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2009-2010 Regular Sessions

I N  S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the public authorities law, in relation to creating a veterans long term health care authority and prescribing its powers and duties

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Article 8 of the public authorities law is amended by adding a new title 20 to read as follows:

TITLE 20

VETERANS LONG TERM HEALTH CARE AUTHORITY

SECTION 2489. LEGISLATIVE INTENT.
2489-A. VETERANS LONG TERM HEALTH CARE AUTHORITY.
2489-B. PURPOSE AND DUTY OF THE AUTHORITY.
2489-C. POWERS OF THE AUTHORITY.
2489-D. MONEYS OF THE AUTHORITY.
2489-E. BONDS OF THE AUTHORITY.
2489-F. STATE NOT LIABLE ON BONDS.
2489-G. BONDS LEGAL INVESTMENTS FOR PUBLIC OFFICERS AND FIDUCIARIES.
2489-H. BONDS TO BE TAX EXEMPT.
2489-I. RIGHTS AND REMEDIES OF CREDITORS.
2489-J. EXEMPTION FROM TAXATION.
2489-K. RULES AND REGULATIONS RELATING TO LONG TERM HEALTH CARE FACILITIES FOR NEW YORK STATE VETERANS.
2489-L. JURISDICTION IN CERTAIN SUITS AGAINST THE AUTHORITY.
2489-M. MEMBERS AND EMPLOYEES NOT TO PROFIT.
2489-N. EQUAL EMPLOYMENT OPPORTUNITY AND MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE PROGRAMS.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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2489-O. AUDIT AND ANNUAL REPORTS.
2489-P. AUTHORITY SUBJECT TO OPEN MEETINGS LAW.
2489-Q. TITLE NOT AFFECTED IF IN PART UNCONSTITUTIONAL OR INEFFECTIVE.
2489-R. INCONSISTENT PROVISIONS IN OTHER ACTS SUPERSEDED.

S 2489. LEGISLATIVE INTENT. THE LEGISLATURE HEREBY FINDS AND DECLARES A NEED FOR CREATION OF A PUBLIC BENEFIT AUTHORITY TO PROVIDE, IN COOPERATION WITH THE U.S. VETERANS ADMINISTRATION, ENHANCED SERVICES FOR THE STATE'S VETERAN POPULATION THROUGH THE DEVELOPMENT OF ADDITIONAL LONG TERM HEALTH CARE SERVICES. SUCH AUTHORITY WILL:

1. CONSTRUCT AND OPERATE HIGH QUALITY PATIENT CARE DELIVERY TO THE STATE'S VETERANS;

2. RESPOND RAPIDLY TO CHANGES IN THE HEALTH CARE ENVIRONMENT SUCH AS SHORTAGES IN KEY HEALTH PROFESSIONS LIKE THE CURRENT NURSING AND PHYSICAL THERAPIST SHORTAGES;

3. REACT IMMEDIATELY TO PHYSICAL PLANT AND OPERATIONAL PROBLEMS;

4. MAKE TO THE EXTENT PRACTICABLE MAXIMUM USE OF FEDERAL FUNDS AND CAPITAL GRANT FUNDS FROM THE VA STATE HOME PROGRAM TO BE USED FOR CONSTRUCTION AND RENOVATION OF FACILITIES;

5. PROVIDE FOR THE EDUCATION OF PHYSICIANS AND OTHER HEALTH CARE PROFESSIONALS IN GERONTOLOGY, THE PROVISION OF INNOVATIVE CARE DELIVERY AND RESPONDING TO EMERGING PUBLIC HEALTH NEEDS OF THE STATE'S VETERANS POPULATION;

6. GUIDE COMPREHENSIVE PLANNING, RESOURCE ALLOCATION AND PATIENT CARE EVALUATIVE PROCESSES;

7. ESTABLISH THE HIGHEST QUALITY OF CARE STANDARDS;

8. PROMOTE HIGH SELF-ESTEEM, DIGNITY, AND QUALITY OF LIFE AMONG THE DESERVING RESIDENTS OF THE VETERANS NURSING HOMES WHO HAVE SERVED THEIR COUNTRY WITH HONOR, LOYALTY AND DEDICATION;

9. ESTABLISH A SUPPORTIVE WORKING ENVIRONMENT FOR THE DIRECT CARE STAFF, BEING COGNIZANT OF THE VITAL ROLE THEY PLAY IN THE OPERATION OF THE HOMES, AND THE PHYSICAL AND EMOTIONAL STRAIN CONFRONTING THOSE IN THE HEALTH CARE PROFESSION;

10. PROVIDE THE HIGHEST LEVEL OF CARE AT THE LOWEST POSSIBLE COST TO THE VETERAN AND FAMILY OF THE VETERAN; AND

11. PRESENT A BALANCED BUDGET ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

S 2489-A. VETERANS LONG TERM HEALTH CARE AUTHORITY. A BOARD, TO BE KNOWN AS "VETERANS LONG TERM HEALTH CARE AUTHORITY," IS HEREBY CREATED. SUCH BOARD SHALL BE A BODY CORPORATE AND POLITIC CONSTITUTING A PUBLIC BENEFIT AUTHORITY. IT SHALL CONSIST OF THE DIRECTOR OF THE DIVISION OF VETERANS' AFFAIRS, THE DIRECTOR OF THE STATE OFFICE FOR THE AGING, THE COMMISSIONER OF HEALTH, THE SUPERINTENDENT OF INSURANCE, THE CHANCELLOR OF THE STATE UNIVERSITY AND THREE VETERANS EACH TO BE SELECTED BY THE SPEAKER OF THE ASSEMBLY AND THE SENATE MAJORITY LEADER. THE PRESIDENT OF THE AUTHORITY SHALL BE THE DIRECTOR OF THE DIVISION OF VETERANS' AFFAIRS. THE MEMBERS OF THE BOARD SHALL BE ENTITLED TO NO COMPENSATION FOR THEIR SERVICES, BUT SHALL BE ENTITLED TO REIMBURSEMENT FOR ALL EXPENSES INCURRED OR TO BE INCURRED, IN CONNECTION THEREWITH. THE POWER OF SUCH AUTHORITY SHALL BE VESTED IN AND EXERCISED BY THE BOARD AND A MAJORITY OF THE MEMBERS OF THE BOARD THEN IN OFFICE SHALL CONSTITUTE A QUORUM. THE BOARD MAY DELEGATE TO ONE OR MORE OF ITS MEMBERS, OR TO ITS AGENTS AND EMPLOYEES, SUCH POWERS AND DUTIES AS IT MAY DEEM PROPER. THE BOARD SHALL BE DEEMED A HEALTH CARE PROVIDER FOR PURPOSES OF ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW. THE STAFF OF THE AUTHORITY SHALL BE DEEMED PUBLIC EMPLOYEES FOR ALL PURPOSES INCLUDING RETIREMENT

PURPOSES. THE MEMBERS OF THE BOARD AND EMPLOYEES OF THE BOARD SHALL BE GRANTED DEFENSE AND INDEMNIFICATION PRIVILEGES GRANTED TO STATE OFFICERS AND EMPLOYEES PURSUANT TO SECTION SEVENTEEN OF THE PUBLIC OFFICERS LAW.

S 2489-B. PURPOSE AND DUTY OF THE AUTHORITY. THE PURPOSE AND DUTY OF THE AUTHORITY IS TO ACQUIRE LAND IN THE STATE AND TO DEVELOP, IMPROVE, EMBELLISH, MAINTAIN AND OPERATE ON SUCH LAND LONG TERM HEALTH CARE FACILITIES FOR NEW YORK STATE VETERANS, AND TO DETERMINE AND CHARGE FEES FOR ADMISSION THERETO AND THE USE THEREOF SUFFICIENT WITH OTHER REVENUES TO MEET ITS EXPENSES AND PAY ALL DEBTS CONTRACTED BY IT, AND THE AUTHORITY SHALL HAVE POWER TO DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT SUCH PURPOSE AND DUTY IN ADDITION TO THE EXPRESS POWERS CONFERRED IN THIS TITLE.

S 2489-C. POWERS OF THE AUTHORITY. THE AUTHORITY SHALL HAVE POWER:

1. TO SUE AND BE SUED;

2. TO HAVE A SEAL AND ALTER THE SAME AT PLEASURE;

3. TO ACQUIRE, HOLD AND DISPOSE OF REAL AND PERSONAL PROPERTY OR INTERESTS THEREIN IN ITS OWN NAME, SUBJECT TO MORTGAGES OR OTHER LIENS OR OTHERWISE AND TO PAY THEREFOR IN CASH OR ON CREDIT, AND TO GIVE MORTGAGES THEREON IN FULL OR PART PAYMENT THEREFOR OR OTHERWISE TO SECURE OR PROCURE PAYMENT OF ALL OR ANY PART OF THE PURCHASE PRICE THEREOF, ON SUCH TERMS AND CONDITIONS AS IT SHALL DETERMINE;

4. TO MAKE BY-LAWS FOR THE MANAGEMENT AND REGULATION OF ITS AFFAIRS;

5. TO APPOINT OFFICERS, AGENTS AND EMPLOYEES AND FIX THEIR COMPENSATION; SUBJECT, HOWEVER, TO THE PROVISIONS OF THE CIVIL SERVICE LAW;

6. TO MAKE CONTRACTS AND INCUR DEBTS AND TO EXECUTE ALL INSTRUMENTS NECESSARY OR CONVENIENT;

7. TO CHARGE FEES FOR ADMISSION TO LONG TERM HEALTH CARE FACILITIES FOR NEW YORK STATE VETERANS AND FOR THE USE OF THE FACILITIES THEREIN SUBJECT TO AND IN ACCORDANCE WITH SUCH AGREEMENTS WITH HOLDERS OF BONDS AS MAY BE MADE AS HEREINAFTER PROVIDED;

8. TO RENT, BUY, SELL AND DEAL IN, GOODS, WARES AND MERCHANDISE IN ANY WAY CONNECTED WITH THE LONG TERM HEALTH CARE FACILITIES, OR TO LEASE THE RIGHT TO EXERCISE SUCH POWERS;

9. TO OPERATE RESTAURANTS, CAFES AND OTHER PLACES FOR SERVING FOOD AND REFRESHMENTS AND TO LEASE THE RIGHT TO EXERCISE SUCH POWER;

10. TO LEASE THE RIGHT TO CONSTRUCT AND/OR USE SUCH FACILITIES ON SUCH TERMS AND FOR SUCH CONSIDERATIONS AS IT SHALL DETERMINE, PROVIDED, HOWEVER, THAT NO LEASE SHALL BE MADE FOR A PERIOD OF MORE THAN TEN YEARS FROM THE DATE WHEN IT IS MADE;

11. TO ISSUE NEGOTIABLE BONDS AND TO PROVIDE FOR THE RIGHTS OF THE HOLDERS THEREOF, AND TO SECURE THE SAME BY A MORTGAGE OR DEED OF TRUST ON ITS PROPERTY;

12. TO ENTER ON ANY LANDS, WATERS AND PREMISES FOR THE PURPOSE OF MAKING SURVEYS, SOUNDINGS, BORINGS AND EXAMINATIONS;

13. TO ACT AS LIAISON AND AGENT FOR THE STATE WITH THE FEDERAL VETERANS' ADMINISTRATION FOR PURPOSES OF RECEIVING FEDERAL FUNDS FOR CONSTRUCTION OF SUCH LONG TERM HEALTH CARE FACILITIES; AND

14. TO DO ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS EXPRESSLY GIVEN IN THIS ARTICLE.

S 2489-D. MONEYS OF THE AUTHORITY. 1. THE MONEYS OF THE AUTHORITY SHALL, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, BE DEPOSITED IN A GENERAL ACCOUNT AND SUCH OTHER ACCOUNTS AS THE AUTHORITY MAY DEEM NECESSARY FOR THE TRANSACTION OF ITS BUSINESS AND SHALL BE PAID OUT ON CHECKS SIGNED BY THE PRESIDENT OF THE AUTHORITY OR BY SUCH OTHER PERSON OR PERSONS AS THE AUTHORITY MAY AUTHORIZE.

2. ALL MONEYS OF THE AUTHORITY DERIVED FROM STATE APPROPRIATIONS OR THE SALE OF BONDS AND ALL MONEYS CONSTITUTING RESERVE FUNDS SHALL BE PAID TO THE COMPTROLLER OF THE STATE AS AGENT OF THE AUTHORITY, WHO SHALL NOT COMMINGLE SUCH MONEYS WITH OTHER MONEYS. SUCH MONEYS SHALL BE DEPOSITED IN A SEPARATE BANK ACCOUNT OR ACCOUNTS. THE MONEYS IN SUCH ACCOUNTS SHALL BE PAID OUT ON CHECK OF THE COMPTROLLER ON REQUISITION OF THE PRESIDENT OF THE AUTHORITY OR OF SUCH OTHER PERSON OR PERSONS AS THE AUTHORITY MAY AUTHORIZE TO MAKE SUCH REQUISITIONS. ALL DEPOSITS OF SUCH MONEYS SHALL, IF REQUIRED BY THE COMPTROLLER OR THE AUTHORITY, BE SECURED BY OBLIGATIONS OF THE UNITED STATES OF AMERICA OR OF THE STATE OF NEW YORK OF A MARKET VALUE EQUAL AT ALL TIMES TO THE AMOUNT OF THE DEPOSIT AND ALL BANKS AND TRUST COMPANIES ARE AUTHORIZED TO GIVE SUCH SECURITY FOR SUCH DEPOSITS.

S 2489-E. BONDS OF THE AUTHORITY. 1. THE AUTHORITY SHALL HAVE POWER AND IS HEREBY AUTHORIZED FROM TIME TO TIME TO ISSUE ITS NEGOTIABLE BONDS IN CONFORMITY WITH APPLICABLE PROVISIONS OF THE UNIFORM COMMERCIAL CODE IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING TWENTY-FIVE MILLION DOLLARS FOR ANY CORPORATE PURPOSE. THE AUTHORITY SHALL HAVE POWER FROM TIME TO TIME TO REFUND ANY BONDS BY THE ISSUANCE OF NEW BONDS, WHETHER THE BONDS TO BE REFUNDED HAVE OR HAVE NOT MATURED, AND MAY ISSUE BONDS PARTLY TO REFUND BONDS THEN OUTSTANDING AND PARTLY FOR ANY OTHER CORPORATE PURPOSE. IN COMPUTING THE TOTAL AMOUNT OF BONDS OF THE AUTHORITY WHICH MAY AT ANY TIME BE OUTSTANDING THE AMOUNT OF THE OUTSTANDING BONDS TO BE REFUNDED FROM THE PROCEEDS OF THE SALE OF NEW BONDS OR BY EXCHANGE FOR NEW BONDS SHALL BE EXCLUDED.

2. SUCH BONDS SHALL BE AUTHORIZED BY RESOLUTION OF THE BOARD AND SHALL BE ISSUED IN ONE OR MORE SERIES, SHALL BEAR SUCH DATE OR DATES, MATURE AT SUCH TIME OR TIMES, NOT EXCEEDING FORTY YEARS FROM THEIR RESPECTIVE DATES, BEAR INTEREST AT SUCH RATE OR RATES, NOT EXCEEDING FIVE PER CENTUM PER ANNUM PAYABLE SEMI-ANNUALLY, BE IN SUCH DENOMINATIONS, BE IN SUCH FORM, EITHER COUPON OR REGISTERED, CARRY SUCH REGISTRATION PRIVILEGES, BE EXECUTED IN SUCH MANNER, BE PAYABLE IN SUCH MEDIUM OF PAYMENT, AT SUCH PLACE OR PLACES, BE SUBJECT TO SUCH TERMS OF REDEMPTION, AND BE DECLARED OR BECOME DUE BEFORE THE MATURITY DATE THEREOF, AS SUCH RESOLUTION OR RESOLUTIONS MAY PROVIDE. SUCH BONDS MAY BE ISSUED FOR MONEY OR PROPERTY (AT PUBLIC OR PRIVATE SALE FOR SUCH PRICE OR PRICES) AS THE AUTHORITY SHALL DETERMINE, PROVIDED THAT THE INTEREST COST TO MATURITY OF THE MONEY OR PROPERTY (AT ITS VALUE AS DETERMINED BY THE BOARD, THE DETERMINATION OF WHICH SHALL BE CONCLUSIVE) RECEIVED FOR ANY ISSUE OF SUCH BONDS, SHALL NOT EXCEED FIVE PER CENTUM PER ANNUM. REFUNDING BONDS EXCHANGED FOR OUTSTANDING BONDS MAY BE EXCHANGED ON SUCH TERMS AND WITH SUCH CASH ADJUSTMENTS AS THE AUTHORITY SHALL DETERMINE.

3. IN CONNECTION WITH THE ISSUANCE OF BONDS OR IN ORDER TO SECURE THE PAYMENT OF ITS BONDS THE AUTHORITY SHALL HAVE POWER:

(A) TO MORTGAGE ALL OR ANY PART OF ITS PROPERTY, REAL OR PERSONAL, THEN OWNED OR THEREAFTER ACQUIRED;

(B) TO PLEDGE ALL OR ANY PART OF ITS REVENUES;

(C) TO COVENANT AGAINST MORTGAGING ALL OR ANY PART OF ITS PROPERTY, REAL OR PERSONAL, THEN OWNED OR THEREAFTER ACQUIRED OR AGAINST PERMITTING OR SUFFERING ANY LIEN THEREON;

(D) TO COVENANT AGAINST PLEDGING ALL OR ANY PART OF ITS REVENUES TO WHICH ITS RIGHT THEN EXISTS OR THE RIGHT TO WHICH MAY THEREAFTER COME INTO EXISTENCE;

(E) TO PROVIDE FOR THE RELEASE OF PROPERTY OR REVENUES FROM ANY PLEDGE OR MORTGAGE, AND TO RESERVE RIGHTS AND POWERS IN, OR THE RIGHT TO DISPOSE OF, PROPERTY WHICH IS SUBJECT TO A PLEDGE OR MORTGAGE;

(F) TO COVENANT AS TO THE BONDS TO BE ISSUED PURSUANT TO ANY MORTGAGE, DEED OF TRUST OR OTHER INSTRUMENT AND AS TO THE ISSUANCE OF SUCH BONDS IN ESCROW OR OTHERWISE, AND AS TO THE USE AND DISPOSITION OF THE PROCEEDS THEREOF;

(G) TO COVENANT AS TO WHAT OTHER, OR ADDITIONAL DEBT MAY BE INCURRED BY IT;

(H) TO PROVIDE FOR THE TERMS, FORM, REGISTRATION, EXCHANGE, EXECUTION AND AUTHENTICATION OF BONDS;

(I) TO PROVIDE FOR THE REPLACEMENT OF LOST, DESTROYED OR MUTILATED BONDS;

(J) TO COVENANT THAT THE AUTHORITY WARRANTS THE TITLE TO THE PREMISES;

(K) TO COVENANT AS TO THE FEES AND RENTALS TO BE CHARGED, THE AMOUNT (CALCULATED AS MAY BE DETERMINED) TO BE RAISED EACH YEAR OR OTHER PERIOD OF TIME BY FEES, RENTALS, AND OTHER REVENUES AND AS TO THE USE AND DISPOSITION TO BE MADE THEREOF;

(L) TO COVENANT AS TO THE USE OF ANY OR ALL OF ITS PROPERTY, REAL OR PERSONAL;

(M) TO COVENANT TO SET ASIDE OR PAY OVER RESERVES AND SINKING FUNDS AND AS TO THE DISPOSITION THEREOF;

(N) TO REDEEM THE BONDS, AND TO COVENANT FOR THEIR REDEMPTION, AND TO PROVIDE THE TERMS AND CONDITIONS THEREOF;

(O) TO COVENANT AGAINST EXTENDING THE TIME FOR THE PAYMENT OF BOND INTEREST, DIRECTLY OR INDIRECTLY, BY ANY MEANS OR IN ANY MANNER;

(P) TO COVENANT TO MAINTAIN OFFICES AND AGENCIES FOR ANY PURPOSE CONNECTED WITH ITS BONDS;

(Q) TO COVENANT AS TO THE MAINTENANCE OF ITS PROPERTY, THE REPLACEMENT THEREOF, THE INSURANCE TO BE CARRIED THEREON AND THE USE AND DISPOSITION OF INSURANCE MONEYS;

(R) TO COVENANT AS TO ITS BOOKS OF ACCOUNT AND AS TO THE INSPECTION AND AUDIT THEREOF AND AS TO THE ACCOUNTING METHODS;

(S) TO COVENANT AND PRESCRIBE AS TO THE EVENTS OF DEFAULT AND TERMS AND CONDITIONS UPON WHICH ANY OR ALL OF ITS BONDS SHALL BECOME OR MAY BE DECLARED DUE BEFORE MATURITY AND AS TO THE TERMS AND CONDITIONS UPON WHICH SUCH DECLARATION AND ITS CONSEQUENCES MAY BE WAIVED;

(T) TO COVENANT AS TO THE RIGHTS, LIABILITIES, POWERS AND DUTIES ARISING UPON THE BREACH BY IT OF ANY COVENANT, CONDITION, OR OBLIGATION;

(U) TO VEST IN A TRUSTEE OR TRUSTEES THE RIGHT TO ENFORCE ANY COVENANT MADE TO SECURE, TO PAY OR IN RELATION TO THE BONDS, OR TO FORECLOSE ANY MORTGAGE, TO PROVIDE FOR THE POWERS AND DUTIES OF SUCH TRUSTEE OR TRUSTEES, TO LIMIT LIABILITIES THEREOF AND TO PROVIDE THE TERMS AND CONDITIONS UPON WHICH THE TRUSTEE OR TRUSTEES OR THE HOLDERS OF BONDS OR ANY PROPORTION OF THEM MAY ENFORCE ANY SUCH COVENANT OR EXERCISE THE RIGHT OF FORECLOSURE;

(V) TO MAKE COVENANTS IN ADDITION TO THE COVENANTS HEREIN EXPRESSLY AUTHORIZED, OF LIKE OR DIFFERENT CHARACTER;

(W) TO EXECUTE ALL MORTGAGES, BILLS OF SALE, CONVEYANCES, DEEDS OF TRUST AND OTHER INSTRUMENTS NECESSARY OR CONVENIENT IN THE EXERCISE OF THE POWERS HEREIN GRANTED OR IN THE PERFORMANCE OF ITS COVENANTS OR DUTIES; AND

(X) TO MAKE SUCH COVENANTS AND TO DO ANY AND ALL SUCH ACTS AND THINGS AS MAY BE NECESSARY OR CONVENIENT OR DESIRABLE IN ORDER TO SECURE ITS BONDS, OR IN THE ABSOLUTE DISCRETION OF THE BOARD TEND TO MAKE THE BONDS MORE MARKETABLE, NOTWITHSTANDING THAT SUCH COVENANTS, ACTS OR THINGS MAY NOT BE ENUMERATED HEREIN AND NOTWITHSTANDING THAT SUCH COVENANTS, ACTS OR THINGS MAY RESTRICT OR INTERFERE WITH THE CARRYING OUT OF ITS CORPO-

RATE PURPOSE; IT BEING THE INTENTION HEREOF TO GIVE THE AUTHORITY POWER TO DO ALL THINGS IN THE ISSUANCE OF BONDS, AND FOR THEIR SECURITY THAT A BUSINESS AUTHORITY CAN DO UNDER THE GENERAL LAWS OF THE STATE AND NO CONSENT OR APPROVAL OF ANY JUDGE OR COURT SHALL BE REQUIRED THEREFOR.

S 2489-F. STATE NOT LIABLE ON BONDS. THE BONDS AND OTHER OBLIGATIONS OF THE AUTHORITY SHALL NOT BE A DEBT OF THE STATE AND THE STATE SHALL NOT BE LIABLE THEREON, NOR SHALL THEY BE PAYABLE OUT OF ANY FUNDS OTHER THAN THOSE OF THE AUTHORITY, PROVIDED, HOWEVER, THAT THE STATE SHALL ASSUME WHATEVER LIABILITY IS REQUIRED FOR FEDERAL VETERANS' ADMINISTRATION PARTICIPATION IN THE CONSTRUCTING OF LONG TERM HEALTH CARE FACILITIES FOR VETERANS AND PER DIEM PAYMENTS ON BEHALF OF VETERANS IN SUCH FACILITIES.

S 2489-G. BONDS LEGAL INVESTMENTS FOR PUBLIC OFFICERS AND FIDUCIARIES. THE BONDS ARE HEREBY MADE SECURITIES IN WHICH ALL PUBLIC OFFICERS AND BODIES OF THIS STATE AND ALL MUNICIPALITIES AND MUNICIPAL SUBDIVISIONS, ALL INSURANCE COMPANIES AND ASSOCIATIONS AND OTHER PERSONS CARRYING ON AN INSURANCE BUSINESS, ALL BANKS, BANKERS, TRUST COMPANIES, SAVINGS BANKS AND SAVINGS ASSOCIATIONS, INCLUDING SAVINGS AND LOAN ASSOCIATIONS, BUILDING AND LOAN ASSOCIATIONS, INVESTMENT COMPANIES AND OTHER PERSONS CARRYING ON A BANKING BUSINESS, ALL ADMINISTRATORS, GUARDIANS, EXECUTORS, TRUSTEES AND OTHER FIDUCIARIES AND ALL OTHER PERSONS WHATSOEVER WHO ARE NOW OR MAY HEREAFTER BE AUTHORIZED TO INVEST IN BONDS OR OTHER OBLIGATIONS OF THE STATE, MAY PROPERLY AND LEGALLY INVEST FUNDS, INCLUDING CAPITAL, IN THEIR CONTROL OR BELONGING TO THEM. THE BONDS ARE ALSO HEREBY MADE SECURITIES WHICH MAY BE DEPOSITED WITH AND SHALL BE RECEIVED BY ALL PUBLIC OFFICERS AND BODIES OF THIS STATE AND ALL MUNICIPALITIES AND MUNICIPAL SUBDIVISIONS FOR ANY PURPOSE FOR WHICH THE DEPOSIT OF BONDS OR OTHER OBLIGATIONS OF THIS STATE IS NOW OR MAY HEREAFTER BE AUTHORIZED.

S 2489-H. BONDS TO BE TAX EXEMPT. THE BONDS SHALL BE EXEMPT FROM TAXATION EXCEPT FOR TRANSFER AND ESTATE TAXES.

S 2489-I. RIGHTS AND REMEDIES OF CREDITORS. 1. ALL REAL AND PERSONAL PROPERTY, INCLUDING FEES AND REVENUES OF THE AUTHORITY AND DEBTS OWING TO IT ARE EXEMPT FROM LEVY AND SALE BY VIRTUE OF AN EXECUTION AND NO EXECUTION OR OTHER JUDICIAL PROCESS SHALL ISSUE AGAINST THE SAME. NO JUDGMENT AGAINST THE AUTHORITY SHALL BE A CHARGE UPON REAL PROPERTY OR CHATTELS REAL OF THE AUTHORITY. THIS CLAUSE SHALL NOT LIMIT THE RIGHTS OF MORTGAGEES AND PLEDGEES TO ENFORCE THEIR LIEN OR OTHER RIGHTS BY ANY APPROPRIATE SUIT, ACTION OR PROCEEDING.

2. ANY PURCHASER AT A SALE OF PROPERTY OF THE AUTHORITY PURSUANT TO A JUDGMENT IN AN ACTION TO FORECLOSE A MORTGAGE THEREON SHALL OBTAIN TITLE FREE FROM ANY TRUST OR OTHER OBLIGATION TO OPERATE OR MAINTAIN SUCH PROPERTY AS A LONG TERM HEALTH CARE FACILITY FOR NEW YORK STATE VETERANS AND FREE FROM ANY OBLIGATION TO THE PUBLIC OR THE STATE AS TO ITS USE OR DISPOSITION.

3. ANY CREDITOR OF THE AUTHORITY, INCLUDING A TRUSTEE FOR BONDHOLDERS, SHALL HAVE THE RIGHT, SUBJECT TO ANY CONTRACTUAL LIMITATIONS BINDING UPON SUCH CREDITOR OR TRUSTEE, AND SUBJECT TO THE PRIOR OR SUPERIOR RIGHTS OF OTHERS,

(A) BY SUIT, ACTION OR SPECIAL PROCEEDING, TO ENFORCE HIS RIGHTS AGAINST THE AUTHORITY AND THE BOARD, INCLUDING THE RIGHT TO REQUIRE THE AUTHORITY AND THE BOARD TO COLLECT FEES AND REVENUES ADEQUATE TO CARRY OUT ANY AGREEMENT AS TO, OR PLEDGE OF, SUCH FEES AND REVENUES AND TO REQUIRE THE AUTHORITY AND THE BOARD TO CARRY OUT ANY OTHER COVENANTS AND AGREEMENTS AND TO PERFORM ITS AND THEIR DUTIES UNDER THIS ARTICLE;

(B) BY ACTION OR SUIT IN EQUITY TO REQUIRE THE AUTHORITY TO ACCOUNT AS IF IT WERE THE TRUSTEE OF AN EXPRESS TRUST;

(C) BY ACTION OR SUIT IN EQUITY TO ENJOIN ANY ACTS OR THINGS WHICH MAY BE UNLAWFUL OR IN VIOLATION OF THE RIGHTS OF SUCH CREDITOR;

(D) IN THE DISCRETION OF THE COURT TO THE APPOINTMENT OF A RECEIVER OF THE PROPERTY OF THE AUTHORITY OR ANY PART OR PARTS THEREOF, WHO MAY ENTER AND TAKE POSSESSION OF THE PROPERTY OF THE AUTHORITY OR ANY PART OR PARTS THEREOF, AND OPERATE AND MAINTAIN THE SAME AND COLLECT AND RECEIVE ALL FEES, RENTALS AND OTHER REVENUES THEREAFTER ARISING THEREFROM IN THE SAME MANNER AS THE AUTHORITY ITSELF MIGHT DO, AND SHALL DEPOSIT ALL SUCH MONEYS IN A SEPARATE ACCOUNT AND APPLY THE SAME IN ACCORDANCE WITH THE OBLIGATIONS OF THE AUTHORITY AS THE COURT SHALL DIRECT. THE AUTHORITY MAY GIVE THE HOLDERS OF ITS BONDS OR ANY TRUSTEE FOR THEIR BENEFIT BY AGREEMENT THE RIGHT TO THE APPOINTMENT OF A RECEIVER.

S 2489-J. EXEMPTION FROM TAXATION. THE CONSTRUCTION, MAINTENANCE AND OPERATION OF ANY LONG TERM HEALTH CARE FACILITY FOR NEW YORK STATE VETERANS BY THE AUTHORITY IS IN ALL RESPECTS FOR THE BENEFIT OF THE PEOPLE OF THE STATE OF NEW YORK FOR THE INCREASE OF THEIR HEALTH, CONVENIENCE AND WELFARE, AND THE AUTHORITY SHALL BE REGARDED AS PERFORMING A GOVERNMENTAL FUNCTION IN CARRYING OUT ITS CORPORATE PURPOSE AND SHALL BE REQUIRED TO PAY NO TAXES OR ASSESSMENTS OF ANY KIND WHATSOEVER UPON ANY OF THE PROPERTY ACQUIRED BY IT, WHICH SAID PROPERTY SHALL BE EXEMPT FROM TAXATION SO LONG AS THE SAME IS OWNED OR POSSESSED BY THE AUTHORITY, OR UPON ITS ACTIVITIES IN THE OPERATION AND MAINTENANCE OF SUCH VETERANS FACILITIES OR UPON ANY REVENUES OR OTHER INCOME RECEIVED BY IT, AND ANY MORTGAGE OF REAL PROPERTY EXECUTED, GIVEN OR MADE BY THE AUTHORITY SHALL BE EXEMPT FROM ANY TAX IMPOSED ON THE RECORDING THEREOF AND ANY PERSON OR CORPORATION OWNING ANY DEBT OR OBLIGATION OF THE AUTHORITY SECURED BY ANY MORTGAGE OF ITS REAL PROPERTY SHALL BE EXEMPT FROM ANY TAX ON THE RECORDING OF SUCH MORTGAGE. NOTHING IN THIS SECTION SHALL BE CONSTRUED, HOWEVER, TO IMPRESS ANY TRUST UPON SUCH PROPERTY AS SUCH OR TO LIMIT THE ABSOLUTE CHARACTER OF ANY TITLE WHICH MAY BE DERIVED THROUGH THE AUTHORITY BY SALE OR THE FORECLOSURE OF ANY LIEN OR MORTGAGE THEREON.

S 2489-K. RULES AND REGULATIONS RELATING TO LONG TERM HEALTH CARE FACILITIES FOR NEW YORK STATE VETERANS. THE CONSTRUCTION AND USE OF LONG TERM HEALTH CARE FACILITIES FOR NEW YORK STATE VETERANS SHALL BE SUBJECT TO THE RULES AND REGULATIONS OF THE AUTHORITY; PROVIDED, HOWEVER, THAT THE AUTHORITY SHALL HAVE NO AUTHORITY TO ALTER OR CHANGE ANY OF THE FACILITIES HEREBY PLACED UNDER THE AUTHORITY OR TO DO ANYTHING WHICH WILL IMPAIR THE SECURITY OF THE BONDHOLDERS OR VIOLATE LIMITATIONS CONTAINED IN ANY AGREEMENT WITH THE BONDHOLDERS.

S 2489-L. JURISDICTION IN CERTAIN SUITS AGAINST THE AUTHORITY. 1. EXCLUSIVE JURISDICTION IS HEREBY CONFERRED UPON THE COURT OF CLAIMS TO HEAR AND DETERMINE THE CLAIMS OF ANY PERSON AGAINST THE AUTHORITY (A) FOR ITS TORTIOUS ACTS AND THOSE OF ITS AGENTS, AND (B) FOR BREACH OF A CONTRACT RELATING TO CONSTRUCTION, RECONSTRUCTION, IMPROVEMENT, MAINTENANCE OR OPERATION, IN THE SAME MANNER AND TO THE EXTENT PROVIDED BY AND SUBJECT TO THE PROVISIONS OF THE COURT OF CLAIMS ACT WITH RESPECT TO CLAIMS AGAINST THE STATE, AND TO MAKE AWARDS AND RENDER JUDGMENTS THEREFOR. ALL AWARDS AND JUDGMENTS ARISING FROM SUCH CLAIMS SHALL BE PAID OUT OF MONIES OF THE AUTHORITY.

2. AN ACTION AGAINST THE AUTHORITY FOR DEATH, PERSONAL INJURY OR PROPERTY DAMAGE OR FOUNDED ON TORT SHALL NOT BE COMMENCED MORE THAN ONE YEAR AND NINETY DAYS AFTER THE CAUSE OF ACTION THEREFORE SHALL HAVE OCCURRED,

NOR UNLESS A NOTICE OF CLAIM SHALL BE SERVED ON AN OFFICER OR EMPLOYEE OF THE AUTHORITY DESIGNATED BY THE AUTHORITY FOR SUCH PURPOSE, WITHIN THE TIME LIMITED BY AND IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION FIFTY-E OF THE GENERAL MUNICIPAL LAW.

S 2489-M. MEMBERS AND EMPLOYEES NOT TO PROFIT. NO OFFICER, MEMBER OR EMPLOYEE OF THE AUTHORITY SHALL RECEIVE OR MAY BE LAWFULLY ENTITLED TO RECEIVE ANY PECUNIARY PROFIT FROM THE OPERATION THEREOF EXCEPT REASONABLE COMPENSATION FOR SERVICES IN EFFECTING ONE OR MORE OF ITS PURPOSES HEREIN SET FORTH.

S 2489-N. EQUAL EMPLOYMENT OPPORTUNITY AND MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE PROGRAMS. 1. ALL CONTRACTS ENTERED INTO BY THE AUTHORITY PURSUANT TO THIS TITLE OF WHATEVER NATURE AND ALL DOCUMENTS SOLICITING BIDS OR PROPOSALS THEREFOR SHALL CONTAIN OR MAKE REFERENCE TO THE FOLLOWING PROVISIONS:

(A) THE CONTRACTOR WILL NOT DISCRIMINATE AGAINST EMPLOYEES OR APPLICANTS FOR EMPLOYMENT BECAUSE OF RACE, CREED, COLOR, NATIONAL ORIGIN, SEX, AGE, DISABILITY, OR MARITAL STATUS, AND WILL UNDERTAKE OR CONTINUE EXISTING PROGRAMS OF AFFIRMATIVE ACTION TO ENSURE THAT MINORITY GROUP PERSONS AND WOMEN ARE AFFORDED EQUAL OPPORTUNITY WITHOUT DISCRIMINATION. SUCH PROGRAMS SHALL INCLUDE, BUT NOT BE LIMITED TO, RECRUITMENT, EMPLOYMENT, JOB ASSIGNMENT, PROMOTION, UPGRADING, DEMOTION, TRANSFER, LAYOFF, TERMINATION, RATES OF PAY OR OTHER FORMS OF COMPENSATION, AND SELECTION FOR TRAINING AND RETRAINING, INCLUDING APPRENTICESHIP AND ON-THE-JOB TRAINING.

(B) AT THE REQUEST OF THE AUTHORITY, THE CONTRACTOR SHALL REQUEST EACH EMPLOYMENT AGENCY, LABOR UNION, OR AUTHORIZED REPRESENTATIVE OF WORKERS WITH WHICH IT HAS A COLLECTIVE BARGAINING OR OTHER AGREEMENT OR UNDERSTANDING AND WHICH IS INVOLVED IN THE PERFORMANCE OF THE CONTRACT WITH THE AUTHORITY TO FURNISH A WRITTEN STATEMENT THAT SUCH EMPLOYMENT AGENCY, LABOR UNION OR REPRESENTATIVE SHALL NOT DISCRIMINATE BECAUSE OF RACE, CREED, COLOR, NATIONAL ORIGIN, SEX, AGE, DISABILITY OR MARITAL STATUS AND THAT SUCH UNION OR REPRESENTATIVE WILL COOPERATE IN THE IMPLEMENTATION OF THE CONTRACTOR'S OBLIGATIONS HEREUNDER.

(C) THE CONTRACTOR SHALL STATE, IN ALL SOLICITATIONS OR ADVERTISEMENTS FOR EMPLOYEES PLACED BY OR ON BEHALF OF THE CONTRACTOR IN THE PERFORMANCE OF THE CONTRACT WITH THE AUTHORITY THAT ALL QUALIFIED APPLICANTS WILL BE AFFORDED EQUAL EMPLOYMENT OPPORTUNITY WITHOUT DISCRIMINATION BECAUSE OF RACE, CREED, COLOR, NATIONAL ORIGIN, SEX, AGE, DISABILITY OR MARITAL STATUS.

(D) THE CONTRACTOR WILL INCLUDE THE PROVISIONS OF PARAGRAPHS (A) THROUGH (C) OF THIS SUBDIVISION IN EVERY SUBCONTRACT OR PURCHASE ORDER IN SUCH A MANNER THAT SUCH PROVISIONS WILL BE BINDING UPON EACH SUBCONTRACTOR OR VENDOR AS TO ITS WORK IN CONNECTION WITH THE CONTRACT WITH THE AUTHORITY.

2. THE AUTHORITY SHALL ESTABLISH MEASURES, PROCEDURES AND GUIDELINES TO ENSURE THAT CONTRACTORS AND SUBCONTRACTORS UNDERTAKE MEANINGFUL PROGRAMS TO EMPLOY AND PROMOTE QUALIFIED MINORITY GROUP MEMBERS AND WOMEN. SUCH PROCEDURES MAY REQUIRE AFTER NOTICE IN A BID SOLICITATION, THE SUBMISSION OF A MINORITY AND WOMEN WORKFORCE UTILIZATION PROGRAM PRIOR TO THE AWARD OF ANY CONTRACT, OR AT ANY TIME THEREAFTER, AND MAY REQUIRE THE SUBMISSION OF COMPLIANCE REPORTS RELATING TO THE OPERATION AND IMPLEMENTATION OF ANY WORKFORCE UTILIZATION PROGRAM ADOPTED HEREUNDER. THE AUTHORITY MAY TAKE APPROPRIATE ACTION, INCLUDING THE IMPOSITIONS OF SANCTIONS FOR NON-COMPLIANCE TO EFFECTUATE THE PROVISIONS OF THIS SECTION AND SHALL BE RESPONSIBLE FOR MONITORING COMPLIANCE WITH THIS TITLE.

3. IN THE PERFORMANCE OF PROJECTS PURSUANT TO THIS TITLE, MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES SHALL BE GIVEN THE OPPORTUNITY FOR MEANINGFUL PARTICIPATION. THE AUTHORITY SHALL ESTABLISH QUANTIFIABLE STANDARDS AND MEASURES AND PROCEDURES TO SECURE MEANINGFUL PARTICIPATION AND IDENTIFY THOSE CONTRACTS AND ITEMS OF WORK FOR WHICH MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES MAY BEST BID TO ACTIVELY AND AFFIRMATIVELY PROMOTE AND ASSIST THEIR PARTICIPATION IN PROJECTS, SO AS TO FACILITATE THE AWARD OF A FAIR SHARE OF CONTRACTS TO SUCH ENTERPRISES; PROVIDED, HOWEVER, THAT NOTHING IN THIS TITLE SHALL BE CONSTRUED TO LIMIT THE ABILITY OF THE AUTHORITY TO ASSURE THAT QUALIFIED MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES MAY PARTICIPATE IN THE PROGRAM. FOR PURPOSES HEREOF, MINORITY BUSINESS ENTERPRISE SHALL MEAN ANY BUSINESS ENTERPRISE WHICH IS AT LEAST FIFTY-ONE PER CENTUM OWNED BY, OR IN THE CASE OF A PUBLICLY OWNED BUSINESS, AT LEAST FIFTY-ONE PER CENTUM OF THE STOCK OR OTHER VOTING INTEREST IS OWNED BY CITIZENS OR PERMANENT RESIDENT ALIENS WHO ARE BLACK, HISPANIC, ASIAN, AMERICAN INDIAN, PACIFIC ISLANDER, OR ALASKAN NATIVE, AND SUCH OWNERSHIP INTEREST IS REAL, SUBSTANTIAL AND CONTINUING AND HAS THE AUTHORITY TO INDEPENDENTLY CONTROL THE DAY TO DAY BUSINESS DECISIONS OF THE ENTITY FOR AT LEAST ONE YEAR; AND WOMEN-OWNED BUSINESS ENTERPRISE SHALL MEAN ANY BUSINESS ENTERPRISE WHICH IS AT LEAST FIFTY-ONE PER CENTUM OWNED BY, OR IN THE CASE OF A PUBLICLY OWNED BUSINESS, AT LEAST FIFTY-ONE PER CENTUM OF THE STOCK TO OTHER VOTING INTERESTS OF WHICH IS OWNED BY CITIZENS OR PERMANENT RESIDENT ALIENS WHO ARE WOMEN, AND SUCH OWNERSHIP INTEREST IS REAL, SUBSTANTIAL AND CONTINUING AND HAS THE AUTHORITY TO INDEPENDENTLY CONTROL THE DAY TO DAY BUSINESS DECISIONS OF THE ENTITY FOR AT LEAST ONE YEAR.

THE PROVISIONS OF THIS SUBDIVISION SHALL NOT BE CONSTRUED TO LIMIT THE ABILITY OF ANY MINORITY BUSINESS ENTERPRISE TO BID ON ANY CONTRACT.

4. IN ORDER TO IMPLEMENT THE REQUIREMENTS AND OBJECTIVES OF THIS SECTION, THE AUTHORITY SHALL ESTABLISH PROCEDURES TO MONITOR CONTRACTORS COMPLIANCE WITH PROVISIONS HEREOF, PROVIDE ASSISTANCE IN OBTAINING COMPETING QUALIFIED MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES TO PERFORM CONTRACTS PROPOSED TO BE AWARDED, IMPOSE CONTRACTUAL SANCTIONS FOR NON-COMPLIANCE, AND TAKE OTHER APPROPRIATE MEASURES TO IMPROVE THE ACCESS OF MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES TO THESE CONTRACTS.

S 2489-O. AUDIT AND ANNUAL REPORTS. THE ACCOUNTS OF THE AUTHORITY SHALL BE SUBJECT TO THE SUPERVISION OF THE STATE COMPTROLLER AND AN ANNUAL AUDIT SHALL BE PERFORMED BY AN INDEPENDENT CERTIFIED ACCOUNTANT SELECTED BY THE STATE DIVISION OF THE BUDGET. THE AUTHORITY SHALL SUBMIT ANNUALLY TO THE GOVERNOR, THE STATE COMPTROLLER, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY, A DETAILED REPORT PURSUANT TO THE PROVISIONS OF SECTION TWENTY-EIGHT HUNDRED OF THIS CHAPTER, WHICH REPORT SHALL BE VERIFIED BY THE PRESIDENT OF THE AUTHORITY. THE AUTHORITY SHALL COMPLY WITH THE PROVISIONS OF SECTIONS TWENTY-EIGHT HUNDRED ONE, TWENTY-EIGHT HUNDRED TWO AND TWENTY-EIGHT HUNDRED THREE OF THIS CHAPTER.

S 2489-P. AUTHORITY SUBJECT TO OPEN MEETINGS LAW. THE AUTHORITY SHALL BE SUBJECT TO THE PROVISIONS OF ARTICLE SEVEN OF THE PUBLIC OFFICERS LAW RELATING TO THE OPEN MEETINGS LAW.

S 2489-Q. TITLE NOT AFFECTED IF IN PART UNCONSTITUTIONAL OR INEFFECTIVE. IF ANY SECTION, CLAUSE OR PROVISION OF THIS TITLE SHALL BE UNCONSTITUTIONAL OR BE INEFFECTIVE IN WHOLE OR IN PART, TO THE EXTENT THAT IT IS NOT UNCONSTITUTIONAL OR INEFFECTIVE IT SHALL BE VALID AND EFFECTIVE AND NO OTHER SECTION, CLAUSE OR PROVISION SHALL ON ACCOUNT THEREOF BE DEEMED INVALID OR INEFFECTIVE.

S 2489-R. INCONSISTENT PROVISIONS IN OTHER ACTS SUPERSEDED. INSOFAR AS THE PROVISIONS OF THIS TITLE ARE INCONSISTENT WITH THE PROVISIONS OF ANY OTHER ACT, GENERAL OR SPECIAL, THE PROVISIONS OF THIS TITLE SHALL BE CONTROLLING.

S 2. This act shall take effect immediately.