of all elections at which voters of the state of New York may cast a ballot for the purpose of electing an individual to any party position or nominating or electing an individual to any federal, state, county, city, town or village office, or deciding any ballot question submitted to all the voters of the state or the voters of any county or city, or deciding any ballot question submitted to the voters of any town or village at the time of a general election. **Where a specific provision of law exists in any other law which is inconsistent with the provisions of this chapter, such provision shall apply unless a provision of this chapter specifies that such provision of this chapter shall apply notwithstanding any other provision of law.**"*

Emphasis supplied.

⁴ See, Legal Memorandum of Chief Assistant County Attorney, Hyun Chin Kim dated December 11, 2017 on file with the Clerk of the Orange County Legislature.

This Local Law shall be known by and may be cited as the "Pay-to-Play Disclosure Local Law".

Section 2. Definitions.

The terms listed below shall have the following meanings for purposes of this local law:

(a) "County" means the County of Orange or any department, board, executive division, institution, office, branch, bureau, commission, agency, legislature or other division or part thereof.

(b) "County Candidate" means the County Executive, a County Legislator, the County Clerk, the County District Attorney or the County Sheriff or a person who is a candidate for such office or to a political committee established to specifically aid the support and election solely of one or more such persons⁵.

(c) "Contract" means any agreement or contract, including any amendment or modification thereto with the County of Orange as defined in this Section 2 (a) for:

- (i) the rendition of any services or work;
- (ii) the sale or lease of any land or building except for real property acquired by the County via a tax sale or tax foreclosure procedure pursuant to Article 10 or Article 11 of the New York State Real Property Tax Law;
- (iii) a grant, loan or loan guarantee;

(d) Vendor shall mean a person or entity or organization in whatever form, authorized to make political contributions,⁶ together with the Partners, Proprietors, Members, and/or shareholders who own in excess of 10% of the stock or partnership or membership interest of such Vendor, and/or officers of such entity or organization

Section 3. Campaign Contribution Limits.

New York State Election Law § 14-114,⁷ contribution limits shall apply to all County Candidates and political committees controlled by or intending to support the candidacy of such candidates.

Section 4. Affidavits of Disclosure of Political Contributions by Vendors.

a. Unless exempted, any Vendor, prior to the approval of a contract with the County of

⁵ A person shall be deemed a candidate upon the establishment of a committee pursuant to the New York State Election Law authorized to accept campaign funds for the purposes of seeking election to such public office(s) or upon the filing of designating petitions purporting to nominate such person to such public office.

⁶ A non-profit organization not authorized to make political contributions, for example,

⁷ As may be amended from time to time.

Orange in excess of \$10,000, shall file with the Commissioner of General Services an Affidavit of Disclosure of Political Contributions ("Affidavit of Disclosure") to the campaign committee established under New York State Election Law of a County Candidate.

b. The Affidavit of Disclosure shall be the form as set forth herein and made a part hereof as Schedule "A". The form is intended to require the disclosure of the donations to a County Candidate(s) by such person(s) who have a role with an organization or entity as indicated on the form. Such Vendor shall annually disclose political contributions made during the year preceding the Vendor's County contract and during the pendency of such contract.

c. Affidavits of Disclosure shall be filed annually on or by each January 15, by any Vendor required to file one under (a), above, until such time that the contract is completed. Each Vendor is required by this section to file one affidavit of disclosure during each calendar year.

d. Affidavits of Disclosure filed by Vendors are subject to New York State Public Officers Law Article 6 (FOIL).

Section 5. Vendor Database.

On or before July 1, 2018, and on or by each July 1 thereafter, the Commissioner of General Services shall compile a list of names, based on the County's records, listing those Vendors doing business with the County of Orange. The list shall be posted on the Department of General Services public domain webpage.

Section 6. Exemption from filing Affidavits of Disclosure of Political Contributions.

The disclosure requirements of this Local Law do not apply to:

- i. contracts that must be awarded to the lowest bidder pursuant to New York General Municipal Law;
- ii. contracts for professional services that are exempt from solicitation under the Orange County Procurement Policy,⁸ Section Part IX Section C, (excluding subdivision i.)⁹ as may be amended from time to time;
- iii. Procurement authorized by NYS General Municipal Law ("GML") § 103(3) (goods and services through another New York county's contract), GML § 104 (goods and services through NYS Office of General Services contracts, and GML § 103(16) (certain goods and services through another government's contracts, "piggybacking");
- iv. contracts awarded to Preferred Sources or as authorized in Section 162 of the State Finance Law, as amended from time to time;

⁸ As last adopted by Orange County Legislature's Resolution No. 272 of 2017.

⁹ "Purchase orders or contracts of existing projects that require the continuity of Professional Services to ensure proper completion of the project".

- v. to sole or single source providers;
- vi. contracts awarded as emergency contracts when the public exigency requires the immediate emergency services as determined by General Municipal Law, Executive Order or Resolution in accordance with Orange County Procurement Policy Part VIII;
- vii. project labor agreements;
- viii. Contracts between the County and Early Intervention and/or pre-school special education providers that are not subject to Request for Proposal Process under Orange County Procurement Policy and that the County is required to enter into pursuant to state Law;
- ix. Contracts between the County and individuals, including parents, legal guardians and/or their designees for transporting children to Early Intervention and/or pre-school special education services.

Section 7. Violations/Penalty.

- (a) A contract with a Vendor required to file the Affidavit of Disclosure and who shall have failed to file the same shall not have a binding contract with Orange County. Such document purporting to be a contract, where an Affidavit of Disclosure is not filed shall further be disqualified from submitting any further bids, applications or proposals with the County for a period of four years from the date upon which written notice has been provided by the Commissioner of General Service. The filing of a false sworn Affidavit of Disclosure shall be referred to the Orange County District Attorney for prosecution.

Section 8. Incorporation by Reference.

The regulatory and penalty provisions of this local law shall be incorporated by reference into the Orange County Procurement Policy and all Orange County Contracts as defined in Section 2 (c) of this local law.

Section 9. Severability

If any provision of this Local Law is held invalid, such invalidity shall not affect the remaining provisions of the Local Law which shall remain effective absent the invalid provision, and to this end, the provisions of the Local Law are declared to be severable.

Section 10. Effective Date.

This Local Law shall take effect as provided by the New York State Municipal Home Rule Law and upon completion of the requisite filings and procedures.

SCHEDULE A:

POLITICAL CAMPAIGN CONTRIBUTION DISCLOSURE FORM

1. NAME OF VENDOR: _____

2. NAMES OF OFFICERS and/or DIRECTORS of VENDOR:

3. NAMES OF (except for those in (2) above) THE PARTNERS, MEMBERS, SHAREHOLDERS, OR PROPRIETOR(S) OF VENDOR WHO HAVE AN OWNERSHIP INTEREST IN INTEREST IN EXCESS OF 10% OF VENDOR:

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4. Has the Vendor or any person named above provided campaign contributions pursuant to the New York State Election Law on or after January 1, 2017 to a County Candidate as defined in Orange County Local Law ____,¹⁰ If yes, to what campaign committee(s):

¹⁰ The Commfssioner of General Services shall insert the local law number in the blank and shall annually update the form with the new calendar year.

5. VERIFICATION: This section must be signed by a principal of the Vendor.

The undersigned swears or affirms that he or she has read and understood the foregoing statements and they are, to his or her knowledge true and accurate.

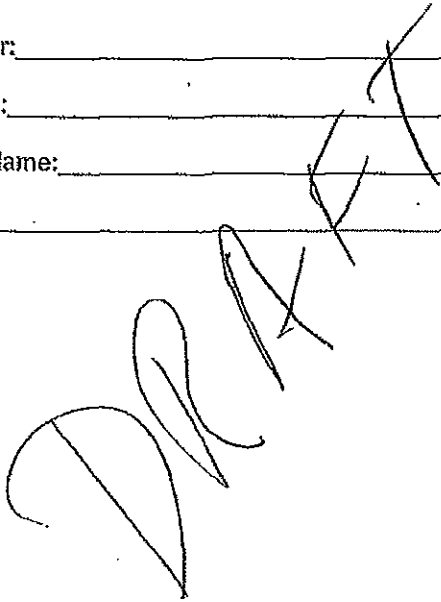
Dated: _____

Vendor: _____

Signed: _____

Print Name: _____

Title: _____

A large, stylized handwritten signature in black ink is written over the signature and print name lines. The signature is highly cursive and difficult to decipher, but appears to start with a large 'M' or 'D'.



County of Orange

LEGISLATIVE REQUEST FORM

Legislative Request #: (rev. 1/18)

2018 + 030
(County Executive Dept.'s Use Only)

DATE: * 1/25/2018	DATE LEGISLATIVE ACTION REQUIRED: * 3/1/2018	DEPARTMENT/DIVISION: County Attorney
SYNOPSIS: * Resolution authorizing the acceptance of a Tax Litigation Settlement with the United States Postal Service, whereby the County will receive the principal due and owing for a parcel in the Town of Montgomery, Section 309, Block 9, Lot 1, in the amount of \$456.15 with the interest and penalties forgiven.		
		<div style="border: 1px solid black; padding: 2px; display: inline-block;">INITIAL <u>Y</u> DATE <u>1/25/18</u></div>

IV.

COUNTY EXECUTIVE'S CONCEPTUAL APPROVAL	
COMMENTS	
<div style="border: 1px solid black; padding: 2px; display: inline-block;">INITIAL <u>[Signature]</u> DATE <u>01/31/18</u></div>	

COUNTY ATTORNEY APPROVAL	
COMMENTS	
<div style="border: 1px solid black; padding: 2px; display: inline-block;">INITIAL <u>[Signature]</u> DATE <u>[Signature]</u></div>	

HUMAN RESOURCES - DEPARTMENT REQUEST		
TITLE: *	GRADE: *	STEP: *
DEPARTMENT COMMENTS: *		
PERSONNEL DEPARTMENT COMMENT:		
<div style="border: 1px solid black; padding: 2px; display: inline-block;">INITIAL <u>[Signature]</u> DATE <u>2/1/18</u></div>		

BUDGET					
BUDGETED: * <input type="checkbox"/> YES <input type="checkbox"/> NO	AMOUNT *	FUNDING - STATE: *	FUNDING - FEDERAL: *	OTHER FUNDING: *	FUNDING - COUNTY: * \$ 0.00
BUDGET COMMENTS: As requested					
<div style="border: 1px solid black; padding: 2px; display: inline-block;">INITIAL <u>[Signature]</u> DATE <u>2/7/18</u></div>					

COUNTY EXECUTIVE'S FINAL APPROVAL	
COMMENTS	
<div style="border: 1px solid black; padding: 2px; display: inline-block;">INITIAL <u>[Signature]</u> DATE <u>2/14/18</u></div>	

LEGISLATIVE ACTION: (SYNOPSIS, VOTING AND COMMENTS)			
STATUTORY: *	NAME:	DATE:	TIME:
	✓ Rules	2/14/18	3:30 p.m.
*	NAME:	DATE:	TIME:
	ways + means	2/21/18	3:30 p.m.
*	NAME:	DATE:	TIME:
SPECIAL: **	NAME:	DATE:	TIME:
	lead	2/14/18	