STATE OF NEW YORK

S. 2005 A. 3005

SENATE - ASSEMBLY

January 23, 2017

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

AN ACT to amend chapter 887 of the laws of 1983, amending the correction law relating to the psychological testing of candidates, in relation to the effectiveness thereof; to amend chapter 428 of the laws of 1999, amending the executive law and the criminal procedure law relating to expanding the geographic area of employment of certain police officers, in relation to extending the expiration of such chapter; to amend chapter 886 of the laws of 1972, amending the correction law and the penal law relating to prisoner furloughs in certain cases and the crime of absconding therefrom, in relation to the effectiveness thereof; to amend chapter 261 of the laws of 1987, amending chapters 50, 53 and 54 of the laws of 1987, the correction law, the penal law and other chapters and laws relating to correctional facilities, in relation to the effectiveness thereof; to amend chapter 339 of the laws of 1972, amending the correction law and the penal law relating to inmate work release, furlough and leave, in relation to the effectiveness thereof; to amend chapter 60 of the laws of 1994 relating to certain provisions which impact upon expenditure of certain appropriations made by chapter 50 of the laws of 1994 enacting the state operations budget, in relation to the effectiveness thereof; to amend chapter 3 of the laws of 1995, amending the correction law and other laws relating to the incarceration fee, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 62 of the laws of 2011, amending the correction law and the executive law, relating to merging the department of correctional services and division of parole into the department of corrections and community supervision, in relation to the effectiveness thereof; to amend chapter 55 of the laws of 1992, amending the tax law and other laws relating to taxes, surcharges, fees and funding, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 907 of the laws of 1984, amending the correction law, the New York

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

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city criminal court act and the executive law relating to prison and jail housing and alternatives to detention and incarceration programs, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 166 of the laws of 1991, amending the tax law and other laws relating to taxes, in relation to extending the expiration of certain provisions of such chapter; to amend the vehicle and traffic law, in relation to extending the expiration of the mandatory surcharge and victim assistance fee; to amend chapter 713 of the laws of 1988, amending the vehicle and traffic law relating to the ignition interlock device program, in relation to extending the expiration thereof; to amend chapter 435 of the laws of 1997, amending the military law and other laws relating to various provisions, in relation to extending the expiration date of the merit provisions of the correction law and the penal law of such chapter; to amend chapter 412 of the laws of 1999, amending the civil practice law and rules and the court of claims act relating to prisoner litigation reform, in relation to extending the expiration of the inmate filing fee provisions of the civil practice law and rules and general filing fee provision and inmate property claims exhaustion requirement of the court of claims act of such chapter; to amend chapter 222 of the laws of 1994 constituting the family protection and domestic violence intervention act of 1994, in relation to extending the expiration of certain provisions of the criminal procedure law requiring the arrest of certain persons engaged in family violence; to amend chapter 505 of the laws of 1985, amending the criminal procedure law relating to the use of closed-circuit television and other protective measures for certain child witnesses, in relation to extending the expiration of the provisions thereof; to amend chapter 3 of the laws of 1995, enacting the sentencing reform act of 1995, in relation to extending the expiration of certain provisions of such chapter; to amend chapter 689 of the laws of 1993 amending the criminal procedure law relating to electronic court appearance in certain counties, in relation to extending the expiration thereof; to amend chapter 688 of the laws of 2003, amending the executive law relating to enacting the interstate compact for adult offender supervision, in relation to the effectiveness thereof; to amend chapter 56 of the laws of 2009, amending the correction law relating to limiting the closing of certain correctional facilities, providing for the custody by the department of correctional services of inmates serving definite sentences, providing for custody of federal prisoners and requiring the closing of certain correctional facilities, in relation to the effectiveness of such chapter; to amend chapter 152 of the laws of 2001 amending the military law relating to military funds of the organized militia, in relation to the effectiveness thereof; to amend chapter 554 of the laws of 1986, amending the correction law and the penal law relating to providing for community treatment facilities and establishing the crime of absconding from the community treatment facility, in relation to the effectiveness thereof; and to amend chapter 503 of the laws of 2009 relating to the disposition of monies recovered by county district attorneys before the filing of an accusatory instrument, in relation to the effectiveness thereof (Part A); to amend the penal law, in relation to criminal possession of marihuana in the fifth degree (Part B); to amend the penal law, in relation to cybercrimes; and to repeal certain provisions of the penal law thereto (Part C); to amend the criminal procedure law, the family court act and the executive law, in relation to statements of those accused of crimes and

eyewitness identifications, to enhance criminal investigations and prosecutions and to promote confidence in the criminal justice system of this state; to amend the county law and the executive law, in relation to the implementation of a plan regarding indigent legal services; to amend chapter 62 of the laws of 2003, amending the county law and other laws relating to fees collected, in relation to certain fees collected by the office of court administration; to amend the judiciary law, in relation to the biennial registration fee for attorneys, and to amend the vehicle and traffic law, in relation to the termination of the suspension fee for a license to operate a motor vehicle (Part D); to amend the correction law, the penal law, the criminal procedure law and the executive law, in relation to correction reform; and to amend chapter 3 of the laws of 1995 enacting the sentencing reform act of 1995, in relation to making certain provisions permanent (Part E); to amend the executive law, in relation to the establishment of a hate crime task force (Part F); to amend the executive law, in relation to expanding eligibility for awards to victims of certain crimes not resulting in physical injury (Part G); to amend the executive law, in relation to the reimbursement for loss of savings of a vulnerable elderly person or an incompetent or physically disabled person (Part H); to amend the executive law, in relation to additional duties of the commissioner of general services (Part I); to amend the state finance law and the public authorities law, in relation to state procurement of goods and products (Part J); to authorize the transfer of employees of the division of military and naval affairs in the unclassified service of the state to the office of general services; and providing for the repeal of such provisions upon expiration thereof (Part K); to amend chapter 674 of the laws of 1993 amending the public buildings law relating to value limitations on contracts, in relation to extending the effectiveness thereof; and to amend the public buildings law and the state finance law, in relation to contracts for construction projects (Part L); to amend the New York state printing and public documents law, in relation to allowing the exclusion of printing when the cost of such printing is below the agency's discretionary purchasing threshold (Part M); to amend the state finance law, in relation to the preferred sources program for commodities or services (Part N); to amend the workers' compensation law, in relation to the right to cancel an insurance policy for failure by an employer to cooperate with a payroll audit, to the collection of premiums in case of default, and to the information required to be included in payroll records (Part O); to amend the workers' compensation law, in relation to the investment of surplus funds of the state insurance fund (Part P); to amend the civil service law, in relation to term appointments to temporary positions in information technology (Part Q); to amend the general municipal law, the public housing law, the state finance law and chapter 585 of the laws of 1939, relating to the rate of interest to be paid by certain public corporations upon judgments and accrued claims, in relation to interest rates paid by certain public corporations (Part R); to amend the civil service law, in relation to the reimbursement of medicare premium charges (Part S); to amend the civil service law, in relation to the state's contribution to the cost of health insurance premium for retirees of the state and their dependents (Part T); to amend the municipal home rule law, in relation to county-wide shared services property tax savings plan (Part U); to amend the executive law, in relation to unlawful discriminatory practices by educational insti-

tutions (Part V); to amend the public authorities law, in relation to enacting the "New York state consolidated laboratory project act" (Part W); to amend the economic development law, the education law, the tax law and the real property tax law, in relation to the excelsior business program (Part X); to amend the labor law, in relation to amending unemployment insurance benefits for earnings disregard (Part Y); and to provide for the administration of certain funds and accounts related to the 2017-18 budget and authorizing certain payments and transfers; to amend the state finance law, in relation to the school tax relief fund and payments, transfers and deposits; to amend the state finance law, in relation to the dedicated infrastructure investment fund; to amend chapter 62 of the laws of 2003 amending the general business law and other laws relating to implementing the state fiscal plan for the 2003-2004 state fiscal year, in relation to the deposit provisions of the tobacco settlement financing corporation act; to amend the state finance law, in relation to establishing the retiree health benefit trust fund; to amend chapter 174 of the laws of 1968 constituting the New York state urban development corporation act, in relation to funding project costs undertaken by non-public schools; to amend the New York state urban development corporation act, in relation to funding project costs for certain capital projects; to amend chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, in relation to the issuance of bonds; to amend the private housing finance law, in relation to housing program bonds and notes; to amend chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, in relation to the issuance of bonds; to amend the public authorities law, in relation to the issuance of bonds by the dormitory authority; to amend chapter 61 of the laws of 2005 relating to providing for the administration of certain funds and accounts related to the 2005-2006 budget, in relation to issuance of bonds by the urban development corporation; to amend the New York state urban development corporation act, in relation to the issuance of bonds; to amend the public authorities law, in relation to the state environmental infrastructure projects; to amend the New York state urban development corporation act, in relation to authorizing the urban development corporation to issue bonds to fund project costs for the implementation of a NY-CUNY challenge grant program; to amend chapter 81 of the laws of 2002, relating to providing for the administration of certain funds and accounts related to the 2002-2003 budget, in relation to increasing the aggregate amount of bonds to be issued by the New York state urban development corporation; to amend the public authorities law, in relation to financing of peace bridge and transportation capital projects; to amend the public authorities law, in relation to dormitories at certain educational institutions other than state operated institutions and statutory or contract colleges under the jurisdiction of the state university of New York; to amend the New York state medical care facilities finance agency act, in relation to bonds and mental health facilities improvement notes; to amend chapter 63 of the laws of 2005, relating to the composition and responsibilities of the New York state higher education capital matching grant board, in relation to increasing the amount of authorized matching capital grants; to amend the public authorities law, in relation to authorization for issuance of bonds for the capital restructuring bond finance program

and the health care facility transformation program to amend the state finance law and the public authorities law, in relation to funding certain capital projects and the issuance of bonds; to repeal sections 58, 59 and 60 of the state finance law relating thereto; and providing for the repeal of certain provisions upon expiration thereof (Part Z)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2017-2018 state fiscal year. Each component is wholly contained within a Part identified as Parts A through Z. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, 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 Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Section 2 of chapter 887 of the laws of 1983, amending the correction law relating to the psychological testing of candidates, as amended by section 1 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall remain in effect until September 1, [~~2017~~] **2019**.

§ 2. Section 3 of chapter 428 of the laws of 1999, amending the executive law and the criminal procedure law relating to expanding the geographic area of employment of certain police officers, as amended by section 2 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

§ 3. This act shall take effect on the first day of November next succeeding the date on which it shall have become a law, and shall remain in effect until the first day of September, [~~2017~~] **2019**, when it shall expire and be deemed repealed.

§ 3. Section 3 of chapter 886 of the laws of 1972, amending the correction law and the penal law relating to prisoner furloughs in certain cases and the crime of absconding therefrom, as amended by section 3 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

§ 3. This act shall take effect 60 days after it shall have become a law and shall remain in effect until September 1, [~~2017~~] **2019**.

§ 4. Section 20 of chapter 261 of the laws of 1987, amending chapters 50, 53 and 54 of the laws of 1987, the correction law, the penal law and other chapters and laws relating to correctional facilities, as amended by section 4 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

§ 20. This act shall take effect immediately except that section thirteen of this act shall expire and be of no further force or effect on and after September 1, [~~2017~~] **2019** and shall not apply to persons committed to the custody of the department after such date, and provided

further that the commissioner of corrections and community supervision shall report each January first and July first during such time as the earned eligibility program is in effect, to the chairmen of the senate crime victims, crime and correction committee, the senate codes committee, the assembly correction committee, and the assembly codes committee, the standards in effect for earned eligibility during the prior six-month period, the number of inmates subject to the provisions of earned eligibility, the number who actually received certificates of earned eligibility during that period of time, the number of inmates with certificates who are granted parole upon their first consideration for parole, the number with certificates who are denied parole upon their first consideration, and the number of individuals granted and denied parole who did not have earned eligibility certificates.

§ 5. Subdivision (q) of section 427 of chapter 55 of the laws of 1992, amending the tax law and other laws relating to taxes, surcharges, fees and funding, as amended by section 5 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

(q) the provisions of section two hundred eighty-four of this act shall remain in effect until September 1, [~~2017~~] **2019** and be applicable to all persons entering the program on or before August 31, [~~2017~~] **2019**.

§ 6. Section 10 of chapter 339 of the laws of 1972, amending the correction law and the penal law relating to inmate work release, furlough and leave, as amended by section 6 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

§ 10. This act shall take effect 30 days after it shall have become a law and shall remain in effect until September 1, [~~2017~~] **2019**, and provided further that the commissioner of correctional services shall report each January first, and July first, to the chairman of the senate crime victims, crime and correction committee, the senate codes committee, the assembly correction committee, and the assembly codes committee, the number of eligible inmates in each facility under the custody and control of the commissioner who have applied for participation in any program offered under the provisions of work release, furlough, or leave, and the number of such inmates who have been approved for participation.

§ 7. Subdivision (c) of section 46 of chapter 60 of the laws of 1994 relating to certain provisions which impact upon expenditure of certain appropriations made by chapter 50 of the laws of 1994 enacting the state operations budget, as amended by section 7 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

(c) sections forty-one and forty-two of this act shall expire September 1, [~~2017~~] **2019**; provided, that the provisions of section forty-two of this act shall apply to inmates entering the work release program on or after such effective date; and

§ 8. Subdivision h of section 74 of chapter 3 of the laws of 1995, amending the correction law and other laws relating to the incarceration fee, as amended by section 8 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

h. Section fifty-two of this act shall be deemed to have been in full force and effect on and after April 1, 1995; provided, however, that the provisions of section 189 of the correction law, as amended by section fifty-five of this act, subdivision 5 of section 60.35 of the penal law, as amended by section fifty-six of this act, and section fifty-seven of this act shall expire September 1, [~~2017~~] **2019**, when upon such date the amendments to the correction law and penal law made by sections fifty-five and fifty-six of this act shall revert to and be read as if the

provisions of this act had not been enacted; provided, however, that sections sixty-two, sixty-three and sixty-four of this act shall be deemed to have been in full force and effect on and after March 1, 1995 and shall be deemed repealed April 1, 1996 and upon such date the provisions of subsection (e) of section 9110 of the insurance law and subdivision 2 of section 89-d of the state finance law shall revert to and be read as set out in law on the date immediately preceding the effective date of sections sixty-two and sixty-three of this act;

§ 9. Subdivision (c) of section 49 of subpart A of part C of chapter 62 of the laws of 2011 amending the correction law and the executive law, relating to merging the department of correctional services and division of parole into the department of corrections and community supervision, as amended by section 9 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

(c) that the amendments to subdivision 9 of section 201 of the correction law as added by section thirty-two of this act shall remain in effect until September 1, [~~2017~~] **2019**, when it shall expire and be deemed repealed;

§ 10. Subdivision (aa) of section 427 of chapter 55 of the laws of 1992, amending the tax law and other laws relating to taxes, surcharges, fees and funding, as amended by section 10 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

(aa) the provisions of sections three hundred eighty-two, three hundred eighty-three and three hundred eighty-four of this act shall expire on September 1, [~~2017~~] **2019**;

§ 11. Section 12 of chapter 907 of the laws of 1984, amending the correction law, the New York city criminal court act and the executive law relating to prison and jail housing and alternatives to detention and incarceration programs, as amended by section 11 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

§ 12. This act shall take effect immediately, except that the provisions of sections one through ten of this act shall remain in full force and effect until September 1, [~~2017~~] **2019** on which date those provisions shall be deemed to be repealed.

§ 12. Subdivision (p) of section 406 of chapter 166 of the laws of 1991, amending the tax law and other laws relating to taxes, as amended by section 12 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

(p) The amendments to section 1809 of the vehicle and traffic law made by sections three hundred thirty-seven and three hundred thirty-eight of this act shall not apply to any offense committed prior to such effective date; provided, further, that section three hundred forty-one of this act shall take effect immediately and shall expire November 1, 1993 at which time it shall be deemed repealed; sections three hundred forty-five and three hundred forty-six of this act shall take effect July 1, 1991; sections three hundred fifty-five, three hundred fifty-six, three hundred fifty-seven and three hundred fifty-nine of this act shall take effect immediately and shall expire June 30, 1995 and shall revert to and be read as if this act had not been enacted; section three hundred fifty-eight of this act shall take effect immediately and shall expire June 30, 1998 and shall revert to and be read as if this act had not been enacted; section three hundred sixty-four through three hundred sixty-seven of this act shall apply to claims filed on or after such effective date; sections three hundred sixty-nine, three hundred seventy-two, three hundred seventy-three, three hundred seventy-four, three hundred seventy-five and three hundred seventy-six of this act shall

remain in effect until September 1, [~~2017~~] **2019**, at which time they shall be deemed repealed; provided, however, that the mandatory surcharge provided in section three hundred seventy-four of this act shall apply to parking violations occurring on or after said effective date; and provided further that the amendments made to section 235 of the vehicle and traffic law by section three hundred seventy-two of this act, the amendments made to section 1809 of the vehicle and traffic law by sections three hundred thirty-seven and three hundred thirty-eight of this act and the amendments made to section 215-a of the labor law by section three hundred seventy-five of this act shall expire on September 1, [~~2017~~] **2019** and upon such date the provisions of such subdivisions and sections shall revert to and be read as if the provisions of this act had not been enacted; the amendments to subdivisions 2 and 3 of section 400.05 of the penal law made by sections three hundred seventy-seven and three hundred seventy-eight of this act shall expire on July 1, 1992 and upon such date the provisions of such subdivisions shall revert and shall be read as if the provisions of this act had not been enacted; the state board of law examiners shall take such action as is necessary to assure that all applicants for examination for admission to practice as an attorney and counsellor at law shall pay the increased examination fee provided for by the amendment made to section 465 of the judiciary law by section three hundred eighty of this act for any examination given on or after the effective date of this act notwithstanding that an applicant for such examination may have prepaid a lesser fee for such examination as required by the provisions of such section 465 as of the date prior to the effective date of this act; the provisions of section 306-a of the civil practice law and rules as added by section three hundred eighty-one of this act shall apply to all actions pending on or commenced on or after September 1, 1991, provided, however, that for the purposes of this section service of such summons made prior to such date shall be deemed to have been completed on September 1, 1991; the provisions of section three hundred eighty-three of this act shall apply to all money deposited in connection with a cash bail or a partially secured bail bond on or after such effective date; and the provisions of sections three hundred eighty-four and three hundred eighty-five of this act shall apply only to jury service commenced during a judicial term beginning on or after the effective date of this act; provided, however, that nothing contained herein shall be deemed to affect the application, qualification, expiration or repeal of any provision of law amended by any section of this act and such provisions shall be applied or qualified or shall expire or be deemed repealed in the same manner, to the same extent and on the same date as the case may be as otherwise provided by law;

§ 13. Subdivision 8 of section 1809 of the vehicle and traffic law, as amended by section 13 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

8. The provisions of this section shall only apply to offenses committed on or before September first, two thousand [~~seventeen~~] **nineteen**.

§ 14. Section 6 of chapter 713 of the laws of 1988, amending the vehicle and traffic law relating to the ignition interlock device program, as amended by section 14 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

§ 6. This act shall take effect on the first day of April next succeeding the date on which it shall have become a law; provided, however, that effective immediately, the addition, amendment or repeal of any rule or regulation necessary for the implementation of the fore-

going sections of this act on their effective date is authorized and directed to be made and completed on or before such effective date and shall remain in full force and effect until the first day of September, [~~2017~~] **2019** when upon such date the provisions of this act shall be deemed repealed.

§ 15. Paragraph a of subdivision 6 of section 76 of chapter 435 of the laws of 1997, amending the military law and other laws relating to various provisions, as amended by section 15 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

a. sections forty-three through forty-five of this act shall expire and be deemed repealed on September 1, [~~2017~~] **2019**;

§ 16. Section 4 of part D of chapter 412 of the laws of 1999, amending the civil practice law and rules and the court of claims act relating to prisoner litigation reform, as amended by section 16 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

§ 4. This act shall take effect 120 days after it shall have become a law and shall remain in full force and effect until September 1, [~~2017~~] **2019**, when upon such date it shall expire.

§ 17. Subdivision 2 of section 59 of chapter 222 of the laws of 1994, constituting the family protection and domestic violence intervention act of 1994, as amended by section 17 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

2. Subdivision 4 of section 140.10 of the criminal procedure law as added by section thirty-two of this act shall take effect January 1, 1996 and shall expire and be deemed repealed on September 1, [~~2017~~] **2019**.

§ 18. Section 5 of chapter 505 of the laws of 1985, amending the criminal procedure law relating to the use of closed-circuit television and other protective measures for certain child witnesses, as amended by section 18 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

§ 5. This act shall take effect immediately and shall apply to all criminal actions and proceedings commenced prior to the effective date of this act but still pending on such date as well as all criminal actions and proceedings commenced on or after such effective date and its provisions shall expire on September 1, [~~2017~~] **2019**, when upon such date the provisions of this act shall be deemed repealed.

§ 19. Subdivision d of section 74 of chapter 3 of the laws of 1995, enacting the sentencing reform act of 1995, as amended by section 19 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

d. Sections one-a through twenty, twenty-four through twenty-eight, thirty through thirty-nine, forty-two and forty-four of this act shall be deemed repealed on September 1, [~~2017~~] **2019**;

§ 20. Section 2 of chapter 689 of the laws of 1993 amending the criminal procedure law relating to electronic court appearance in certain counties, as amended by section 20 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

§ 2. This act shall take effect immediately, except that the provisions of this act shall be deemed to have been in full force and effect since July 1, 1992 and the provisions of this act shall expire September 1, [~~2017~~] **2019** when upon such date the provisions of this act shall be deemed repealed.

§ 21. Section 3 of chapter 688 of the laws of 2003, amending the executive law relating to enacting the interstate compact for adult offender supervision, as amended by section 21 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

§ 3. This act shall take effect immediately, except that section one of this act shall take effect on the first of January next succeeding the date on which it shall have become a law, and shall remain in effect until the first of September, [~~2017~~] **2019**, upon which date this act shall be deemed repealed and have no further force and effect; provided that section one of this act shall only take effect with respect to any compacting state which has enacted an interstate compact entitled "Interstate compact for adult offender supervision" and having an identical effect to that added by section one of this act and provided further that with respect to any such compacting state, upon the effective date of section one of this act, section 259-m of the executive law is hereby deemed REPEALED and section 259-mm of the executive law, as added by section one of this act, shall take effect; and provided further that with respect to any state which has not enacted an interstate compact entitled "Interstate compact for adult offender supervision" and having an identical effect to that added by section one of this act, section 259-m of the executive law shall take effect and the provisions of section one of this act, with respect to any such state, shall have no force or effect until such time as such state shall adopt an interstate compact entitled "Interstate compact for adult offender supervision" and having an identical effect to that added by section one of this act in which case, with respect to such state, effective immediately, section 259-m of the executive law is deemed repealed and section 259-mm of the executive law, as added by section one of this act, shall take effect.

§ 22. Section 8 of part H of chapter 56 of the laws of 2009, amending the correction law relating to limiting the closing of certain correctional facilities, providing for the custody by the department of correctional services of inmates serving definite sentences, providing for custody of federal prisoners and requiring the closing of certain correctional facilities, as amended by section 22 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

§ 8. This act shall take effect immediately; provided, however that sections five and six of this act shall expire and be deemed repealed September 1, [~~2017~~] **2019**.

§ 23. Section 3 of part C of chapter 152 of the laws of 2001 amending the military law relating to military funds of the organized militia, as amended by section 23 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

§ 3. This act shall take effect on the same date as the reversion of subdivision 5 of section 183 and subdivision 1 of section 221 of the military law as provided by section 76 of chapter 435 of the laws of 1997, as amended by section 1 of chapter 19 of the laws of 1999 notwithstanding this act shall be deemed to have been in full force and effect on and after July 31, 2005 and shall remain in full force and effect until September 1, [~~2017~~] **2019** when upon such date this act shall expire.

§ 24. Section 5 of chapter 554 of the laws of 1986, amending the correction law and the penal law relating to providing for community treatment facilities and establishing the crime of absconding from the community treatment facility, as amended by section 24 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

§ 5. This act shall take effect immediately and shall remain in full force and effect until September 1, [~~2017~~] **2019**, and provided further that the commissioner of correctional services shall report each January first and July first during such time as this legislation is in effect,

to the chairmen of the senate crime victims, crime and correction committee, the senate codes committee, the assembly correction committee, and the assembly codes committee, the number of individuals who are released to community treatment facilities during the previous six-month period, including the total number for each date at each facility who are not residing within the facility, but who are required to report to the facility on a daily or less frequent basis.

§ 25. Section 2 of part H of chapter 503 of the laws of 2009 relating to the disposition of monies recovered by county district attorneys before the filing of an accusatory instrument, as amended by section 1 of part B of chapter 57 of the laws of 2016, is amended to read as follows:

§ 2. This act shall take effect immediately and shall remain in full force and effect until March 31, [~~2017~~] **2019**, when it shall expire and be deemed repealed.

§ 26. This act shall take effect immediately, provided however that section twenty-five of this act shall be deemed to have been in full force and effect on and after March 31, 2017.

PART B

Section 1. Section 221.10 of the penal law, as amended by chapter 265 of the laws of 1979 and subdivision 2 as amended by chapter 75 of the laws of 1995, is amended to read as follows:

§ 221.10 Criminal possession of marihuana in the fifth degree.

A person is guilty of criminal possession of marihuana in the fifth degree when he **or she** knowingly and unlawfully possesses:

1. marihuana in a public place, as defined in section 240.00 of this chapter, and such marihuana is burning [~~or open to public view~~]; or

2. one or more preparations, compounds, mixtures or substances containing marihuana and the preparations, compounds, mixtures or substances are of an aggregate weight of more than twenty-five grams.

Criminal possession of marihuana in the fifth degree is a class B misdemeanor.

§ 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.

PART C

Section 1. Section 190.78 of the penal law, as added by chapter 619 of the laws of 2002, is amended to read as follows:

§ 190.78 Identity theft in the [~~third~~] **fifth** degree.

A person is guilty of identity theft in the [~~third~~] **fifth** degree when he or she knowingly and with intent to defraud assumes the identity of another person by presenting himself or herself as that other person, or by acting as that other person or by using personal identifying information of that other person, and thereby:

1. obtains goods, money, property or services or uses credit in the name of such other person or causes financial loss to such person or to another person or persons; or

2. commits a class A misdemeanor or higher level crime.

Identity theft in the [~~third~~] **fifth** degree is a class A misdemeanor.

§ 2. Section 190.79 of the penal law, as added by chapter 619 of the laws of 2002, subdivision 4 as amended by chapter 279 of the laws of 2008, is amended to read as follows:

§ 190.79 Identity theft in the [~~second~~] **fourth** degree.

A person is guilty of [~~identify~~] identity theft in the [~~second~~] fourth degree when:

1. he or she knowingly and with intent to defraud assumes the identity of another person by presenting himself or herself as that other person, or by acting as that other person or by using personal identifying information of that other person, and thereby:

[~~1.~~] a. obtains goods, money, property or services or uses credit in the name of such other person in an aggregate amount that exceeds five hundred dollars; or

[~~2.~~] b. causes financial loss to such person or to another person or persons in an aggregate amount that exceeds five hundred dollars; or

[~~3.~~] c. commits or attempts to commit a felony or acts as an accessory to the commission of a felony; or

[~~4.~~] d. commits the crime of identity theft in the [~~third~~] fifth degree as defined in section 190.78 of this article and has been previously convicted within the last [~~five years of identity theft in the third degree as defined in section 190.78, identity theft in the second degree as defined in this section, identity theft in the first degree as defined in section 190.80, unlawful possession of personal identification information in the third degree as defined in section 190.81, unlawful possession of personal identification information in the second degree as defined in section 190.82, unlawful possession of personal identification information in the first degree as defined in section 190.83, unlawful possession of a skimmer device in the second degree as defined in section 190.85, unlawful possession of a skimmer device in the first degree as defined in section 190.86, grand larceny in the fourth degree as defined in section 155.30, grand larceny in the third degree as defined in section 155.35, grand larceny in the second degree as defined in section 155.40 or grand larceny in the first degree as defined in section 155.42 of this chapter~~] ten years, excluding any time during which such person was incarcerated for any reason, of any crime in this article or article 170 of this title, or of any larceny crime as defined in article 155 of this chapter, or of any criminal possession of stolen property crime as defined in article 165 of this chapter; or

2. he or she knowingly and with intent to defraud assumes the identity of three or more persons by presenting himself or herself as those persons or by acting as those persons or by using personal identifying information of any of those persons and thereby obtains goods, money, property or services or uses credit in the name of at least one such persons, or causes financial loss to at least one such person or to another person or persons.

Identity theft in the [~~second~~] fourth degree is a class E felony.

§ 3. Section 190.80 of the penal law, as added by chapter 619 of the laws of 2002, subdivision 4 as amended by chapter 279 of the laws of 2008, is amended to read as follows:

§ 190.80 Identity theft in the [~~first~~] third degree.

A person is guilty of identity theft in the [~~first~~] third degree when:

1. he or she knowingly and with intent to defraud assumes the identity of another person by presenting himself or herself as that other person, or by acting as that other person or by using personal identifying information of that other person, and thereby:

[~~1.~~] a. obtains goods, money, property or services or uses credit in the name of such other person in an aggregate amount that exceeds two thousand dollars; or

[~~2.~~] b. causes financial loss to such person or to another person or persons in an aggregate amount that exceeds two thousand dollars; or

[~~3.~~] c. commits or attempts to commit a class D felony or higher level crime or acts as an accessory in the commission of a class D or higher level felony; or

[~~4.~~] d. commits the crime of identity theft in the [~~second~~] fourth degree as defined in section 190.79 of this article and has been previously convicted within the last [~~five years of identity theft in the third degree as defined in section 190.78, identity theft in the second degree as defined in section 190.79, identity theft in the first degree as defined in this section, unlawful possession of personal identification information in the third degree as defined in section 190.81, unlawful possession of personal identification information in the second degree as defined in section 190.82, unlawful possession of personal identification information in the first degree as defined in section 190.83, unlawful possession of a skimmer device in the second degree as defined in section 190.85, unlawful possession of a skimmer device in the first degree as defined in section 190.86, grand larceny in the fourth degree as defined in section 155.30, grand larceny in the third degree as defined in section 155.35, grand larceny in the second degree as defined in section 155.40 or grand larceny in the first degree as defined in section 155.42 of this chapter~~] ten years, excluding any time during which such person was incarcerated for any reason, of any crime in this article or article 170 of this title, or of any larceny crime as defined in article 155 of this chapter, or of any criminal possession of stolen property crime as defined in article 165 of this chapter; or

2. assumes the identity of ten or more persons by presenting himself or herself as those other persons, or by acting as those other persons, or by using personal identifying information of those other persons, and thereby obtains goods, money, property or services or uses credit in the name of at least one such persons, or causes financial loss to at least one such person, or to another person or persons.

Identity theft in the [~~first~~] third degree is a class D felony.

§ 4. Sections 190.81 and 190.82 of the penal law are REPEALED and two new sections 190.81 and 190.82 are added to read as follows:

§ 190.81 Identity theft in the second degree.

A person is guilty of identity theft in the second degree when:

1. he or she knowingly and with intent to defraud assumes the identity of another person by presenting himself or herself as that other person, or by acting as that other person or by using personal identifying information of that other person, and thereby:

a. obtains goods, money, property or services or uses credit in the name of such other person in an aggregate amount that exceeds twenty-five thousand dollars; or

b. causes financial loss to such person or to another person or persons in an aggregate amount that exceeds twenty-five thousand dollars; or

c. commits or attempts to commit a class C felony or higher level crime or acts as an accessory in the commission of a class C or higher level felony; or

d. commits the crime of identity theft in the third degree as defined in section 190.80 of this article and has been previously convicted within the last ten years, excluding any time during which such person was incarcerated for any reason, of any crime in this article or article 170 of this title, or of any larceny crime as defined in article 155 of this chapter, or of any criminal possession of stolen property crime as defined in article 165 of this chapter; or

2. assumes the identity of twenty-five or more persons by presenting himself or herself as those other persons, or by acting as those other persons, or by using personal identifying information of those other persons, and thereby obtains goods, money, property or services or uses credit in the name of at least one such persons, or causes financial loss to at least one such person, or to another person or persons.

Identity theft in the second degree is a class C felony.

§ 190.82 Identity theft in the first degree.

A person is guilty of identity theft in the first degree when:

1. he or she knowingly and with intent to defraud assumes the identity of another person by presenting himself or herself as that other person, or by acting as that other person or by using personal identifying information of that other person, and thereby:

a. obtains goods, money, property or services or uses credit in the name of such other person in an aggregate amount that exceeds five hundred thousand dollars; or

b. causes financial loss to such person or to another person or persons in an aggregate amount that exceeds five hundred thousand dollars; or

c. commits or attempts to commit a class B felony or higher level crime or acts as an accessory in the commission of a class B or higher level felony; or

d. commits the crime of identity theft in the second degree as defined in section 190.81 of this article and has been previously convicted within the last ten years, excluding any time during which such person was incarcerated for any reason, of any crime in this article or article 170 of this title, or of any larceny crime as defined in article 155 of this chapter, or of any criminal possession of stolen property crime as defined in article 165 of this chapter; or

2. assumes the identity of one hundred or more persons by presenting himself or herself as those other persons, or by acting as those other persons, or by using personal identifying information of those other persons, and thereby obtains goods, money, property or services or uses credit in the name of at least one such persons, or causes financial loss to at least one such person, or to another person or persons.

Identity theft in the first degree is a class B felony.

§ 5. Section 190.80-a of the penal law, as added by chapter 226 of the laws of 2008, is amended to read as follows:

§ 190.80-a Aggravated identity theft in the first degree.

A person is guilty of aggravated identity theft in the first degree when he or she knowingly and with intent to defraud assumes the identity of another person by presenting himself or herself as that other person, or by acting as that other person or by using personal identifying information of that other person, and knows that such person is a member of the armed forces, and knows that such member is presently deployed outside of the continental United States; or knows that such person is a vulnerable elderly person as defined in subdivision three of section 260.31 of this part; or knows that such person is an incompetent or physically disabled person as defined in subdivision four of section 260.31 of this part; and:

1. thereby obtains goods, money, property or services or uses credit in the name of such [~~member of the armed forces~~] individual in an aggregate amount that exceeds five hundred dollars; or

2. thereby causes financial loss to such [~~member of the armed forces~~] individual in an aggregate amount that exceeds five hundred dollars.

Aggravated identity theft in the first degree is a class D felony.

§ 6. Paragraph (c) of subdivision 5 of section 156.00 of the penal law, as amended by chapter 558 of the laws of 2006, is amended to read as follows:

(c) is not and is not intended to be available to anyone other than the person or persons rightfully in possession thereof or selected persons having access thereto with his, her or their consent and which [~~accords or may accord such rightful possessors an advantage over competitors or other persons who do not have knowledge or the benefit thereof~~] persons other than those rightly in possession, know or should know that said material is not intended to be available to them.

§ 7. Subdivision 8 of section 156.00 of the penal law, as added by chapter 558 of the laws of 2006, is amended to read as follows:

8. "Without authorization" means to use or to access a computer, computer service or computer network without the permission of the owner or lessor or someone licensed or privileged by the owner or lessor where such person knew that his or her use or access was without permission or after actual notice to such person that such use or access was without permission. It shall also mean the access of a computer service by a person without permission where such person knew that such access was without permission or after actual notice to such person, that such access was without permission. For purposes of criminal prosecution under this article, "without authorization" shall also include use or access exceeding the scope of authorization. A person exceeds the scope of authorization to use or access a computer, computer service or computer network when such person uses or accesses such computer, computer service or computer network for purposes other than legitimate purposes for which such person has permission to use and access such computer, computer service or computer network.

§ 8. Section 156.20 of the penal law, as amended by chapter 558 of the laws of 2006, is amended to read as follows:

§ 156.20 Computer tampering in the [~~fourth~~] fifth degree.

A person is guilty of computer tampering in the [~~fourth~~] fifth degree when he or she uses, causes to be used, or accesses a computer, computer service, or computer network without authorization and he or she intentionally alters in any manner or destroys computer data or a computer program of another person.

Computer tampering in the [~~fourth~~] fifth degree is a class A misdemeanor.

§ 9. Section 156.25 of the penal law, as amended by chapter 89 of the laws of 1993, subdivision 2 as amended by chapter 376 of the laws of 1997, is amended to read as follows:

§ 156.25 Computer tampering in the [~~third~~] fourth degree.

A person is guilty of computer tampering in the [~~third~~] fourth degree when he or she commits the crime of computer tampering in the [~~fourth~~] fifth degree and:

1. he or she does so with an intent to commit or attempt to commit or further the commission of any felony; or

2. he or she has been previously convicted of any crime under this article or subdivision eleven of section 165.15 of this chapter; or

3. he or she intentionally alters in any manner or destroys computer material; or

4. he or she intentionally alters in any manner or destroys computer data or a computer program so as to cause damages in an aggregate amount exceeding one thousand dollars.

Computer tampering in the [~~third~~] fourth degree is a class E felony.

§ 10. Section 156.26 of the penal law, as amended by chapter 590 of the laws of 2008, is amended to read as follows:

§ 156.26 Computer tampering in the [~~second~~] **third** degree.

A person is guilty of computer tampering in the [~~second~~] **third** degree when he or she commits the crime of computer tampering in the [~~fourth~~] **fifth** degree and he or she intentionally alters in any manner or destroys:

1. computer data or a computer program so as to cause damages in an aggregate amount exceeding three thousand dollars; or

2. computer material that contains records of the medical history or medical treatment of an identified or readily identifiable individual or individuals and as a result of such alteration or destruction, such individual or individuals suffer serious physical injury, and he or she is aware of and consciously disregards a substantial and unjustifiable risk that such serious physical injury may occur.

Computer tampering in the [~~second~~] **third** degree is a class D felony.

§ 11. Section 156.27 of the penal law, as added by chapter 89 of the laws of 1993, is amended to read as follows:

§ 156.27 Computer tampering in the [~~first~~] **second** degree.

A person is guilty of computer tampering in the [~~first~~] **second** degree when he commits the crime of computer tampering in the [~~fourth~~] **fifth** degree and he intentionally alters in any manner or destroys computer data or a computer program so as to cause damages in an aggregate amount exceeding fifty thousand dollars.

Computer tampering in the [~~first~~] **second** degree is a class C felony.

§ 12. The penal law is amended by adding a new section 156.28 to read as follows:

§ 156.28 Computer tampering in the first degree.

A person is guilty of computer tampering in the first degree when he or she commits the crime of computer tampering in the fifth degree and he or she intentionally alters in any manner or destroys computer data or a computer program and thereby causes damages in an aggregate amount of one million dollars or more.

Computer tampering in the first degree is a class B felony.

§ 13. This act shall take effect on the first of November next succeeding the date on which it shall have become a law; provided, however, that section eleven of this act shall take effect on the nine-tieth day after it shall have become a law.

PART D

Section 1. Section 60.45 of the criminal procedure law is amended by adding a new subdivision 3 to read as follows:

3. (a) Where a person is subject to custodial interrogation by a public servant at a detention facility, the entire custodial interrogation, including the giving of any required advice of the rights of the individual being questioned, and the waiver of any rights by the individual, shall be recorded by an appropriate video recording device if the interrogation involves a class A-1 felony, except one defined in article two hundred twenty of the penal law; felony offenses defined in section 130.95 and 130.96 of the penal law; or a felony offense defined in article one hundred twenty-five or one hundred thirty of such law that is defined as a class B violent felony offense in section 70.02 of the penal law. For purposes of this paragraph, the term "detention facility" shall mean a police station, correctional facility, holding facility for prisoners, prosecutor's office or other facility where

persons are held in detention in connection with criminal charges that have been or may be filed against them.

(b) No confession, admission or other statement shall be subject to a motion to suppress pursuant to subdivision three of section 710.20 of this chapter based solely upon the failure to video record such interrogation in a detention facility as defined in paragraph (a) of this subdivision. However, where the people offer into evidence a confession, admission or other statement made by a person in custody with respect to his or her participation or lack of participation in an offense specified in paragraph (a) of this subdivision, that has not been video recorded, the court shall consider the failure to record as a factor, but not as the sole factor, in accordance with paragraph (c) of this subdivision in determining whether such confession, admission or other statement shall be admissible.

(c) Notwithstanding the requirement of paragraph (a) of this subdivision, upon a showing of good cause by the prosecutor, the custodial interrogation need not be recorded. Good cause shall include, but not be limited to:

(i) If electronic recording equipment malfunctions.

(ii) If electronic recording equipment is not available because it was otherwise being used.

(iii) If statements are made in response to questions that are routinely asked during arrest processing.

(iv) If the statement is spontaneously made by the suspect and not in response to police questioning.

(v) If the statement is made during an interrogation that is conducted when the interviewer is unaware that a qualifying offense has occurred.

(vi) If the statement is made at a location other than the "interview room" because the suspect cannot be brought to such room, e.g., the suspect is in a hospital or the suspect is out of state and that state is not governed by a law requiring the recordation of an interrogation.

(vii) If the statement is made after a suspect has refused to participate in the interrogation if it is recorded, and appropriate effort to document such refusal is made.

(viii) If such statement is not recorded as a result of an inadvertent error or oversight, not the result of any intentional conduct by law enforcement personnel.

(ix) If it is law enforcement's reasonable belief that such recording would jeopardize the safety of any person or reveal the identity of a confidential informant.

(x) If such statement is made at a location not equipped with a video recording device and the reason for using that location is not to subvert the intent of the law. For purposes of this section, the term "location" shall include those locations specified in paragraph (b) of subdivision four of section 305.2 of the family court act.

(d) In the event the court finds that the people have not shown good cause for the non-recording of the confession, admission, or other statement, but determines that a non-recorded confession, admission or other statement is nevertheless admissible because it was voluntarily made then, upon request of the defendant, the court must instruct the jury that the people's failure to record the defendant's confession, admission or other statement as required by this section may be weighed as a factor, but not as the sole factor, in determining whether such confession, admission or other statement was voluntarily made, or was made at all.

(e) Video recording as required by this section shall be conducted in accordance with standards established by rule of the division of criminal justice services.

§ 2. Subdivision 3 of section 344.2 of the family court act is renumbered subdivision 4 and a new subdivision 3 is added to read as follows:

3. Where a respondent is subject to custodial interrogation by a public servant at a facility specified in subdivision four of section 305.2 of this article, the entire custodial interrogation, including the giving of any required advice of the rights of the individual being questioned, and the waiver of any rights by the individual, shall be recorded and governed in accordance with the provisions of paragraphs (a), (b), (c), (d) and (e) of subdivision three of section 60.45 of the criminal procedure law.

§ 3. Section 60.25 of the criminal procedure law, subparagraph (ii) of paragraph (a) of subdivision 1 as amended by chapter 479 of the laws of 1977, is amended to read as follows:

§ 60.25 Rules of evidence; identification by means of previous recognition, in absence of present identification.

1. In any criminal proceeding in which the defendant's commission of an offense is in issue, testimony as provided in subdivision two may be given by a witness when:

(a) Such witness testifies that:

(i) He or she observed the person claimed by the people to be the defendant either at the time and place of the commission of the offense or upon some other occasion relevant to the case; and

(ii) On a subsequent occasion he or she observed, under circumstances consistent with such rights as an accused person may derive under the constitution of this state or of the United States, a person or, where the observation is made pursuant to a blind or blinded procedure as defined in paragraph (c) of this subdivision, a pictorial, photographic, electronic, filmed or video recorded reproduction of a person whom he or she recognized as the same person whom he or she had observed on the first or incriminating occasion; and

(iii) He or she is unable at the proceeding to state, on the basis of present recollection, whether or not the defendant is the person in question; and

(b) It is established that the defendant is in fact the person whom the witness observed and recognized or whose pictorial, photographic, electronic, filmed or video recorded reproduction the witness observed and recognized on the second occasion. Such fact may be established by testimony of another person or persons to whom the witness promptly declared his or her recognition on such occasion and by such pictorial, photographic, electronic, filmed or video recorded reproduction.

(c) For purposes of this section, a "blind or blinded procedure" is one in which the witness identifies a person in an array of pictorial, photographic, electronic, filmed or video recorded reproductions under circumstances where, at the time the identification is made, the public servant administering such procedure: (i) does not know which person in the array is the suspect, or (ii) does not know where the suspect is in the array viewed by the witness. The failure of a public servant to follow such a procedure shall be assessed solely for purposes of this article and shall result in the preclusion of testimony regarding the identification procedure as evidence in chief, but shall not constitute a legal basis to suppress evidence made pursuant to subdivision six of section 710.20 of this chapter. This article neither limits nor expands subdivision six of section 710.20 of this chapter.

2. Under circumstances prescribed in subdivision one **of this section**, such witness may testify at the criminal proceeding that the person whom he **or she** observed and recognized **or whose pictorial, photographic, electronic, filmed or video recorded reproduction he or she observed and recognized** on the second occasion is the same person whom he **or she** observed on the first or incriminating occasion. Such testimony, together with the evidence that the defendant is in fact the person whom the witness observed and recognized **or whose pictorial, photographic, electronic, filmed or video recorded reproduction he or she observed and recognized** on the second occasion, constitutes evidence in chief.

§ 4. Section 60.30 of the criminal procedure law, as amended by chapter 479 of the laws of 1977, is amended to read as follows:

§ 60.30 Rules of evidence; identification by means of previous recognition, in addition to present identification.

In any criminal proceeding in which the defendant's commission of an offense is in issue, a witness who testifies that (a) he **or she** observed the person claimed by the people to be the defendant either at the time and place of the commission of the offense or upon some other occasion relevant to the case, and (b) on the basis of present recollection, the defendant is the person in question and (c) on a subsequent occasion he **or she** observed the defendant, **or where the observation is made pursuant to a blind or blinded procedure, as defined in paragraph (c) of subdivision one of section 60.25 of this article, a pictorial, photographic, electronic, filmed or video recorded reproduction of the defendant,** under circumstances consistent with such rights as an accused person may derive under the constitution of this state or of the United States, and then also recognized him **or her or the pictorial, photographic, electronic, filmed or video recorded reproduction of him or her** as the same person whom he **or she** had observed on the first or incriminating occasion, may, in addition to making an identification of the defendant at the criminal proceeding on the basis of present recollection as the person whom he **or she** observed on the first or incriminating occasion, also describe his **or her** previous recognition of the defendant and testify that the person whom he **or she** observed **or whose pictorial, photographic, electronic, filmed or video recorded reproduction he or she observed** on such second occasion is the same person whom he **or she** had observed on the first or incriminating occasion. Such testimony **and such pictorial, photographic, electronic, filmed or video recorded reproduction** constitutes evidence in chief.

§ 5. Subdivision 6 of section 710.20 of the criminal procedure law, as amended by chapter 8 of the laws of 1976 and as renumbered by chapter 481 of the laws of 1983, is amended to read as follows:

6. Consists of potential testimony regarding an observation of the defendant either at the time or place of the commission of the offense or upon some other occasion relevant to the case, which potential testimony would not be admissible upon the prospective trial of such charge owing to an improperly made previous identification of the defendant **or of a pictorial, photographic, electronic, filmed or video recorded reproduction of the defendant** by the prospective witness. **A claim that the previous identification of the defendant or of a pictorial, photographic, electronic, filmed or video recorded reproduction of the defendant by a prospective witness did not comply with paragraph (c) of subdivision one of section 60.25 of this chapter or with the protocol promulgated in accordance with subdivision twenty-one of section eight hundred thirty-seven of the executive law shall not constitute a legal basis to suppress evidence pursuant to this subdivision. A claim that a**

public servant failed to comply with paragraph (c) of subdivision one of section 60.25 of this chapter or of subdivision twenty-one of section eight hundred thirty-seven of the executive law shall neither expand nor limit the rights an accused person may derive under the constitution of this state or of the United States.

§ 6. Subdivision 1 of section 710.30 of the criminal procedure law, as separately amended by chapters 8 and 194 of the laws of 1976, is amended to read as follows:

1. Whenever the people intend to offer at a trial (a) evidence of a statement made by a defendant to a public servant, which statement if involuntarily made would render the evidence thereof suppressible upon motion pursuant to subdivision three of section 710.20, or (b) testimony regarding an observation of the defendant either at the time or place of the commission of the offense or upon some other occasion relevant to the case, to be given by a witness who has previously identified him or her or a pictorial, photographic, electronic, filmed or video recorded reproduction of him or her as such, they must serve upon the defendant a notice of such intention, specifying the evidence intended to be offered.

§ 7. Section 343.3 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

§ 343.3. Rules of evidence; identification by means of previous recognition in absence of present identification. 1. In any juvenile delinquency proceeding in which the respondent's commission of a crime is in issue, testimony as provided in subdivision two may be given by a witness when:

(a) such witness testifies that:

(i) he or she observed the person claimed by the presentment agency to be the respondent either at the time and place of the commission of the crime or upon some other occasion relevant to the case; and

(ii) on a subsequent occasion he or she observed, under circumstances consistent with such rights as an accused person may derive under the constitution of this state or of the United States, a person, or, where the observation is made pursuant to a blind or blinded procedure as defined herein, a pictorial, photographic, electronic, filmed or video recorded reproduction of a person whom he or she recognized as the same person whom he or she had observed on the first incriminating occasion; and

(iii) he or she is unable at the proceeding to state, on the basis of present recollection, whether or not the respondent is the person in question; and

(b) it is established that the respondent is in fact the person whom the witness observed and recognized or whose pictorial, photographic, electronic, filmed or video recorded reproduction the witness observed and recognized on the second occasion. Such fact may be established by testimony of another person or persons to whom the witness promptly declared his or her recognition on such occasion and by such pictorial, photographic, electronic, filmed or video recorded reproduction.

(c) For purposes of this section, a "blind or blinded procedure" is one in which the witness identifies a person in an array of pictorial, photographic, electronic, filmed or video recorded reproductions under circumstances where, at the time the identification is made, the public servant administering such procedure: (i) does not know which person in the array is the suspect, or (ii) does not know where the suspect is in the array viewed by the witness. The failure of a public servant to follow such a procedure shall be assessed solely for purposes of this

article and shall result in the preclusion of testimony regarding the identification procedure as evidence in chief, but shall not constitute a legal basis to suppress evidence made pursuant to subdivision six of section 710.20 of the criminal procedure law. This article neither limits not expands subdivision six of section 710.20 of the criminal procedure law.

2. Under circumstances prescribed in subdivision one, such witness may testify at the proceeding that the person whom he or she observed and recognized or whose pictorial, photographic, electronic, filmed or video recorded reproduction he or she observed and recognized on the second occasion is the same person whom he or she observed on the first or incriminating occasion. Such testimony, together with the evidence that the respondent is in fact the person whom the witness observed and recognized or whose pictorial, photographic, electronic, filmed or video recorded reproduction he or she observed and recognized on the second occasion, constitutes evidence in chief.

§ 8. Section 343.4 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

§ 343.4. Rules of evidence; identification by means of previous recognition, in addition to present identification. In any juvenile delinquency proceeding in which the respondent's commission of a crime is in issue, a witness who testifies that: (a) he or she observed the person claimed by the presentment agency to be the respondent either at the time and place of the commission of the crime or upon some other occasion relevant to the case, and (b) on the basis of present recollection, the respondent is the person in question, and (c) on a subsequent occasion he or she observed the respondent, or, where the observation is made pursuant to a blind or blinded procedure, a pictorial, photographic, electronic, filmed or video recorded reproduction of the respondent under circumstances consistent with such rights as an accused person may derive under the constitution of this state or of the United States, and then also recognized him or her or the pictorial, photographic, electronic, filmed or video recorded reproduction of him or her as the same person whom he or she had observed on the first or incriminating occasion, may, in addition to making an identification of the respondent at the delinquency proceeding on the basis of present recollection as the person whom he or she observed on the first or incriminating occasion, also describe his or her previous recognition of the respondent and testify that the person whom he or she observed or whose pictorial, photographic, electronic, filmed or video recorded reproduction he or she observed on such second occasion is the same person whom he or she had observed on the first or incriminating occasion. Such testimony and such pictorial, photographic, electronic, filmed or video recorded reproduction constitutes evidence in chief. For purposes of this section, a "blind or blinded procedure" shall be as defined in paragraph (c) of subdivision one of section 343.3 of this part.

§ 9. Section 837 of the executive law is amended by adding a new subdivision 21 to read as follows:

21. Promulgate a standardized and detailed written protocol that is grounded in evidence-based principles for the administration of photographic array and live lineup identification procedures for police agencies and standardized forms for use by such agencies in the reporting and recording of such identification procedure. The protocol shall address the following topics:

(a) the selection of photographic array and live lineup filler photographs or participants;

(b) instructions given to a witness before conducting a photographic array or live lineup identification procedure;

(c) the documentation and preservation of results of a photographic array or live lineup identification procedure;

(d) procedures for eliciting and documenting the witness's confidence in his or her identification following a photographic array or live lineup identification procedure, in the event that an identification is made; and

(e) procedures for administering a photographic array or live lineup identification procedure in a manner designed to prevent opportunities to influence the witness.

§ 10. Subdivision 4 of section 840 of the executive law is amended by adding a new paragraph (c) to read as follows:

(c) Disseminate the written policies and procedures promulgated in accordance with subdivision twenty-one of section eight hundred thirty-seven of this article to all police departments in this state and implement a training program for all current and new police officers regarding the policies and procedures established pursuant to such subdivision.

§ 11. Section 722-e of the county law, as added by chapter 878 of the laws of 1965, is amended to read as follows:

§ 722-e. Expenses. All expenses for providing counsel and services other than counsel hereunder shall be a county charge or in the case of a county wholly located within a city a city charge to be paid out of an appropriation for such purposes. Provided, however, that any such additional expenses incurred for the provision of counsel and services as a result of the implementation of a plan established pursuant to subdivision four of section eight hundred thirty-two of the executive law, including any interim steps taken to implement such plan, shall be reimbursed by the state to the county or city providing such services. The state shall appropriate funds sufficient to provide for the reimbursement required by this section.

§ 12. Section 832 of the executive law is amended by adding a new subdivision 4 to read as follows:

4. Additional duties and responsibilities. The office shall, in consultation with the indigent legal services board established pursuant to section eight hundred thirty-three of this article, have the following duties and responsibilities, and any plan developed pursuant to this subdivision shall be subject to the approval of the director of the division of the budget:

(a) Counsel at arraignment. Develop and implement a written plan to ensure that each criminal defendant who is eligible for publicly funded legal representation is represented by counsel in person at his or her arraignment; provided, however, that a timely arraignment with counsel shall not be delayed pending a determination of a defendant's eligibility.

(i) For the purposes of the plan developed pursuant to this subdivision, the term "arraignment" shall mean the first appearance by a person charged with a crime before a judge or magistrate, with the exception of an appearance where no prosecutor appears and no action occurs other than the adjournment of the criminal process and the unconditional release of the person charged (in which event "arraignment" shall mean the person's next appearance before a judge or magistrate).

(ii) The written plan developed pursuant to this subdivision shall be completed by December first, two thousand seventeen and shall include

interim steps for each county and the city of New York for achieving compliance with the plan.

(iii) Each county and the city of New York shall, in consultation with the office, undertake good faith efforts to implement the plan by April first, two thousand twenty-three. Pursuant to section seven hundred twenty-two-e of the county law, the state shall reimburse each county and the city of New York for any costs incurred as a result of implementing such plan.

(iv) The office shall, on an ongoing basis, monitor and periodically report on the implementation of, and compliance with, the plan in each county and the city of New York.

(b) Caseload relief. Develop and implement a written plan that establishes numerical caseload/workload standards for each provider of constitutionally mandated publicly funded representation in criminal cases for people who are unable to afford counsel.

(i) Such standards shall apply to all providers whether public defender, legal aid society, assigned counsel program or conflict defender in each county and the city of New York.

(ii) The written plan developed pursuant to this subdivision shall be completed by December first, two thousand seventeen and shall include interim steps for each county and the city of New York for achieving compliance with the plan. Such plan shall include the number of attorneys, investigators and other non-attorney staff and the amount of in-kind resources necessary for each provider of mandated representation to implement such plan.

(iii) Each county and the city of New York shall, in consultation with the office, undertake good faith efforts to implement the caseload/workload standards and such standards shall be fully implemented and adhered to in each county and the city of New York by April first, two thousand twenty-three. Pursuant to section seven hundred twenty-two-e of the county law, the state shall reimburse each county and the city of New York for any costs incurred as a result of implementing such plan.

(iv) The office shall, on an ongoing basis, monitor and periodically report on the implementation of, and compliance with, the plan in each county and the city of New York.

(c) Initiatives to improve the quality of indigent defense. (i) Develop and implement a written plan to improve the quality of constitutionally mandated publicly funded representation in criminal cases for people who are unable to afford counsel and ensure that attorneys providing such representation: (A) receive effective supervision and training; (B) have access to and appropriately utilize investigators, interpreters and expert witnesses on behalf of clients; (C) communicate effectively with their clients; (D) have the necessary qualifications and experience; and (E) in the case of assigned counsel attorneys, are assigned to cases in accordance with article eighteen-b of the county law and in a manner that accounts for the attorney's level of experience and caseload/workload.

(ii) The office shall, on an ongoing basis, monitor and periodically report on the implementation of, and compliance with, the plan in each county and the city of New York.

(iii) The written plan developed pursuant to this subdivision shall be completed by December first, two thousand seventeen and shall include interim steps for each county and the city of New York for achieving compliance with the plan.

(iv) Each county and the city of New York shall, in consultation with the office, undertake good faith efforts to implement the initiatives to improve the quality of indigent defense and such initiatives shall be fully implemented and adhered to in each county and the city of New York by April first, two thousand twenty-three. Pursuant to section seven hundred twenty-two-e of the county law, the state shall reimburse each county and the city of New York for any costs incurred as a result of implementing such plan.

(d) Appropriation of funds. In no event shall a county and a city of New York be obligated to undertake any steps to implement the written plans under paragraphs (a), (b) and (c) of this subdivision until funds have been appropriated by the state for such purpose.

Section 13. Section 14 of part J of chapter 62 of the laws of 2003 amending the county law and other laws relating to fees collected, as amended by section 7 of part K of chapter 56 of the laws of 2010, is amended to read as follows:

§ 14. Notwithstanding the provisions of any other law: (a) the fee collected by the office of court administration for the provision of criminal history searches and other searches for data kept electronically by the unified court system shall be [~~sixty-five~~] eighty dollars; (b) [~~thirty-five~~] fifty dollars of each such fee collected shall be deposited in the indigent legal services fund established by section 98-b of the state finance law, as added by section twelve of this act, (c) nine dollars of each such fee collected shall be deposited in the legal services assistance fund established by section 98-c of the state finance law, as added by section nineteen of this act, (d) sixteen dollars of each such fee collected shall be deposited to the judiciary data processing offset fund established by section 94-b of the state finance law, and (e) the remainder shall be deposited in the general fund.

§ 14. Subdivision 4 of section 468-a of the judiciary law, as amended by section 9 of part K of chapter 56 of the laws of 2010, is amended to read as follows:

4. The biennial registration fee shall be [~~three~~] four hundred [~~seventy-five~~] twenty-five dollars, sixty dollars of which shall be allocated to and be deposited in a fund established pursuant to the provisions of section ninety-seven-t of the state finance law, [~~fifty~~] one hundred dollars of which shall be allocated to and shall be deposited in a fund established pursuant to the provisions of section ninety-eight-b of the state finance law, twenty-five dollars of which shall be allocated to be deposited in a fund established pursuant to the provisions of section ninety-eight-c of the state finance law, and the remainder of which shall be deposited in the attorney licensing fund. Such fee shall be required of every attorney who is admitted and licensed to practice law in this state, whether or not the attorney is engaged in the practice of law in this state or elsewhere, except attorneys who certify to the chief administrator of the courts that they have retired from the practice of law.

§ 15. Subparagraphs (i) and (iv) of paragraph (j-1) of subdivision 2 of section 503 of the vehicle and traffic law, subparagraph (i) as amended by section 3 and subparagraph (iv) as added by section 4 of part PP of chapter 59 of the laws of 2009, are amended to read as follows:

(i) When a license issued pursuant to this article, or a privilege of operating a motor vehicle or of obtaining such a license, has been suspended based upon a failure to answer an appearance ticket or a summons or failure to pay a fine, penalty or mandatory surcharge, pursu-

ant to subdivision three of section two hundred twenty-six, subdivision four of section two hundred twenty-seven, subdivision four-a of section five hundred ten or subdivision five-a of section eighteen hundred nine of this chapter, such suspension shall remain in effect until a termination of a suspension fee of [~~seventy~~] **one hundred five** dollars is paid to the court or tribunal that initiated the suspension of such license or privilege. In no event may the aggregate of the fees imposed by an individual court pursuant to this paragraph for the termination of all suspensions that may be terminated as a result of a person's answers, appearances or payments made in such cases pending before such individual court exceed four hundred dollars. For the purposes of this paragraph, the various locations of the administrative tribunal established under article two-A of this chapter shall be considered an individual court.

(iv) Notwithstanding any other provision of this paragraph, [~~fifty percent~~] **one-third** of **the value of** all fees collected pursuant to this paragraph shall be deposited to the credit of the general fund.

§ 16. This act shall take effect immediately; provided, however, that sections one and two of this act shall take effect April 1, 2018 and shall apply to confessions, admissions or statements made on or after such effective date; provided, further sections three through ten of this act shall take effect July 1, 2017.

PART E

Section 1. Subdivision 2 of section 112 of the correction law, as amended by section 19 of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

2. The commissioner **shall have the power and duty of determining the conditions of release of persons who may be presumptively released, conditionally released or subject to a period of post-release supervision under an indeterminate or determinate sentence of imprisonment, other than persons who have been granted parole by the board of parole pursuant to subdivision two of section two hundred fifty-nine-i of the executive law, and** shall have the management and control of persons released on community supervision and of all matters relating to such persons' effective reentry into the community, as well as all contracts and fiscal concerns thereof. The commissioner shall have the power and it shall be his or her duty to inquire into all matters connected with said community supervision. The commissioner shall make such rules and regulations, not in conflict with the statutes of this state, for the governance of the officers and other employees of the department assigned to said community supervision, and in regard to the duties to be performed by them, as he or she deems proper and shall cause such rules and regulations to be furnished to each employee assigned to perform community supervision. The commissioner shall also prescribe a system of accounts and records to be kept, which shall be uniform. The commissioner shall also make rules and regulations for a record of photographs and other means of identifying each inmate released to community supervision. The commissioner shall appoint officers and other employees of the department who are assigned to perform community supervision.

§ 2. Subdivision 1 of section 206 of the correction law, as added by section 32 of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

1. All requests for presumptive release or conditional release shall be made in writing on forms prescribed and furnished by the department. Within one month from the date any such application is received, if it appears that the applicant is eligible for presumptive release or conditional release or will be eligible for such release during such month, the conditions of release shall be fixed in accordance with rules prescribed by the [~~board of parole~~] **commissioner**. Such conditions shall be substantially the same as conditions imposed upon parolees.

§ 3. Subdivision 3 of section 70.45 of the penal law, as added by chapter 1 of the laws of 1998, is amended to read as follows:

3. Conditions of post-release supervision. [~~The~~] **For persons who have been granted parole by the board of parole pursuant to subdivision two of section two hundred fifty-nine-i of the executive law, such** board [~~of parole~~] shall establish and impose conditions of post-release supervision in the same manner and to the same extent as it may establish and impose conditions in accordance with the executive law upon persons who are granted parole [~~or conditional release~~]; **for all other persons released to post-release supervision said conditions shall be established and imposed by the commissioner of corrections and community supervision;** provided that, notwithstanding any other provision of law, the board of parole may impose as a condition of post-release supervision that for a period not exceeding six months immediately following release from the underlying term of imprisonment **pursuant to the grant of parole** the person be transferred to and participate in the programs of a residential treatment facility as that term is defined in subdivision six of section two of the correction law. [~~Upon release from the underlying term of imprisonment, the person~~] **All individuals released to post-release supervision** shall be furnished with a written statement setting forth the conditions of [~~post-release supervision~~] **release** in sufficient detail to provide for the person's conduct and supervision.

§ 4. Subdivision 6 of section 410.91 of the criminal procedure law, as amended by section 76 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

6. Upon delivery of the defendant to the reception center, he or she shall be given a copy of the conditions of parole by a representative of the department of corrections and community supervision and shall acknowledge receipt of a copy of the conditions in writing. The conditions shall be established **by the commissioner of corrections and community supervision** in accordance with [~~article twelve-B~~] **section one hundred twelve** of the [~~executive~~] **correction** law [~~and the rules and regulations of the board of parole~~]. Thereafter and while the parolee is participating in the intensive drug treatment program provided at the drug treatment campus, the department of corrections and community supervision shall assess the parolee's special needs and shall develop an intensive program of parole supervision that will address the parolee's substance abuse history and which shall include periodic urinalysis testing. Unless inappropriate, such program shall include the provision of treatment services by a community-based substance abuse service provider which has a contract with the department of corrections and community supervision.

§ 5. Subdivision 2 of section 259-c of the executive law, as amended by section 38-b of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

2. have the power and duty of determining the conditions of release of the person who [~~may be presumptively released, conditionally released or subject to a period of post-release supervision~~] **has been granted parole**

pursuant to subdivision two of section two hundred fifty-nine-i of this article under an indeterminate or determinate sentence of imprisonment;

§ 6. Paragraph (b) of subdivision 5 of section 70.45 of the penal law, as amended by section 127-j of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

(b) Upon the completion of the period of post-release supervision, the running of such sentence or sentences of imprisonment shall resume and only then shall the remaining portion of any maximum or aggregate maximum term previously held in abeyance be credited with and diminished by such period of post-release supervision. In the event such period of post-release supervision is reduced pursuant to subdivision six of this section, the remaining portion of any maximum or aggregate maximum term previously held in abeyance shall be credited with and diminished by such reduced period of post-release supervision. The person shall then be under the jurisdiction of the department of corrections and community supervision for the remaining portion of such maximum or aggregate maximum term.

§ 7. Section 70.45 of the penal law is amended by adding a new subdivision 6 to read as follows:

6. Earned reduction of post-release supervision. (a) After a period of post-release supervision has commenced pursuant to paragraph (a) of subdivision five of this section, such period shall be reduced by three months upon the completion of each uninterrupted six-month period of post-release supervision served thereafter, provided:

(i) the person is subject to a determinate sentence imposed for an offense listed in subdivision one of section 70.02 of this article; and

(ii) the person is not subject to any sentence with a maximum term of life imprisonment, or any sentence imposed for an offense defined in article one hundred thirty, two hundred sixty-three, four hundred eighty-five or four hundred ninety of this title, or an attempt or a conspiracy to commit any such offense; and

(iii) the person is at liberty during the entire six-month period and is not declared delinquent by the department of corrections and community supervision as of a date within said six-month period.

(b) No reduction shall be granted pursuant to this subdivision for:

(i) the service of less than an uninterrupted six-month period; or

(ii) the six months immediately preceding the completion of a period of post-release supervision.

(c) The six-month period shall not commence or continue to run while the person is in custody for any reason. No reduction shall be granted for the period between the commencement of the six-month period and the date on which the person was taken into custody if such period was less than six months. In such case, the next six-month period shall not commence until the person's next release from custody.

(d) A declaration of delinquency shall interrupt the running of the six-month period retroactively as of the date of delinquency. No reduction shall be granted for the period between the commencement of the six-month period and the date of delinquency if such period was less than six months. In such case, the next six-month period shall not commence until the person's next release from custody.

(e) When a person is subject to more than one period of post-release supervision, the reduction authorized in this subdivision shall be applied to every period of post-release supervision to which the person is subject at the commencement of the six-month period. In the event a person becomes subject to an additional period of post-release supervision after the six-month period of a previously imposed period of

post-release supervision has commenced, the six-month period of the additional period of post-release supervision shall commence as provided in paragraph (a) of this subdivision.

(f) The reduction applied to a period of post-release supervision pursuant to this subdivision shall not be applied to any other period of post-release supervision, except as provided in subdivision five of section 70.30 of this article.

§ 8. Paragraph (c) of subdivision 1 of section 803-b of the correction law, as amended by chapter 412 of the laws of 2010, is amended to read as follows:

(c) "significant programmatic accomplishment" means that the inmate:

(i) participates in no less than two years of college programming; or

(ii) obtains a masters of professional studies degree; or

(iii) successfully participates as an inmate program associate for no less than two years; or

(iv) receives a certification from the state department of labor for his or her successful participation in an apprenticeship program; or

(v) successfully works as an inmate hospice aid for a period of no less than two years; or

(vi) successfully works in the division of correctional industries' optical program for no less than two years and receives a certification as an optician from the American board of opticianry; or

(vii) receives an asbestos handling certificate from the department of labor upon successful completion of the training program and then works in the division of correctional industries' asbestos abatement program as a hazardous materials removal worker or group leader for no less than eighteen months; or

(viii) successfully completes the course curriculum and passes the minimum competency screening process performance examination for sign language interpreter, and then works as a sign language interpreter for deaf inmates for no less than one year; or

(ix) successfully works in the puppies behind bars program for a period of no less than two years; or

(x) successfully participates in a vocational culinary arts program for a period of no less than two years and earns a servsafe certificate that is recognized by the national restaurant association; or

(xi) successfully completes the four hundred ninety hour training program while assigned to a department of motor vehicles call center, and continues to work at such call center for an additional twenty-one months.

§ 9. Subdivision 2 of section 60.02 of the penal law, as amended by chapter 471 of the laws of 1980, is amended to read as follows:

(2) If the sentence is to be imposed upon a youthful offender finding which has been substituted for a conviction for any felony, the court must impose a sentence authorized to be imposed upon a person convicted of a class E felony [~~provided, however, that the court must not impose a sentence of conditional discharge or unconditional discharge if the youthful offender finding was substituted for a conviction of a felony defined in article two hundred twenty of this chapter~~], as hereinafter provided:

(a) if the youthful offender finding was substituted for a felony defined in article two hundred twenty or two hundred twenty-one of this chapter, then the sentence shall be as authorized by section 60.04 of this article for a class E felony, and if a determinate sentence of imprisonment is imposed, the corresponding period of post-release supervision provided for that class E felony by section 70.45 of this title

shall also be imposed. In addition to such authorized sentences, if the defendant meets the requirements of subdivision two of section 410.91 of the criminal procedure law, a court may direct that such sentence be executed as a parole supervision sentence as defined in and pursuant to the procedures prescribed by that section.

(b) if the youthful offender finding was substituted for any other felony, then the sentence shall be as authorized by section 60.01 of this article for a sentence upon a conviction of a class E felony; provided, however, that if the youthful offender finding was substituted for a violent felony offense as defined in subdivision one of section 70.02 of this title or for a felony sex offense as defined in paragraph (a) of subdivision one of section 70.80 of this title and, in either case, a sentence of imprisonment in excess of one year is imposed to be served in a facility of the state department of corrections and community supervision, the sentence shall be the determinate sentence of imprisonment authorized for a class E violent felony offense or felony sex offense, as the case may be, and the corresponding period of post-release supervision provided for that class E felony by section 70.45 of this title.

§ 10. Section 70.00 of the penal law, the section heading as amended by chapter 277 of the laws of 1973, subdivision 1 as amended by section 36 of chapter 7 of the laws of 2007, subdivisions 2, 3 and 4 as amended by chapter 738 of the laws of 2004, paragraph (a) of subdivision 3 as amended by chapter 107 of the laws of 2006, paragraph (b) of subdivision 3 as amended by chapter 746 of the laws of 2006, subdivision 5 as amended by chapter 482 of the laws of 2009 and subdivision 6 as amended by chapter 1 of the laws of 1998, is amended to read as follows:

§ 70.00 Sentence of imprisonment for felony.

1. [~~Indeterminate~~] Unless otherwise authorized by a provision of article sixty or seventy of this chapter, the sentence of imprisonment for a felony is as follows:

(a) Class A felony sentence. Except as provided in [~~subdivisions four,~~] subdivision five [~~and six~~] of this section [~~or section 70.80 of this article~~], a sentence of imprisonment for a class A felony, other than a felony defined in article two hundred twenty [~~or two hundred twenty-one~~] of this chapter, shall be an indeterminate sentence. When such a sentence is imposed, the court shall impose a maximum term in accordance with the provisions of subdivision two of this section and the minimum period of imprisonment shall be as provided in subdivision three of this section.

(b) Class B, C, D or E felony sentence. Except as provided in subdivisions four and six of this section or section 70.80 of this article, a sentence of imprisonment for a class B, C, D or E felony, other than a felony defined in article two hundred twenty or two hundred twenty-one of this chapter, shall be a determinate sentence of imprisonment in accordance with the provisions of subdivision three-a of this section, which shall include, as part thereof, a period of post-release supervision in accordance with the provisions of section 70.45 of this article.

2. Maximum indeterminate term of [~~sentence~~] imprisonment for a class A felony. The maximum term of an indeterminate sentence of imprisonment for a class A felony shall be [~~at least three years and the term shall be fixed as follows:~~

~~(a) For a class A felony,~~] fixed by the court, and the term shall be life imprisonment[~~;~~

~~(b) For a class B felony, the term shall be fixed by the court, and shall not exceed twenty-five years;~~

~~(c) For a class C felony, the term shall be fixed by the court, and shall not exceed fifteen years;~~

~~(d) For a class D felony, the term shall be fixed by the court, and shall not exceed seven years; and~~

~~(e) For a class E felony, the term shall be fixed by the court, and shall not exceed four years~~].

3. Minimum **indeterminate** period of imprisonment **for a class A felony**. [~~The minimum period of imprisonment under an indeterminate sentence shall be at least one year and shall be fixed as follows:~~]

(a) In the case of a class A felony, **except as specified in paragraph (b) of this subdivision,** the minimum period **of imprisonment** shall be fixed by the court and specified in the sentence[~~.~~] **as follows:**

(i) For a class A-I felony, such minimum period shall not be less than fifteen years nor more than twenty-five years; provided, however, that**:**

(A) where a sentence, other than a sentence of death or life imprisonment without parole, is imposed upon a defendant convicted of murder in the first degree as defined in section 125.27 of this chapter such minimum period shall be not less than twenty years nor more than twenty-five years, and[~~,~~]

(B) where a sentence is imposed upon a defendant convicted of murder in the second degree as defined in subdivision five of section 125.25 of this chapter or convicted of aggravated murder as defined in section 125.26 of this chapter, the sentence shall be life imprisonment without parole, and[~~,~~]

(C) where a sentence is imposed upon a defendant convicted of attempted murder in the first degree as defined in article one hundred ten of this chapter and subparagraph (i), (ii) or (iii) of paragraph (a) of subdivision one and paragraph (b) of subdivision one of section 125.27 of this chapter or attempted aggravated murder as defined in article one hundred ten of this chapter and section 125.26 of this chapter such minimum period shall be not less than twenty years nor more than forty years.

(ii) For a class A-II felony, such minimum period shall not be less than three years nor more than eight years four months, except that for the class A-II felony of predatory sexual assault as defined in section 130.95 of this chapter or the class A-II felony of predatory sexual assault against a child as defined in section 130.96 of this chapter, such minimum period shall be not less than ten years nor more than twenty-five years.

(b) [~~For any other felony, the minimum period shall be fixed by the court and specified in the sentence and shall be not less than one year nor more than one-third of the maximum term imposed~~] **A minimum period of imprisonment shall not be fixed by the court for a class A felony when a sentence of life imprisonment without parole is authorized by section 60.06 of this title, or subdivision five of this section, or any other provision of this chapter and is imposed.**

3-a. Determinate term of imprisonment for a class B, C, D or E felony. (a) The term of a determinate sentence of imprisonment for a class B, C, D or E felony defined in article one hundred twenty-five of this chapter shall be fixed by the court in whole or half years as follows:

(i) For a class B felony, the term shall be at least one year and shall not exceed sixteen years;

(ii) For a class C felony, the term shall be at least one year and shall not exceed twelve and one-half years;

(iii) For a class D felony, the term shall be at least one year and shall not exceed eight years; and

(iv) For a class E felony, the term shall be at least one year and shall not exceed four years.

(b) The term of a determinate sentence of imprisonment for any other class B, C, D or E felony shall be fixed by the court in whole or half years as follows:

(i) For a class B felony, the term shall be at least one year and shall not exceed twelve years;

(ii) For a class C felony, the term shall be at least one year and shall not exceed six years;

(iii) For a class D felony, the term shall be at least one year and shall not exceed four years; and

(iv) For a class E felony, the term shall be at least one year and shall not exceed two and one-half years.

4. Alternative definite sentence for class C, D and E felonies. When a person, other than a second or persistent felony offender, is sentenced for a class C, D or [~~class~~] E felony, and the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose [~~an indeterminate or~~] a determinate sentence, the court may impose a definite sentence of imprisonment and fix a term of one year or less.

5. Life imprisonment without parole. (a) Notwithstanding any other provision of law, a defendant sentenced to life imprisonment without parole shall not be or become eligible for parole or conditional release. For purposes of commitment and custody, other than parole and conditional release, such sentence shall be deemed to be an indeterminate sentence.

(b) A defendant may be sentenced to life imprisonment without parole upon conviction for the crime of murder in the first degree as defined in section 125.27 of this chapter and in accordance with the procedures provided by law for imposing a sentence for such crime.

(c) A defendant must be sentenced to life imprisonment without parole upon conviction for the crime of terrorism as defined in section 490.25 of this chapter, where the specified offense the defendant committed is a class A-I felony; the crime of criminal possession of a chemical weapon or biological weapon in the first degree as defined in section 490.45 of this chapter; or the crime of criminal use of a chemical weapon or biological weapon in the first degree as defined in section 490.55 of this chapter; provided, however, that nothing in this subdivision shall preclude or prevent a sentence of death when the defendant is also convicted of the crime of murder in the first degree as defined in section 125.27 of this chapter.

(d) A defendant must be sentenced to life imprisonment without parole upon conviction for the crime of murder in the second degree as defined in subdivision five of section 125.25 of this chapter or for the crime of aggravated murder as defined in subdivision one of section 125.26 of this chapter.

(e) A defendant may be sentenced to life imprisonment without parole upon conviction for the crime of aggravated murder as defined in subdivision two of section 125.26 of this chapter.

6. Determinate sentence for conviction of a violent felony. Except as provided in subdivision four of this section and subdivisions two and four of section 70.02 of this article, when a person is sentenced as a violent felony offender pursuant to section 70.02 of this article or as

a second violent felony offender pursuant to section 70.04 **of this article** or as a second felony offender on a conviction for a violent felony offense pursuant to section 70.06 **of this article**, the court must impose a determinate sentence of imprisonment in accordance with the provisions of such sections and such sentence shall include, as a part thereof, a period of post-release supervision in accordance with section 70.45 **of this article**.

§ 11. Section 70.06 of the penal law, as added by chapter 277 of the laws of 1973, paragraph (a) of subdivision 1 and subdivision 4 as amended by chapter 410 of the laws of 1979, subparagraph (i) of paragraph (b) of subdivision 1 as amended by chapter 784 of the laws of 1975, subparagraph (iii) of paragraph (b) of subdivision 1 as amended by chapter 471 of the laws of 1980, subdivisions 2 and 3 as amended by section 38 of chapter 7 of the laws of 2007, paragraph (a) of subdivision 4 as amended by chapter 107 of the laws of 2006, subdivision 6 as added by chapter 3 of the laws of 1995 and subdivision 7 as amended by section 123 of subpart B of part C of chapter 62 of the laws of 2011, is amended to read as follows:

§ 70.06 Sentence of imprisonment for second felony offender.

1. Definition of second felony offender.

(a) A second felony offender is a person, other than a second violent felony offender as defined in section 70.04 **of this article**, who stands convicted of a felony defined in this chapter, other than a class A-I felony, after having previously been subjected to one or more predicate felony convictions as defined in paragraph (b) of this subdivision.

(b) For the purpose of determining whether a prior conviction is a predicate felony conviction the following criteria shall apply:

(i) The conviction must have been in this state of a felony, or in any other jurisdiction of an offense for which a sentence to a term of imprisonment in excess of one year or a sentence of death was authorized and is authorized in this state irrespective of whether such sentence was imposed;

(ii) Sentence upon such prior conviction must have been imposed before commission of the present felony;

(iii) Suspended sentence, suspended execution of sentence, a sentence of probation, a sentence of conditional discharge or of unconditional discharge, and a sentence of certification to the care and custody of the division of substance abuse services, shall be deemed to be a sentence;

(iv) Except as provided in subparagraph (v) of this paragraph, sentence must have been imposed not more than ten years before commission of the felony of which the defendant presently stands convicted;

(v) In calculating the ten year period under subparagraph (iv), any period of time during which the person was incarcerated for any reason between the time of commission of the previous felony and the time of commission of the present felony shall be excluded and such ten year period shall be extended by a period or periods equal to the time served under such incarceration;

(vi) An offense for which the defendant has been pardoned on the ground of innocence shall not be deemed a predicate felony conviction.

2. **Unless otherwise authorized by a provision of this article or article sixty of this chapter, the sentence of imprisonment for a second felony offender shall be as follows:**

(a) Authorized sentence **for a class A-II felony**. [~~**Except as provided in subdivision five or six of this section, or as provided in subdivision five of section 70.80 of this article, when**~~] **When** the court has

found, pursuant to the provisions of the criminal procedure law, that a person is a second felony offender the court must impose an indeterminate sentence of imprisonment. The maximum term of such sentence must be in accordance with the provisions of subdivision three of this section and the minimum period of imprisonment under such sentence must be in accordance with subdivision four of this section.

(b) Authorized sentence for a class B, C, D or E felony. Except as provided in section 70.70 or section 70.80 of this article, when the court has found, pursuant to the provisions of the criminal procedure law, that a person is a second felony offender the court must impose a determinate sentence of imprisonment in accordance with subdivision five or six of this section and a period of post-release supervision as authorized by section 70.45 of this article. The court may direct such sentence be executed as a parole supervision sentence to the extent authorized and provided for by subdivision seven of this section. For a class D or E felony specified in subdivision eight of this section, the court may, in lieu of a determinate sentence of imprisonment, impose a sentence authorized by such subdivision.

3. Maximum **indeterminate** term of [~~sentence~~] **imprisonment for a class A-II felony**. [~~Except as provided in subdivision five or six of this section, or as provided in subdivision five of section 70.80 of this article, the~~] **The** maximum term of an indeterminate sentence **of imprisonment for a class A-II felony** for a second felony offender must be fixed by the court [~~as follows:~~

~~(a) For a class A-II felony~~], **and** the term must be life imprisonment[~~;~~

~~(b) For a class B felony, the term must be at least nine years and must not exceed twenty-five years;~~

~~(c) For a class C felony, the term must be at least six years and must not exceed fifteen years;~~

~~(d) For a class D felony, the term must be at least four years and must not exceed seven years; and~~

~~(e) For a class E felony, the term must be at least three years and must not exceed four years; provided, however, that where the sentence is for the class E felony offense specified in section 240.32 of this chapter, the maximum term must be at least three years and must not exceed five years~~].

4. Minimum **indeterminate** period of imprisonment **for a class A-II felony**. [~~(a)~~] The minimum period of imprisonment for a second felony offender convicted of a class A-II felony must be fixed by the court at no less than six years and not to exceed twelve and one-half years and must be specified in the sentence, except that for the class A-II felony of predatory sexual assault as defined in section 130.95 of this chapter or the class A-II felony of predatory sexual assault against a child as defined in section 130.96 of this chapter, such minimum period shall be not less than ten years nor more than twenty-five years.

[~~(b) Except as provided in paragraph (a), the minimum period of imprisonment under an indeterminate sentence for a second felony offender must be fixed by the court at one-half of the maximum term imposed and must be specified in the sentence.~~]

5. Determinate term of imprisonment for a second felony offender convicted of a class B, C, D or E felony not defined as a violent felony offense. (a) When the court has found, pursuant to the provisions of the criminal procedure law, that a person is a second felony offender and the sentence to be imposed on such person is for a felony offense defined in article one hundred twenty-five of this chapter, which is not defined a violent felony offense by subdivision one of section 70.02 of

this article, the court must impose a determinate sentence of imprisonment, the term of which must be fixed by the court as follows:

(i) For a class B felony offense, the term must be at least four and one-half years and must not exceed eighteen years;

(ii) For a class C felony offense, the term must be at least three years and must not exceed fourteen years;

(iii) For a class D felony offense, the term must be at least two years and must not exceed ten years; and

(iv) For a class E felony offense, the term must be at least one and one-half years and must not exceed five years.

(b) When the court has found, pursuant to the provisions of the criminal procedure law, that a person is a second felony offender and the sentence to be imposed on such person is for a felony offense which is not defined in article one hundred twenty-five of this chapter and which is not designated a violent felony offense by subdivision one of section 70.02 of this article, the court must impose a determinate sentence of imprisonment, the term of which must be fixed by the court as follows:

(i) For a class B felony offense, the term must be at least four and one-half years and must not exceed fourteen years;

(ii) For a class C felony offense, the term must be at least three years and must not exceed eight years;

(iii) For a class D felony offense, the term must be at least two years and must not exceed five years; and

(iv) For a class E felony offense, the term must be at least one and one-half years and must not exceed three years.

6. Determinate [~~sentence~~] term of imprisonment for second felony offender convicted of a class B, C, D or E violent felony offense. When the court has found, pursuant to the provisions of the criminal procedure law, that a person is a second felony offender and the sentence to be imposed on such person is for a violent felony offense, as defined in subdivision one of section 70.02 of this article, the court must impose a determinate sentence of imprisonment the term of which must be fixed by the court as follows:

(a) For a class B violent felony offense, the term must be at least eight years and must not exceed twenty-five years;

(b) For a class C violent felony offense, the term must be at least five years and must not exceed fifteen years;

(c) For a class D violent felony offense, the term must be at least three years and must not exceed seven years; and

(d) For a class E violent felony offense, the term must be at least two years and must not exceed four years.

7. Parole supervision sentence. Notwithstanding any other provision of law, in the case of a person sentenced for a specified offense or offenses as defined in subdivision five of section 410.91 of the criminal procedure law, who stands convicted of no other felony offense, who has not previously been convicted of either a violent felony offense as defined in section 70.02 of this article, a class A felony offense or a class B felony offense, and is not under the jurisdiction of or awaiting delivery to the department of corrections and community supervision, the court may direct that such sentence be executed as a parole supervision sentence as defined in and pursuant to the procedures prescribed in section 410.91 of the criminal procedure law.

8. Alternative sentence for certain class D or E felony. When a second felony offender is sentenced for a class D or class E felony, other than an offense defined in article one hundred twenty-five of this chapter or an offense requiring registration as a sex offender pursuant to article

six-C of the correction law, and the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that it would be unduly harsh to impose a determinate sentence of imprisonment, the court may impose a definite sentence of imprisonment and fix a term of one year or less, or it may sentence the defendant to probation pursuant to the provisions of section 65.00 of this title, or it may impose both a definite sentence of imprisonment and a sentence of probation as provided for in paragraph (d) of subdivision two of section 60.01 of this title.

§ 12. Paragraph (f) of subdivision 2 of section 70.45 of the penal law, as amended by chapter 7 of the laws of 2007, is amended and such subdivision is amended by adding five new paragraphs (g), (h), (i), (j) and (k) to read as follows:

(f) such period shall be not less than two and one-half years nor more than five years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision three of section 70.02 of this article upon a conviction of a class B or class C violent felony offense[.];

(g) such period shall be not less than one year nor more than five years whenever a determinate sentence of imprisonment is imposed pursuant to paragraph (a) of subdivision three-a of section 70.00 of this article or paragraph (a) of subdivision five of section 70.06 of this article upon a conviction of a class B, C or D felony offense;

(h) such period shall be not less than one year nor more than three years whenever a determinate sentence of imprisonment is imposed pursuant to paragraph (a) of subdivision three-a of section 70.00 of this article or paragraph (a) of subdivision five of section 70.06 of this article upon a conviction of a class E felony offense;

(i) such period shall be not less than one year nor more than three years whenever a determinate sentence of imprisonment is imposed pursuant to paragraph (b) of subdivision three-a of section 70.00 of this article or paragraph (b) of subdivision five of section 70.06 of this article upon a conviction of a class B or class C felony offense;

(j) such period shall be not less than one year nor more than two years whenever a determinate sentence of imprisonment is imposed pursuant to paragraph (b) of subdivision three-a of section 70.00 of this article or paragraph (b) of subdivision five of section 70.06 of this article upon a conviction of a class D felony offense;

(k) such period shall be not less than one year whenever a determinate sentence of imprisonment is imposed pursuant to paragraph (b) of subdivision three-a of section 70.00 of this article or paragraph (b) of subdivision five of section 70.06 of this article upon a conviction of a class E felony offense.

§ 13. Section 105.15 of the penal law, as amended by chapter 422 of the laws of 1978, is amended to read as follows:

§ 105.15 Conspiracy in the second degree.

A person is guilty of conspiracy in the second degree when, with intent that conduct constituting:

(1) a class A felony defined in article two hundred twenty of this chapter be performed, he or she agrees with one or more persons to engage in or cause the performance of such conduct; or

(2) a class A felony not defined in article two hundred twenty of this chapter be performed, he or she agrees with one or more persons to engage in or cause the performance of such conduct.

Conspiracy in the second degree, as defined in subdivision one of this section, is a class B felony.

Conspiracy in the second degree, as defined in subdivision two of this section, is a class C violent felony offense.

§ 14. The closing paragraph of section 230.32 of the penal law, as added by chapter 627 of the laws of 1978, is amended to read as follows:

Promoting prostitution in the first degree is a class [~~B felony~~] **C violent felony offense**.

§ 15. The closing paragraph of section 215.13 of the penal law, as added by chapter 664 of the laws of 1982, is amended to read as follows:

Tampering with a witness in the first degree is a class [~~B felony~~] **C violent felony offense**.

§ 16. The closing paragraph of section 215.12 of the penal law, as added by chapter 664 of the laws of 1982, is amended to read as follows:

Tampering with a witness in the second degree is a class [~~D~~] **C** felony.

§ 17. The closing paragraph of section 215.16 of the penal law, as added by chapter 667 of the laws of 1985, is amended to read as follows:

Intimidating a victim or witness in the second degree is a class [~~D~~] **C** felony.

§ 18. The closing paragraph of section 215.52 of the penal law, as amended by chapter 350 of the laws of 2006, is amended to read as follows:

Aggravated criminal contempt is a class [~~D~~] **C** felony.

§ 19. The closing paragraph of section 215.51 of the penal law, as amended by chapter 222 of the laws of 1994, is amended to read as follows:

Criminal contempt in the first degree is a class [~~E~~] **D** felony.

§ 20. Subdivision 4 of section 60.05 of the penal law, as amended by chapter 738 of the laws of 2004, is amended to read as follows:

4. Certain class C felonies. Except as provided in subdivision six, every person convicted of a class C violent felony offense as defined in subdivision one of section 70.02 of this title, must be sentenced to imprisonment in accordance with section 70.02 of this title; and, except as provided in subdivision six of this section, every person convicted of the class C felonies of: attempt to commit any of the class B felonies of bribery in the first degree as defined in section 200.04, bribe receiving in the first degree as defined in section 200.12, conspiracy in the second degree as defined in section 105.15 and criminal mischief in the first degree as defined in section 145.12; criminal usury in the first degree as defined in section 190.42, rewarding official misconduct in the first degree as defined in section 200.22, receiving reward for official misconduct in the first degree as defined in section 200.27, [~~attempt to promote prostitution in the first degree as defined in section 230.32,~~] promoting prostitution in the second degree as defined in section 230.30, arson in the third degree as defined in section 150.10 of this chapter, must be sentenced to imprisonment in accordance with section 70.00 of this title.

§ 21. Paragraph (b) of subdivision 1 of section 70.02 of the penal law, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

(b) Class C violent felony offenses: an attempt to commit any of the class B felonies set forth in paragraph (a) of this subdivision; aggravated criminally negligent homicide as defined in section 125.11, aggravated manslaughter in the second degree as defined in section 125.21, aggravated sexual abuse in the second degree as defined in section 130.67, assault on a peace officer, police officer, fireman or emergency medical services professional as defined in section 120.08, assault on a judge as defined in section 120.09, gang assault in the second degree as

defined in section 120.06, strangulation in the first degree as defined in section 121.13, burglary in the second degree as defined in section 140.25, robbery in the second degree as defined in section 160.10, criminal possession of a weapon in the second degree as defined in section 265.03, criminal use of a firearm in the second degree as defined in section 265.08, criminal sale of a firearm in the second degree as defined in section 265.12, criminal sale of a firearm with the aid of a minor as defined in section 265.14, aggravated criminal possession of a weapon as defined in section 265.19, soliciting or providing support for an act of terrorism in the first degree as defined in section 490.15, hindering prosecution of terrorism in the second degree as defined in section 490.30, [~~and~~] criminal possession of a chemical weapon or biological weapon in the third degree as defined in section 490.37**, conspiracy in the second degree as defined in subdivision two of section 105.15, promoting prostitution in the first degree as defined in section 230.32, and tampering with a witness in the first degree as defined in section 215.13**.

§ 22. Subdivision d of section 74 of chapter 3 of the laws of 1995 enacting the sentencing reform act of 1995, as amended by section 19 of part B of chapter 55 of the laws of 2015, is amended to read as follows:

[~~d. Sections one-a through twenty, twenty-four through twenty-eight, thirty through thirty-nine, forty-two and forty-four of this act shall be deemed repealed on September 1, 2017;~~]

§ 23. This act shall take effect April 1, 2017, provided, however sections six and seven of this act shall take effect June 1, 2017; and provided, further, that sections nine through twenty-two of this act shall take effect on the one hundred twentieth day after it shall have become a law and shall apply to offenses committed on or after such date.

PART F

Section 1. Subdivision 2 of section 216 of the executive law is renumbered subdivision 3 and a new subdivision 2 is added to read as follows:

2. There shall be within the bureau of criminal investigation a hate crime task force. The superintendent shall assign to it such personnel as may be required for the purpose of preventing, investigating, and detecting hate crimes as defined in article four hundred eighty-five and sections 240.30 and 240.31 of the penal law. The task force shall issue reports and publications, in conjunction with the division of human rights, in order to: inform persons of all rights and remedies, including penalties, provided under article fifteen of this chapter as well as article four hundred eighty-five and sections 240.30 and 240.31 of the penal law and to combat against discrimination because of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, familial status, domestic violence victim status, genetic predisposition status, or marital status.

§ 2. The first report issued by the hate crime task force, as required in subdivision 2 of section 216 of the executive law, shall be issued within ninety days of the effective date of this act. Subsequent reports shall be issued annually thereafter.

§ 3. This act shall take effect immediately.

PART G

Section 1. Subdivisions 11 and 12 of section 631 of the executive law, subdivision 11 as added by chapter 543 of the laws of 1995 and subdivision 12 as amended by chapter 188 of the laws of 2014, are amended to read as follows:

11. Notwithstanding the provisions of subdivisions one, two and three of this section, an individual who was a victim of either the crime of**: menacing in the second degree as defined in subdivision one of section 120.14 of the penal law; menacing in the third degree as defined in section 120.15 of the penal law;** unlawful imprisonment in the first degree as defined in section 135.10 of the penal law[~~,~~]**;** kidnapping in the second degree as defined in section 135.20 of the penal law [~~or~~]**;** kidnapping in the first degree as defined in section 135.25 of the penal law**; criminal mischief in the fourth degree as defined in subdivision four of section 145.00 of the penal law; robbery in the third degree as defined in section 160.05 of the penal law; robbery in the second degree as defined in subdivision one, paragraph b of subdivision two or subdivision three of section 160.10 of the penal law; or robbery in the first degree as defined in subdivisions two, three and four of section 160.15 of the penal law** who has not been physically injured as a direct result of such crime shall only be eligible for an award that includes loss of earnings or support and the unreimbursed costs of counseling provided to such victim on account of mental or emotional stress resulting from the incident in which the crime occurred.

12. Notwithstanding the provisions of subdivisions one, two and three of this section, an individual who was a victim of either the crime of menacing in the second degree as defined in subdivision two or three of section 120.14 of the penal law, menacing in the first degree as defined in section 120.13 of the penal law, criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, harassment in the second degree as defined in [~~subdivision two or three of~~] section 240.26 of the penal law, harassment in the first degree as defined in section 240.25 of the penal law, aggravated harassment in the second degree as defined in subdivision **three or** five of section 240.30 of the penal law, aggravated harassment in the first degree as defined in subdivision two of section 240.31 of the penal law, criminal contempt in the first degree as defined in [~~paragraph (ii) or (iv) of~~] subdivision (b) or subdivision (c) of section 215.51 of the penal law, or stalking in the fourth, third, second or first degree as defined in sections 120.45, 120.50, 120.55 and 120.60 of the penal law, respectively, **or a hate crime as defined in section 485.05 of the penal law** who has not been physically injured as a direct result of such crime shall only be eligible for an award that includes loss of earning or support, the unreimbursed cost of repair or replacement of essential personal property that has been lost, damaged or destroyed as a direct result of such crime, the unreimbursed cost for security devices to enhance the personal protection of such victim, transportation expenses incurred for necessary court expenses in connection with the prosecution of such crime, the unreimbursed costs of counseling provided to such victim on account of mental or emotional stress resulting from the incident in which the crime occurred, **the unreimbursed cost of securing a crime scene,** reasonable relocation expenses, and for occupational or job training.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become law, and apply to all claims filed on or after such effective date.

PART H

Section 1. Subdivision 5 of section 621 of the executive law, as amended by chapter 74 of the laws of 2007, is amended to read as follows:

5. "Victim" shall mean (a) a person who suffers personal physical injury as a direct result of a crime; (b) a person who is the victim of either the crime of (1) unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, (2) kidnapping in the second degree as defined in section 135.20 of the penal law, (3) kidnapping in the first degree as defined in section 135.25 of the penal law, (4) **menacing in the first degree as defined in section 120.13 of the penal law, (5) criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, (6) harassment in the second degree as defined in subdivision two or three of section 240.26 of the penal law, (7) harassment in the first degree as defined in section 240.25 of the penal law, (8) aggravated harassment in the second degree as defined in subdivision five of section 240.30 of the penal law, (9) aggravated harassment in the first degree as defined in subdivision two of section 240.31 of the penal law, (10) criminal contempt in the first degree as defined in paragraph (ii) or (iv) of subdivision (b) or subdivision (c) of section 215.51 of the penal law, (11) stalking in the fourth, third, second or first degree as defined in sections 120.45, 120.50, 120.55 and 120.60 of the penal law, (12)** labor trafficking as defined in section 135.35 of the penal law, or [~~(5)~~] **(13)** sex trafficking as defined in section 230.34 of the penal law; **a vulnerable elderly person or an incompetent or physically disabled person as defined in section 260.31 of the penal law who incurs a loss of savings as defined in subdivision twenty-four of this section;** or a person who has had a frivolous lawsuit filed against them.

§ 2. Section 621 of the executive law is amended by adding a new subdivision 24 to read as follows:

24. "Loss of savings" shall mean the result of any act or series of acts of larceny as defined in article one hundred fifty-five of the penal law, indicated by a criminal justice agency as defined in subdivision one of section six hundred thirty-one of this article, in which cash is stolen from a vulnerable elderly person or an incompetent or physically disabled person as defined in section 260.31 of the penal law.

§ 3. Subdivision 2 of section 631 of the executive law, as amended by chapter 162 of the laws of 2008, is amended to read as follows:

2. Any award made pursuant to this article shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services necessary as a result of the injury upon which the claim is based; loss of earnings or support resulting from such injury not to exceed thirty thousand dollars; **loss of savings not to exceed thirty thousand dollars;** burial expenses not exceeding six thousand dollars of a victim who died as a direct result of a crime; the costs of crime scene cleanup and securing of a crime scene not exceeding twenty-five hundred dollars; reasonable relocation expenses not exceeding twenty-five hundred dollars; and the unreimbursed cost of repair or replacement of articles of essential personal property lost, damaged or destroyed as a direct result of the crime. An award for loss of earnings shall include earnings lost by a parent or guardian as a result of the hospitalization of a child victim under age eighteen for injuries sustained as a direct result of a crime. In addition to the

medical or other services necessary as a result of the injury upon which the claim is based, an award may be made for rehabilitative occupational training for the purpose of job retraining or similar employment-oriented rehabilitative services based upon the claimant's medical and employment history. For the purpose of this subdivision, rehabilitative occupational training shall include but not be limited to educational training and expenses. An award for rehabilitative occupational training may be made to a victim, or to a family member of a victim where necessary as a direct result of a crime.

§ 4. Section 631 of the executive law is amended by adding a new subdivision 3-a to read as follows:

3-a. Any award made for loss of savings shall, unless reduced pursuant to other provisions of this article, be in an amount equal to the actual loss sustained.

§ 5. Subdivision 5 of section 631 of the executive law is amended by adding a new paragraph (f) to read as follows:

(f) Notwithstanding the provisions of paragraph (a) of this subdivision, the office shall disregard for this purpose the responsibility of the victim for his or her own loss of savings.

§ 6. Section 631 of the executive law is amended by adding a new subdivision 8-a to read as follows:

8-a. Notwithstanding the provisions of subdivision one of this section, a vulnerable elderly person or an incompetent or physically disabled person, as defined in section 260.31 of the penal law, who has not been physically injured as a direct result of a crime, shall be eligible for an award that includes loss of savings.

§ 7. This act shall take effect on the one hundred eightieth day after it shall have become a law, and shall apply to all claims filed on or after such effective date.

PART I

Section 1. The executive law is amended by adding a new section 203-a to read as follows:

§ 203-a. Additional duties of the commissioner regarding flood related losses. In accordance with 44 CFR 75.11 of the code of federal regulations, in the event that state-owned structures and their contents are damaged as the result of flood related losses, flood, and/or flood related hazards occurring in areas identified by the federal insurance administrator as A, AO, AH, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, M, V, VO, V1-30, VE, and E Zones, the commissioner of general services shall pay an amount not less than the limits of coverage that would be applicable if such state-owned structures and their contents had been covered by standard flood insurance policies, as defined in 44 CFR 59.1, for the repair, restoration, or replacement of such state-owned structures and contents, and shall maintain and update, not less frequently than annually, an inventory of all state-owned structures and their contents within such zones.

§ 2. This act shall take effect immediately.

PART J

Section 1. Short title. This act shall be known and may be cited as the "New York Buy American Act".

§ 2. The state finance law is amended by adding a new section 146-a to read as follows:

§ 146-a. American materials. 1. Definitions. For the purposes of this section, the following terms shall have the following meanings unless specified otherwise:

(a) "Executive" means the executive head of a state entity as defined in paragraph (h) of this subdivision.

(b) "Component" means any article, material or supply, whether manufactured or unmanufactured, that is directly incorporated into the end product at the final assembly location. A component may be manufactured at the final assembly location if the manufacturing process to produce the component is an activity separate and distinct from the final assembly of the end product. For a component to be manufactured in America, more than sixty percent of the subcomponents of that component, by cost, must be of domestic origin and the manufacture of the component must take place in the United States. If a component is determined to be made in America, its entire cost may be used in calculating the cost of the United States content of an end product.

(c) "Contractor" shall mean any person, firm, business enterprise, including a sole proprietorship, partnership, limited liability company or corporation, association, not-for-profit corporation, or any other party to a state contract, as defined in paragraph (i) of this subdivision, with a state entity.

(d) "End product" or "product" means the ultimate item or items to be procured under the State contract (such as a vehicle, structure, article, material, supply, system or project) which may directly incorporate constituent components, and which is ready to provide its intended end function or use without further manufacturing or assembly change or changes. Excluded from this definition are (i) steel products procured in accordance with section one hundred forty-six of this article; (ii) energy, electricity, fuel and other petroleum products; and (iii) software products such as software, microprocessors, computers, microcomputers, and other such products used for the purpose of processing or storing data.

(e) "Manufactured product" means an item produced as a result of the manufacturing process.

(f) "Manufacturing process" means the application of processes to alter the form or function of materials or elements of the product in a manner adding value and transforming those materials or elements so that they represent a new end product functionally different from that which would result from mere assembly of the elements or materials.

(g) "Manufactured in America", with respect to an end product that directly incorporates constituent components, means:

(i) the final assembly and/or manufacture of the end product (as applicable) takes place in the United States; and

(ii) more than sixty percent of the components of the end product, by cost, are of United States origin.

(iii) "Manufactured in America", with respect to the purchase of a product or material that does not directly incorporate constituent components, means the product or material is mined, grown, or produced in whole or in substantial part within the United States.

(h) "State entity" means a state agency as defined in section three hundred ten of the executive law.

(i) "State contract" means:

(i) a written agreement in excess of one hundred thousand dollars whereby a state entity is committed to expend or does expend funds for products, including products used in the construction, demolition,

replacement, major repair or renovation of real property and improvements thereon;

(ii) leases of real property by a state entity to a lessee where the terms of such leases provide for the state entity to be engaged in the purchase of products for construction, demolition, replacement, major repair or renovation of real property and improvements thereon, and the cost of such construction, demolition, replacement, major repair or renovation of real property and improvements thereon is in excess of one hundred thousand dollars.

(j) "Subcomponent" is any article, material, or supply, whether manufactured or unmanufactured, that is one step removed from a component in the manufacturing process and that is incorporated directly into a component.

(k) "United States" means the United States of America, the District of Columbia and includes all territory, continental or insular, subject to the jurisdiction of the United States.

2. Procurements subject to the provisions of this section. (a) This section shall apply to all state contracts as defined in subparagraph (i) of subdivision one of this section and all requests for bids and proposals for such contracts, which shall state that a preference is given to bidders and proposers who agree to provide products Manufactured in America, and bidders and proposers, in their bids or proposals, shall: (i) state that they agree to meet such requirement; or (ii) state in detail why they cannot meet such requirement.

(b) No bidder or proposer on a state contract subject to this section shall be deemed to be the lowest responsive and responsible bidder or proposer unless: (i) the bidder or proposer complies with the provisions required by subparagraph (i) of paragraph (a) of this subdivision; or (ii) the executive determines in accordance with subdivision three of this section that the provisions of this section shall not apply to the subject procurement.

3. Exemptions. This section shall not apply in any case or category of cases in which the executive, or his or her designee, finds in his or her sole discretion that:

(a) the best interests of the state will be served by exempting the procurement from the requirements of this section based upon: (i) an immediate or emergency need existing for the product or service; or (ii) a need to protect the health, safety, or welfare of persons occupying or visiting a public improvement or property located adjacent to the public improvement; or

(b) the product is Manufactured in America by only one manufacturer and: (i) a foreign-made product is less expensive and of equal or better quality or design; or (ii) a foreign-made product is of superior quality or design to competing American products and is sold at a reasonably comparable price considering the superior quality or design; or

(c) a reciprocal trade agreement or treaty has been negotiated by the state or by the United States government on behalf of or including this state with a foreign nation or government for nondiscriminatory governmental procurement practices or policies with such foreign nation or government; or

(d) the state contract is subject to federal funding and the requirements of such federal funding supersede this section; or

(e) the specified products are not Manufactured in America in sufficient quantities or quality to meet the state entity's requirements or cannot be Manufactured in America or within the necessary time in suffi-

cient quantities or of satisfactory quality or design to meet the agency's requirements; or

(f) obtaining the specified products Manufactured in America would increase the cost of the contract by an unreasonable amount, as such is determined by the executive; or

(g) the application of this section would be inconsistent with the public interest; or

(h) the specified products are necessary for the operation of or repairs of critical infrastructure that is necessary to avoid a delay in the delivery of critical services that could compromise the public welfare.

4. Product certifications. (a) Prior to the contractor delivering the product, the contractor must certify in writing to the contracting state entity that the product is Manufactured in America in accordance with the requirements of this section, or if the contractor cannot so state, shall specify in such certification all respects in which it would provide products that do not meet the definition contained in subdivision one of this section.

(b) The certificates required by this section shall additionally specify such information as the executive shall require.

(c) Certificates required by this section shall be maintained by the state entity for a period of three years.

5. Contractor misrepresentation regarding source of materials. If it has been determined by a court or federal or state entity that any contractor intentionally: (a) affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any materials used in state contracts to which this section applies, that were not made in America; or (b) represented that materials used in state contracts to which this section applies that were not produced in the United States, were produced in the United States; then such contractor shall be deemed non-responsible and such determination shall be posted on the list of non-responsible entities maintained on the website of the office of general services.

6. Treaties and law of the United States to supersede. Nothing in this section is intended to contravene any existing treaties, laws, trade agreements, or regulations of the United States. All contracts subject to this section shall be entered into in accordance with existing treaties, laws, trade agreements, or regulations of the United States including all treaties and trade agreements entered into between foreign countries and the United States regarding export-import restrictions and international trade and shall not be in violation of this section to the extent of such accordance.

7. Challenges to determinations made by state entity or executive. Notwithstanding any provision of law to the contrary, any determination made by a state entity or executive pursuant to this section shall be presumed to be reasonable and, to the extent any such determination is challenged: (a) the burden of proof shall be on the challenging party to prove that the determination was not reasonable; and (b) the subject award and project may proceed during the pendency of any said challenge. Any challenge to any determination made by a state entity or executive pursuant to this section may only be brought pursuant to article seventy-eight of the civil practice law and rules and such challenge, action or proceeding shall be brought in a venue designated in the procurement or bid documents.

§ 3. Title 4 of article 9 of the public authorities law is amended by adding a new section 2603-b to read as follows:

§ 2603-b. American materials. 1. Definitions. For the purposes of this section, the following terms shall have the following meanings unless specified otherwise:

(a) "Executive" means the executive head of a state entity as defined in paragraph (h) of this subdivision.

(b) "Component" means any article, material or supply, whether manufactured or unmanufactured, that is directly incorporated into the end product at the final assembly location. A component may be manufactured at the final assembly location if the manufacturing process to produce the component is an activity separate and distinct from the final assembly of the end product. For a component to be Manufactured in America, more than sixty percent of the subcomponents of that component, by cost, must be of domestic origin and the manufacture of the component must take place in the United States. If a component is determined to be made in America, its entire cost may be used in calculating the cost of the United States content of an end product.

(c) "Contractor" shall mean any person, firm, business enterprise, including a sole proprietorship, partnership, limited liability company or corporation, association, not-for-profit corporation, or any other party to a state contract, as defined in paragraph (i) of this subdivision, with a state entity.

(d) "End product" or "product" means the ultimate item or items to be procured under the state contract (such as a vehicle, structure, article, material, supply, system or project) which may directly incorporate constituent components, and which is ready to provide its intended end function or use without further manufacturing or assembly change or changes. Excluded from this definition are (i) steel products procured in accordance with section twenty-six hundred three-a of this title; (ii) energy, electricity, fuel and other petroleum products; and (iii) software products such as software, microprocessors, computers, microcomputers, and other such products used for the purpose of processing or storing data.

(e) "Manufactured product" means an item produced as a result of the manufacturing process.

(f) "Manufacturing process" means the application of processes to alter the form or function of materials or elements of the product in a manner adding value and transforming those materials or elements so that they represent a new end product functionally different from that which would result from mere assembly of the elements or materials.

(g) "Manufactured in America", with respect to an end product that directly incorporates constituent components, means:

(i) the final assembly and/or manufacture of the end product (as applicable) takes place in the United States, and

(ii) more than sixty percent of the components of the end product, by cost, are of United States origin.

(iii) "Manufactured in America", with respect to the purchase of a product or material that does not directly incorporate constituent components, means the product or material is mined, grown, or produced in whole or in substantial part within the United States.

(h) "State entity" means a state agency as defined in section three hundred ten of the executive law.

(i) "State contract" means:

(i) a written agreement in excess of one hundred thousand dollars whereby a state entity is committed to expend or does expend funds for products, including products used in the construction, demolition,

replacement, major repair or renovation of real property and improvements thereon;

(ii) leases of real property by a state entity to a lessee where the terms of such leases provide for the state entity to be engaged in the purchase of products for construction, demolition, replacement, major repair or renovation of real property and improvements thereon, and the cost of such construction, demolition, replacement, major repair or renovation of real property and improvements thereon is in excess of one hundred thousand dollars.

(j) "Subcomponent" is any article, material, or supply, whether manufactured or unmanufactured, that is one step removed from a component in the manufacturing process and that is incorporated directly into a component.

(k) "United States" means the United States of America, the District of Columbia and includes all territory, continental or insular, subject to the jurisdiction of the United States.

2. Procurements subject to the provisions of this section. (a) This section shall apply to all state contracts as defined in paragraph (i) of subdivision one of this section and all requests for bids and proposals for such contracts, which shall state that a preference is given to bidders and proposers who agree to provide products Manufactured in America, and bidders and proposers, in their bids or proposals, shall (i) state that they agree to meet such requirement or (ii) state in detail why they cannot meet such requirement. (b) No bidder or proposer on a state contract subject to this section shall be deemed to be the lowest responsive and responsible bidder or proposer unless (i) the bidder or proposer complies with the provisions required by subparagraph (i) of paragraph (a) of this subdivision, or (ii) the executive determines in accordance with subdivision three of this section that the provisions of this section shall not apply to the subject procurement.

3. Exemptions. This section shall not apply in any case or category of cases in which the executive, or his or her designee, finds in his or her sole discretion that:

(a) the best interests of the state will be served by exempting the procurement from the requirements of this section based upon (i) an immediate or emergency need existing for the product or service; or (ii) a need to protect the health, safety, or welfare of persons occupying or visiting a public improvement or property located adjacent to the public improvement; or

(b) the product is Manufactured in America by only one manufacturer and (i) a foreign-made product is less expensive and of equal or better quality or design; or (ii) a foreign-made product is of superior quality or design to competing American products and is sold at a reasonably comparable price considering the superior quality or design; or

(c) a reciprocal trade agreement or treaty has been negotiated by the state or by the United States government on behalf of or including this state with a foreign nation or government for nondiscriminatory governmental procurement practices or policies with such foreign nation or government; or

(d) the state contract is subject to federal funding and the requirements of such federal funding supersede this section; or

(e) the specified products are not Manufactured in America in sufficient quantities or quality to meet the state entity's requirements or cannot be Manufactured in America or within the necessary time in sufficient quantities or of satisfactory quality or design to meet the agency's requirements; or

(f) obtaining the specified products Manufactured in America or would increase the cost of the contract by an unreasonable amount, as such is determined by the executive; or

(g) the application of this section would be inconsistent with the public interest; or

(h) the specified products are necessary for the operation of or repairs of critical infrastructure that is necessary to avoid a delay in the delivery of critical services that could compromise the public welfare.

4. Product certifications. (a) Prior to the contractor delivering the product, the contractor must certify in writing to the contracting state entity that the product is Manufactured in America in accordance with the requirements of this section, or if the contractor cannot so state, shall specify in such certification all respects in which it would provide products that do not meet the definition contained in subdivision one of this section.

(b) The certificates required by this section shall additionally specify such information as the executive shall require.

(c) Certificates required by this section shall be maintained by the state entity for a period of three years.

5. Contractor misrepresentation regarding source of materials. If it has been determined by a court or federal or state entity that any contractor intentionally: (a) affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any materials used in state contracts to which this section applies, that were not made in America; or (b) represented that materials used in state contracts to which this section applies that were not produced in the United States, were produced in the United States; then such contractor shall be deemed non-responsible and such determination shall be posted on the list of non-responsible entities maintained on the website of the office of general services.

6. Treaties and law of the United States to supersede. Nothing in this section is intended to contravene any existing treaties, laws, trade agreements, or regulations of the United States. All contracts subject to this section shall be entered into in accordance with existing treaties, laws, trade agreements, or regulations of the United States including all treaties and trade agreements entered into between foreign countries and the United States regarding export-import restrictions and international trade and shall not be in violation of this section to the extent of such accordance.

7. Challenges to determinations made by state entity or executive. Notwithstanding any provision of law to the contrary, any determination made by a state entity or executive pursuant to this section shall be presumed to be reasonable and, to the extent any such determination is challenged: (a) the burden of proof shall be on the challenging party to prove that the determination was not reasonable; and (b) the subject award and project may proceed during the pendency of any said challenge. Any challenge to any determination made by a state entity or executive pursuant to this section may only be brought pursuant to article seventy-eight of the civil practice law and rules and such challenge, action or proceeding shall be brought in a venue designated in the procurement or bid documents.

§ 4. Severability. 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 judgement 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 provision had not been included herein.

§ 5. This act shall take effect on January 1, 2018 and shall apply to any state contracts, executed and entered into on or after that date and shall exclude such contracts that have been previously awarded or have pending bids or pending requests for proposals issued as of January 1, 2018.

PART K

Section 1. Employees of the division of military and naval affairs in the unclassified service of the state, who are substantially engaged in the performance of duties to support business and financial services, administrative services, payroll administration, time and attendance, benefit administration and other transactional human resources functions, may be transferred to the office of general services in accordance with the provisions of section 45 of the civil service law as if the state had taken over a private entity. No employee who is transferred pursuant to this act shall suffer a reduction in basic annual salary as a result of the transfer.

§ 2. This act shall take effect immediately and shall have been deemed to have been in full force and effect on and after March 31, 2015 and shall remain in effect until March 31, 2020 when it shall be deemed repealed.

PART L

Section 1. Section 3 of chapter 674 of the laws of 1993, amending the public buildings law relating to value limitations on contracts, as amended by section 1 of part M of chapter 55 of the laws of 2015, is amended to read as follows:

§ 3. This act shall take effect immediately and shall remain in full force and effect only until June 30, [~~2017~~] **2019**.

§ 2. The public buildings law is amended by adding a new section 8-a to read as follows:

§ 8-a. Contracts for work performed at secure facilities. 1. For the purposes of this section, "secure facility" shall mean (a) a building, property, or facility under the jurisdiction of the department of corrections and community supervision, the office of mental health, the office of children and family services, or the office for people with developmental disabilities, and where inmates, patients, or residents who dwell within such building, property, or facility have limited or restricted ingress and egress or (b) any other facility of the state that is determined to be a secure facility by the commissioner of general services because of potential risks to the life, safety, or health of the public or of the inhabitants of such facility.

2. Generation of list of eligible bidders. (a) The office of general services shall establish a list of eligible bidders for contracts for the work of construction, reconstruction, alteration, repair, or improvement of or at a secure facility by issuing on a quarterly basis an invitation to contractors to be so listed. The invitation to contractors shall be advertised quarterly in the procurement opportunities newsletter published by the department of economic development, in the

public notification service of the office of general services, and by newspaper advertisement as provided in section eight of this article. The office of general services shall seek to provide prime contract bidding opportunities for minority- and women-owned contractors and service-disabled veteran-owned contractors in the letting of construction contracts in or at a secure facility and shall comply with the provisions of articles fifteen-A and seventeen-B of the executive law. The office of general services may remove any bidder from such list for non-responsibility or non-reliability.

(b) Respondents to such invitation to contractors shall receive from the office of general services a standardized questionnaire, and the time frame in which to respond shall be set forth therein.

(c) The criteria that shall be used by the office of general services to include a prospective contractor on the list of eligible bidders shall include, but not be limited to: (i) experience with projects that have been completed in secure facilities by the contractor, as either a prime contractor or a subcontractor, within the last five years, (ii) violations of secure facility regulations and rules, (iii) type of licenses that the contractor holds, (iv) terminations on prior jobs, (v) assessment of liquidated damages on earlier projects, (vi) contractor's ability to secure bonding, (vii) insurability, (viii) financial strength, and (ix) any other criteria that the commissioner of general services shall determine to be relevant.

(d) If the office of general services makes a determination not to include a contractor on the list of eligible bidders, the office of general services shall provide written notice to the contractor, and the contractor shall have fifteen days from the receipt of such notice to submit a written request for reconsideration. The contractor shall be given the opportunity to present any evidence as to why the contractor should be included on the list of eligible bidders.

(e) Bidders for contracts for the work of construction, reconstruction, alteration, repair, or improvement of or at a secure facility may, at the discretion of the commissioner of general services, be solicited solely from the list of eligible bidders established pursuant to this subdivision, and such contracts shall be awarded in accordance with section eight of this article, except that notwithstanding the provisions of subdivision two of section eight of this article, solicitations for bids or proposals shall be advertised in the public notification service of the office of general services, and either the procurement opportunities newsletter published by the department of economic development or the state register.

3. Notwithstanding the provisions of subdivision one of section eight of this article, drawings and specifications when prepared for the work of construction, reconstruction, alteration, repair, or improvement of a secure facility shall be filed in accordance with the provisions of subdivision one of section eight of this article, except that such drawings and specifications may not be open to public inspection at the discretion of the commissioner of general services.

§ 3. Subdivision 2 of section 8 of the public buildings law, as amended by chapter 840 of the laws of 1980, is amended to read as follows:

2. The said department or other agency having jurisdiction shall, except as otherwise provided in this chapter, advertise for proposals for such work of construction, reconstruction, alteration, repair or improvement, or, upon the request of said department or other agency, the commissioner of general services is authorized to advertise for and

to receive and open such proposals for such work of construction, reconstruction, alteration, repair or improvement, and upon the opening of such proposals he shall, in appropriate cases, transmit to said department or other agency a tabulation of such proposals. Except as provided in [~~section~~] **sections eight-a and** twenty of this chapter, such advertisement for proposals shall be printed in a newspaper published in the city of Albany, and in such other newspaper or newspapers as will be most likely to give adequate notice to contractors of the work contemplated and of the invitation to submit proposals therefor. Such advertisement shall be published for such time and in such manner as shall be determined by the commissioner of general services. Such advertisement shall be a public notice which shall contain a brief description of the work of construction, reconstruction, alteration, repair or improvement, a reference to the drawings and specifications therefor and where they may be seen and obtained, the time when and the place where the proposals invited by such advertisement will be received, the requirement of a deposit with the proposal, the requirement of a bond to accompany the contract and in such amount as may be prescribed for the faithful performance of the contract, and such other matters as the commissioner of general services may deem advisable.

§ 4. Subdivision 1 of section 143 of the state finance law, as amended by chapter 43 of the laws of 1969, is amended to read as follows:

1. Notwithstanding any inconsistent provision of any general or special law, the board, division, department, bureau, agency, officer or commission of the state charged with the duty of preparing plans and specifications for and awarding or entering into contracts for the performance of public work shall require the payment of a fixed sum of money, not exceeding one hundred dollars, for each copy of such plans and specifications, by persons or corporations desiring a copy thereof. Any person or corporation desiring a copy of such plans and specifications and making the deposit required by this section shall be furnished with one copy of the plans and specifications**, except that in the case of a contract for the performance of public work at a secure facility, as defined in section eight-a of the public buildings law, the plans and specifications shall be furnished to only those contractors that are on the eligible list of bidders established pursuant to section eight-a of the public buildings law and that have requested copies of such plans and specifications. In the case where the commissioner of general services in his or her discretion has solicited contractors other than those on such eligible list of bidders for the performance of public work at a secure facility, such contractors shall be furnished with plans and specifications pursuant to this section**.

§ 5. This act shall take effect immediately.

PART M

Section 1. Section 4 of the New York state printing and public documents law is amended by adding a new subdivision 6 to read as follows:

6. Notwithstanding any of the foregoing provisions of this section, or of any general or special act, the commissioner may contract for printing up to an amount not exceeding eighty-five thousand dollars without competitive bidding for the printing required.

§ 2. This act shall take effect immediately.

PART N

Section 1. Subdivisions 1, 2, 3, 4, 5 and 6 of section 162 of the state finance law, subdivisions 1, 3, 4 as added by chapter 83 of the laws of 1995, subdivision 2 as amended by chapter 501 of the laws of 2002, paragraph a of subdivision 2, paragraphs a and b of subdivision 3, subparagraph (i) of paragraph a of subdivision 4, subdivision 5, paragraphs a and d of subdivision 6 as amended by section 164 of subpart B of part C of chapter 62 of the laws of 2011, paragraph b of subdivision 2 as amended by chapter 519 of the laws of 2003, subparagraph (iii) of paragraph b of subdivision 4 as amended by chapter 430 of the laws of 1997, and paragraph e of subdivision 6 as amended by chapter 265 of the laws of 2013, are amended to read as follows:

1. Purpose. To advance special social and economic goals, selected providers shall have preferred source status for the purposes of procurement in accordance with the provisions of this section. Procurement from these providers shall be exempted from the competitive procurement provisions of section one hundred sixty-three of this article and other competitive procurement statutes. Such exemption shall apply to commodities produced, manufactured or assembled, including those repackaged **when the labor and materials for such repackaging adds value to the commodity,** to meet the form, function and utility required by state agencies, in New York state and, where so designated, services provided by those sources in accordance with this section.

2. Preferred status. Preferred status as prescribed in this section shall be accorded to:

a. Commodities produced by the correctional industries program of the department of corrections and community supervision and provided to the state pursuant to subdivision two of section one hundred eighty-four of the correction law **and asbestos abatement services performed by the correctional industries program of the department of corrections and community supervision**;

b. Commodities and services produced by any qualified charitable non-profit-making agency for the blind approved for such purposes by the commissioner of the office of children and family services;

[~~**c. Commodities and services produced by any special employment program serving mentally ill persons, which shall not be required to be incorporated and which is operated by facilities within the office of mental health and is approved for such purposes by the commissioner of mental health;**~~]

[~~**d.**~~] **c.** Commodities and services produced by any qualified charitable non-profit-making agency for other [~~**severely**~~] **significantly** disabled persons approved for such purposes by the commissioner of education, or incorporated under the laws of this state and approved for such purposes by the commissioner of education;

[~~**e.**~~] **d.** Commodities and services produced by a qualified veterans' workshop providing job and employment-skills training to veterans where such a workshop is operated by the United States department of veterans affairs and is manufacturing products or performing services within this state and where such workshop is approved for such purposes by the commissioner of education; or

[~~**f.**~~] **e.** Commodities and services produced by any qualified charitable non-profit-making workshop for veterans approved for such purposes by the commissioner of education, or incorporated under the laws of this state and approved for such purposes by the commissioner of education.

3. Public list of services and commodities provided by preferred sources.

a. By December thirty-first, nineteen hundred ninety-five, the commissioner, in consultation with the commissioners of corrections and community supervision, the office of children and family services, the office of temporary and disability assistance, mental health and education, shall prepare a list of all commodities and services that are available and are being provided as of said date, for purchase by state agencies, public benefit corporations or political subdivisions from those entities accorded preference or priority status under this section. Such list may include references to catalogs and other descriptive literature which are available directly from any provider accorded preferred status under this section. The commissioner shall make this list available to prospective vendors, state agencies, public benefit corporations, political subdivisions and other interested parties. Thereafter, new or substantially different commodities or services may only be made available by preferred sources for purchase by more than one state agency, public benefit corporation or political subdivision after addition to said list.

b. After January first, nineteen hundred ninety-six, upon the application of the commissioner of corrections and community supervision, the commissioner of the office of children and family services, the office of temporary and disability assistance, the commissioner of mental health or the commissioner of education, or a non-profit-making facilitating agency designated by one of the said commissioners pursuant to paragraph e of subdivision six of this section, the state procurement council may recommend that the commissioner: (i) add commodities or services to, or (ii) in order to insure that such list reflects current production and/or availability of commodities and services, delete at the request of a preferred source, commodities or services from, the list established by paragraph a of this subdivision. The council may make a non-binding recommendation to the relevant preferred source to delete a commodity or service from such list. Additions may be made only for new services or commodities, or for services or commodities that are substantially different from those reflected on said list for that provider. The decision to recommend the addition of services or commodities shall be based upon a review of relevant factors as determined by the council including costs and benefits to be derived from such addition and shall include an analysis by the office of general services conducted pursuant to subdivision six of this section. Unless the state procurement council shall make a recommendation to the commissioner on any such application within one hundred twenty days of receipt thereof, such application shall be deemed recommended. In the event that the state procurement council shall deny any such application, the commissioner or non-profit-making **facilitating** agency which submitted such application may, within thirty days of such denial, appeal such denial to the commissioner of general services who shall review all materials submitted to the state procurement council with respect to such application and who may request such further information or material as is deemed necessary. Within sixty days of receipt of all information or materials deemed necessary, the commissioner shall render a written final decision on the application which shall be binding upon the applicant and upon the state procurement council.

c. The list maintained by the office of general services pursuant to paragraph a of this subdivision shall be revised as necessary to reflect the additions and deletions of commodities and services approved by the state procurement council.

4. Priority accorded preferred sources. Except as provided in the New York state printing and public documents law, priority among preferred sources shall be accorded as follows:

a. (i) When commodities are available, in the form, function and utility required by a state agency, public authority, commission, public benefit corporation or political subdivision, said commodities must be purchased first from the correctional industries program of the department of corrections and community supervision;

(ii) When commodities are available, in the form, function and utility required by, a state agency or political subdivision or public benefit corporation having their own purchasing agency, and such commodities are not available pursuant to subparagraph (i) of this paragraph, said commodities shall then be purchased from approved charitable non-profit-making agencies for the blind;

(iii) When commodities are available, in the form, function and utility required by, a state agency or political subdivision or public benefit corporation having their own purchasing agency, and such commodities are not available pursuant to subparagraphs (i) and (ii) of this paragraph, said commodities shall then be purchased from a qualified non-profit-making agency for other [~~severely~~] **significantly** disabled persons, [~~a qualified special employment program for mentally ill persons,~~] or a qualified veterans' workshop;

b. When services are available, in the form, function and utility required by, a state agency or political subdivision or public benefit corporation having their own purchasing agency, equal priority shall be accorded the services rendered and offered for sale by **the correctional industries program of the department of corrections and community supervision, by** qualified non-profit-making agencies for the blind and those for the other [~~severely~~] **significantly** disabled, by qualified special employment programs for mentally ill persons and by qualified veterans' workshops. In the case of services:

(i) state agencies or political subdivisions or public benefit corporations having their own purchasing agency shall [~~make reasonable efforts to provide a notification~~] **provide a written scope of services** describing their requirements to those preferred sources, or to the facilitating entity identified in paragraph e of subdivision six of this section, which provide the required services as indicated on the official public list maintained by the office of general services pursuant to subdivision three of this section **and identify the time frame within which written questions may be submitted, the date answers to questions will be provided, the date by which a written proposal must be submitted and the estimated contract start date**;

(ii) if[~~, within ten days of the notification required by subparagraph (i) of this paragraph,~~] one or more preferred sources or facilitating entities identified in paragraph e of subdivision six of this section submit a [~~notice of intent~~] **written proposal** to provide the service in the form, function and utility required, said service shall be purchased in accordance with this section. If more than one preferred source or facilitating entity identified in paragraph e of subdivision six of this section submits [~~notification of intent~~] **a written proposal** and meets the requirements, costs shall be the determining factor for purchase among the preferred sources;

(iii) if[~~, within ten days of the notification required by subparagraph (i) of this paragraph,~~] no preferred source or facilitating entity identified in paragraph e of subdivision six of this section [~~indicates intent to provide the service,~~] **submits a written proposal within the**

time frame identified pursuant to subparagraph (i) of this paragraph, then the service shall be procured in accordance with section one hundred sixty-three of this article. If, after such period, a preferred source elects to bid on the service, award shall be made in accordance with section one hundred sixty-three of this article or as otherwise provided by law;

(iv) the state procurement council shall establish guidelines to assist the commissioner and state agencies, political subdivisions and public benefit corporations in developing the scope of services, setting reasonable time frames, issuing requests for information and determining the reasonableness of prices of services. Such guidelines shall be posted on the website of the office of general services.

[~~c. For the purposes of commodities and services produced by special employment programs operated by facilities approved or operated by the office of mental health, facilities within the office of mental health shall be exempt from the requirements of subparagraph (i) of paragraph a of this subdivision. When such requirements of the office of mental health cannot be met pursuant to subparagraph (ii) or (iii) of paragraph a of this subdivision, or paragraph b of this subdivision, the office of mental health may purchase commodities and services which are competitive in price and comparable in quality to those which could otherwise be obtained in accordance with this article, from special employment programs operated by facilities within the office of mental health or other programs approved by the office of mental health.~~]

5. Prices charged by the department of corrections and community supervision. The prices to be charged for commodities produced and services provided by the correctional industries program of the department of corrections and community supervision shall be established by the commissioner of corrections and community supervision in accordance with section one hundred eighty-six of the correction law.

a. The prices established by the commissioner of corrections and community supervision shall be based upon costs as determined pursuant to this subdivision, but shall not exceed a reasonable fair market price determined at or within ninety days before the time of sale. Fair market price as used herein means the price at which a vendor of the same or similar product or service who is regularly engaged in the business of selling such product or service offers to sell such product or service under similar terms in the same market. Costs shall be determined in accordance with an agreement between the commissioner of corrections and community supervision and the director of the budget.

b. A purchaser of any such product or service may, at any time prior to or within thirty days of the time of sale, appeal the purchase price in accordance with section one hundred eighty-six of the correction law, on the basis that it unreasonably exceeds fair market price. Such an appeal shall be decided by a majority vote of a three-member price review board consisting of the director of the budget, the commissioner of corrections and community supervision and the commissioner or their representatives. The decision of the review board shall be final.

6. Prices charged by agencies for the blind, other [~~severely~~] significantly disabled and veterans' workshops.

a. (i) Except with respect to the correctional industries program of the department of corrections and community supervision, it shall be the duty of the commissioner to determine, and from time to time review, the prices of all commodities [~~and to approve the price of all services~~] provided by preferred sources as specified in this section offered to

state agencies, political subdivisions or public benefit corporations having their own purchasing office.

(ii) With respect to the purchase of services, it shall be the duty of the commissioner to review and to approve the price of all services offered to be provided by preferred sources in response to the written scope of services issued by the state agency, political subdivision or public benefit corporation. The facilitating entities identified in paragraph e of subdivision six of this section shall provide to the commissioner, within a reasonable time following request, sufficient information to determine price reasonableness including but not limited to a pricing application in the format requested, comparable price information from private contracts and contracts executed by private vendors accorded preferred source status under a partnering arrangement pursuant to subdivision seven of this section, and, where appropriate, the provider of such information may request that such information be exempted from disclosure in accordance with the provisions of paragraph (a) of subdivision five of section eighty-nine of the public officers law. State agencies, political subdivisions, or public benefit corporations may issue a request for information to assist the commissioner in establishing prevailing market prices.

b. In determining and revising the prices of such commodities or services, consideration shall be given to the reasonable costs of labor, materials and overhead necessarily incurred by such preferred sources under efficient methods of procurement, production, performance and administration; however, the prices of such products and services shall be as close to prevailing market price as practicable, but in no event greater than fifteen percent above, the prevailing market prices among responsive offerors for the same or equivalent commodities or services.

c. Such qualified charitable non-profit-making agencies for the blind and other [~~severely~~] **significantly** disabled may make purchases of materials, equipment or supplies, except printed material, from centralized contracts for commodities in accordance with the conditions set by the office of general services; provided that the qualified charitable non-profit-making agency for the blind or other [~~severely~~] **significantly** disabled shall accept sole responsibility for any payment due the vendor.

d. Such qualified charitable non-profit-making agencies for the blind and other [~~severely~~] **significantly** disabled may make purchases of materials, equipment and supplies directly from the correctional industries program administered by the commissioner of corrections and community supervision, subject to such rules as may be established from time to time pursuant to the correction law; provided that the qualified charitable non-profit-making agency for the blind or other [~~severely~~] **significantly** disabled shall accept sole responsibility for any payment due the department of corrections and community supervision.

e. The commissioner of the office of children and family services shall appoint the New York state commission for the blind, or other non-profit-making agency, other than the agency representing the other [~~severely~~] **significantly** disabled, to facilitate the distribution of orders among qualified non-profit-making charitable agencies for the blind. The state commissioner of education shall appoint a non-profit-making agency, other than the agency representing the blind, to facilitate the distribution of orders among qualified non-profit-making charitable agencies for the other severely disabled and the veterans' workshops. [~~The state commissioner of mental health shall facilitate the distribution of orders among qualified special employment programs~~

~~operated or approved by the office of mental health serving mentally ill persons.~~]

f. The commissioner may request the state comptroller to conduct audits and examinations to be made of all records, books and data of any agency for the blind or the other [~~severely~~] **significantly** disabled, [~~any special employment program for mentally ill persons~~] or any veterans' workshops qualified under this section to determine the costs of manufacture or the rendering of services and the manner and efficiency of production and administration of such agency or special employment program or veterans' workshop with relation to any product or services purchased by a state agency or political subdivision or public benefit corporation and to furnish the results of such audit and examination to the commissioner for such action as he or she may deem appropriate under this section.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.

PART O

Section 1. Subdivision 5 of section 54 of the workers' compensation law, as amended by section 23 of part GG of chapter 57 of the laws of 2013, is amended to read as follows:

5. Cancellation and termination of insurance contracts. No contract of insurance issued by an insurance carrier against liability arising under this chapter shall be cancelled within the time limited in such contract for its expiration unless notice is given as required by this section. When cancellation is due to non-payment of premiums and assessments, such cancellation shall not be effective until at least ten days after a notice of cancellation of such contract, on a date specified in such notice, shall be filed in the office of the chair and also served on the employer. When cancellation is due to any reason other than non-payment of premiums and assessments, such cancellation shall not be effective until at least thirty days after a notice of cancellation of such contract, on a date specified in such notice, shall be filed in the office of the chair and also served on the employer; provided, however, in either case, that if the employer has secured insurance with another insurance carrier which becomes effective prior to the expiration of the time stated in such notice, the cancellation shall be effective as of the date of such other coverage. No insurer shall refuse to renew any policy insuring against liability arising under this chapter unless at least thirty days prior to its expiration notice of intention not to renew has been filed in the office of the chair and also served on the employer.

Such notice shall be served on the employer by delivering it to him, her or it or by sending it by mail, by certified or registered letter, return receipt requested, addressed to the employer at his, her or its last known place of business; provided that, if the employer be a partnership, then such notice may be so given to any of one of the partners, and if the employer be a corporation then the notice may be given to any agent or officer of the corporation upon whom legal process may be served; and further provided that an employer may designate any person or entity at any address to receive such notice including the designation of one person or entity to receive notice on behalf of multiple entities insured under one insurance policy and that service of notice at the address so designated upon the person or entity so designated by delivery or by mail, by certified or registered letter, return receipt

requested, shall satisfy the notice requirement of this section. [~~Provided, however, the~~]

The right to cancellation of a policy of insurance in the state **insurance** fund shall be exercised only for non-payment of premiums [~~and assessments~~]**, or failure by the employer to cooperate with a payroll audit,** or as provided in section ninety-four of this chapter.

The state insurance fund may cancel a policy for the employer's failure to cooperate with a payroll audit if the employer fails to (i) keep an appointment with a payroll auditor, after the state insurance fund has made at least two attempts to schedule an appointment during the employer's regular business hours, when such employer is provided advance written notice of such appointments or (ii) furnish business records in the course of a payroll audit as required pursuant to section ninety-five or one hundred thirty-one of this chapter. At least fifteen days in advance of sending a notice of cancellation for failure to cooperate with a payroll audit, the state insurance fund shall send a warning notice to the employer in the same manner as provided in this subdivision for serving a notice of cancellation. Such notice shall specify a means of contacting the state insurance fund to set up an audit appointment. The state insurance fund will be required to provide only one such warning notice to an employer related to any particular payroll audit prior to cancellation.

The provisions of this subdivision shall not apply with respect to policies containing coverage pursuant to subsection (j) of section three thousand four hundred twenty of the insurance law relating to every policy providing comprehensive personal liability insurance on a one, two, three or four family owner-occupied dwelling.

In the event such cancellation or termination notice is not filed with the chair within the required time period, the chair shall impose a penalty in the amount of up to five hundred dollars for each ten-day period the insurance carrier or state insurance fund failed to file the notification. All penalties collected pursuant to this subdivision shall be deposited in the uninsured employers' fund.

§ 2. Section 93 of the workers' compensation law, as amended by section 24 of part GG of chapter 57 of the laws of 2013, is amended to read as follows:

§ 93. Collection of premium in case of default. a. If a policyholder shall default in any payment required to be made by [~~him~~] **such policyholder** to the state insurance fund **or shall fail to cooperate with a payroll audit as specified in subdivision five of section fifty-four of this chapter,** after due notice, [~~his~~] **such policyholder's** insurance in the state **insurance** fund may be cancelled and the amount due from [~~him~~] **such policyholder** shall be collected by civil action brought against [~~him~~] **such policyholder** in any county wherein the state insurance fund maintains an office in the name of the commissioners of the state insurance fund and the same when collected, shall be paid into the state insurance fund, and such policyholder's compliance with the provisions of this chapter requiring payments to be made to the state insurance fund shall date from the time of the payment of said money to the state insurance fund.

b. An employer, whose policy of insurance has been cancelled by the state insurance fund for non-payment of premium and assessments**, or for failure to cooperate with a payroll audit,** or [~~withdraws~~] **cancelled** pursuant to section ninety-four of this article, is ineligible to contract for a subsequent policy of insurance with the state insurance fund [~~while~~] **until the state insurance fund receives full cooperation**

from such employer in completing any payroll audit on the cancelled policy and the billed premium on the cancelled policy [~~remains uncollected~~] is paid, including any additional amounts billed following the completion of any payroll audit.

c. The state insurance fund shall not be required to write a policy of insurance for any employer which is owned or controlled or the majority interest of which is owned or controlled, directly or indirectly, by any person who directly or indirectly owns or controls or owned or controlled at the time of cancellation an employer whose former policy of insurance with the state insurance fund was cancelled for non-payment of premium and assessments, or for failure to cooperate with a payroll audit, or [~~withdraws~~] cancelled pursuant to section ninety-four of this article, or who is or was at the time of cancellation the president, vice-president, secretary or treasurer of such an employer until the state insurance fund receives full cooperation from such employer in completing any payroll audit and the billed premium on the cancelled policy is paid, including any additional amounts billed following the completion of any payroll audit.

For purposes of this subdivision, "person" [~~shall include individuals, partnerships, corporations, and other associations~~] means any individual, firm, company, partnership, corporation, limited liability company, joint venture, joint-stock association, association, trust or any other legal entity whatsoever.

d. For the purposes of this section, the word "premium" includes all amounts required to be paid to the state insurance fund including any assessment by the board that the state insurance fund bills to an employer.

§ 3. Section 95 of the workers' compensation law, as amended by chapter 135 of the laws of 1998, is amended to read as follows:

§ 95. Record and audit of payrolls. (1) Every employer who is insured in the state insurance fund shall keep a true and accurate record of the number of [~~his~~] its employees, the classification of its employees, information regarding employee accidents and the wages paid by [~~him~~] such employer, as well as such records relating to any person performing services under a subcontract with such employer that is not covered under the subcontractor's own workers' compensation insurance policy, and shall furnish, upon demand, a sworn statement of the same. Such record and any other records of an employer containing such information pertaining to any policy period including, but not limited to, any ledgers, journals, registers, vouchers, contracts, tax returns and reports, payroll and distribution records, and computer programs for retrieving data, certificates of insurance pertaining to subcontractors and any other business records specified by the rules of the board shall be open to inspection by the state insurance fund at any time and as often as may be necessary to verify the number of employees [~~and~~], the amount of the payroll, the classification of employees and information regarding employee accidents. Any employer who shall fail to keep [~~such~~] any record required in this section, who shall willfully fail to furnish such record or who shall willfully falsify any such record[~~,~~] shall be guilty of a misdemeanor and subject to a fine of not less than five thousand dollars nor more than ten thousand dollars in addition to any other penalties otherwise provided by law, except that any such employer that has previously been subject to criminal penalties under this section within the prior ten years shall be guilty of a class E felony, and subject to a fine of not less than ten thousand dollars nor

more than twenty-five thousand dollars in addition to any penalties otherwise provided by law.

(2) Employers subject to [~~subdivision~~] subsection (e) of section two thousand three hundred four of the insurance law and subdivision two of section eighty-nine of this article shall keep a true and accurate record of hours worked for all construction classification employees. The willful failure to keep such record, or the knowing falsification of any such record, may be prosecuted as insurance fraud in accordance with the provisions of section 176.05 of the penal law.

§ 4. Subdivision 1 of section 131 of the workers' compensation law, as amended by chapter 6 of the laws of 2007, is amended to read as follows:

(1) Every employer subject to the provisions of this chapter shall keep a true and accurate record of the number of [~~his or her~~] its employees, the classification of its employees, information regarding employee accidents and the wages paid by [~~him or her~~] such employer for a period of four years after each entry therein, [~~which~~] as well as such records relating to any person performing services under a subcontract of such employer that is not covered under the subcontractor's own workers' compensation insurance policy. Such records shall be open to inspection at any time, and as often as may be necessary to verify the same by investigators of the board, by the authorized auditors, accountants or inspectors of the carrier with whom the employer is insured, or by the authorized auditors, accountants or inspectors of any workers' compensation insurance rating board or bureau operating under the authority of the insurance law and of which board or bureau such carrier is a member or the group trust of which the employer is a member. Any and all records required by law to be kept by such employer upon which the employer makes or files a return concerning wages paid to employees or any other records of an employer containing such information relevant to any policy period including but not limited to, any ledgers, journals, registers, vouchers, contracts, tax returns and reports, payroll and distribution records, and computer programs for retrieving data, certificates of insurance pertaining to subcontractors and any other business records specified by the rules of the board shall form part of the records described in this section and shall be open to inspection in the same manner as provided in this section. Any employer who shall fail to keep such records, who shall willfully fail to furnish such record as required in this section or who shall falsify any such records, shall be guilty of a misdemeanor and subject to a fine of not less than five nor more than ten thousand dollars in addition to any other penalties otherwise provided by law, except that any such employer that has previously been subject to criminal penalties under this section within the prior ten years shall be guilty of a class E felony, and subject to a fine of not less than ten nor more than twenty-five thousand dollars in addition to any penalties otherwise provided by law.

§ 5. This act shall take effect on the ninetieth day after it shall have become a law and shall be applicable to policies issued or renewed after such date.

PART P

Section 1. Subdivision 2 of section 87 of the workers' compensation law, as added by section 20 of part GG of chapter 57 of the laws of 2013, is amended to read as follows:

2. Any of the surplus funds belonging to the state insurance fund, by order of the commissioners, approved by the superintendent of financial

services, may be invested **(1)** in the types of securities described in subdivisions one, two, three, four, five, six, eleven, twelve, twelve-a, thirteen, fourteen, fifteen, nineteen, twenty, twenty-one, twenty-one-a, twenty-four, twenty-four-a, twenty-four-b, twenty-four-c and twenty-five of section two hundred thirty-five of the banking law**, or (2) in the types of obligations described in paragraph two of subsection (a) of section one thousand four hundred four of the insurance law except that up to twenty-five percent of surplus funds may be invested in obligations rated investment grade by a nationally recognized securities rating organization,** or[~~,~~] **(3)** up to fifty percent of surplus funds, in the types of securities or investments described in paragraphs [~~two,~~] three, eight and ten of subsection (a) of section one thousand four hundred four of the insurance law, except that [~~up to ten percent of surplus funds may be invested~~] **investments** in [~~the securities of any solvent American institution as described in such paragraphs~~] **diversified index funds and accounts may be made** irrespective of the rating [~~of such institution's obligations~~] or other similar qualitative standards [~~described therein, and~~] **applicable under such paragraphs, or (4) up to ten percent of surplus funds, in the types of securities or investments described in paragraphs two, three and ten of subsection (a) of section one thousand four hundred four of the insurance law irrespective of the rating of such institution's obligations or other similar qualitative standard, or (5)** up to fifteen percent of surplus funds in securities or investments which do not otherwise qualify for investment under this section as shall be made with the care, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims as provided for the state insurance fund under this article, but shall not include any direct derivative instrument or derivative transaction except for hedging purposes. Notwithstanding any other provision in this subdivision, the aggregate amount that the state insurance fund may invest in the types of securities or investments described in paragraphs three, eight and ten of subsection (a) of section one thousand four hundred four of the insurance law and as a prudent person acting in a like capacity would invest as provided in this subdivision shall not exceed fifty percent of such surplus funds. **For purposes of this subdivision, any funds appropriated pursuant to the provisions of subdivision one or two of section eighty-seven-f of this article shall not be considered surplus funds.**

§ 2. This act shall take effect immediately.

PART Q

Section 1. The civil service law is amended by adding a new section 66 to read as follows:

§ 66. Term appointments in information technology. 1. The department may authorize a term appointment without examination to a temporary position requiring special expertise or qualifications in information technology within the office of information technology services. Such appointments shall be authorized only in a case where the office of information technology services certifies to the department that because of the type of services to be rendered, or the temporary or occasional character of such services, it would not be practicable to hold an examination of any kind. Such certification shall be a public document pursuant to the public officers law and shall identify the special

expertise or qualifications that are required and why they cannot be obtained through an appointment from an eligible list. The department shall review the certification to confirm that the special expertise or qualifications identified by the office of information technology services cannot be obtained through an appointment from an eligible list. The maximum period for such initial term appointment established pursuant to this subdivision shall not exceed sixty months and, other than as set forth in subdivision two of this section, shall not be extended, and the maximum number of such appointments shall not exceed two hundred fifty.

2. At least fifteen days prior to making a term appointment pursuant to this section, the appointing authority shall publicly and conspicuously post in its offices information about the temporary position and the required qualifications and shall allow any qualified employee to apply for the position. In the event that a permanent competitive employee is qualified for the posted position, the appointment of such employee shall take precedence over the appointment of any term position pursuant to this section. An employee appointed pursuant to this section who has completed two years of continuous service under this section shall be eligible to compete in promotional examinations that are also open to other employees who have permanent civil service appointments and appropriate qualifications. In the event that the department fails to certify a promotional list for an examination in which the appointee has competed within the initial sixty month term appointment, such appointment may be extended by the department, upon certification of the appointing authority, for periods of up to thirty-six months until such time as a promotional list resulting from the examination in which the employee competed is certified.

3. A temporary position established pursuant to this section may be abolished for reason of economy, consolidation or abolition of functions, curtailment of activities or otherwise. Upon such abolition or at the end of the term of the appointment, the provisions of sections seventy-eight, seventy-nine, eighty and eighty-one of this chapter shall not apply. In the event of a reduction of workforce pursuant to section eighty of this chapter affecting information technology positions, the term appointments pursuant to this section shall be abolished prior to the abolition of permanent competitive class information technology positions at such agency involving comparable skills and responsibilities.

§ 2. Notwithstanding any provision of law to the contrary, the department of civil service may limit certification from the following eligible lists to those who are eligible and identified as having knowledge, skills or certifications, or any combination thereof, by the appointing authority as necessary to perform the duties of certain positions:

Information Technology Specialist 4	G-25
Information Technology Specialist 4 (Data Communications)	G-25
Information Technology Specialist 4 (Systems Programming)	G-25
Manager Information Technology Services 1	G-27
Manager Information Technology Services 1 (Data Communications)	G-27
Manager Information Technology Services 1 (Database)	G-27
Manager Information Technology Services 1 (Systems Programming)	G-27
Manager Information Technology Services 2	G-29
Manager Information Technology Services 2 (Technical)	G-29

§ 3. This act shall take effect immediately.

PART R

Section 1. Subdivisions 1 and 2 of section 3-a of the general municipal law, subdivision 1 as amended by chapter 4 of the laws of 1991, and subdivision 2 as amended by chapter 777 of the laws of 1978, are amended to read as follows:

1. Except as provided in subdivisions two, four and five of this section, the rate of interest to be paid by a municipal corporation upon any judgment or accrued claim against the municipal corporation shall [~~not exceed nine per centum per annum~~] **be calculated at a rate equal to the weekly average one year constant maturity treasury yield, as published by the board of governors of the federal reserve system, for the calendar week preceding the date of the entry of the judgment awarding damages. In no event, however, shall a municipal corporation pay a rate of interest on any judgment or accrued claim exceeding nine per centum per annum**.

2. The rate of interest to be paid upon any judgment or accrued claim against the municipal corporation rising out of condemnation proceedings or action to recover damages for wrongful death shall [~~not exceed six per centum per annum~~] **be calculated at a rate equal to the weekly average one year constant maturity treasury yield, as published by the board of governors of the federal reserve system, for the calendar week preceding the date of the entry of the judgement awarding damages. In no event, however, shall a municipal corporation pay a rate of interest on any judgment or accrued claim exceeding six per centum per annum**.

§ 2. Subdivision 5 of section 157 of the public housing law, as amended by chapter 681 of the laws of 1982, is amended to read as follows:

5. The rate of interest to be paid by an authority upon any judgment or accrued claim against the authority shall [~~not exceed nine per centum per annum~~] **be calculated at a rate equal to the weekly average one year constant maturity treasury yield, as published by the board of governors of the federal reserve system, for the calendar week preceding the date of the entry of the judgment awarding damages. In no event, however, shall an authority pay a rate of interest on any judgment or accrued claim exceeding nine per centum per annum**.

§ 3. Section 16 of the state finance law, as amended by chapter 681 of the laws of 1982, is amended to read as follows:

§ 16. Rate of interest on judgments and accrued claims against the state. The rate of interest to be paid by the state upon any judgment or accrued claim against the state shall [~~not exceed nine per centum per annum~~] **be calculated at a rate equal to the weekly average one year constant maturity treasury yield, as published by the board of governors of the federal reserve system, for the calendar week preceding the date of the entry of the judgment awarding damages. In no event, however, shall the state pay a rate of interest on any judgment or accrued claim exceeding nine per centum per annum**.

§ 4. Section 1 of chapter 585 of the laws of 1939, relating to the rate of interest to be paid by certain public corporations upon judgments and accrued claims, as amended by chapter 681 of the laws of 1982, is amended to read as follows:

Section 1. The rate of interest to be paid by a public corporation upon any judgment or accrued claim against the public corporation shall [~~not exceed nine per centum per annum~~] **be calculated at a rate equal to the weekly average one year constant maturity treasury yield, as published by the board of governors of the federal reserve system, for the calendar week preceding the date of the entry of the judgment awarding damages. In no event, however, shall a public corporation pay a rate**

of interest on any judgment or accrued claim exceeding nine per centum per annum. The term "public corporation" as used in this act shall mean and include every corporation created for the construction of public improvements, other than a county, city, town, village, school district or fire district or an improvement district established in a town or towns, and possessing both the power to contract indebtedness and the power to collect rentals, charges, rates or fees for services or facilities furnished or supplied.

§ 5. This act shall take effect immediately, and shall be deemed to have been in full force and effect on and after April 1, 2017.

PART S

Section 1. Section 167-a of the civil service law, as amended by section 1 of part I of chapter 55 of the laws of 2012, is amended to read as follows:

§ 167-a. Reimbursement for medicare premium charges. Upon exclusion from the coverage of the health benefit plan of supplementary medical insurance benefits for which an active or retired employee or a dependent covered by the health benefit plan is or would be eligible under the federal old-age, survivors and disability insurance program, effective May first, two thousand seventeen an amount [~~equal to~~] not to exceed $104.90 per month for the standard medicare premium charge for such supplementary medical insurance benefits for such active or retired employee and his or her dependents who enrolled in medicare on or before December thirty-first, two thousand fifteen, if any, shall be paid monthly or at other intervals to such active or retired employee from the health insurance fund. For an active or retired employee or his or her dependents who enrolled in medicare on or after January first, two thousand sixteen, the lesser of $121.80 per month or the currently applicable standard medicare premium charge for such supplementary medical insurance benefits for such active or retired employee and his or her dependents, if any, shall be paid monthly or at other intervals to such active or retired employee from the health insurance fund. Furthermore, effective January first, two thousand seventeen, there shall be no payment whatsoever for the income related monthly adjustment amount for amounts (premiums) incurred on or after January first, two thousand seventeen to any active or retired employee and his or her dependents, if any. Where appropriate, such standard medicare premium amount may be deducted from contributions payable by the employee or retired employee; or where appropriate in the case of a retired employee receiving a retirement allowance, such standard medicare premium amount may be included with payments of his or her retirement allowance. All state employer, employee, retired employee and dependent contributions to the health insurance fund, including contributions from public authorities, public benefit corporations or other quasi-public organizations of the state eligible for participation in the health benefit plan as authorized by subdivision two of section one hundred sixty-three of this article, shall be adjusted as necessary to cover the cost of reimbursing federal old-age, survivors and disability insurance program premium charges under this section. This cost shall be included in the calculation of premium or subscription charges for health coverage provided to employees and retired employees of the state, public authorities, public benefit corporations or other quasi-public organizations of the state; provided, however, the state, public authorities, public benefit corporations or other quasi-public organizations of the state

shall remain obligated to pay no less than its share of such increased cost consistent with its share of premium or subscription charges provided for by this article. All other employer contributions to the health insurance fund shall be adjusted as necessary to provide for such payments.

§ 2. This act shall take effect immediately and shall apply on and after May 1, 2017 for the standard medicare premium amount and shall apply on January 1, 2017 for the income related monthly adjustment amount for amounts (premiums) incurred on or after January 1, 2017.

PART T

Section 1. Section 167 of the civil service law is amended by adding a new subdivision 10 to read as follows:

10. Notwithstanding any inconsistent provision of law, the state's contribution for the cost of premium or subscription charges for the coverage of retired state employees who are enrolled in the statewide and the supplementary health benefit plans established pursuant to this article and who retired on or after October first, two thousand seventeen shall be as set forth in this subdivision.

(a) For state employees who retire from a position at or equated to grade ten or higher with at least ten but less than twenty years of service, the state shall pay fifty percent of the cost of premium or subscription charges for the individual coverage of such retired state employees. Such contributions shall increase by two percent of the cost of premium or subscription charges for each year of service in excess of ten years, to a maximum of sixty-eight percent of the cost of premium or subscription charges. For state employees who retire from a position at or equated to grade ten or higher with twenty or more years of service, the state shall pay seventy-four percent of the cost of premium or subscription charges for the individual coverage of such retired state employees. Such contributions shall increase by one percent of the cost of premium or subscription charges for each year of service in excess of twenty years, to a maximum of eighty-four percent of the cost of premium or subscription charges.

(b) For state employees who retire from a position at or equated to grade nine or lower with at least ten but less than twenty years of service, the state shall pay fifty-four percent of the cost of premium or subscription charges for the individual coverage of such retired state employees. Such contributions shall increase by two percent of the cost of premium or subscription charges for each year of service in excess of ten years, to a maximum of seventy-two percent of the cost of premium or subscription charges. For state employees who retire from a position at or equated to grade nine or lower with twenty or more years of service, the state shall pay seventy-eight percent of the cost of premium or subscription charges for the individual coverage of such retired state employees. Such contributions shall increase by one percent of the cost of premium or subscription charges for each year of service in excess of twenty years, to a maximum of eighty-eight percent of the cost of premium or subscription charges.

(c) For state employees who retire from a position at or equated to grade ten or higher with at least ten but less than twenty years of service, the state shall pay thirty-five percent of the cost of premium or subscription charges for the coverage of dependents of such retired state employees; such contribution shall increase by two percent of the cost of premium or subscription charges for each year of service in

excess of ten years, to a maximum of fifty-three percent of the cost of premium or subscription charges for such dependents. For state employees who retire from a position at or equated to grade ten or higher with twenty or more years of service, the state shall pay fifty-nine percent of the cost of premium or subscription charges for the coverage of dependents of such retired state employees; such contribution shall increase by one percent of the cost of premium or subscription charges for each year of service in excess of twenty years, to a maximum of sixty-nine percent of the cost of premium or subscription charges for such dependents.

(d) For state employees who retire from a position at or equated to grade nine or lower with at least ten but less than twenty years of service, the state shall pay thirty-nine percent of the cost of premium or subscription charges for the coverage of dependents of such retired state employees; such contribution shall increase by two percent of the cost of premium or subscription charges for each year of service in excess of ten years, to a maximum of fifty-seven percent of the cost of premium or subscription charges for such dependents. For state employees who retire from a position at or equated to grade nine or lower with twenty or more years of service, the state shall pay sixty-three percent of the cost of premium or subscription charges for the coverage of dependents of such retired state employees; such contribution shall increase by one percent of the cost of premium or subscription charges for each year of service in excess of twenty years, to a maximum of seventy-three percent of the cost of premium or subscription charges for such dependents.

(e) With respect to all such retired state employees, each increment of one or two percent of the cost of premium or subscription charges for each year of service shall be applicable for whole years of service to the state and shall not be applied on a pro-rata basis for partial years of service.

(f) The provisions of this subdivision shall not be applicable to:

(1) Members of the New York state and local police and fire retirement system;

(2) Members in the uniformed personnel in institutions under the jurisdiction of the state department of corrections and community supervision or who are security hospital treatment assistants, as defined in section eighty-nine of the retirement and social security law; and

(3) Any state employee determined to have retired with an ordinary, accidental, or performance of duty disability retirement benefit.

(g) For the purposes of determining the cost of premium or subscription charges to be paid by the state on behalf of retired state employees enrolled in the New York state health insurance program who retire on or after October first, two thousand seventeen, the state shall consider all years of service that a retired state employee has accrued in a public retirement system of the state or an optional retirement program established pursuant to article three, eight-B, or one hundred twenty-five-A of the education law. The provisions of this paragraph may not be used to grant eligibility for retiree state health insurance coverage to a retiree who is not otherwise eligible to enroll in the New York state health insurance program as a retiree.

§ 2. This act shall take effect October 1, 2017.

PART U

Section 1. Article 4 of the municipal home rule law is amended by adding a new part 4 to read as follows:

PART 4

COUNTY-WIDE SHARED SERVICES PROPERTY TAX SAVINGS PLAN

Section 39. County-wide shared services property tax savings plan.

§ 39. County-wide shared services property tax savings plan. 1. Notwithstanding the provisions of this chapter, the alternative county government law, or any other general, special or local law to the contrary, the chief executive officer of each county outside of a city of one million or more shall prepare a property tax savings plan for shared, coordinated and efficient services among the county, cities, towns and villages within such county.

2. The mayor of each city and village in such county, and the supervisor of each town in such county, shall inform such property tax savings plan. The chief executive officer of the county shall seek consensus among such mayors and supervisors prior to submission of the property tax savings plan to the county legislative body as set forth in subdivision four of this section. Public input shall inform such property tax savings plan, in addition to input from civic, business, labor, and community leaders. Any such input shall be provided at one or more public hearings to be held within the county.

3. Such property tax savings plan shall contain new recurring property tax savings through actions such as, but not limited to, the elimination of duplicative services; shared services, such as joint purchasing, shared highway equipment, shared storage facilities, shared plowing services, and energy and insurance purchasing cooperatives; reduction in back office administrative overhead; and better coordination of services.

4. The chief executive officer of the county shall submit such property tax savings plan to the county legislative body no later than August first, two thousand seventeen. Such property tax savings plan shall be accompanied by a certification as to the accuracy of the savings contained therein. Such certification shall also be transmitted to the director of the division of the budget no later than the date of submission.

5. The county legislative body shall review such plan and a majority of the members of such body may make modifications as deemed necessary to ensure compliance with this section. If modifications are made by the county legislative body, the chief executive officer of such county shall transmit to the director of the division of the budget a certification of the amended property tax savings. The chief executive officer shall finalize such property tax savings plan no later than September fifteenth, two thousand seventeen, and the plan shall be publicly disseminated to residents of the county.

6. At the general election occurring in November two thousand seventeen, the county legislative body shall cause the question of whether to implement the provisions of such finalized plan to be placed on the ballot and voted on by the qualified electors of the county. If approved by a majority of such electors, the plan shall be implemented no later than January first, two thousand eighteen.

Any such finalized property tax savings plan which would have the effect of transferring or abolishing a function or duty of the county or of the cities, towns, villages, districts or other units of government wholly contained in the county, shall not become operative unless and until it is approved in accordance with subdivision (h) of section one of article nine of the state constitution.

7. If the property tax savings plan shall fail to obtain approval of a majority of the electors voting on the plan in accordance with subdivision six of this section, the chief executive officer of the county, with input from the mayor of each city and village in such county, and the supervisor of each town in such county, shall receive and resubmit such plan to the county legislative body no later than August first, two thousand eighteen. Public input shall inform such resubmitted property tax savings plan, in addition to input from civic, business, labor, and community leaders. Any such input shall be provided at one or more public hearings to be held within the county. Such plan shall be accompanied by a certification as to the accuracy of the savings contained therein. Such certification shall also be transmitted to the director of the division of the budget no later than the date of resubmission. The county legislative body shall review such resubmitted plan. A majority of the members of such body may make modifications as deemed necessary to ensure compliance with this section. If modifications are made by the county legislative body, the chief executive officer of such county shall transmit to the director of the division of the budget a certification of amended property tax savings. The chief executive officer shall finalize such plan no later than September fifteenth, two thousand eighteen, and the plan shall be publicly disseminated to the residents of the county. At the general election occurring in November two thousand eighteen, the county legislative body shall cause the question of whether to implement the provisions of such finalized resubmitted plan to be placed on the ballot and voted on by the qualified electors of the county. If approved by a majority of such electors, the resubmitted plan shall be implemented no later than January first, two thousand nineteen.

Any such finalized resubmitted property tax savings plan which would have the effect of transferring or abolishing a function or duty of the county or of the cities, towns, villages, districts or other units of government wholly contained in the county, shall not become operative unless and until it is approved in accordance with subdivision (h) of section one of article nine of the state constitution.

8. For the purposes of this part "chief executive officer" means the county executive, county manager or other chief executive of the county, or where none, the chair of the county legislative body.

§ 2. This act shall take effect immediately.

PART V

Section 1. Section 292 of the executive law is amended by adding a new subdivision 35 to read as follows:

35. The term "educational institution", when used in this article, shall mean:

(a) any education corporation or association which holds itself out to the public to be non-sectarian and exempt from taxation pursuant to the provisions of article four of the real property tax law; or

(b) any public school, including any school district, board of cooperative educational services, public college, or public university.

§ 2. Subdivision 4 of section 296 of the executive law, as amended by chapter 106 of the laws of 2003, is amended to read as follows:

4. It shall be an unlawful discriminatory practice for an [~~education corporation or association which holds itself out to the public to be non-sectarian and exempt from taxation pursuant to the provisions of article four of the real property tax law~~] educational institution to deny the use of its facilities to any person otherwise qualified, or to

permit the harassment of any student or applicant, by reason of his race, color, religion, disability, national origin, sexual orientation, military status, sex, age or marital status, except that any such institution which establishes or maintains a policy of educating persons of one sex exclusively may admit students of only one sex.

§ 3. This act shall take effect immediately.

PART W

Section 1. The public authorities law is amended by adding a new section 1680-s to read as follows:

§ 1680-s. New York State consolidated laboratory project act. 1. Short title. This section shall be known and may be cited as the "New York state consolidated laboratory project act".

2. Legislative findings and declarations. The legislature hereby finds and declares as follows:

(a) Procurement findings and declarations. (i) Public works projects in New York have typically been delivered using the traditional design-bid-build project delivery method, under which separate contracts are let for design on a qualifications basis and for construction on a lowest responsible bidder basis.

(ii) Experience in New York and in a large number of other states has successfully demonstrated that using alternative project delivery for major public works can provide several advantages over design-bid-build delivery. Alternative project delivery involves procuring a contract or contracts under a competitive proposal process in which both price and non-price factors such as technical, financial and commercial merit are used to select the contractor or contractors. Alternative project delivery methods include the design-build delivery method, the construction manager build delivery method, and the construction manager-at-risk delivery method.

(iii) The potential advantages to the public of alternative project delivery generally include:

(A) Expediting project delivery;

(B) Improving project innovation, quality and efficiency;

(C) Reducing and guaranteeing design and construction costs;

(D) Permitting the selection of the highest qualified designer and builder team based on past performance and demonstrated capability;

(E) Increasing competition for design and construction services;

(F) Enhancing collaboration among the designer and builder; and

(G) Reducing change orders.

(b) Project findings and declarations. (i) Wadsworth Center is currently spread across five separate locations in the Capital District, creating inefficiencies and duplication of operational services. More than half of the laboratories were built in the 1930's and 1960's and are considered end-of-life. Independent facility assessments have established that the remediation of such facilities through renovation is not feasible, or cost-effective. Accordingly, such facilities must be replaced.

(ii) Consolidating such laboratories and related facilities will serve to: strengthen and advance public health and preparedness strategies throughout the state; replace antiquated facilities that are costly to operate and are a hindrance to scientific progress; result in a smaller overall footprint than the combined footprint of the existing facilities; establish a sustainable, modernized, and consolidated laboratory campus; provide facilities with improved efficiency and reliability of

operations and maintenance; promote economic and intellectual property development; and provide opportunities to generate savings from synergies and shared services with other agencies.

(iii) A new consolidated laboratory facility will provide a more modern and efficient work environment for public employees.

(iv) A new laboratory facility may provide opportunities to host private users that could complement the operations and work of the consolidated laboratory or enhance its economic benefits to the state.

(v) Utilization of an alternative project delivery method to be determined by DASNY, in consultation with the department, is appropriate for the development of a new consolidated laboratory facility and is in the best interests of the public.

3. Definitions. For the purposes of this act:

(a) "best value" shall mean the basis for awarding a project agreement to the offerer that optimizes the quality, cost, efficiency, price and performance criteria of the project. Such basis may include, but is not limited to:

(i) the quality of the offerer's performance on previous projects;

(ii) the timeliness of the offerer's performance on previous projects;

(iii) the level of customer satisfaction with the offerer's performance on previous projects;

(iv) the offerer's record of performing previous projects on budget and its ability to minimize cost overruns;

(v) the offerer's ability to incorporate innovative ideas and limit change orders;

(vi) the offerer's ability to prepare appropriate project plans;

(vii) the offerer's financial strength and technical capacities;

(viii) the individual qualifications of the offerer's key personnel; and

(ix) the offerer's ability to assess and manage risk and minimize risk impact.

Such basis shall reflect, wherever possible, objective and quantifiable analysis.

(b) "Comptroller" shall mean the state comptroller.

(c) "Construction manager-at-risk delivery method" shall mean a delivery method in which DASNY, in consultation with the department, contracts with an architect or engineer for design and construction phase services and contracts separately with a construction manager to provide consultation during the design phase of the project and to serve as the general contractor during the construction phase of the project.

(d) "Construction manager build delivery method" shall mean a delivery method in which a construction manager (i) serves as part of a team in conjunction with DASNY and the department in the design phase of the project, (ii) under the oversight of DASNY, in consultation with the department, acts as the single source of responsibility to bid, select, and hold construction contracts on behalf of DASNY, acting in consultation the department, during the construction phase, and (iii) manages the construction phase of the project on behalf of DASNY or the department.

(e) "Contractor" shall mean the entity that enters into the project agreement with DASNY, acting in consultation with the department.

(f) "DASNY" shall mean the dormitory authority of the state of New York.

(g) "Department" shall mean the department of health.

(h) "Design-build delivery method" shall mean a delivery method in which DASNY, in consultation with the department, enters into a contract

for the design and construction of the project with a single contractor, which may also include preliminary services relating to project planning and design.

(i) "Offerer" shall mean an entity that has submitted a proposal in response to a request for proposals issued by DASNY, in consultation with the department, pursuant to subparagraph (ii) of paragraph (a) of subdivision five of this section.

(j) "Project" shall mean the New York state consolidated laboratory project, consisting of the consolidation and/or co-location into a new laboratory campus of (i) the laboratory facilities and functions of the department located within the capital district region (defined as Albany, Rensselaer, Schenectady, or Saratoga counties), (ii) certain laboratory functions and facilities of other users that are consistent with the public health mission of the Wadsworth Center or complementary to the public laboratory function and not inconsistent with the purposes of this act, including but not limited to other state or local departments, agencies, institutions and public authorities, all as determined by the department to be appropriate, and (iii) parking and other facilities and functions ancillary to or supportive of the foregoing, which facilities and functions may or may not be dedicated to use solely in connection with the project.

(k) "Project agreement" shall mean a contract entered into pursuant to this act by DASNY, in consultation with the department, with a single entity for the design and construction of the project or for the construction management of the project, using the design-build delivery method, the construction manager build delivery method, or the construction manager-at-risk delivery method.

(l) "Related agreements" shall mean any leases, subleases, easements, licenses, consulting agreements, architectural, engineering, design and other professional services agreements or other agreements related to the project or ancillary to the project agreement, provided that, in the case of any lease or sublease (i) the term of such lease or sublease may be up to but not longer than fifty years from the date of completion and acceptance of the project, and (ii) upon the expiration or earlier termination of any such lease or sublease title to the project and the project site shall be vested in the state. Related agreements shall include agreements with public corporations and utilities and such other related agreements as DASNY or the department determines to be necessary or convenient to facilitate the implementation of the project, in each case on such terms and conditions as DASNY or the department may determine to be necessary or convenient for implementing the project.

4. Authorization for alternative delivery project procurement. Notwithstanding the provisions of sections one hundred thirty-five, one hundred thirty-six, one hundred thirty-six-a, one hundred thirty-seven, one hundred sixty-two and one hundred sixty-three of the state finance law, section one hundred forty-two of the economic development law, section two hundred twenty-four of the labor law, subdivision five of section sixty-three of the executive law, sections sixteen hundred eighty and twenty-eight hundred seventy-nine-a of this chapter, section seventy-two hundred ten of the education law, subdivision six of section eight of the public buildings law and the provisions of any other law to the contrary (including, but not limited to, provisions of non-enumerated sections of the foregoing laws):

(a) Upon compliance with the procurement method described in subdivision five of this section and in conformity with the other requirements of this act, DASNY, in consultation with the department, may enter into

a project agreement providing for the delivery of the project using the design-build method, the construction manager build method or the construction manager-at-risk method, in each case on such terms and conditions as DASNY, in consultation with the department, may determine in accordance with such procurement method. DASNY, in consultation with the department, may also enter into such amendments to the project agreement as it determines to be necessary or convenient for the project, and DASNY or the department may enter into such related agreements as they determine to be necessary or convenient for the project, including agreements for utility services or infrastructure, in each such instance without public auction or bidding or any other competitive procurement process and regardless of whether such agreements have resulted from the two-step procurement method described in subdivision five of this section.

(b) Nothing contained in this act shall limit the right of DASNY or the department to award contracts as otherwise provided by law, nor shall anything in this act limit or impair any existing rights, powers or authority of DASNY or the department.

(c) The procurement authorization provided in this act shall be subject to the prior or concurrent authorization of a budget for the project by the division of the budget.

5. Project procurement. (a) Procurement process. An entity selected by DASNY, in consultation with the department, to enter into a project agreement authorized by subdivision four of this section shall be selected through a two-step procurement process as follows:

(i) Pre-qualification of prospective contractors. DASNY, in consultation with the department, shall generate a list of qualified entities that have demonstrated the general capability to deliver the project and otherwise perform the requirements of a project agreement. Such list shall consist of a specified number of entities, as determined by DASNY, in consultation with the department, and shall be generated based upon the review by DASNY and the department of responses to a publicly advertised request for qualifications for the project. Such request for qualifications shall include a general description of the project and the selection criteria to qualify entities. Such selection criteria shall include such qualifications as DASNY and the department deem appropriate, which may include but are not limited to the general qualifications and experience of the members of the proposing team, the organization of the proposing team, demonstrated responsibility, the ability of the team or of a member or members of the team to comply with applicable project requirements, including if applicable the provisions of articles one hundred forty-five, one hundred forty-seven and one hundred forty-eight of the education law, past record of compliance with the labor law or any comparable law applicable in jurisdictions where such entity has conducted business (in each instance to the extent applicable), understanding of the project and its requirements, financial, management and technical capability, and record of past performance. DASNY and the department shall evaluate all entities responding to the request for qualifications. Based upon such evaluations, DASNY and the department may develop a list of the entities that shall receive a request for proposals in accordance with this subdivision. To the extent consistent with applicable law, DASNY and the department shall consider, when evaluating entities pursuant to this section: (A) such entities' records of compliance with article fifteen-A of the executive law on other projects or otherwise providing for the participation of firms certified pursuant to article fifteen-A of the executive law as minority or women-owned

businesses (or any comparable law applicable in jurisdictions where such entity has conducted business) and the ability of other businesses under consideration to work with minority and women-owned businesses so as to promote and assist participation by such businesses; (B) such entities' utilization of small business concerns identified pursuant to subdivision (b) of section one hundred thirty-nine-g of the state finance law; and (C) such entities utilization of service-disabled veteran-owned businesses pursuant to article seventeen-B of the executive law.

(ii) Solicitation and selection of the proposal which is the best value to the state. DASNY, in consultation with the department, may issue a request for proposals to the entities listed pursuant to subparagraph (i) of this paragraph. If such an entity consists of a team of separate entities, the entities that comprise such a team and their lead members must remain unchanged from the entity and team members listed pursuant to subparagraph (i) of this paragraph unless otherwise approved by DASNY, in consultation with the department. The request for proposals may include the form of project agreement proposed by DASNY. The request for proposals shall set forth the scope of work for the project and other applicable requirements, as determined by DASNY, in consultation with the department, and may but need not require (A) a lump sum price, or (B) a fee for any preliminary services related to the project, which may include design or other professional services, together with a specific methodology for determining a guaranteed maximum price for the balance of work that will be completed pursuant to the project agreement following the completion of any such preliminary services. The request for proposals shall also specify the criteria to be used to evaluate the responses, as determined by DASNY and the department, including the relative weight of such criteria. Such criteria shall include but are not limited to the proposal's cost, its technical merit, the qualifications and experience of the proposing entity and its team members, the entity's plan of project implementation, the entity's ability to complete the work in a timely and satisfactory manner, and the community impact of the proposal. Notwithstanding any other law to the contrary, DASNY and the department may conduct discussions individually on a commercially confidential basis with the pre-qualified entities prior to their submittal of proposals, and may conduct negotiations regarding project agreement terms and conditions, including cost, with one or more offerers following their submittal of a proposal.

(iii) Award of project agreement. A project agreement awarded pursuant to this act shall be awarded to a responsive and responsible entity that submits the proposal, which, in consideration of the criteria set forth in the request for proposals, offers the best value to the state, as determined by DASNY and the department, provided that:

(A) where a proposal provides for a guaranteed maximum price, DASNY and the department shall be entitled to monitor and audit all project costs. In establishing the schedule and process for determining a guaranteed maximum price, the project agreement shall:

(1) describe the scope of the work and the cost of performing such work;

(2) provide for a detailed line item cost breakdown;

(3) provide for a list of all drawings, specifications and other information on which the guaranteed maximum price is based;

(4) provide for the dates for substantial and final completion on which the guaranteed maximum price is based; and

(5) provide for a schedule of unit prices;

(B) where a proposal provides for a lump sum where the contractor agrees to accept a set dollar amount for a project agreement that comprises a single bid, the proposal need not provide a cost breakdown for all costs, such as for equipment, labor, or materials, or the contractor's profit for completing all items of work comprising the project;

(C) a proposal may include both lump sum and guaranteed maximum price provisions and may provide for project-related services on a fee-for-service basis; and

(D) to the extent consistent with applicable law, DASNY and the department shall consider, when awarding a project agreement pursuant to this section: (1) the participation of firms certified pursuant to article fifteen-A of the executive law as minority or women-owned businesses and the ability of other businesses under consideration to work with minority and women-owned businesses so as to promote and assist participation by such businesses; (2) the participation of firms certified pursuant to article seventeen-B of the executive law as service-disabled veteran-owned businesses and the ability of other businesses under consideration to work with service-disabled veteran-owned businesses so as to promote and assist participation by such businesses; and (3) such entities' utilization of small business concerns identified pursuant to subdivision (b) of section one hundred thirty-nine-g of the state finance law.

(iv) Exigent circumstances. In the event that, at any time, the department determines and communicates to the temporary president of the senate and speaker of the assembly that exigent circumstances affecting public health or safety exist at the Wadsworth Center or related facilities such that the delivery of the project must be accelerated, DASNY and the department may take commercially reasonable measures, as determined by DASNY, in consultation with the department, to modify the procedures set forth in this subdivision in order to accelerate the delivery of the project, including but not limited to combining the procedures set forth in subparagraphs (i) and (ii) of this paragraph into a single solicitation, and utilizing the discussions provided for in subparagraph (ii) of this paragraph to modify the project schedule and to permit corresponding modifications to the applicable project proposals, and engaging in a non-competitive source selection method consistent with the laws, regulations and rules applicable to DASNY or the department.

(b) Project website. DASNY, in consultation with the department, shall establish, maintain and periodically update a website regarding the project. Such website shall inform the public about the project and provide the status of the project through completion of construction.

(c) Applicability of certain laws to procurement. (i) The submission of qualifications, proposals or responses, or the execution of a project agreement or any related agreement, shall not be construed to be a violation of section sixty-five hundred twelve of the education law.

(ii) Sections one hundred thirty-nine-d, one hundred thirty-nine-j, one hundred thirty-nine-k, paragraph f of subdivision one and paragraph g of subdivision nine of section one hundred sixty-three of the state finance law shall, except as otherwise provided in this section, apply to the procurement process authorized by this section.

6. DASNY as party to project agreement and as agent of and project advisor to department of health. Notwithstanding the provisions of any other law to the contrary, to the extent consistent with the procurement method selected pursuant to paragraph (a) of subdivision five of this

section, DASNY shall have the power and authority to enter into the project agreement and any related agreements, subject only to compliance with the requirements of this act, and, in addition, to act as a procurement, technical and administrative consultant and advisor to the department in connection with the planning, procurement and implementation of the project, including the power and authority to act as agent for or consultant to the department in procuring and managing the services of technical, legal and other consultants; soliciting, reviewing and evaluating the qualifications and proposals from potential contractors for the project; drafting and negotiating the project agreement and any related agreements; supervising the performance of the design and construction of the project by the contractor under the project agreement; and coordinating participation in the project by other involved state agencies and departments. In acting as agent of or advisor to the department, DASNY shall have no independent liability in connection with the project and the department shall indemnify DASNY to the extent permitted by law. For the purposes of this act, the term "employee" as defined in subdivision one of section seventeen of the public officers law shall include the members of the board, officers and employees of the dormitory authority.

7. Procurement and contract approval authority. (a) Procurement approvals. The procurement of the project pursuant to this act, including but not limited to pre-qualification of prospective contractors, the election to issue a request for proposals, the evaluation of responses to the request for proposals, the determination by DASNY and the department to award the project agreement and any related agreements to which DASNY or the department is a party and the execution of the project agreement pursuant to this act, any related agreement to which DASNY or the department is a party or any amendments thereto, shall not be subject to the approval or authorization of any state officer, department or agency, except for: (i) the approval of the comptroller to the extent required by law of any agreement to which the department is a party; and (ii) the approval of the state division of the budget.

(b) Intergovernmental cooperation agreements. Notwithstanding any provision of law to the contrary and of paragraph (a) of this subdivision, state agencies as defined in section one hundred sixty of the state finance law including the State University of New York, public benefit corporations and public authorities involved in the project are each authorized to enter into such agreements with each other, which shall be in the nature of intergovernmental cooperation agreements, as each may deem necessary or appropriate in furtherance of the project including but not limited to the transfer of jurisdiction over state owned real property or the purposes of this act. Notwithstanding sections one hundred twelve and one hundred sixty-three of the state finance law, sections twenty-eight hundred seventy-nine and twenty-eight hundred seventy-nine-a of this chapter or any other provision of law to the contrary, no agreement entered into pursuant to this paragraph shall require public auction or bidding or any other competitive procurement process or require any approvals or authorizations of any state officer, department or agency other than the respective parties to such agreements.

(c) Agreements relating to the project between non-state parties. Subject to the terms of the project agreement or any related agreement, and notwithstanding section one hundred twelve of the state finance law, section twenty-eight hundred seventy-nine-a of this chapter or any other law to the contrary that relates to state or other public contracts,

agreements relating to the project or otherwise in furtherance of this act to which neither the state nor any state agency, department, public benefit corporation or public authority is a party shall not be deemed to be state contracts and shall not be subject to public auction or bidding requirements or any other competitive procurement requirement.

8. Project agreement subject to appropriation; special obligation. To the extent required by law, any obligation under a project agreement or any related agreement for the expenditure of funds shall be subject to appropriation by the legislature, shall be deemed executory only to the extent of monies appropriated therefor, shall not result in any liability on the part of the state or DASNY beyond appropriated monies, and shall not constitute a debt of the state within any constitutional or statutory provision. Any appropriation of funds made in respect of a project agreement or related agreement shall be allocated by the state division of the budget to DASNY or the department as applicable. Any project agreement or related agreement to which DASNY is a party shall be a special obligation of DASNY.

9. Applicability of certain laws to the project. (a) Any professional services performed pursuant to the project agreement or any related agreements that are regulated by articles one hundred forty-five, one hundred forty-seven and one hundred forty-eight of the education law shall be performed and stamped and sealed, where appropriate, by a professional licensed in accordance with such articles.

(b) The construction, demolition, reconstruction, excavation, rehabilitation, repair, or renovation of the project or an improvement to the property pertaining to the property shall be a "public work" for the purposes of article eight of the labor law, to be performed in accordance therewith (except as otherwise expressly provided in this act), as well as subject to enforcement of prevailing wage requirements by the New York state department of labor.

(c) The project shall be subject to section two hundred twenty-two of the labor law, except that notwithstanding any other section of this act or such section of the labor law or any other law the payment bond and the performance bond required under such section two hundred twenty-two or any other law may be provided by the construction contractor or design-builder performing the construction work if the contractor subcontracts the construction work to a construction contractor or a design-builder.

(d) The project agreement shall require that the project be undertaken pursuant to a project labor agreement, as defined in subdivision one of section two hundred twenty-two of the labor law, provided that, based upon a study done by or for DASNY or the department, DASNY or the department makes the determination required by section two hundred twenty-two of the labor law. If a project labor agreement is not utilized on the project, section one hundred thirty-five of the state finance law shall apply and the commissioner of labor shall retain authority to enforce section two hundred twenty-four of the labor law, provided, however, that DASNY may fulfill its obligations under section one hundred thirty-five of the state finance law by requiring the contractor to prepare separate specifications in accordance with section one hundred thirty-five of the state finance law.

(e) The project agreement shall comply with the objectives and goals of minority and women-owned business enterprises pursuant to article fifteen-A of the executive law and service-disabled veteran-owned business enterprises pursuant to section seventeen-B of the executive law or, if the project receives federal aid, shall comply with applicable

federal requirements for disadvantaged and veterans business enterprises.

§ 2. Severability. 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 provision had not been included herein.

§ 3. This act shall take effect immediately; provided that the project agreement and any related agreements awarded, executed and entered into in accordance with this act shall be deemed valid, binding and enforceable, notwithstanding the fact that any request for qualifications was issued or the selection of the entities authorized to receive a request for proposals occurred prior to the effective date of this act, if such issuance and selection were conducted in accordance with the applicable requirements of this act.

PART X

Section 1. Section 430 of the economic development law, as added by section 1 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

§ 430. Short title. This article shall be known and may be cited as the [~~"SUNY Tax-free Areas to Revitalize and Transform UPstate New York program," or the "START-UP NY~~] **"excelsior business** program".

§ 2. Subdivisions 4, 6, 7, 10 and 15 of section 431 of the economic development law, subdivisions 4, 6, 7 and 10 as added by section 1 of part A of chapter 68 of the laws of 2013 and subdivision 15 as added by section 1 of part B of chapter 60 of the laws of 2015, are amended to read as follows:

4. "Private college or university" means a not-for-profit [~~two or four year~~] university or college given the power to confer associate, baccalaureate or higher degrees in this state by the legislature or by the regents under article five of the education law.

6. "New business" means a business that satisfies all of the following tests:

(a) the business must [~~not be operating or located within the state at~~] **have been organized no more than five years prior to** the time it submits its application to participate in the [~~START-UP NY~~] **excelsior business** program;

(b) the business must not [~~be moving existing jobs into the tax-free NY area from another area in the state~~] **have generated net income from operations in any tax year of the business prior to the submission of its application to participate in the excelsior business program**;

(c) the business is not substantially similar in operation and in ownership to a business entity (or entities) taxable, or previously taxable within the last five taxable years, under section one hundred eighty-three, one hundred eighty-four, one hundred eighty-five or **former section** one hundred eighty-six of the tax law, article nine-A, **former article** thirty-two or **article** thirty-three of the tax law, article twenty-three of the tax law or which would have been subject to tax under such article twenty-three (as such article was in effect on January

first, nineteen hundred eighty), or the income (or losses) of which is (or was) includable under article twenty-two of the tax law; [~~and~~]

(d) the business must not have caused individuals to transfer from existing employment with a related person located in the state to similar employment with the business, unless such business has received approval for such transfers from the commissioner after demonstrating that the related person has not eliminated those existing positions**;**

(e) the business must not be publicly traded, or, if the business is a publicly traded entity, no more than five percent of the beneficial ownership of the business may be owned, directly or indirectly, by a publicly traded entity; and

(f) the business and its related persons must not, in the aggregate, have employed more than twenty-five persons in the four calendar quarters prior to the submission of the application by the business to participate in the excelsior business program.

7. "Tax-free NY area" means the land or vacant space of a university or college that meets the eligibility criteria specified in section four hundred thirty-two of this article and that has been approved as a tax-free NY area pursuant to the provisions in section four hundred thirty-five of this article. It also means a strategic state asset that has been approved by the [~~START-UP NY~~] **excelsior business** approval board pursuant to the provisions of subdivision four of section four hundred thirty-five of this article.

10. [~~"START-UP NY approval board"~~] **"Excelsior business approval board"** or "board" means a board consisting of three members, one each appointed by the governor, the speaker of the assembly and the temporary president of the senate. Each member of the [~~START-UP NY~~] **excelsior business** approval board must have significant expertise and experience in academic based economic development and may not have a personal interest in any project that comes before the board.

15. [~~"START-UP NY~~] **"Excelsior business** airport facility" means vacant land or space owned by the state of New York on the premises of Stewart Airport or Republic Airport.

§ 3. Paragraph (c) of subdivision 6 of section 431 of the economic development law, as amended by section 3 of part S of chapter 59 of the laws of 2014, is amended to read as follows:

(c) the business is not substantially similar in operation and in ownership to a business entity (or entities) taxable, or previously taxable within the last five taxable years, under section one hundred eighty-three or one hundred eighty-four, former section one hundred eighty-five or former section one hundred eighty-six of the tax law, article nine-A, **former article** thirty-two or **article** thirty-three of the tax law, article twenty-three of the tax law or which would have been subject to tax under such article twenty-three (as such article was in effect on January first, nineteen hundred eighty), or the income (or losses) of which is (or was) includable under article twenty-two of the tax law; [~~and~~]

§ 4. Section 431 of the economic development law is amended by adding a new subdivision 16 to read as follows:

16. "Significant change in organizational structure" means the conveyance of five percent or greater of the equity of a business in the form of stock, capital, profits or beneficial interest, the admission of a member or partner to the business, or the sale or transfer of substantially all of the assets of a business.

§ 5. Subdivisions 1, 2 and 3 of section 432 of the economic development law, as added by section 1 of part A of chapter 68 of the laws of 2013, are amended to read as follows:

1. State university campuses, community colleges and city university campuses. (a) Subject to the limitations in paragraph (c) of this subdivision, the following will constitute the eligible land of a state university campus, community college, or city university campus:

(i) any vacant space in any building [~~located on a campus of~~] **owned or leased by** a state university campus, community college [~~or~~]**,** city university campus**, or by any affiliate of a state university, community college or city university**;

(ii) any vacant land [~~on a campus of~~] **owned or leased by** a state university campus, community college [~~or~~]**,** city university campus**, or by any affiliate of a state university, community college or city university**;

(iii) for a state university campus or community college, a total of two hundred thousand square feet of vacant land or vacant building space that, except as provided under paragraph (b) of this subdivision, is located within one mile of a campus of the state university campus or community college; provided that this subparagraph shall not apply to a state university campus or community college located in Nassau county, Suffolk county [~~or~~]**,** Westchester county**, or New York city**; and

(iv) a New York state incubator [~~as the term is used in subdivision four of section four hundred thirty-three of this article~~] with a bona fide affiliation to the state university campus, community college or city university campus, with approval of the commissioner. In order for there to be a bona fide affiliation of a New York state incubator with a state university campus, community college or city university campus, the incubator and the state university campus, community college or city university campus must have a partnership to provide assistance and physical space to eligible businesses, as the term is used in section sixteen-v of the urban development corporation act; the incubator and the state university campus, community college or city university campus must directly work towards the goals of jointly creating jobs and incubating new startup businesses; and the mission and activities of the incubator must align with or further the academic mission of the state university campus, community college or city university campus.

(b) A state university campus or community college which qualifies under subparagraph (iii) of paragraph (a) of this subdivision may apply to the commissioner for a determination that identified vacant land or identified vacant space in a building that is located more than one mile from its campus, and is not located in Nassau county, Suffolk county, Westchester county or New York city, is eligible land for purposes of this program. The commissioner shall give consideration to factors including rural, suburban and urban geographic considerations and may qualify the identified land or space in a building as eligible land if the commissioner, in consultation with the chancellor or his or her designee, determines that the state university campus or community college has shown that the use of the land or space will be consistent with the requirements of this program and the plan submitted by the state university campus or community college pursuant to section four hundred thirty-five of this article. In addition, two hundred thousand square feet of vacant land or vacant building space affiliated with or in partnership with Maritime College shall be eligible under this paragraph. The aggregate amount of qualified land or space under this paragraph and subparagraph (iii) of paragraph (a) of this subdivision may

not exceed two hundred thousand square feet for a state university campus or community college.

(c) The provisions of paragraphs (a) and (b) of this subdivision shall apply only to:

(i) a state university campus other than the following: (A) any empire state college campus except for the empire state college campus in Saratoga Springs[~~,~~] **and** (B) [~~any property of downstate medical center located in Nassau county, Suffolk county, Westchester county or New York city except for property affiliated with downstate medical center that constitutes a New York state incubator as the term is used in subdivision four of section four hundred thirty-three of this article, and (C)~~] any property of the college of optometry or maritime college located in Nassau county, Suffolk county, Westchester county or New York city.

(ii) a community college, except that for a community college whose main campus is in New York city, paragraphs (a) and (b) of this subdivision shall not apply to property of such community college in Nassau county, Suffolk county, Westchester county or New York city.

(iii) a total of five city university campuses, one each in the boroughs of Manhattan, Brooklyn, Bronx, Queens and Staten Island, which will be designated by the board of trustees of the city university of New York. The campus designated in each borough must be located in an economically distressed community. The commissioner shall establish a list of economically distressed communities for the purpose of this designation, based on criteria indicative of economic distress, including poverty rates, numbers of persons receiving public assistance, unemployment rates, and such other indicators as the commissioner deems appropriate to be in need of economic assistance. In addition, paragraphs (a) and (b) of this subdivision shall apply to property of the city university located outside of Nassau county, Suffolk county, Westchester county and New York city.

(d) The eligible land of a state university campus, community college, or city university campus will also include eligible land designated under paragraph (c) of subdivision two of this section.

2. Private colleges and universities and certain other campuses. (a) Subject to the limitations in paragraph (c) of this subdivision, the following will constitute the eligible land of a private college or university:

(i) any vacant space in any building located on a campus of a private university or college other than a campus which is located in Nassau county, Suffolk county, Westchester county or New York city;

(ii) any vacant land on a campus of a private university or college other than a campus which is located in Nassau county, Suffolk county, Westchester county or New York city;

(iii) any vacant land or vacant space in a building which is not located in Nassau county, Suffolk county, Westchester county or New York city; and

(iv) a New York state incubator [~~as the term is used in subdivision four of section four hundred thirty-three of this article~~] with a bona fide affiliation to the private university or college, with approval of the commissioner. In order for there to be a bona fide affiliation of a New York state incubator with a private university or college, the incubator and the private university or college must have a partnership to provide assistance and physical space to eligible businesses as the term is used in section sixteen-v of the urban development corporation act; the incubator and the private university or college must directly work towards the goals of jointly creating jobs and incubating new startup

businesses; and the mission and activities of the incubator must align with or further the academic mission of the private university or college.

(b) Subject to the limitations in paragraph (c) of this subdivision, three million square feet is the maximum aggregate amount of tax-free NY areas of private universities and colleges that may be utilized for this program, which shall be designated in a manner that ensures regional balance and balance among eligible rural, urban and suburban areas in the state. The commissioner shall maintain an accounting of the vacant land and space of private universities and colleges that have been approved as tax-free NY areas and shall stop accepting applications for approval of tax-free NY areas when that maximum amount has been reached.

(c) Of the maximum aggregate amount in paragraph (b) of this subdivision, an initial amount of seventy-five thousand square feet shall be designated as tax-free NY areas in each of the following: Nassau county, Suffolk county, Westchester county and the boroughs of Brooklyn, Bronx, Manhattan, Queens and Staten Island. The board may approve the designation of up to an additional seventy-five thousand square feet for any county or borough that reaches the initial seventy-five thousand square foot limit, provided that such additional seventy-five thousand square feet shall not count against the square footage limitations in paragraph (b) of this subdivision. Vacant land and vacant space in a building on the campus of the following shall be eligible for designation under this paragraph:

(i) a private university or college which campus is located in Nassau county, Suffolk county, Westchester county or New York city.

(ii) a state university campus that meets the criteria of clause (B) [~~or (C)~~] of subparagraph (i) of paragraph (c) of subdivision one of this section.

(iii) a community college whose main campus is in New York city.

(iv) a city university campus that is not designated under subparagraph (iii) of paragraph (c) of subdivision one of this section.

(d) In addition, the board may approve: (i) one application that includes eligible land owned or leased by a city university campus that is directly adjacent to such campus; (ii) one application that includes eligible land owned or leased by a state university campus, community college, or private university or college in Nassau county or Suffolk county that is directly adjacent to such campus, university or college; and (iii) one application that includes eligible land owned or leased by a state university campus, community college, or private university or college in Westchester county that is directly adjacent to such campus, university or college. The board may approve an additional application, for a state university campus, community college, or private university or college in the county not previously approved under subparagraph (ii) of this paragraph, in which case it shall also approve a second application under subparagraph (i) of this paragraph.

3. Prohibition. A state university campus, community college or city university campus is prohibited from relocating or eliminating any academic programs, any administrative programs, offices, housing facilities, dining facilities, athletic facilities, or any other facility, space or program that actively serves students, faculty or staff in order to create vacant land or space to be utilized for the program authorized by this article. In addition, nothing in this article shall be deemed to waive or impair any rights or benefits of employees of the state university of New York, a community college or the city university of New York that otherwise would be available to them pursuant to the

terms of agreements between the certified representatives of such employees and their employers pursuant to article fourteen of the civil service law. No services or work currently performed by public employees of the state university of New York, a community college, or the city university of New York or future work that is similar in scope and nature to the work being currently performed by public employees shall be contracted out or privatized by the state university of New York, a community college or the city university of New York or by an affiliated entity or associated entity of the state university of New York, a community college or the city university of New York. For the purpose of this section, an affiliated entity or associated entity shall not include a business that is participating in the [~~START-UP NY~~] **excelsior business** program.

§ 6. Section 433 of the economic development law, as added by section 1 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

§ 433. Eligibility criteria for business. 1. In order to participate in the [~~START-UP NY~~] **excelsior business** program, a business must satisfy all of the following criteria.

(a) The mission and activities of the business must align with or further the academic mission of the campus, college or university sponsoring the tax-free NY area in which it seeks to locate, and the business's participation in the [~~START-UP NY~~] **excelsior business** program must have positive community and economic benefits.

(b) The business must demonstrate that it will, in its first [~~year~~] **five years** of operation **in a tax-free NY area**, create **and maintain at least one** net new [~~jobs~~] **job**. [~~After its first year of operation, the business must maintain net new jobs.~~] In addition, the average number of employees of the business and its related persons in the state during [~~the~~] **each** year must equal or exceed the sum of: (i) the average number of employees of the business and its related persons in the state during the year immediately preceding the year in which the business submits its application to locate in a tax-free NY area; and (ii) net new jobs of the business in the tax-free NY area during the **current** year. The average number of employees of the business and its related persons in the state shall be determined by adding together the total number of employees of the business and its related persons in the state on March thirty-first, June thirtieth, September thirtieth and December thirty-first and dividing the total by the number of such dates occurring within such year.

(c) [~~Except as provided in paragraphs (g) and (h) of this subdivision, at the time it submits its application for the START-UP NY program, the~~] **The** business must be a new business [~~to the state~~]**, as defined in subdivision six of section four hundred thirty-one of this article**.

(d) The business may be organized as a corporation, a partnership, limited liability company or a sole proprietorship.

(e) Upon completion of its first year in the [~~START-UP NY~~] **excelsior business** program and thereafter, the business must complete and timely file the annual report required under section four hundred thirty-eight of this article.

(f) [~~Except as provided in paragraphs (g) and (h) of this subdivision, the business must not be engaged in a line of business that is currently or was previously conducted by the business or a related person in the last five years in New York state~~] **The business must demonstrate that it is engaged in development or market evaluation for a product or service that will be provided from the tax-free NY area to which the business**

has applied to locate, and that the predominant activity of the business in the tax-free NY area will be development or production of the product or service.

(g) [~~If a business does not satisfy the eligibility standard set forth in paragraph (c) or (f) of this subdivision, because at one point in time it operated in New York state but moved its operations out of New York state on or before June first, two thousand thirteen, the commissioner shall grant that business permission to apply to participate in the START-UP NY program if the commissioner determines that the business has demonstrated that it will substantially restore the jobs in New York state that it previously had moved out of state.~~] The business must agree to locate all of its business activities in New York state in one or more tax-free NY areas if approved to participate in the excelsior business program.

(h) [~~If a business seeks to expand its current operations in New York state into a tax-free NY area but the business does not qualify as a new business because it does not satisfy the criteria in paragraph (c) of subdivision six of section four hundred thirty-one of this article or the business does not satisfy the eligibility standard set forth in paragraph (f) of this subdivision, the commissioner shall grant the business permission to apply to participate in the START-UP NY program if the commissioner determines that the business has demonstrated that it will create net new jobs in the tax-free NY area and that it or any related person has not eliminated any jobs in the state in connection with this expansion.~~] The business must agree to promptly notify the sponsoring college or university and the commissioner of any significant change in organizational structure.

2. The following types of businesses, as determined by the commissioner based upon the proposed predominant activity of each business applying to participate in the excelsior business program, are prohibited from participating in the [~~START-UP NY~~] excelsior business program.

(a) retail and wholesale businesses;

(b) restaurants;

(c) real estate brokers;

(d) law firms;

(e) medical or dental practices;

(f) real estate management companies;

(g) hospitality;

(h) finance and financial services;

(i) businesses providing personal services;

(j) businesses providing business administrative or support services, unless such business has received permission from the commissioner to apply to participate in the [~~START-UP NY~~] excelsior business program upon demonstration that the business would create no fewer than one hundred net new jobs in the tax-free NY area;

(k) accounting firms;

(l) businesses providing utilities; and

(m) businesses engaged in the generation or distribution of electricity, the distribution of natural gas, or the production of steam associated with the generation of electricity.

[~~2-a. Additional eligibility requirements in Nassau county, Suffolk county, Westchester county and New York city. In order to be eligible to participate in the START-UP NY program in Nassau county, Suffolk county, Westchester county or New York city, a business must be:~~

~~(a) in the formative stage of development; or~~

~~(b) engaged in the design, development, and introduction of new biotechnology, information technology, remanufacturing, advanced materials, processing, engineering or electronic technology products and/or innovative manufacturing processes, and meet such other requirements for a high-tech business as the commissioner shall develop.~~]

3. A business must be in compliance with all worker protection and environmental laws and regulations. In addition, a business may not owe past due federal or state taxes or local property taxes.

[~~4. Any business that has successfully completed residency in a New York state incubator pursuant to section sixteen-v of section one of chapter one hundred seventy-four of the laws of nineteen hundred sixty-eight constituting the urban development corporation act, subject to approval of the commissioner, may apply to participate in the START-UP NY program provided that such business locates in a tax-free NY area, notwithstanding the fact that the business may not constitute a new business.~~]

§ 7. Section 434 of the economic development law, as added by section 1 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

§ 434. Tax benefits. 1. A business that is accepted into the [~~START-UP NY~~] **excelsior business** program and locates in a tax-free NY area or the owner of a business that is accepted into the [~~START-UP NY~~] **excelsior business** program and locates in a tax-free NY area is eligible for the tax benefits specified in section thirty-nine of the tax law. Subject to the limitations of subdivision [~~two~~] **three** of this section, employees of such business satisfying the eligibility requirements specified in section thirty-nine of the tax law shall be eligible for the personal income tax benefits described in such section in a manner to be determined by the department of taxation and finance.

2. **A business that is a new business pursuant to subdivision six of section four hundred thirty-one of this article that is accepted into the excelsior business program and locates in a tax-free NY area shall be eligible for the benefits described in subdivision one of section three hundred fifty-five of this chapter, and, subject to the discretion of the commissioner, may be eligible for the benefits described in subdivisions two, three, and four of section three hundred fifty-five of this chapter, provided that such business satisfies the eligibility criteria enumerated in section three hundred fifty-three of this chapter.**

3. The aggregate number of net new jobs approved for personal income tax benefits under this article shall not exceed ten thousand jobs per year during the period in which applications are accepted pursuant to section four hundred thirty-six of this article. The commissioner shall allocate to each business accepted to locate in a tax-free NY area a maximum number of net new jobs that shall be eligible for the personal income tax benefits described in subdivision (e) of section thirty-nine of the tax law based on the schedule of job creation included in the application of such business. At such time as the total number of net new jobs under such approved applications reaches the applicable allowable total of aggregate net new jobs for tax benefits for the year in which the application is accepted, the commissioner shall stop granting eligibility for personal income tax benefits for net new jobs until the next year. Any business not granted such personal income tax benefits for net new jobs for such reason shall be granted such benefits in the next year prior to the consideration of new applicants. In addition, if the total number of net new jobs approved for tax benefits in any given

year is less than the maximum allowed under this subdivision, the difference shall be carried over to the next year. A business may amend its schedule of job creation in the same manner that it applied for participation in the [~~START-UP NY~~] **excelsior business** program, and any increase in eligibility for personal income tax benefits on behalf of additional net new jobs shall be subject to the limitations of this subdivision. If the business accepted to locate in a tax-free NY area creates more net new jobs than for which it is allocated personal income tax benefits, the personal income tax benefits it is allocated shall be provided to those individuals employed in those net new jobs based on the employees' dates of hiring.

§ 8. Subdivisions 1, 2, 3 and 4 of section 435 of the economic development law, subdivisions 1, 2 and 3 as added by section 1 of part A of chapter 68 of the laws of 2013 and subdivision 4 as amended by section 2 of part B of chapter 60 of the laws of 2015, are amended to read as follows:

1. The president or chief executive officer of any state university campus, community college or city university campus seeking to sponsor a tax-free NY area and have some of its eligible land specified under subdivision one of section four hundred thirty-two of this article be designated as a tax-free NY area must submit a plan to the commissioner that specifies the land or space the campus or college wants to include, describes the type of business or businesses that may locate on that land or in that space, explains how those types of businesses align with or further the academic mission of the campus or college and how participation by those types of businesses in the [~~START-UP NY~~] **excelsior business** program would have positive community and economic benefits, and describes the process the campus or college will follow to select participating businesses. At least thirty days prior to submitting such plan, the campus or college must provide the municipality or municipalities in which the proposed tax-free NY area is located, local economic development entities, the applicable campus or college faculty senate, union representatives and the campus student government with a copy of the plan. In addition, if the plan of the campus or college includes land or space located outside of the campus boundaries, the campus or college must consult with the municipality or municipalities in which such land or space is located prior to including such space or land in its proposed tax-free NY area and shall give preference to underutilized properties. Before approving or rejecting the plan submitted by a state university campus, community college or city university campus, the commissioner shall consult with the chancellor of the applicable university system or his or her designee.

2. The president or chief executive officer of any private college or university or of any state university campus, community college or city university campus seeking to sponsor a tax-free NY area and have some of its eligible land specified under subdivision two of section four hundred thirty-two of this article be designated as a tax-free NY area must submit a plan to the commissioner that specifies the land or space the college or university wants to include, describes the type of business or businesses that may locate on that land or in that space, explains how those types of businesses align with or further the academic mission of the college or university and how participation by those types of businesses in the [~~START-UP NY~~] **excelsior business** program would have positive community and economic benefits, and describes the process the campus or college will follow to select participating businesses. In addition, if the plan of the campus or college includes land

or space located outside of the campus boundaries, the campus or college must consult with the municipality or municipalities in which such land or space is located prior to including such space or land in its proposed tax-free NY area and shall notify local economic development entities. The commissioner shall forward the plan submitted under this subdivision to the [~~START-UP NY~~] **excelsior business** approval board. In evaluating such plans, the board shall examine the merits of each proposal, including but not limited to, compliance with the provisions of this article, reasonableness of the economic and fiscal assumptions contained in the application and in any supporting documentation and potential of the proposed project to create new jobs, and, except for proposals for designation of eligible land under paragraph (c) of subdivision two of section four hundred thirty-two of this article, shall prioritize for acceptance and inclusion into the [~~START-UP NY~~] **excelsior business** program plans for tax-free NY areas in counties that contain a city with a population of one hundred thousand or more without a university center as defined in subdivision seven of section three hundred fifty of the education law on the effective date of this article. No preference shall be given based on the time of submission of the plan, provided that any submission deadlines established by the board are met. In addition, the board shall give preference to private colleges or universities that include underutilized properties within their proposed tax-free NY areas. The board by a majority vote shall approve or reject each plan forwarded to it by the commissioner.

3. A campus, university or college may amend its approved plan, provided that the campus, university or college may not violate the terms of any lease with a business located in the approved tax-free NY area. In addition, if a business located in a tax-free NY area does not have a lease with a campus, university or college, and such business is terminated from the [~~START-UP NY~~] **excelsior business** program pursuant to paragraph (b) of subdivision four of section four hundred thirty-six of this article, and subsequently does not relocate outside of the tax-free NY area, a campus, university or college may amend its approved plan to allocate an amount of vacant land or space equal to the amount of space occupied by the business that is terminated. The amendment must be approved pursuant to the procedures and requirements set forth in subdivision one or two of this section, whichever is applicable**; provided, however, that a college or university which has obtained the approval of the excelsior business approval board for a plan pursuant to subdivision two of this section may amend the land and space designated under such plan pursuant to the procedures described in subdivision one of this section**.

4. The [~~START-UP NY~~] **excelsior business** approval board, by majority vote, shall designate correctional facilities described in subdivision fourteen of section four hundred thirty-one of this article, [~~START-UP NY~~] **excelsior business** airport facilities described in subdivision fifteen of section four hundred thirty-one of this article and up to twenty strategic state assets as tax-free NY areas. Each shall be affiliated with a state university campus, city university campus, community college, or private college or university and such designation shall require the support of the affiliated campus, college or university. Each strategic state asset and [~~START-UP NY~~] **excelsior business** airport facility, other than a correctional facility, may not exceed a maximum of two hundred thousand square feet of vacant land or vacant building space designated as a tax-free NY area. Designation of strategic state assets, correctional facilities described in subdivision fourteen of

section four hundred thirty-one of this article, and [~~START-UP NY~~] **excelsior business** airport facilities described in subdivision fifteen of section four hundred thirty-one of this article as tax-free NY areas shall not count against any square footage limitations in section four hundred thirty-two of this article.

§ 9. Section 436 of the economic development law, as added by section 1 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

§ 436. Businesses locating in tax-free NY areas. 1. A campus, university or college that has sponsored a tax-free NY area (including any strategic state asset affiliated with the campus, university or college) shall solicit and accept applications from businesses to locate in such area that are consistent with the plan of such campus, university or college or strategic state asset that has been approved pursuant to section four hundred thirty-five of this article. Any business that wants to locate in a tax-free NY area must submit an application to the campus, university or college which is sponsoring the tax-free NY area by December thirty-first, two thousand twenty. Prior to such date, the commissioner shall prepare an evaluation on the effectiveness of the [~~START-UP NY~~] **excelsior business** program and deliver it to the governor and the legislature to determine continued eligibility for application submissions.

2. (a) The sponsoring campus, university or college shall provide the application and all supporting documentation of any business it decides to accept into its tax-free NY area to the commissioner for review. Such application shall be in a form prescribed by the commissioner and shall contain all information the commissioner determines is necessary to properly evaluate the business's application, including, but not limited to, the name, address, and employer identification number of the business; a description of the land or space the business will use, the terms of the lease agreement, if applicable, between the sponsoring campus, university or college and the business, and whether or not the land or space being used by the business is being transferred or sublet to the business from some other business. The application must include a certification by the business that it meets the eligibility criteria specified in section four hundred thirty-three of this article and will align with or further the academic mission of the sponsoring campus, college or university, and that the business's participation in the [~~START-UP NY~~] **excelsior business** program will have positive community and economic benefits. The application must also describe whether or not the business competes with other businesses in the same community but outside the tax-free NY area. In addition, the application must include a description of how the business plans to recruit employees from the local workforce.

(b) The commissioner shall review such application and documentation within sixty days and may reject such application upon a determination that the business does not meet the eligibility criteria in section four hundred thirty-three of this article, has submitted an incomplete application, has failed to comply with subdivision three of this section, or has failed to demonstrate that the business's participation in the [~~START-UP NY~~] **excelsior business** program will have positive community and economic benefits, which shall be evaluated based on factors including but not limited to whether or not the business competes with other businesses in the same community but outside the tax-free NY area as prohibited by section four hundred forty of this article. If the commissioner rejects such application, it shall provide notice of such

rejection to the sponsoring campus, university or college and business. If the commissioner does not reject such application within sixty days, such business is accepted to locate in such tax-free NY area, and the application of such business shall constitute a contract between such business and the sponsoring campus, university or college. The sponsoring campus, university or college must provide accepted businesses with documentation of their acceptances in such form as prescribed by the commissioner of taxation and finance which will be used to demonstrate such business's eligibility for the tax benefits specified in section thirty-nine of the tax law.

(c) If a state university campus proposes to enter into a lease with a business for eligible land in a tax-free NY area with a term greater than forty years, including any options to renew, or for eligible land in a tax-free NY area of one million or more square feet, the state university campus, at the same time as the application is provided to the commissioner, also must submit the lease for review to the [~~START-UP NY~~] **excelsior business** approval board. If the board does not disapprove of the lease terms within thirty days, the lease is deemed approved. If the board disapproves the lease terms, the state university campus must submit modified lease terms to the commissioner for review. The commissioner's sixty day review period is suspended while the board is reviewing the lease and during the time it takes for the state university campus to modify the lease terms.

(d) Except as otherwise provided in this article, proprietary information or supporting documentation submitted by a business to a sponsoring campus, university or college shall only be utilized for the purpose of evaluating such business's application or compliance with the provisions of this article and shall not be otherwise disclosed. Any person who willfully discloses such information to a third party for any other purpose whatsoever shall be guilty of a misdemeanor.

3. The business submitting the application, as part of the application, must:

(a) agree to allow the department of taxation and finance to share its tax information with the department and the sponsoring campus, university or college;

(b) agree to allow the department of labor to share its tax and employer information with the department and the sponsoring campus, university or college;

(c) allow the department and its agents and the sponsoring campus, university or college access to any and all books and records the department or sponsoring campus, university or college may require to monitor compliance;

(d) [~~include performance benchmarks, including the number of net new jobs that must be created, the schedule for creating those jobs, and details on job titles and expected salaries. The application must specify the consequences for failure to meet such benchmarks, as determined by the business and the sponsoring campus, university or college: (i)~~] **agree that the failure of the business to meet the requirements of subdivision one of section four hundred thirty-three of this article shall result in the** suspension of such business's participation in the [~~START-UP NY~~] **excelsior business** program for one or more tax years as specified in such application[~~; (ii) termination of such business's participation in the START-UP NY program; and/or (iii) proportional recovery of tax benefits awarded under the START-UP NY program as specified in section thirty-nine of the tax law~~] **and that the business's participation in the excelsior business program shall be terminated in**

the event that it does not create and maintain at least one net new job within five years of the date that such business locates to a tax-free NY area;

(e) provide the following information to the department and sponsoring campus, university or college upon request:

(i) the prior three years of federal and state income or franchise tax returns, unemployment insurance quarterly returns, real property tax bills and audited financial statements;

(ii) the employer identification or social security numbers for all related persons to the business, including those of any members of a limited liability company or partners in a partnership;

(f) provide a clear and detailed presentation of all related persons to the business to assure the department that jobs are not being shifted within the state; and

(g) certify, under penalty of perjury, that it is in substantial compliance with all environmental, worker protection, and local, state, and federal tax laws, and that it satisfies all the eligibility requirements to participate in the [~~START-UP NY~~] **excelsior business** program.

4. (a) At the conclusion of the lease term of a lease by the sponsoring campus, university or college to a business of land or space in a tax-free NY area owned by the sponsoring campus, university or college, the leased land or space and any improvements thereon shall revert to the sponsoring campus, university or college, unless the lease is renewed.

(b) If, at any time, the sponsoring campus, university or college or the commissioner determines that a business no longer satisfies any of the eligibility criteria specified in section four hundred thirty-three of this article, the sponsoring campus, university or college shall recommend to the commissioner that the commissioner terminate or the commissioner on his or her own initiative shall immediately terminate such business's participation in the [~~START-UP NY~~] **excelsior business** program. Such business shall be notified of such termination by a method which allows for verification of receipt of such termination notice. A copy of such termination notice shall be sent to the commissioner of taxation and finance. Upon such termination, such business shall not be eligible for the tax benefits specified in section thirty-nine of the tax law for that or any future taxable year, calendar quarter or sales tax quarter, although employees of such business may continue to claim the tax benefit for their wages during the remainder of that taxable year. Further, such lease or contract between the sponsoring campus, university or college and such business shall be rescinded, effective on the thirtieth day after the commissioner mailed such termination notice to such business and the land or space and any improvements thereon shall revert to the sponsoring campus, university or college.

5. The commissioner shall promulgate regulations to effectuate the purposes of this section, including, but not limited to, establishing the process for the evaluation and possible rejection of applications, the eligibility criteria that will be applied in evaluating those applications, **the amendment of applications of businesses approved to locate to tax-free NY areas,** and the process for terminations from the [~~START-UP NY~~] **excelsior business** program and administrative appeals of such terminations.

6. Any business approved to participate in the excelsior business program that experiences a significant change in organizational structure shall apply to the commissioner to remain eligible to participate in the excelsior business program. The commissioner may approve the

continued participation of such business in the excelsior business program if the significant change in organizational structure does not substantially modify the conditions of such business' participation based upon factors set forth by the commissioner in regulations including, but not limited to, the affiliation of the business with the sponsoring college or university, the activity to be conducted in the tax-free NY area subsequent to the significant change in organizational structure, and any economic impact resulting from the significant change in organizational structure. The commissioner may terminate the participation of the business in the excelsior business program in the event that the commissioner determines that the significant change in organizational structure of the business will substantially modify the conditions of the business' participation in the excelsior business program. Approval by the commissioner of the continued participation of a business in the excelsior business program subsequent to a significant change in organizational structure shall not affect the period for which the business may claim benefits pursuant to section four hundred thirty-four of this article.

§ 10. Section 438 of the economic development law, as added by section 1 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

§ 438. Disclosure authorization and reporting requirements. [~~1. The commissioner and the department shall disclose publicly the names and addresses of the businesses located within a tax-free NY area. In addition, the commissioner and the department shall disclose publicly and include in the annual report required under subdivision two of this section such other information contained in such businesses' applications and annual reports, including the projected number of net new jobs to be created, as they determine is relevant and necessary to evaluate the success of this program.~~

~~2. (a) The commissioner shall prepare an annual report to the governor and the legislature. Such report shall include the number of business applicants, number of businesses approved, the names and addresses of the businesses located within a tax-free NY area, total amount of benefits distributed, benefits received per business, number of net new jobs created, net new jobs created per business, new investment per business, the types of industries represented and such other information as the commissioner determines is necessary to evaluate the progress of the START-UP NY program.~~

~~(b)~~] Any business located in a tax-free NY area must submit an annual report to the commissioner in a form and at such time and with such information as prescribed by the commissioner in consultation with the commissioner of taxation and finance. Such information shall be sufficient for the commissioner and the commissioner of taxation and finance to: (i) monitor the continued eligibility of the business and its employees to participate in the [~~START-UP NY~~] excelsior business program and receive the tax benefits described in section thirty-nine of the tax law and section three hundred fifty-five of this chapter; and (ii) evaluate the progress of the [~~START-UP NY~~] excelsior business program[~~; and (iii) prepare the annual report required by paragraph (a) of this subdivision. Such annual report shall also include information regarding the wages paid during the year to its employees employed in the net new jobs created and maintained in the tax-free NY area~~].

§ 11. Subdivision 2 of section 358 of the economic development law, as added by section 1 of part MM of chapter 59 of the laws of 2010, is amended to read as follows:

2. The commissioner shall prepare **a report** on [~~a quarterly~~] **an annual** basis [~~a program report for posting on the department's website. The first report will be due June thirtieth, two thousand eleven, and every three months thereafter. Such report shall include, but not be limited to, the following: number of applicants; number of participants approved; names of participants; total amount of benefits certified; benefits received per participant; total number of net new jobs created; number of net new jobs created per participant; aggregate new investment in the state; new investment per participant;~~] **pertaining to the excelsior jobs program and excelsior business program. The report shall be posted to the department's website,** and **shall include** such [~~other~~] information as the commissioner determines **is appropriate to describe the department's progress in promoting business growth, job creation, and innovation through the incentives available under this article and article twenty-one of this chapter**.

§ 12. Section 439 of the economic development law, as added by section 1 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

§ 439. Conflict of interest guidelines. 1. Each campus, university or college participating in the [~~START-UP NY~~] **excelsior business** program shall adopt a conflict of interest policy. Such conflict of interest policy shall provide, as it relates to the [~~START-UP NY~~] **excelsior business** program: (a) as a general principle, that service as an official of the campus, university or college shall not be used as a means for private benefit or inurement for the official, a relative thereof, or any entity in which the official, or relative thereof, has a business interest; (b) no official who is a vendor or employee of a vendor of goods or services to the campus, university or college, or who has a business interest in such vendor, or whose relative has a business interest in such vendor, shall vote on, or participate in the administration by the campus, university or college, as the case may be, of any transaction with such vendor; and (c) upon becoming aware of an actual or potential conflict of interest, an official shall advise the president or chief executive officer of the campus, university or college, as the case may be, of his or her or a relative's business interest in any such existing or proposed vendor with the campus, university or college. Each campus, university or college shall maintain a written record of all disclosures of actual or potential conflicts of interest made pursuant to paragraph (c) of this subdivision, and shall report such disclosures, on a calendar year basis, by January thirty-first of each year, to the auditor for such campus, university or college. The auditor shall forward such reports to the commissioner, who shall make public such reports.

2. For purposes of such conflict of interest policies: (a) an official of a campus, university or college has a "business interest" in an entity if the individual: (i) owns or controls ten percent or more of the stock of the entity (or one percent in the case of an entity the stock of which is regularly traded on an established securities exchange); or (ii) serves as an officer, director or partner of the entity; (b) a "relative" of an official of a campus, university or college shall mean any person living in the same household as the individual and any person who is a direct descendant of that individual's grandparents or the spouse of such descendant; and (c) an "official" of a campus, university or college shall mean an employee at the level of dean and above as well as any other [~~employee~~] **person** with decision-making authority over the [~~START-UP NY~~] **excelsior business** program.

§ 13. Subdivisions 1, 2 and 3 of section 353 of the economic development law, subdivisions 1 and 3 as amended by section 2 of part K of chapter 59 of the laws of 2015, and subdivision 2 as amended by section 2 of part G of chapter 61 of the laws of 2011, are amended to read as follows:

1. To be a participant in the excelsior jobs program, a business entity shall operate in New York state predominantly:

(a) as a financial services data center or a financial services back office operation;

(b) in manufacturing;

(c) in software development and new media;

(d) in scientific research and development;

(e) in agriculture;

(f) in the creation or expansion of back office operations in the state;

(g) in a distribution center;

(h) in an industry with significant potential for private-sector economic growth and development in this state as established by the commissioner in regulations promulgated pursuant to this article. In promulgating such regulations the commissioner shall include job and investment criteria;

(i) as an entertainment company; [~~or~~]

(j) in music production**; or**

(k) as a business approved to participate in the excelsior business program pursuant to section four hundred thirty-six of this chapter.

2. When determining whether an applicant is operating predominately in one of the industries listed in subdivision one of this section, the commissioner will examine the nature of the business activity at the location for the proposed project and will make eligibility determinations based on such activity**; provided, however, that a business eligible to participate in the excelsior jobs program pursuant to paragraph (k) of subdivision one of this section may engage in any eligible business activity pursuant to section four hundred thirty-three of this chapter**.

3. For the purposes of this article, in order to participate in the excelsior jobs program, a business entity operating predominantly in manufacturing must create at least ten net new jobs; **a business approved to participate in the excelsior business program pursuant to section four hundred thirty-six of this chapter must create at least five net new jobs;** a business entity operating predominately in agriculture must create at least five net new jobs; a business entity operating predominantly as a financial service data center or financial services customer back office operation must create at least fifty net new jobs; a business entity operating predominantly in scientific research and development must create at least five net new jobs; a business entity operating predominantly in software development must create at least five net new jobs; a business entity creating or expanding back office operations must create at least fifty net new jobs; a business entity operating predominately in music production must create at least five net new jobs; a business entity operating predominantly as an entertainment company must create or obtain at least one hundred net new jobs; or a business entity operating predominantly as a distribution center in the state must create at least seventy-five net new jobs, notwithstanding subdivision five of this section; or a business entity must be a regionally significant project as defined in this article[~~; or~~]**.**

§ 14. Subdivision 5 of section 354 of the economic development law, as amended by section 2 of part O of chapter 60 of the laws of 2016, is amended to read as follows:

5. A participant may claim tax benefits commencing in the first taxable year that the business enterprise receives a certificate of tax credit or the first taxable year listed on its preliminary schedule of benefits, whichever is later. A participant may claim such benefits for the next nine consecutive taxable years, provided that the participant demonstrates to the department that it continues to satisfy the eligibility criteria specified in section three hundred fifty-three of this article and subdivision two of this section in each of those taxable years, and provided that no tax credits may be allowed for taxable years beginning on or after January first, two thousand [~~twenty-seven~~] **thirty**. If, in any given year, a participant who has satisfied the eligibility criteria specified in section three hundred fifty-three of this article realizes job creation less than the estimated amount, the credit shall be reduced by the proportion of actual job creation to the estimated amount, provided the proportion is at least seventy-five percent of the jobs estimated. **Notwithstanding the provision in the second sentence of this subdivision regarding the ability of a participant to claim such benefits for the next nine consecutive years, a participant eligible to participate pursuant to paragraph (k) of subdivision one of section three hundred fifty-three of this article may claim such benefits only for the period ending in the last taxable year under which the business is entitled to receive benefits pursuant to section thirty-nine of the tax law, provided that no tax credits may be allowed for taxable years beginning on or after January first, two thousand thirty.**

§ 15. Section 359 of the economic development law, as amended by section 1 of part O of chapter 60 of the laws of 2016, is amended to read as follows:

§ 359. Cap on tax credit. The total amount of tax credits listed on certificates of tax credit issued by the commissioner for any taxable year may not exceed the limitations set forth in this section. One-half of any amount of tax credits not awarded for a particular taxable year in years two thousand eleven through two thousand twenty-four may be used by the commissioner to award tax credits in another taxable year.

Credit components in the aggregate shall not exceed:	With respect to taxable years beginning in:
$ 50 million	2011
$ 100 million	2012
$ 150 million	2013
$ 200 million	2014
$ 250 million	2015
$ 183 million	2016
$ 183 million	2017
$ 183 million	2018
$ 183 million	2019
$ 183 million	2020
$ 183 million	2021
$ 133 million	2022
$ 83 million	2023
$ 36 million	2024

Twenty-five percent of tax credits shall be allocated to businesses accepted into the program under subdivision four of section three hundred fifty-three of this article and seventy-five percent of tax credits shall be allocated to businesses accepted into the program under subdivision three of section three hundred fifty-three of this article.

Provided, however, if by September thirtieth of a calendar year, the department has not allocated the full amount of credits available in that year to either: (i) businesses accepted into the program under subdivision four of section three hundred fifty-three of this article or (ii) businesses accepted into the program under subdivision three of section three hundred fifty-three of this article, the commissioner may allocate any remaining tax credits to businesses referenced in this paragraph as needed; provided, however, that under no circumstances may the aggregate statutory cap for all program years be exceeded. One hundred percent of the unawarded amounts remaining at the end of two thousand twenty-four may be allocated in subsequent years, notwithstanding the fifty percent limitation on any amounts of tax credits not awarded in taxable years two thousand eleven through two thousand twenty-four. Provided, however, no tax credits may be allowed for taxable years beginning on or after January first, two thousand [~~twenty-seven~~] **thirty**.

§ 16. Section 215-d of the education law, as added by section 1 of part Z of chapter 56 of the laws of 2014, is amended to read as follows:

§ 215-d. State university of New York report on economic development activities. The chancellor of the state university of New York shall report to the governor and to the legislature, on or before January first, two thousand fifteen, on economic development activities undertaken by the state university of New York. Such report shall include, but not be limited to, expenditures of capital funds for economic development activities received from the empire state development corporation, SUNY 2020 challenge grant projects, capital expenditures from other sources, and activities [~~for the purpose of securing START-UP NY approval~~] **of campuses of the state university of New York related to the excelsior business program**.

§ 17. The section heading of section 361 of the education law, as added by section 21 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

[~~START-UP NY program leases~~] **Excelsior business program leases**.

§ 18. Subdivision (b) of section 31 of the tax law, as amended by section 3 of part O of chapter 60 of the laws of 2016, is amended to read as follows:

(b) To be eligible for the excelsior jobs program credit, the taxpayer shall have been issued a "certificate of tax credit" by the department of economic development pursuant to subdivision four of section three hundred fifty-four of the economic development law, which certificate shall set forth the amount of each credit component that may be claimed for the taxable year. A taxpayer**, other than a business eligible to participate in the excelsior jobs program pursuant to paragraph (k) of subdivision one of section three hundred fifty-three of the economic development law,** may claim such credit for ten consecutive taxable years commencing in the first taxable year that the taxpayer receives a certificate of tax credit or the first taxable year listed on its preliminary schedule of benefits, whichever is later, provided that no tax credits may be allowed for taxable years beginning on or after January first, two thousand [~~twenty-seven~~] **thirty. A taxpayer eligible to participate in the excelsior jobs program pursuant to paragraph (k) of**

subdivision one of section three hundred fifty-three of the economic development law, may claim such credit for the period commencing in the first taxable year that the taxpayer receives a certificate of tax credit or the first taxable year listed on its preliminary schedule of benefits, whichever is later, and ending in the last taxable year under which the business is entitled to receive benefits pursuant to section thirty-nine of this article, provided that no tax credits may be allowed for taxable years beginning on or after January first, two thousand thirty. The taxpayer shall be allowed to claim only the amount listed on the certificate of tax credit for that taxable year. Such certificate must be attached to the taxpayer's return. No cost or expense paid or incurred by the taxpayer shall be the basis for more than one component of this credit or any other tax credit, except as provided in section three hundred fifty-five of the economic development law.

§ 19. Paragraph 1 of subdivision (a) of section 39 of the tax law, as added by section 2 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

(1) Any business or owner of a business in the case of a business taxed as a sole proprietorship, partnership or New York S corporation, that is approved to locate and is located in a tax-free NY area approved pursuant to article twenty-one of the economic development law is eligible for the tax benefits described in this section. Unless otherwise specified, such business or owner of such business shall be eligible for these tax benefits for a period of ten consecutive taxable years, commencing with the taxable year during which it locates in [~~the~~] a tax-free NY area for the first time.

§ 20. Subdivisions (a), (c-1), (d), (f), (g), (i), (j) and (k) and paragraph (A) of subdivision (h) of section 39 of the tax law, subdivisions (a), (d), (f), (g), (i), (j) and (k) and paragraph (A) of subdivision (h) as added by section 2 of part A of chapter 68 of the laws of 2013, subdivision (c-1) as added by section 1 of part T of chapter 59 of the laws of 2014, paragraph (4) of subdivision (k) as amended by section 53 of part A of chapter 59 of the laws of 2014 and paragraph 6 of subdivision (k) as amended by section 2-a of part T of chapter 59 of the laws of 2014, are amended to read as follows:

(a) (1) Any business or owner of a business in the case of a business taxed as a sole proprietorship, partnership or New York S corporation, that is approved to locate and is located in a tax-free NY area approved pursuant to article twenty-one of the economic development law is eligible for the tax benefits described in this section. Unless otherwise specified, such business or owner of such business shall be eligible for these tax benefits for a period of ten consecutive taxable years, commencing with the taxable year during which it locates in [~~the~~] a tax-free NY area for the first time.

(2) In order to be eligible for these tax benefits during any taxable year, calendar quarter or sales tax quarter, such business must be approved to participate in the [~~START-UP NY~~] excelsior business program, must operate at the approved location in the tax-free NY area, and must satisfy the eligibility criteria specified in paragraph (b) of subdivision one of section four hundred thirty-three of the economic development law.

(c-1) Excise tax on telecommunication services. Such business or owner of a business shall be eligible for a credit of the excise tax on telecommunication services imposed by section one hundred eighty-six-e of this chapter that is passed through to such business, pursuant to the provisions referenced in subdivision [~~(k)~~] (j) of this section.

(d) Metropolitan commuter transportation district mobility tax. If the tax-free NY area at which such business is located is within the metropolitan commuter transportation district (MCTD), and such business is an employer engaged in business within the MCTD, the payroll expense of such business at such location within the tax-free NY area shall be exempt from the metropolitan commuter transportation district mobility tax imposed under article twenty-three of this chapter for forty consecutive calendar quarters, commencing with the calendar quarter during which the employer locates in the tax-free NY area within the MCTD. **Provided, however, if such business located in a tax-free NY area outside the MCTD prior to locating in a tax-free NY area within the MCTD, its benefit period within the MCTD may consist of less than forty consecutive calendar quarters and shall be deemed to commence in the calendar quarter such business first located in a tax-free NY area.** If the tax-free NY area at which such business is located is within the MCTD and the owner of such business is an individual who has net earnings from self-employment at such location, such net earnings shall be exempt from the metropolitan commuter transportation district mobility tax imposed under article twenty-three of this chapter for ten consecutive taxable years commencing with the taxable year during which the business locates in the tax-free NY area. **Provided, however, if such business located in a tax-free NY area outside the MCTD prior to locating in a tax-free NY area within the MCTD, the benefit period for the owner of such business within the MCTD may consist of less than ten taxable years and shall be deemed to commence in the taxable year in which such business first located in a tax-free NY area.**

(f) Sales and use tax. Such business shall be eligible for a credit or refund for sales and use taxes imposed on the retail sale of tangible personal property or services under subdivisions (a), (b), and (c) of section eleven hundred five and section eleven hundred ten of this chapter and similar taxes imposed pursuant to the authority of article twenty-nine of this chapter. The credit or refund shall be allowed for one hundred twenty consecutive months beginning with the **earlier of the** month during which such business locates in [~~the~~] **a** tax-free NY area **for the first time or the month in which such business is approved to locate in a tax-free NY area for the first time**.

(g) Real estate transfer taxes. Any lease of property to such business shall be exempt from any state or local real estate transfer tax or real property transfer tax. **Such exemption shall be available for a period of ten consecutive years commencing on the date that such business is approved for the first time to locate in a tax-free NY area.**

(A) Notwithstanding any provision of this chapter to the contrary, the commissioner, to the extent practicable, may disclose publicly the names and addresses of the businesses receiving any of the tax benefits specified in this section. In addition, the commissioner may disclose publicly the amounts of such benefits allowed to each such business, and whether or not a business created or maintained net new jobs during the taxable year. With regard to the income tax exemption specified in subdivision (e) of this section, the commissioner may publicly disclose the aggregate amounts of such tax exemption allowed to employees. In addition, the commissioner may publicly disclose the number of net new jobs such business reports on its tax return or report or any other information necessary for the commissioner of economic development or the campus, college or university sponsoring the tax-free NY area approved pursuant to article twenty-one of the economic development law

to monitor and enforce compliance with the law, rules and regulations governing the [~~START-UP NY~~] **excelsior business** program.

(i) Such business shall not be allowed to claim any other tax credit allowed under this chapter with respect to its activities or employees in such tax-free NY area**, except that such business may be eligible to claim the excelsior jobs program credit components specified in subdivision (a) of section thirty-one of this article, provided that such business satisfies the eligibility criteria enumerated in section three hundred fifty-three of the economic development law and is issued a certificate of tax credit by the department of economic development pursuant to subdivision four of section three hundred fifty-four of the economic development law**.

(j) [~~If the application of a business for participation in the START-UP NY program specifies that failure to meet the performance benchmarks specified in such application shall result in proportional recovery of tax benefits awarded under the START-UP NY program, the business shall be required to reduce the total amount of tax benefits described in this section that the business or its owners claimed or received during the taxable year by the percentage reduction in net new jobs promised by the performance benchmarks, and if the tax benefits are reduced to an amount less than zero, those negative amounts shall be added back as tax. The amount required to be added back shall be reported on such business's corporate franchise tax report if such business is taxed as a corporation or on the corporate franchise tax reports or personal income tax returns of the owners of such business if such business is taxed as a sole proprietorship, partnership or New York S corporation.~~

~~(k)~~] Cross-references. For application of the tax benefits provided for in this section, see the following provisions of this chapter:

(1) Section 40.

(4) Article 9-A: section 210-B, subdivision 41 and subdivision 44.

(5) Article 22: section 606, subsection (i), paragraph (1), subparagraph (B), clause (xxxvi).

(6) Article 22: section 606, subsection (ww) and subsection (yy).

(7) Article 22: section 612, subsection (c), paragraph (40).

(8) Article 23: section 803.

(9) Article 28: section 1119, subdivision (d).

(10) Article 31: section 1405, subdivision (b), paragraph 11.

§ 21. Section 39-a of the tax law, as added by section 3 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

§ 39-a. Penalties for fraud in the [~~START-UP NY~~] **excelsior business** program. If the commissioner of economic development on his or her own initiative or on the recommendation of a sponsoring campus, university or college finally determines that any such business participating in the [~~START-UP NY~~] **excelsior business** program authorized under article twenty-one of the economic development law has acted fraudulently in connection with its participation in such program, such business:

(a) shall be immediately terminated from such program;

(b) shall be subject to applicable criminal penalties, including but not limited to the felony crime of offering a false instrument for filing in the first degree pursuant to section 175.35 of the penal law; and

(c) shall be required in that year to add back to tax the total value of the tax benefits described in section thirty-nine of this article that such business has received and that the employees of such business have received up to the date of such finding. The amount required to be added back shall be reported on such business's corporate franchise

report if such business is taxed as a corporation or on the corporate franchise tax reports or personal income tax returns of the owners of such business if such business is taxed as a sole proprietorship, partnership or New York S corporation.

§ 22. Subdivisions (a) and (c) of section 40 of the tax law, as added by section 4 of part A of chapter 68 of the laws of 2013, paragraph 1 of subdivision (c) as amended by section 34 of part T of chapter 59 of the laws of 2015, are amended to read as follows:

(a) Allowance of credit. A taxpayer that is a business or owner of a business in the case of a business taxed as a sole proprietorship, partnership or New York S corporation, that is **approved to locate and is** located in [~~a~~] **one or more** tax-free NY area **or areas** approved pursuant to article twenty-one of the economic development law and is subject to tax under article nine-A, or twenty-two of this chapter, shall be allowed a credit against such tax, pursuant to the provisions referenced in subdivision (e) of this section, to be computed as hereinafter provided.

(c) Tax-free area allocation factor. The tax-free area allocation factor shall be the percentage representing the business's economic presence in the tax-free NY area **or areas** in which the business was approved to locate pursuant to article twenty-one of the economic development law. This percentage shall be computed by:

(1) ascertaining the percentage that the average value of the business's real and tangible personal property, whether owned or rented to it, in the tax-free NY [~~area~~] **areas** in which the business was [~~located~~] **approved to locate** during the period covered by the taxpayer's report or return bears to the average value of the business's real and tangible personal property, whether owned or rented to it, within the state during such period; provided that the term "value of the business's real and tangible personal property" shall have the same meaning as such term has in paragraph (a) of subdivision two of section two hundred nine-B of this chapter; and

(2) ascertaining the percentage that the total wages, salaries and other personal service compensation, similarly computed, during such period of employees, except general executive officers, employed at **each of** the business's [~~location~~] **locations** in the tax-free NY [~~area~~] **areas in which it was approved to locate**, bears to the total wages, salaries and other personal service compensation, similarly computed, during such period, of all the business's employees within the state, except general executive officers; and

(3) adding together the percentages so determined and dividing the result by two.

For purposes of article twenty-two of this chapter, references in this subdivision to property, wages, salaries and other personal service compensation shall be deemed to be references to such items connected with the conduct of a business.

§ 23. Subdivision (d) of section 40 of the tax law, as added by section 4 of part A of chapter 68 of the laws of 2013, clause (ii) of subparagraph (B) of paragraph 2 as amended by section 35, subparagraph (C) of paragraph 2 as amended by section 36, and subparagraph (B) of paragraph 3 as amended by section 37 of part T of chapter 59 of the laws of 2015, is amended to read as follows:

(d) Tax factor. (1) General. The tax factor shall be, in the case of article nine-A of this chapter, the largest of the amounts of tax determined for the taxable year under paragraphs (a) through (d) of subdivision one of section two hundred ten of such article after the deduction

of any other credits allowable under such article**, other than the excelsior jobs program credits allowed under subdivision thirty-one of section two hundred ten-B**. The tax factor shall be, in the case of article twenty-two of this chapter, the tax determined for the taxable year under subsections (a) through (d) of section six hundred one of such article after the deduction of any other credits allowable under such article**, other than the excelsior jobs program credits allowed under subsection (qq) of section six hundred six of this chapter**.

(2) Sole proprietors, partners and S corporation shareholders. (A) Where the taxpayer is a sole proprietor of a business located in [~~a~~] **one or more** tax-free NY [~~area~~] **areas**, the taxpayer's tax factor shall be that portion of the amount determined in paragraph one of this subdivision that is attributable to the income of the business at its location in the tax-free NY [~~area~~] **areas in which it was approved to locate**. Such attribution shall be made in accordance with the ratio of the taxpayer's income from such business allocated within the state, entering into New York adjusted gross income, to the taxpayer's New York adjusted gross income, or in accordance with such other methods as the commissioner may prescribe as providing an apportionment that reasonably reflects the portion of the taxpayer's tax attributable to the income of such business. In no event may the ratio so determined exceed 1.0. The income from such business allocated within the state shall be determined as if the sole proprietor was a non-resident.

(B)(i) Where the taxpayer is a member of a partnership that is a business located in [~~a~~] **one or more** tax-free NY [~~area~~] **areas**, the taxpayer's tax factor shall be that portion of the amount determined in paragraph one of this subdivision that is attributable to the income of the partnership. Such attribution shall be made in accordance with the ratio of the partner's income from the partnership allocated within the state to the partner's entire income, or in accordance with such other methods as the commissioner may prescribe as providing an apportionment that reasonably reflects the portion of the partner's tax attributable to the income of the partnership. In no event may the ratio so determined exceed 1.0. The income from the partnership allocated within the state shall be determined as if any of the partners was a non-resident.

(ii) For purposes of article nine-A of this chapter, the term "partner's income from the partnership" means partnership items of income, gain, loss and deduction, and New York modifications thereto, entering into business income and the term "partner's entire income" means business income, allocated within the state. For purposes of article twenty-two of this chapter, the term "partner's income from the partnership" means partnership items of income, gain, loss and deduction, and New York modifications thereto, entering into New York adjusted gross income, and the term "partner's entire income" means New York adjusted gross income.

(C) (i) Where the taxpayer is a shareholder of a New York S corporation that is a business located in [~~a~~] **one or more** tax-free NY [~~area~~] **areas**, the shareholder's tax factor shall be that portion of the amount determined in paragraph one of this subdivision that is attributable to the income of the S corporation. Such attribution shall be made in accordance with the ratio of the shareholder's income from the S corporation allocated within the state, entering into New York adjusted gross income, to the shareholder's New York adjusted gross income, or in accordance with such other methods as the commissioner may prescribe as providing an apportionment that reasonably reflects the portion of the shareholder's tax attributable to the income of such business. The

income of the S corporation allocated within the state shall be determined by multiplying the income of the S corporation by a business allocation factor that shall be determined in clause (ii) of this subparagraph. In no event may the ratio so determined exceed 1.0.

(ii) The business allocation factor for purposes of this subparagraph shall be computed by adding together the property factor specified in subclause (I) of this clause, the wage factor specified in subclause (II) of this clause and the apportionment factor determined under section two hundred ten-A of this chapter and dividing by three.

(I) The property factor shall be determined by ascertaining the percentage that the average value of the business's real and tangible personal property, whether owned or rented to it, within the state during the period covered by the taxpayer's report or return bears to the average value of the business's real and tangible personal property, whether owned or rented to it, within and without the state during such period; provided that the term "value of the business's real and tangible personal property" shall have the same meaning as such term has in paragraph (a) of subdivision two of section two hundred nine-B of this chapter.

(II) The wage factor shall be determined by ascertaining the percentage that the total wages, salaries and other personal service compensation, similarly computed, during such period of employees, except general executive officers, employed at the business's location or locations within the state, bears to the total wages, salaries and other personal service compensation, similarly computed, during such period, of all the business's employees within and without the state, except general executive officers.

(3) Combined returns or reports. (A) Where the taxpayer is a business located in [~~a~~] **one or more** tax-free NY [~~area~~] **areas** and is required or permitted to make a return or report on a combined basis under article nine-A of this chapter, the taxpayer's tax factor shall be the amount determined in paragraph one of this subdivision that is attributable to the income of such business. Such attribution shall be made in accordance with the ratio of the business's income allocated within the state to the combined group's income, or in accordance with such other methods as the commissioner may prescribe as providing an apportionment that reasonably reflects the portion of the combined group's tax attributable to the income of such business. In no event may the ratio so determined exceed 1.0.

(B) The term "income of the business located in [~~a~~] **one or more** tax-free NY [~~area~~] **areas**" means business income calculated as if the taxpayer was filing separately and the term "combined group's income" means business income as shown on the combined report, allocated within the state.

(4) If a business is generating or receiving income from a line of business or intangible property that was previously conducted, created or developed by the business or a related person, as that term is defined in section four hundred thirty-one of the economic development law, the tax factor specified in this subdivision shall be adjusted to disregard such income. **However, if the income being generated or received is from the expansion of a line of business or intangible property that the business previously conducted, created or developed in a limited, prototypical fashion, the taxpayer may request that the commissioner exercise his or her discretion to not disregard such income. Such request must be made in the manner determined by the commissioner**

and must be made by the due date of the taxpayer's return, determined with regard to extensions.

§ 24. Subdivision (b) of section 803 of the tax law, as added by section 11 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

(b) If a tax-free NY area approved pursuant to the provisions of article twenty-one of the economic development law is located within the MCTD, the payroll expense in such tax-free NY area of any employer that is located in such area and accepted into the [~~START-UP NY~~] **excelsior business** program shall be exempt from the tax imposed under this article. In addition, the net earnings from self-employment of an individual from a business in such tax-free NY area that is accepted into the [~~START-UP NY~~] **excelsior business** program shall be exempt from the tax imposed under this article.

§ 25. Paragraph 11 of subdivision (b) of section 1405 of the tax law, as added by section 13 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

11. Conveyances of real property located in tax-free NY areas approved pursuant to article twenty-one of the economic development law to businesses located in such areas that are participating in the [~~START-UP NY~~] **excelsior business** program pursuant to such article twenty-one.

§ 26. Subdivision 2 of section 420-a of the real property tax law, as amended by section 17 of part A of chapter 68 of the laws of 2013, is amended to read as follows:

2. If any portion of such real property is not so used exclusively to carry out thereupon one or more of such purposes but is leased or otherwise used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be exempt; provided, however, that such real property shall be fully exempt from taxation although it or a portion thereof is used (a) for purposes which are exempt pursuant to this section or sections four hundred twenty-b, four hundred twenty-two, four hundred twenty-four, four hundred twenty-six, four hundred twenty-eight, four hundred thirty or four hundred fifty of this [~~chapter~~] **title** by another corporation which owns real property exempt from taxation pursuant to such sections or whose real property if it owned any would be exempt from taxation pursuant to such sections, (b) for purposes which are exempt pursuant to section four hundred six or section four hundred eight of this [~~chapter~~] **article** by a corporation which owns real property exempt from taxation pursuant to such section or if it owned any would be exempt from taxation pursuant to such section, (c) for purposes which are exempt pursuant to section four hundred sixteen of this [~~chapter~~] **article** by an organization which owns real property exempt from taxation pursuant to such section or whose real property if it owned any would be exempt from taxation pursuant to such section, (d) for purposes relating to civil defense pursuant to the New York state defense emergency act, including but not limited to activities in preparation for anticipated attack, during attack, or following attack or false warning thereof, or in connection with drill or test ordered or directed by civil defense authorities, or (e) for purposes of a tax-free NY area that has been approved pursuant to article twenty-one of the economic development law, subject to the conditions that the real property must have been owned by the corporation or association organized exclusively for educational purposes and exempt pursuant to this section on June first, two thousand thirteen, and that the exemption shall apply only to the portion of such real property that is used for purposes of the [~~START-UP NY~~] **excelsior business** program; and provided further that

such real property shall be exempt from taxation only so long as it or a portion thereof, as the case may be, is devoted to such exempt purposes and so long as any moneys paid for such use do not exceed the amount of the carrying, maintenance and depreciation charges of the property or portion thereof, as the case may be.

§ 27. This act shall take effect immediately; provided, however, that:

a. the amendments to paragraph (c) of subdivision 6 of section 431 of the economic development law made by section three of this act shall take effect on the same date and in the same manner as section 3 of part S of chapter 59 of the laws of 2014, takes effect; and

b. the amendments to paragraphs (c), (f) and (g) of subdivision 1 of section 433 of the economic development law made by section six of this act shall not apply to any business approved to participate in the excelsior business program prior to the effective date of this act.

PART Y

Section 1. Section 522 of the labor law, as amended by chapter 720 of the laws of 1953, is amended to read as follows:

§ 522. Total unemployment. "Total unemployment" **or "totally unemployed"** means the [~~total~~] lack of any employment [~~on~~] **in** any [~~day~~] **week**. The term "employment" as used in this section means any employment including that not defined in this title.

§ 2. Section 523 of the labor law, as amended by chapter 675 of the laws of 1977, is amended to read as follows:

§ 523. [~~Effective day. "Effective day" means a full day of total unemployment provided such day falls within a week in which a claimant had four or more days of total unemployment and provided further that only those days of total unemployment in excess of three days within such week are deemed "effective days". No effective day is deemed to occur in a week in which the claimant has days of employment for which he is paid compensation exceeding the highest benefit rate which is applicable to any claimant in such week. A claimant who is employed on a shift continuing through midnight is deemed to have been employed on the day beginning before midnight with respect to such shift, except where night shift employees are regularly scheduled to start their work week at seven post meridiem or thereafter on Sunday night, their regularly scheduled starting time on Sunday shall be considered as starting on Monday.~~] **Partial unemployment. "Partial unemployment" or "partially unemployed" means any week where a claimant has received remuneration in an amount not more than the maximum benefit amount set forth in paragraph (a) of subdivision five of section five hundred ninety of this article.**

§ 3. Section 524 of the labor law, as added by chapter 5 of the laws of 2000, is amended to read as follows:

§ 524. Week of employment. For purposes of this article, "week of employment" shall mean a Monday through Sunday period during which a claimant was paid remuneration for employment for an employer or employers liable for contributions or for payments in lieu of contributions under this article. **A claimant who is employed on a shift continuing through midnight is deemed to have been employed on the day beginning before midnight with respect to such shift, except where night shift employees are regularly scheduled to start their work week at seven post meridiem or thereafter on Sunday night, their regularly scheduled starting time on Sunday shall be considered as starting on Monday.**

§ 4. Subdivision 4 of section 527 of the labor law, as amended by chapter 832 of the laws of 1968 and as renumbered by chapter 381 of the laws of 1984, is amended to read as follows:

4. General condition. A valid original claim may be filed only in a week in which the claimant [~~has at least one effective day of unemployment~~] **is totally unemployed or partially unemployed as defined in this article**.

§ 5. Clauses (i), (ii), (iii) and (iv) of subparagraph 2 of paragraph (e) of subdivision 1 of section 581 of the labor law, as amended by chapter 282 of the laws of 2002, are amended to read as follows:

(i) In those instances where the claimant may not utilize wages paid to establish entitlement based upon subdivision ten of section five hundred ninety of this article and an educational institution is the claimant's last employer prior to the filing of the claim for benefits, or the claimant performed services in such educational institution in such capacity while employed by an educational service agency which is the claimant's last employer prior to the filing of the claim for benefits, such employer shall not be liable for benefit charges [~~for the first twenty-eight effective days of benefits paid~~] **in an amount equal to the benefits paid for seven weeks of total unemployment** as otherwise provided by this section. Under such circumstances, benefits paid shall be charged to the general account. In addition, wages paid during the base period by such educational institutions, or for services in such educational institutions for claimants employed by an educational service agency shall not be considered base period wages during periods that such wages may not be used to gain entitlement to benefits pursuant to subdivision ten of section five hundred ninety of this article.

(ii) In those instances where the claimant may not utilize wages paid to establish entitlement based upon subdivision eleven of section five hundred ninety of this article and an educational institution is the claimant's last employer prior to the filing of the claim for benefits, or the claimant performed services in such educational institution in such capacity while employed by an educational service agency which is the claimant's last employer prior to the filing of the claim for benefits, such employer shall not be liable for benefit charges [~~for the first twenty-eight effective days of benefits paid~~] **in an amount equal to the benefits paid for seven weeks of total unemployment** as otherwise provided by this section. Under such circumstances, benefits paid will be charged to the general account. In addition, wages paid during the base period by such educational institutions, or for services in such educational institutions for claimants employed by an educational service agency shall not be considered base period wages during periods that such wages may not be used to gain entitlement to benefits pursuant to subdivision eleven of section five hundred ninety of this article. However, in those instances where a claimant was not afforded an opportunity to perform services for the educational institution for the next academic year or term after reasonable assurance was provided, such employer shall be liable for benefit charges as provided for in this paragraph for any retroactive payments made to the claimant.

(iii) In those instances where the federal government is the claimant's last employer prior to the filing of the claim for benefits and such employer is not a base-period employer, payments [~~equaling the first twenty-eight effective days of benefits~~] **in an amount equal to the benefits paid for seven weeks of total unemployment** as otherwise prescribed by this section shall be charged to the general account. In those instances where the federal government is the claimant's last

employer prior to the filing of the claim for benefits and a base-period employer, such employer shall be liable for charges for all benefits paid on such claim in the same proportion that the remuneration paid by such employer during the base period bears to the remuneration paid by all employers during the base period. In addition, benefit payment charges for the first twenty-eight effective days of benefits other than those chargeable to the federal government as prescribed above shall be made to the general account.

(iv) In those instances where a combined wage claim is filed pursuant to interstate reciprocal agreements and the claimant's last employer prior to the filing of the claim is an out-of-state employer and such employer is not a base-period employer, benefit payments [~~equaling the first twenty-eight effective days of benefits~~] **in an amount equal to the benefits paid for seven weeks of total unemployment** as otherwise prescribed by this section shall be charged to the general account. In those instances where the out-of-state employer is the last employer prior to the filing of the claim for benefits and a base-period employer such employer shall be liable for charges for all benefits paid on such claim in the same proportion that the remuneration paid by such employer during the base period bears to the remuneration paid by all employers during the base period. In addition, benefit payment charges for the twenty-eight effective days of benefits other than those chargeable to the out-of-state employer as prescribed above shall be made to the general account.

§ 6. Subdivisions 1, 3, 4, paragraph (a) of subdivision 5 and subdivisions 6 and 7 of section 590 of the labor law, subdivisions 1 and 3 as amended by chapter 645 of the laws of 1951, subdivision 4 as amended by chapter 457 of the laws of 1987, paragraph (a) of subdivision 5 as amended by section 8 of part O of chapter 57 of the laws of 2013, subdivision 6 as added by chapter 720 of the laws of 1953 and as renumbered by chapter 675 of the laws of 1977, and subdivision 7 as amended by chapter 415 of the laws of 1983, are amended and three new paragraphs (c), (d) and (e) are added to subdivision 5 to read as follows:

1. Entitlement to benefits. A claimant shall be entitled to [~~accumulate effective days for the purpose of benefit rights~~] **the payment of benefits** only if he **or she** has complied with the provisions of this article regarding the filing of his **or her** claim, including the filing of a valid original claim, registered as totally **unemployed or partially** unemployed, reported his **or her** subsequent employment and unemployment, and reported for work or otherwise given notice of the continuance of his **or her** unemployment.

3. Compensable periods. Benefits shall be paid for each [~~accumulation of effective days within a~~] week **of partial unemployment or total unemployment**.

4. Duration. Benefits shall not be paid for more than [~~one hundred and four effective days~~] **an amount exceeding twenty-six times the claimant's weekly benefit rate** in any benefit year, except as provided in section six hundred one and subdivision two of section five hundred ninety-nine of this chapter.

(a) A claimant's weekly benefit amount shall be one twenty-sixth of the remuneration paid during the highest calendar quarter of the base period by employers, liable for contributions or payments in lieu of contributions under this article, provided the claimant has remuneration paid in all four calendar quarters during his or her base period or alternate base period. However, for any claimant who has remuneration paid in all four calendar quarters during his or her base period or

alternate base period and whose high calendar quarter remuneration during the base period is three thousand five hundred seventy-five dollars or less, the benefit amount shall be one twenty-fifth of the remuneration paid during the highest calendar quarter of the base period by employers liable for contributions or payments in lieu of contributions under this article. A claimant's weekly benefit shall be one twenty-sixth of the average remuneration paid in the two highest quarters paid during the base period or alternate base period by employers liable for contributions or payments in lieu of contributions under this article when the claimant has remuneration paid in two or three calendar quarters provided however, that a claimant whose high calendar quarter is four thousand dollars or less but greater than three thousand five hundred seventy-five dollars shall have a weekly benefit amount of one twenty-sixth of such high calendar quarter. However, for any claimant who has remuneration paid in two or three calendar quarters during his or her base period or alternate base period and whose high calendar quarter remuneration during the base period is three thousand five hundred seventy-five dollars or less, the benefit amount shall be one twenty-fifth of the remuneration paid during the highest calendar quarter of the base period by employers liable for contributions or payments in lieu of contributions under this article. Any claimant whose high calendar quarter remuneration during the base period is more than three thousand five hundred seventy-five dollars shall not have a weekly benefit amount less than one hundred forty-three dollars. The weekly benefit amount, so computed, that is not a multiple of one dollar shall be lowered to the next multiple of one dollar. On the first Monday of September, nineteen hundred ninety-eight the weekly benefit amount shall not exceed three hundred sixty-five dollars nor be less than forty dollars, until the first Monday of September, two thousand, at which time the maximum benefit payable pursuant to this subdivision shall equal one-half of the state average weekly wage for covered employment as calculated by the department no sooner than July first, two thousand and no later than August first, two thousand, rounded down to the lowest dollar. On and after the first Monday of October, two thousand fourteen, the weekly benefit shall not be less than one hundred dollars, nor shall it exceed four hundred twenty dollars until the first Monday of October, two thousand fifteen when the maximum benefit amount shall be four hundred twenty-five dollars, until the first Monday of October, two thousand sixteen when the maximum benefit amount shall be four hundred thirty dollars, until the first Monday of October, two thousand seventeen when the maximum benefit amount shall be four hundred thirty-five dollars, until the first Monday of October, two thousand eighteen when the maximum benefit amount shall be four hundred fifty dollars, until the first Monday of October, two thousand nineteen when the maximum benefit amount shall be thirty-six percent of the average weekly wage until the first Monday of October, two thousand twenty when the maximum benefit amount shall be thirty-eight percent of the average weekly wage, until the first Monday of October two thousand twenty-one when the maximum benefit amount shall be forty percent of the average weekly wage, until the first Monday of October, two thousand twenty-two when the maximum benefit amount shall be forty-two percent of the average weekly wage, until the first Monday of October, two thousand twenty-three when the maximum benefit amount shall be forty-four percent of the average weekly wage, until the first Monday of October, two thousand twenty-four when the maximum benefit amount shall be forty-six percent of the average weekly wage, until the first Monday of October, two thousand twen-

ty-five when the maximum benefit amount shall be forty-eight percent of the average weekly wage, until the first Monday of October, two thousand twenty-six and each year thereafter on the first Monday of October when the maximum benefit amount shall be fifty percent of the average weekly wage provided, however, that in no event shall the maximum benefit amount be reduced from the previous year. **A claimant shall receive his or her full benefit rate for each week of total unemployment.**

(c) Any claimant who is partially unemployed and eligible for benefits shall be paid a benefit amount equal to the difference between the weekly benefit amount to which he or she would have been entitled, if totally unemployed, and the amount of his or her remuneration received for partial employment performed during such week, disregarding earnings equal to forty percent of his or her weekly benefit amount or one hundred dollars, whichever is greater. Such weekly benefit amount, so computed, that is not a multiple of one dollar shall be lowered to the next multiple of one dollar. Provided, however, if a claimant earns in any week remuneration for partial employment in an amount greater than the maximum benefit amount set forth in paragraph (a) of this subdivision, he or she shall not be entitled to receive benefits for such week.

(d) Any claimant who is partially unemployed whose employment is limited to two days during any week of unemployment and whose paid or payable remuneration for such week is less than the weekly maximum benefit amount shall be paid:

(1) for employment limited to one day, a benefit amount equal to three quarters of his or her weekly benefit amount, if that amount is greater than what the claimant would have received had his or her benefit amount been computed pursuant to paragraph (c) of this subdivision.

(2) for employment limited to two days, a benefit amount equal to fifty percent of his or her weekly benefit amount, if that amount is greater than what the claimant would have received had his or her benefit amount been computed pursuant to paragraph (c) of this subdivision.

(e) Notwithstanding any other provision in this article, any claimant who performs services as a corporate officer or on a strict commission basis, or who is self-employed shall have his or her weekly benefit amount reduced by twenty-five percent for each day or any portion thereof exceeding three hours during which he or she performs such services or is self-employed.

6. Notification requirement. [~~No effective day shall be counted for any purposes except effective days as to~~] **Benefits shall be payable only for any week for** which notification has been given in a manner prescribed by the commissioner.

7. Waiting period. A claimant shall not be entitled to [~~accumulate effective days for the purpose of~~] **receive** benefit payments until he **or she** has [~~accumulated~~] **completed** a waiting period of [~~four effective days either wholly within the~~] **one** week **of total unemployment or partial unemployment** in which he **or she** established [~~his~~] **a** valid original claim [~~or partly within such week and partly~~] within his **or her** benefit year initiated by such claim.

§ 7. Subdivision 1 and paragraph (a) of subdivision 6 of section 591 of the labor law, subdivision 1 as amended by chapter 413 of the laws of 2003 and paragraph (a) of subdivision 6 as added by section 13 of part O of chapter 57 of laws of 2013, are amended to read as follows:

1. Unemployment. Benefits, except as provided in section five hundred ninety-one-a of this title, shall be paid only to a claimant who is totally **unemployed or partially** unemployed and who is unable to engage in his **or her** usual employment or in any other for which he **or she** is

reasonably fitted by training and experience. A claimant who is receiving benefits under this article shall not be denied such benefits pursuant to this subdivision or to subdivision two of this section because of such claimant's service on a grand or petit jury of any state or of the United States.

(a) No benefits shall be payable to a claimant for any week during a dismissal period for which a claimant receives dismissal pay, nor shall any [~~day~~] **period** within such week be considered a [~~day~~] **period** of total unemployment under section five hundred twenty-two of this article, if such weekly dismissal pay exceeds the maximum weekly benefit rate.

§ 8. Subdivision 1 of section 591 of the labor law, as amended by chapter 446 of the laws of 1981, is amended to read as follows:

1. Unemployment. Benefits shall be paid only to a claimant who is totally **unemployed or partially** unemployed and who is unable to engage in his **or her** usual employment or in any other for which he **or she** is reasonably fitted by training and experience. A claimant who is receiving benefits under this article shall not be denied such benefits pursuant to this subdivision or to subdivision two of this section because of such claimant's service on a grand or petit jury of any state or of the United States.

§ 9. Subdivision 2 of section 592 of the labor law, as amended by chapter 415 of the laws of 1983, is amended to read as follows:

2. Concurrent payments prohibited. No [~~days of total unemployment shall be deemed to occur~~] **benefits shall be payable** in any week with respect to which or a part of which a claimant has received or is seeking unemployment benefits under an unemployment compensation law of any other state or of the United States, provided that this provision shall not apply if the appropriate agency of such other state or of the United States finally determines that he **or she** is not entitled to such unemployment benefits.

§ 10. Paragraph (a) of subdivision 1, the opening paragraph of subdivision 2, subdivision 3 and subdivision 4 of section 593 of the labor law, paragraph (a) of subdivision 1, the opening paragraph of subdivision 2 and subdivision 3 as amended by section 15 of part O of chapter 57 of the laws of 2013, and subdivision 4 as amended by chapter 589 of the laws of 1998, are amended to read as follows:

(a) No [~~days of total unemployment shall be deemed to occur~~] **benefits shall be payable for any week of total unemployment or partial unemployment that occurs** after a claimant's voluntary separation without good cause from employment until he or she has subsequently worked in employment and earned remuneration at least equal to ten times his or her weekly benefit rate. In addition to other circumstances that may be found to constitute good cause, including a compelling family reason as set forth in paragraph (b) of this subdivision, voluntary separation from employment shall not in itself disqualify a claimant if circumstances have developed in the course of such employment that would have justified the claimant in refusing such employment in the first instance under the terms of subdivision two of this section or if the claimant, pursuant to an option provided under a collective bargaining agreement or written employer plan which permits waiver of his or her right to retain the employment when there is a temporary layoff because of lack of work, has elected to be separated for a temporary period and the employer has consented thereto.

No [~~days of total unemployment shall be deemed to occur~~] **benefits shall be payable for any week of total unemployment or partial unemployment** beginning with the day on which a claimant, without good cause,

refuses to accept an offer of employment for which he or she is reasonably fitted by training and experience, including employment not subject to this article, until he or she has subsequently worked in employment and earned remuneration at least equal to ten times his or her weekly benefit rate. Except that claimants who are not subject to a recall date or who do not obtain employment through a union hiring hall and who are still unemployed after receiving ten weeks of benefits shall be required to accept any employment proffered that such claimants are capable of performing, provided that such employment would result in a wage not less than eighty percent of such claimant's high calendar quarter wages received in the base period and not substantially less than the prevailing wage for similar work in the locality as provided for in paragraph (d) of this subdivision. No refusal to accept employment shall be deemed without good cause nor shall it disqualify any claimant otherwise eligible to receive benefits if:

3. Misconduct. No [~~days of total unemployment shall be deemed to occur~~] **benefits shall be payable for any week of total unemployment or partial unemployment that occurs** after a claimant lost employment through misconduct in connection with his or her employment until he or she has subsequently worked in employment and earned remuneration at least equal to ten times his or her weekly benefit rate.

4. Criminal acts. No [~~days of total unemployment shall be deemed to occur during~~] **benefits shall be payable for any week of total unemployment or partial unemployment for** a period of twelve months after a claimant loses employment as a result of an act constituting a felony in connection with such employment, provided the claimant is duly convicted thereof or has signed a statement admitting that he or she has committed such an act. Determinations regarding a benefit claim may be reviewed at any time. Any benefits paid to a claimant prior to a determination that the claimant has lost employment as a result of such act shall not be considered to have been accepted by the claimant in good faith. In addition, remuneration paid to the claimant by the affected employer prior to the claimant's loss of employment due to such criminal act may not be utilized for the purpose of establishing entitlement to a subsequent, valid original claim. The provisions of this subdivision shall apply even if the employment lost as a result of such act is not the claimant's last employment prior to the filing of his or her claim.

§ 11. Subdivisions 1 and 2 of section 594 of the labor law, as amended by section 16 of part O of chapter 57 of the laws of 2013, are amended to read as follows:

(1) A claimant who has wilfully made a false statement or representation to obtain any benefit under the provisions of this article shall forfeit benefits [~~for at least the first four but not more than the first eighty effective days~~] **in an amount equal to at least the first week of total unemployment, but not more than the first twenty weeks of total unemployment** following discovery of such offense for which he or she otherwise would have been entitled to receive benefits. Such penalty shall apply only once with respect to each such offense.

(2) For the purpose of subdivision four of section five hundred ninety of this article, the claimant shall be deemed to have received benefits for such forfeited [~~effective days~~] **weeks**.

§ 12. Subdivisions 1 and 4 of section 596 of the labor law, subdivision 1 as amended by chapter 204 of the laws of 1982, and subdivision 4 as added by chapter 705 of the laws of 1944 and as renumbered by section 148-a of part B of chapter 436 of the laws of 1997 and such section as

renumbered by chapter 663 of the laws of 1946, are amended to read as follows:

1. Claim filing and certification to unemployment. A claimant shall file a claim for benefits [~~at~~] **with** the [~~local state employment office serving the area in which he was last employed or in which he resides~~] **department's unemployment insurance division** within such time and in such manner as the commissioner shall prescribe. He **or she** shall disclose whether he **or she** owes child support obligations, as hereafter defined. If a claimant making such disclosure is eligible for benefits, the commissioner shall notify the state or local child support enforcement agency, as hereafter defined, that the claimant is eligible.

A claimant shall correctly report any [~~days of~~] employment and any compensation [~~he~~] received for such employment, including [~~employments~~] **employment** not subject to this article, and the days on which he **or she** was totally **unemployed or partially** unemployed and shall make such reports in accordance with such regulations as the commissioner shall prescribe.

4. Registration and reporting for work. A claimant shall register as totally **unemployed or partially** unemployed at a local state employment office serving the area in which he **or she** was last employed or in which he **or she** resides in accordance with such regulations as the commissioner shall prescribe. After so registering, such claimant shall report for work at the same local state employment office or otherwise give notice of the continuance of his **or her** unemployment as often and in such manner as the commissioner shall prescribe.

§ 13. Paragraph (a) of subdivision 2 of section 599 of the labor law, as amended by chapter 593 of the laws of 1991, is amended to read as follows:

(a) Notwithstanding any other provision of this chapter, a claimant attending an approved training course or program under this section may receive additional benefits of up to [~~one hundred four effective days~~] **twenty-six times his or her weekly benefit amount** following exhaustion of regular and, if in effect, any other extended benefits, provided that entitlement to a new benefit claim cannot be established. Certification of continued satisfactory participation and progress in such training course or program must be submitted to the commissioner prior to the payment of any such benefits. The duration of such additional benefits shall in no case exceed twice the number of [~~effective days~~] **weeks** of regular benefits to which the claimant is entitled at the time the claimant is accepted in, or demonstrates application for appropriate training.

§ 14. The opening paragraph and paragraph (e) of subdivision 2 of section 601 of the labor law, as amended by chapter 35 of the laws of 2009, are amended to read as follows:

Extended benefits shall be payable to a claimant for [~~effective days occurring in~~] any week **of total unemployment or partial unemployment** within an eligibility period, provided the claimant

(e) is not claiming benefits pursuant to an interstate claim filed under the interstate benefit payment plan in a state where an extended benefit period is not in effect, except that this condition shall not apply with respect to the first [~~eight effective days~~] **two weeks of total unemployment** for which extended benefits shall otherwise be payable pursuant to an interstate claim filed under the interstate benefit payment plan; and

§ 15. Subdivisions 3 and 4 and paragraphs (b) and (e) of subdivision 5 of section 601 of the labor law, as amended by chapter 35 of the laws of 2009, are amended to read as follows:

3. Extended benefit amounts; rate and duration. Extended benefits shall be paid to a claimant

(a) at a rate equal to his or her rate for regular benefits during his or her applicable benefit year but

(b) for not more than [~~fifty-two effective days~~] **thirteen weeks of total unemployment or partial unemployment** with respect to his or her applicable benefit year, with a total maximum amount equal to fifty percentum of the total maximum amount of regular benefits payable in such benefit year, and

(c) if a claimant's benefit year ends within an extended benefit period, the remaining balance of extended benefits to which he or she would be entitled, if any, shall be reduced by the [~~number of effective days~~] **weeks of total unemployment** for which he or she was entitled to receive trade readjustment allowances under the federal trade act of nineteen hundred seventy-four during such benefit year, and

(d) for periods of high unemployment for not more than [~~eighty effective days~~] **twenty weeks of total unemployment or partial unemployment** with respect to the applicable benefit year with a total maximum amount equal to eighty percent of the total maximum amount of regular benefits payable in such benefit year.

4. Charging of extended benefits. The provisions of paragraph (e) of subdivision one of section five hundred eighty-one of this article shall apply to benefits paid pursuant to the provisions of this section, and if they were paid for [~~effective days~~] **weeks of total unemployment** occurring in weeks following the end of a benefit year, they shall be deemed paid with respect to that benefit year. However, except for governmental entities as defined in section five hundred sixty-five and Indian tribes as defined in section five hundred sixty-six of this article, only one-half of the amount of such benefits shall be debited to the employers' account; the remainder thereof shall be debited to the general account, and such account shall be credited with the amount of payments received in the fund pursuant to the provisions of the federal-state extended unemployment compensation act. Notwithstanding the foregoing, where the state has entered an extended benefit period triggered pursuant to subparagraph one of paragraph (a) of subdivision one of this section for which federal law provides for one hundred percent federal sharing of the costs of benefits, all charges shall be debited to the general account and such account shall be credited with the amount of payments received in the fund pursuant to the provisions of the federal-state extended unemployment compensation act or other federal law providing for one hundred percent federal sharing for the cost of such benefits.

(b) No [~~days of total unemployment shall be deemed to occur in~~] **benefits shall be payable for** any week within an eligibility period during which a claimant fails to accept any offer of suitable work or fails to apply for suitable work to which he or she was referred by the commissioner, who shall make such referral if such work is available, or during which he or she fails to engage actively in seeking work by making a systematic and sustained effort to obtain work and providing tangible evidence of such effort, and until he or she has worked in employment during at least four subsequent weeks and earned remuneration of at least four times his or her benefit rate.

(e) No [~~days of total unemployment~~] **benefits** shall be [~~deemed to occur in~~] **payable for** any week within an eligibility period under section five hundred ninety-three of this article, until he or she has subsequently worked in employment in accordance with the requirements set forth in section five hundred ninety-three of this article.

§ 16. Section 603 of the labor law, as amended by section 21 of part O of chapter 57 of the laws of 2013, is amended to read as follows:

§ 603. Definitions. For purposes of this title: "Total unemployment" **and "partial unemployment"** shall [~~mean the total lack of any employment on any day,~~] **have the same meanings as defined in this article,** other than with an employer applying for a shared work program. "Work force" shall mean the total work force, a clearly identifiable unit or units thereof, or a particular shift or shifts. The work force subject to reduction shall consist of no less than two employees.

§ 17. Severability. If any amendment contained in a clause, sentence, paragraph, section or part of this act shall be adjudged by the United States Department of Labor to violate requirements for maintaining benefit standards required of the state in order to be eligible for any financial benefit offered through federal law or regulation, such amendments shall be severed from this act and shall not affect, impair or invalidate the remainder thereof.

§ 18. This act shall take effect eighteen months after it shall have become a law; provided, however, that effective immediately, any actions necessary to be taken for the implementation of the provisions of this act on its effective date, including rulemaking, are authorized and directed to be completed on or before such effective date; provided, further, however, that the amendments made to subdivision 1 of section 591 of the labor law by section seven of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 10 of chapter 413 of the laws of 2003, as amended, when upon such date the provisions of section eight of this act shall take effect.

PART Z

Section 1. The state comptroller is hereby authorized and directed to loan money in accordance with the provisions set forth in subdivision 5 of section 4 of the state finance law to the following funds and/or accounts:

1. Proprietary vocational school supervision account (20452).
2. Local government records management account (20501).
3. Child health plus program account (20810).
4. EPIC premium account (20818).
5. Education - New (20901).
6. VLT - Sound basic education fund (20904).
7. Sewage treatment program management and administration fund (21000).
8. Hazardous bulk storage account (21061).
9. Federal grants indirect cost recovery account (21065).
10. Low level radioactive waste account (21066).
11. Recreation account (21067).
12. Public safety recovery account (21077).
13. Environmental regulatory account (21081).
14. Natural resource account (21082).
15. Mined land reclamation program account (21084).
16. Great lakes restoration initiative account (21087).
17. Environmental protection and oil spill compensation fund (21200).

18. Public transportation systems account (21401).
19. Metropolitan mass transportation (21402).
20. Operating permit program account (21451).
21. Mobile source account (21452).
22. Statewide planning and research cooperative system account (21902).
23. New York state thruway authority account (21905).
24. Mental hygiene program fund account (21907).
25. Mental hygiene patient income account (21909).
26. Financial control board account (21911).
27. Regulation of racing account (21912).
28. New York Metropolitan Transportation Council account (21913).
29. State university dormitory income reimbursable account (21937).
30. Criminal justice improvement account (21945).
31. Environmental laboratory reference fee account (21959).
32. Clinical laboratory reference system assessment account (21962).
33. Indirect cost recovery account (21978).
34. High school equivalency program account (21979).
35. Multi-agency training account (21989).
36. Interstate reciprocity for post-secondary distance education account (23800).
37. Bell jar collection account (22003).
38. Industry and utility service account (22004).
39. Real property disposition account (22006).
40. Parking account (22007).
41. Asbestos safety training program account (22009).
42. Batavia school for the blind account (22032).
43. Investment services account (22034).
44. Surplus property account (22036).
45. Financial oversight account (22039).
46. Regulation of Indian gaming account (22046).
47. Rome school for the deaf account (22053).
48. Seized assets account (22054).
49. Administrative adjudication account (22055).
50. Federal salary sharing account (22056).
51. New York City assessment account (22062).
52. Cultural education account (22063).
53. Local services account (22078).
54. DHCR mortgage servicing account (22085).
55. Department of motor vehicles compulsory insurance account (22087).
56. Housing indirect cost recovery account (22090).
57. DHCR-HCA application fee account (22100).
58. Low income housing monitoring account (22130).
59. Corporation administration account (22135).
60. Montrose veteran's home account (22144).
61. Deferred compensation administration account (22151).
62. Rent revenue other New York City account (22156).
63. Rent revenue account (22158).
64. Tax revenue arrearage account (22168).
65. State university general income offset account (22654).
66. Lake George park trust fund account (22751).
67. State police motor vehicle law enforcement account (22802).
68. Highway safety program account (23001).
69. DOH drinking water program account (23102).
70. NYCCC operating offset account (23151).
71. Commercial gaming revenue account (23701).

72. Commercial gaming regulation account (23702).
73. Highway use tax administration account (23801).
74. Highway and bridge capital account (30051).
75. Aviation purpose account (30053).
76. State university residence hall rehabilitation fund (30100).
77. State parks infrastructure account (30351).
78. Clean water/clean air implementation fund (30500).
79. Hazardous waste remedial cleanup account (31506).
80. Youth facilities improvement account (31701).
81. Housing assistance fund (31800).
82. Housing program fund (31850).
83. Highway facility purpose account (31951).
84. Information technology capital financing account (32215).
85. New York racing account (32213).
86. Capital miscellaneous gifts account (32214).
87. New York environmental protection and spill remediation account.
88. Mental hygiene facilities capital improvement fund (32300).
89. Correctional facilities capital improvement fund (32350).
90. New York State Storm Recovery Capital Fund (33000).
91. OGS convention center account (50318).
92. Empire Plaza Gift Shop (50327).
93. Centralized services fund (55000).
94. Archives records management account (55052).
95. Federal single audit account (55053).
96. Civil service EHS occupational health program account (55056).
97. Banking services account (55057).
98. Cultural resources survey account (55058).
99. Neighborhood work project account (55059).
100. Automation & printing chargeback account (55060).
101. OFT NYT account (55061).
102. Data center account (55062).
103. Intrusion detection account (55066).
104. Domestic violence grant account (55067).
105. Centralized technology services account (55069).
106. Labor contact center account (55071).
107. Human services contact center account (55072).
108. Tax contact center account (55073).
109. Executive direction internal audit account (55251).
110. CIO Information technology centralized services account (55252).
111. Health insurance internal service account (55300).
112. Civil service employee benefits division administrative account (55301).
113. Correctional industries revolving fund (55350).
114. Employees health insurance account (60201).
115. Medicaid management information system escrow fund (60900).

§ 1-a. The state comptroller is hereby authorized and directed to loan money in accordance with the provisions set forth in subdivision 5 of section 4 of the state finance law to any account within the following federal funds, provided the comptroller has made a determination that sufficient federal grant award authority is available to reimburse such loans:

1. Federal USDA-food and nutrition services fund (25000).
2. Federal health and human services fund (25100).
3. Federal education fund (25200).
4. Federal block grant fund (25250).
5. Federal miscellaneous operating grants fund (25300).

6. Federal unemployment insurance administration fund (25900).
7. Federal unemployment insurance occupational training fund (25950).
8. Federal emergency employment act fund (26000).
9. Federal capital projects fund (31350).

§ 2. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, on or before March 31, 2018, up to the unencumbered balance or the following amounts:

Economic Development and Public Authorities:

1. $175,000 from the miscellaneous special revenue fund, underground facilities safety training account (22172), to the general fund.

2. An amount up to the unencumbered balance from the miscellaneous special revenue fund, business and licensing services account (21977), to the general fund.

3. $14,810,000 from the miscellaneous special revenue fund, code enforcement account (21904), to the general fund.

4. $3,000,000 from the general fund to the miscellaneous special revenue fund, tax revenue arrearage account (22168).

Education:

1. $2,394,714,000 from the general fund to the state lottery fund, education account (20901), as reimbursement for disbursements made from such fund for supplemental aid to education pursuant to section 92-c of the state finance law that are in excess of the amounts deposited in such fund for such purposes pursuant to section 1612 of the tax law.

2. $966,634,000 from the general fund to the state lottery fund, VLT education account (20904), as reimbursement for disbursements made from such fund for supplemental aid to education pursuant to section 92-c of the state finance law that are in excess of the amounts deposited in such fund for such purposes pursuant to section 1612 of the tax law.

3. Moneys from the state lottery fund (20900) up to an amount deposited in such fund pursuant to section 1612 of the tax law in excess of the current year appropriation for supplemental aid to education pursuant to section 92-c of the state finance law.

4. $300,000 from the New York state local government records management improvement fund, local government records management account (20501), to the New York state archives partnership trust fund, archives partnership trust maintenance account (20351).

5. $900,000 from the general fund to the miscellaneous special revenue fund, Batavia school for the blind account (22032).

6. $900,000 from the general fund to the miscellaneous special revenue fund, Rome school for the deaf account (22053).

7. $343,400,000 from the state university dormitory income fund (40350) to the miscellaneous special revenue fund, state university dormitory income reimbursable account (21937).

8. $20,000,000 from any of the state education department special revenue and internal service funds to the miscellaneous special revenue fund, indirect cost recovery account (21978).

9. $8,318,000 from the general fund to the state university income fund, state university income offset account (22654), for the state's share of repayment of the STIP loan.

10. $40,000,000 from the state university income fund, state university hospitals income reimbursable account (22656) to the general fund for hospital debt service for the period April 1, 2017 through March 31, 2018.

11. An amount up to $13,540,000 from the general fund to the state university income fund, state university general revenue account (22653).

Environmental Affairs:

1. $9,000,000 from any of the department of environmental conservation's special revenue federal funds to the environmental conservation special revenue fund, federal indirect recovery account (21065).

2. $2,000,000 from any of the department of environmental conservation's special revenue federal funds to the conservation fund (21150) as necessary to avoid diversion of conservation funds.

3. $3,000,000 from any of the office of parks, recreation and historic preservation capital projects federal funds and special revenue federal funds to the miscellaneous special revenue fund, federal grant indirect cost recovery account (22188).

4. $1,000,000 from any of the office of parks, recreation and historic preservation special revenue federal funds to the miscellaneous special revenue fund, I love NY water account (21930).

5. $28,000,000 from the general fund to the environmental protection fund, environmental protection fund transfer account (30451).

6. $1,800,000 from the general fund to the hazardous waste remedial fund, hazardous waste oversight and assistance account (31505).

Family Assistance:

1. $7,000,000 from any of the office of children and family services, office of temporary and disability assistance, or department of health special revenue federal funds and the general fund, in accordance with agreements with social services districts, to the miscellaneous special revenue fund, office of human resources development state match account (21967).

2. $4,000,000 from any of the office of children and family services or office of temporary and disability assistance special revenue federal funds to the miscellaneous special revenue fund, family preservation and support services and family violence services account (22082).

3. $18,670,000 from any of the office of children and family services, office of temporary and disability assistance, or department of health special revenue federal funds and any other miscellaneous revenues generated from the operation of office of children and family services programs to the general fund.

4. $140,000,000 from any of the office of temporary and disability assistance or department of health special revenue funds to the general fund.

5. $2,500,000 from any of the office of temporary and disability assistance special revenue funds to the miscellaneous special revenue fund, office of temporary and disability assistance program account (21980).

6. $7,400,000 from any of the office of children and family services, office of temporary and disability assistance, department of labor, and department of health special revenue federal funds to the office of children and family services miscellaneous special revenue fund, multi-agency training contract account (21989).

7. $65,000,000 from the miscellaneous special revenue fund, youth facility per diem account (22186), to the general fund.

8. $621,850 from the general fund to the combined gifts, grants, and bequests fund, WB Hoyt Memorial account (20128).

9. $3,100,000 from the miscellaneous special revenue fund, state central registry (22028), to the general fund.

General Government:

1. $1,961,000 from the miscellaneous special revenue fund, examination and miscellaneous revenue account (22065) to the general fund.

2. $8,083,000 from the general fund to the health insurance revolving fund (55300).

3. $192,400,000 from the health insurance reserve receipts fund (60550) to the general fund.

4. $150,000 from the general fund to the not-for-profit revolving loan fund (20650).

5. $150,000 from the not-for-profit revolving loan fund (20650) to the general fund.

6. $3,000,000 from the miscellaneous special revenue fund, surplus property account (22036), to the general fund.

7. $19,000,000 from the miscellaneous special revenue fund, revenue arrearage account (22024), to the general fund.

8. $1,826,000 from the miscellaneous special revenue fund, revenue arrearage account (22024), to the miscellaneous special revenue fund, authority budget office account (22138).

9. $1,000,000 from the miscellaneous special revenue fund, parking services account (22007), to the general fund, for the purpose of reimbursing the costs of debt service related to state parking facilities.

10. $21,783,000 from the general fund to the centralized services fund, COPS account (55013).

11. $8,960,000 from the general fund to the agencies internal service fund, central technology services account (55069), for the purpose of enterprise technology projects.

12. $15,000,000 from the miscellaneous special revenue fund, workers' compensation account (21995), to the miscellaneous capital projects fund, workers' compensation board IT business process design fund, (32218).

Health:

1. A transfer from the general fund to the combined gifts, grants and bequests fund, breast cancer research and education account (20155), up to an amount equal to the monies collected and deposited into that account in the previous fiscal year.

2. A transfer from the general fund to the combined gifts, grants and bequests fund, prostate cancer research, detection, and education account (20183), up to an amount equal to the moneys collected and deposited into that account in the previous fiscal year.

3. A transfer from the general fund to the combined gifts, grants and bequests fund, Alzheimer's disease research and assistance account (20143), up to an amount equal to the moneys collected and deposited into that account in the previous fiscal year.

4. $30,555,000 from the HCRA resources fund (20800) to the miscellaneous special revenue fund, empire state stem cell trust fund account (22161).

5. $6,000,000 from the miscellaneous special revenue fund, certificate of need account (21920), to the miscellaneous capital projects fund, healthcare IT capital subfund (32216).

6. $2,000,000 from the miscellaneous special revenue fund, vital health records account (22103), to the miscellaneous capital projects fund, healthcare IT capital subfund (32216)

7. $2,000,000 from the miscellaneous special revenue fund, professional medical conduct account (22088), to the miscellaneous capital projects fund, healthcare IT capital subfund (32216).

8. $76,021,000 from the HCRA resources fund (20800) to the capital projects fund (30000).

9. $4,540,000 from the general fund to the medical marihuana trust fund, health operation and oversight account (23755).

10. $1,086,000 from the miscellaneous special revenue fund, certificate of need account (21920), to the general fund.

Labor:

1. $400,000 from the miscellaneous special revenue fund, DOL fee and penalty account (21923), to the child performer's protection fund, child performer protection account (20401).

2. $8,400,000 from the miscellaneous special revenue fund, DOL fee and penalty account (21923), to the general fund.

3. $3,300,000 from the unemployment insurance interest and penalty fund, unemployment insurance special interest and penalty account (23601), to the general fund.

Mental Hygiene:

1. $10,000,000 from the miscellaneous special revenue fund, mental hygiene patient income account (21909), to the miscellaneous special revenue fund, federal salary sharing account (22056).

2. $1,800,000,000 from the general fund to the miscellaneous special revenue fund, mental hygiene patient income account (21909).

3. $1,700,000,000 from the general fund to the miscellaneous special revenue fund, mental hygiene program fund account (21907).

4. $100,000,000 from the miscellaneous special revenue fund, mental hygiene program fund account (21907), to the general fund.

5. $100,000,000 from the miscellaneous special revenue fund, mental hygiene patient income account (21909), to the general fund.

6. $3,800,000 from the miscellaneous special revenue fund, mental hygiene patient income account (21909), to the agencies internal service fund, civil service EHS occupational health program account (55056).

7. $11,500,000 from the chemical dependence service fund, substance abuse services fund account (22700), to the capital projects fund (30000).

8. $3,500,000 from the chemical dependence service fund, substance abuse services fund account (22700), to the mental hygiene capital improvement fund (32305).

Public Protection:

1. $1,350,000 from the miscellaneous special revenue fund, emergency management account (21944), to the general fund.

2. $2,087,000 from the general fund to the miscellaneous special revenue fund, recruitment incentive account (22171).

3. $12,000,000 from the general fund to the correctional industries revolving fund, correctional industries internal service account (55350).

4. $3,000,000 from the federal miscellaneous operating grants fund, DMNA damage account (25324), to the general fund.

5. $8,600,000 from the miscellaneous special revenue fund, criminal justice improvement account (21945), to the general fund.

6. $112,420,000 from the state police motor vehicle law enforcement and motor vehicle theft and insurance fraud prevention fund, state police motor vehicle enforcement account (22802), to the general fund for state operation expenses of the division of state police.

7. A transfer of the unencumbered balance from the miscellaneous special revenue fund, seized assets account (22061), to the miscellaneous special revenue fund, seized assets account (22054).

8. $26,500,000 from the general fund to the correctional facilities capital improvement fund (32350).

9. $5,000,000 from the general fund to the dedicated highway and bridge trust fund (30050) for the purpose of work zone safety activities provided by the division of state police for the department of transportation.

10. $5,238,000 from the miscellaneous special revenue fund, statewide public safety communications account (22123), to the capital projects fund (30000).

11. $9,545,000 from the miscellaneous special revenue fund, legal services assistance account (22096), to the general fund.

12. $300,000 from the state police motor vehicle law enforcement and motor vehicle theft and insurance fraud prevention fund, motor vehicle theft and insurance fraud account (22801), to the general fund.

13. $1,000,000 from the general fund to the agencies internal service fund, neighborhood work project account (55059).

14. $5,940,556 from the miscellaneous special revenue fund, fingerprint identification & technology account (21950), to the general fund.

15. $4,000,000 from the state police motor vehicle law enforcement and motor vehicle theft and insurance fraud prevention fund, motor vehicle theft and insurance fraud account (22801), to the general fund.

16. $50,000,000 from the miscellaneous special revenue fund, public safety communications account (22123), to the general fund.

17. $2,000,000 from the general fund to the miscellaneous special revenue fund, crimes against revenue program account (22015).

Transportation:

1. $17,672,000 from the federal miscellaneous operating grants fund to the miscellaneous special revenue fund, New York Metropolitan Transportation Council account (21913).

2. $20,147,000 from the federal capital projects fund to the miscellaneous special revenue fund, New York Metropolitan Transportation Council account (21913).

3. $15,058,017 from the general fund to the mass transportation operating assistance fund, public transportation systems operating assistance account (21401), of which $12,000,000 constitutes the base need for operations.

4. $720,000,000 from the general fund to the dedicated highway and bridge trust fund (30050).

5. $3,662,000 from the miscellaneous special revenue fund, accident prevention course program account (22094), to the dedicated highway and bridge trust fund (30050).

6. $3,065,000 from the miscellaneous special revenue fund, motorcycle safety account (21976), to the dedicated highway and bridge trust fund (30050).

7. $244,250,000 from the general fund to the MTA financial assistance fund, mobility tax trust account (23651).

8. $5,000,000 from the miscellaneous special revenue fund, transportation regulation account (22067) to the dedicated highway and bridge trust fund (30050), for disbursements made from such fund for motor carrier safety that are in excess of the amounts deposited in the dedicated highway and bridge trust fund (30050) for such purpose pursuant to section 94 of the transportation law.

9. $114,000 from the miscellaneous special revenue fund, seized assets account (21906), to the dedicated highway and bridge trust fund (30050).

10. $500,000 from the clean air fund, mobile source account (21452), to the general fund.

11. $3,000,000 from the miscellaneous special revenue fund, traffic adjudication account (22055), to the general fund.

12. $121,548,000 from the mass transportation operating assistance fund, metropolitan mass transportation operating assistance account (21402), to the capital projects fund (30000).

Miscellaneous:

1. $250,000,000 from the general fund to any funds or accounts for the purpose of reimbursing certain outstanding accounts receivable balances.

2. $1,000,000,000 from the general fund to the debt reduction reserve fund (40000).

3. $450,000,000 from the New York state storm recovery capital fund (33000) to the revenue bond tax fund (40152).

4. $15,500,000 from the general fund, community projects account GG (10256), to the general fund, state purposes account (10050).

§ 3. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, on or before March 31, 2018:

1. Upon request of the commissioner of environmental conservation, up to $11,410,000 from revenues credited to any of the department of environmental conservation special revenue funds, including $3,293,400 from the environmental protection and oil spill compensation fund (21200), and $1,783,600 from the conservation fund (21150), to the environmental conservation special revenue fund, indirect charges account (21060).

2. Upon request of the commissioner of agriculture and markets, up to $3,000,000 from any special revenue fund or enterprise fund within the department of agriculture and markets to the general fund, to pay appropriate administrative expenses.

3. Upon request of the commissioner of agriculture and markets, up to $2,000,000 from the state exposition special fund, state fair receipts account (50051) to the miscellaneous capital projects fund, state fair capital improvement account (32208).

4. Upon request of the commissioner of the division of housing and community renewal, up to $6,221,000 from revenues credited to any division of housing and community renewal federal or miscellaneous special revenue fund to the miscellaneous special revenue fund, housing indirect cost recovery account (22090).

5. Upon request of the commissioner of the division of housing and community renewal, up to $5,500,000 may be transferred from any miscellaneous special revenue fund account, to any miscellaneous special revenue fund.

6. Upon request of the commissioner of health up to $8,500,000 from revenues credited to any of the department of health's special revenue funds, to the miscellaneous special revenue fund, administration account (21982).

§ 4. On or before March 31, 2018, the comptroller is hereby authorized and directed to deposit earnings that would otherwise accrue to the general fund that are attributable to the operation of section 98-a of the state finance law, to the agencies internal service fund, banking services account (55057), for the purpose of meeting direct payments from such account.

§ 5. Notwithstanding any law to the contrary, upon the direction of the director of the budget and upon requisition by the state university of New York, the dormitory authority of the state of New York is directed to transfer, up to $22,000,000 in revenues generated from the sale of notes or bonds, the state university income fund general revenue account (22653) for reimbursement of bondable equipment for further transfer to the state's general fund.

§ 6. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget and upon consultation with the state university chancellor or his or her designee, on or before March 31, 2018, up to $16,000,000 from the state university income fund general revenue account (22653) to the state general fund for debt service costs related to campus supported capital project costs for the NY-SUNY 2020 challenge grant program at the University at Buffalo.

§ 7. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget and upon consultation with the state university chancellor or his or her designee, on or before March 31, 2018, up to $6,500,000 from the state university income fund general revenue account (22653) to the state general fund for debt service costs related to campus supported capital project costs for the NY-SUNY 2020 challenge grant program at the University at Albany.

§ 8. Notwithstanding any law to the contrary, the state university chancellor or his or her designee is authorized and directed to transfer estimated tuition revenue balances from the state university collection fund (61000) to the state university income fund, state university general revenue offset account (22655) on or before March 31, 2018.

§ 9. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, up to $69,264,000 from the general fund to the state university income fund, state university hospitals income reimbursable account (22656) during the period July 1, 2017 through June 30, 2018 to reflect ongoing state subsidy of SUNY hospitals and to pay costs attributable to the SUNY hospitals' state agency status.

§ 10. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, up to $996,778,300 from the general fund to the state university income fund, state university general revenue offset account (22655) during the period of July 1, 2017 through June 30, 2018 to support operations at the state university.

§ 11. Notwithstanding any law to the contrary, and in accordance with section 4 of the state financial law, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, up to $100,000 from the general fund to the state university income fund, state university general revenue offset account (22655) during the period of April 1, 2017 through June 30, 2017 to support operations at the state university.

§ 12. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, upon request of the state university chancellor or his or her designee, up to $55,000,000 from the state university income fund, state university hospitals income reimbursable account (22656), for services and expenses of hospital operations and capital expenditures at the state university hospitals; and the state university income fund, Long Island veterans' home account (22652) to the state university capital projects fund (32400) on or before June 30, 2018.

§ 13. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller, after consultation

with the state university chancellor or his or her designee, is hereby authorized and directed to transfer moneys, in the first instance, from the state university collection fund, Stony Brook hospital collection account (61006), Brooklyn hospital collection account (61007), and Syracuse hospital collection account (61008) to the state university income fund, state university hospitals income reimbursable account (22656) in the event insufficient funds are available in the state university income fund, state university hospitals income reimbursable account (22656) to permit the full transfer of moneys authorized for transfer, to the general fund for payment of debt service related to the SUNY hospitals. Notwithstanding any law to the contrary, the comptroller is also hereby authorized and directed, after consultation with the state university chancellor or his or her designee, to transfer moneys from the state university income fund to the state university income fund, state university hospitals income reimbursable account (22656) in the event insufficient funds are available in the state university income fund, state university hospitals income reimbursable account (22656) to pay hospital operating costs or to permit the full transfer of moneys authorized for transfer, to the general fund for payment of debt service related to the SUNY hospitals on or before March 31, 2018.

§ 14. Notwithstanding any law to the contrary, upon the direction of the director of the budget and the chancellor of the state university of New York or his or her designee, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer monies from the state university dormitory income fund (40350) to the state university residence hall rehabilitation fund (30100), and from the state university residence hall rehabilitation fund (30100) to the state university dormitory income fund (40350), in an amount not to exceed $80 million from each fund.

§ 15. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer monies, upon request of the director of the budget, on or before March 31, 2018, from and to any of the following accounts: the miscellaneous special revenue fund, patient income account (21909), the miscellaneous special revenue fund, mental hygiene program fund account (21907), the miscellaneous special revenue fund, federal salary sharing account (22056), or the general fund in any combination, the aggregate of which shall not exceed $350 million.

§ 16. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, at the request of the director of the budget, up to $750 million from the unencumbered balance of any special revenue fund or account, agency fund or account, internal service fund or account, enterprise fund or account, or any combination of such funds and accounts, to the general fund. The amounts transferred pursuant to this authorization shall be in addition to any other transfers expressly authorized in the 2017-18 budget. Transfers from federal funds, debt service funds, capital projects funds, the community projects fund, or funds that would result in the loss of eligibility for federal benefits or federal funds pursuant to federal law, rule, or regulation as assented to in chapter 683 of the laws of 1938 and chapter 700 of the laws of 1951 are not permitted pursuant to this authorization.

§ 17. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, at the request of the director of the budget, up to $100 million from any non-general fund or account, or combination

of funds and accounts, to the miscellaneous special revenue fund, technology financing account (22207), the miscellaneous capital projects fund, information technology capital financing account (32215), or the centralized technology services account (55069), for the purpose of consolidating technology procurement and services. The amounts transferred to the miscellaneous special revenue fund, technology financing account (22207) pursuant to this authorization shall be equal to or less than the amount of such monies intended to support information technology costs which are attributable, according to a plan, to such account made in pursuance to an appropriation by law. Transfers to the technology financing account shall be completed from amounts collected by non-general funds or accounts pursuant to a fund deposit schedule or permanent statute, and shall be transferred to the technology financing account pursuant to a schedule agreed upon by the affected agency commissioner. Transfers from funds that would result in the loss of eligibility for federal benefits or federal funds pursuant to federal law, rule, or regulation as assented to in chapter 683 of the laws of 1938 and chapter 700 of the laws of 1951 are not permitted pursuant to this authorization.

§ 18. Notwithstanding any other law to the contrary, up to $245 million of the assessment reserves remitted to the chair of the workers' compensation board pursuant to subdivision 6 of section 151 of the workers' compensation law shall, at the request of the director of the budget, be transferred to the state insurance fund, for partial payment and partial satisfaction of the state's obligations to the state insurance fund under section 88-c of the workers' compensation law.

§ 19. Notwithstanding any law to the contrary, and in accordance with section 4 of the state finance law, the comptroller is hereby authorized and directed to transfer, at the request of the director of the budget, up to $400 million from any non-general fund or account, or combination of funds and accounts, to the general fund for the purpose of consolidating technology procurement and services. The amounts transferred pursuant to this authorization shall be equal to or less than the amount of such monies intended to support information technology costs which are attributable, according to a plan, to such account made in pursuance to an appropriation by law. Transfers to the general fund shall be completed from amounts collected by non-general funds or accounts pursuant to a fund deposit schedule. Transfers from funds that would result in the loss of eligibility for federal benefits or federal funds pursuant to federal law, rule, or regulation as assented to in chapter 683 of the laws of 1938 and chapter 700 of the laws of 1951 are not permitted pursuant to this authorization.

§ 20. Notwithstanding any provision of law, rule or regulation to the contrary, the New York state energy research and development authority is authorized and directed to make the following contributions to the state treasury to the credit of the general fund on or before March 31, 2018: (a) $913,000; and (b) $23,000,000 from proceeds collected by the authority from the auction or sale of carbon dioxide emission allowances allocated by the department of environmental conservation.

§ 21. Subdivision 5 of section 97-rrr of the state finance law, as amended by section 21 of part UU of chapter 54 of the laws of 2016, is amended to read as follows:

5. Notwithstanding the provisions of section one hundred seventy-one-a of the tax law, as separately amended by chapters four hundred eighty-one and four hundred eighty-four of the laws of nineteen hundred eighty-one, and notwithstanding the provisions of chapter ninety-four of the

laws of two thousand eleven, or any other provisions of law to the contrary, during the fiscal year beginning April first, two thousand [~~sixteen~~] **seventeen**, the state comptroller is hereby authorized and directed to deposit to the fund created pursuant to this section from amounts collected pursuant to article twenty-two of the tax law and pursuant to a schedule submitted by the director of the budget, up to [~~$3,283,844,000~~] **$2,605,997,000**, as may be certified in such schedule as necessary to meet the purposes of such fund for the fiscal year beginning April first, two thousand [~~sixteen~~] **seventeen**.

§ 22. Notwithstanding any law to the contrary, the comptroller is hereby authorized and directed to transfer, upon request of the director of the budget, on or before March 31, 2018, the following amounts from the following special revenue accounts to the capital projects fund (30000), for the purposes of reimbursement to such fund for expenses related to the maintenance and preservation of state assets:

1. $43,000 from the miscellaneous special revenue fund, administrative program account (21982).

2. $1,478,000 from the miscellaneous special revenue fund, helen hayes hospital account (22140).

3. $366,000 from the miscellaneous special revenue fund, New York city veterans' home account (22141).

4. $513,000 from the miscellaneous special revenue fund, New York state home for veterans' and their dependents at oxford account (22142).

5. $159,000 from the miscellaneous special revenue fund, western New York veterans' home account (22143).

6. $323,000 from the miscellaneous special revenue fund, New York state for veterans in the lower-hudson valley account (22144).

7. $2,550,000 from the miscellaneous special revenue fund, patron services account (22163).

8. $41,930,000 from the miscellaneous special revenue fund, state university dormitory income reimbursable account (21937).

9. $830,000 from the miscellaneous special revenue fund, long island veterans' home account (22652).

10. $5,379,000 from the miscellaneous special revenue fund, state university general income reimbursable account (22653).

11. $112,556,000 from the miscellaneous special revenue fund, state university revenue offset account (22655).

12. $557,000 from the miscellaneous special revenue fund, state university of New York tuition reimbursement account (22659).

§ 22-a. Subdivision 3 of section 93-b of the state finance law, as added by section 1 of part H of chapter 60 of the laws of 2015, the opening paragraph as amended by section 1 of part M of chapter 57 of the laws of 2016, and paragraph (a) as amended by section 27 of part UU of chapter 54 of the laws of 2016, is amended to read as follows:

3. Transfers. Notwithstanding any other provisions of law to the contrary, commencing on April first, two thousand fifteen, and continuing through March thirty-first, two thousand twenty-one, the comptroller is hereby authorized to transfer monies from the dedicated infrastructure investment fund to the general fund, and from the general fund to the dedicated infrastructure investment fund, in an amount determined by the director of the budget to the extent moneys are available in the fund; provided, however, that the comptroller is only authorized to transfer monies from the dedicated infrastructure investment fund to the general fund in the event of an economic downturn as described in paragraph (a) of this subdivision; and/or to fulfill disallowances and/or settlements related to over-payments of federal medicare and medicaid

revenues in excess of one hundred million dollars from anticipated levels, as determined by the director of the budget and described in paragraph (b) of this subdivision**; and/or a catastrophic event as described in paragraph (c) of this subdivision**.

(a) Economic downturn. Notwithstanding any law to the contrary, for the purpose of this section, the commissioner of labor shall calculate and publish, on or before the fifteenth day of each month, a composite index of business cycle indicators. Such index shall be calculated using monthly data on New York state private sector employment, average weekly hours of manufacturing workers, and the unemployment rate prepared by the department of labor or its successor agency, and total sales tax collections adjusted for inflation, prepared by the department of taxation and finance or its successor agency. Such index shall be adjusted for seasonal variations in accordance with the procedures issued by the United States Census Bureau or its successor agency. If the composite index declines for five consecutive months, the commissioner of labor shall notify the governor, the speaker of the assembly, the temporary president of the senate, and the minority leaders of the assembly and the senate. Upon such notification, the director of the budget may authorize and direct the comptroller to transfer from the dedicated infrastructure investment fund to the general fund such amounts as the director of the budget deems necessary to meet the requirements of the state financial plan. The authority to transfer funds under the provisions of this paragraph shall lapse when the composite index shall have increased for five consecutive months or twelve months from the original notification of the commissioner of labor, whichever occurs earlier. Provided, however, that for every additional and consecutive monthly decline succeeding the five month decline so noted by the commissioner of labor, the twelve month lapse date shall be extended by one additional month.

(b) Federal medicare and medicaid revenues. Notwithstanding any law to the contrary, the director of the budget may authorize and direct the comptroller to transfer from the dedicated infrastructure investment fund to the general fund an amount not to exceed the disallowances and/or settlements related to the over-payments of federal medicare and medicaid revenues. In the event this authorization is utilized, the director of the budget may authorize and direct the comptroller to transfer such amount and the concomitant reduction in state share medicare and medicaid revenues from the general fund to the miscellaneous special revenue fund, mental hygiene program fund (21907), the miscellaneous special revenue fund, patient income account (21909), and the Medicaid Management Information System (MMIS) Statewide Escrow Fund (60901).

(c) **Catastrophic events. In the event of a need to repel invasion, suppress insurrection, defend the state in war, or to respond to any other emergency resulting from a disaster, including but not limited to, a disaster caused by an act of terrorism, the director of the budget may authorize and direct the comptroller to transfer from the dedicated infrastructure investment fund to the general fund such amounts as the director of the budget deems necessary to meet the requirements of the state financial plan.**

(d) Prior to authorizing any transfer from the dedicated infrastructure investment fund accounts pursuant to the provisions of this section, the director of the budget shall notify the speaker of the assembly, the temporary president of the senate, and the minority lead-

ers of the assembly and the senate. Such letter shall specify the reasons for the transfer and the amount thereof.

§ 22-b. Subdivision 2 of section 97-rrr of the state finance law, as amended by section 45 of part H of chapter 56 of the laws of 2000, is amended and a new subdivision 4 is added to read as follows:

2. Such fund shall consist of all monies credited or transferred thereto from the general fund or from any other fund or sources pursuant to law**, and include an amount equal to fifty percent of any estimated cash-basis surplus in the general fund, as certified by the director of the budget on or before the twenty-fifth day of March of each fiscal year. Upon request of the director of the budget, the state comptroller shall transfer such surplus amount from the general fund to the debt reduction reserve fund. The director of budget shall calculate the surplus as the excess of estimated aggregate receipts above the estimated aggregate disbursements at the end of the fiscal year. Notwithstanding paragraph (a) of subdivision four of section seventy-two of this article, the state comptroller shall retain any balance of moneys in the debt reduction reserve fund at the end of any fiscal year in such fund**.

4. Any amounts disbursed from such fund shall be excluded from the calculation of annual spending growth in state operating funds.

§ 22-c. Subdivision 1 of section 4 of section 1 of part D3 of chapter 62 of the laws of 2003 amending the general business law and other laws relating to implementing the state fiscal plan for the 2003-2004 state fiscal year, is amended to read as follows:

1. The state representative, upon the execution of a sale agreement on behalf of the state may sell to the corporation, and the corporation may purchase, for cash or other consideration and in one or more installments, all or a portion of the state's share. Any such agreement shall provide, among other matters, that the purchase price payable by the corporation to the state for such state's share or portion thereof shall consist of the net proceeds of the bonds issued to finance such purchase price and the residual interests, if any. The residual interests shall be deposited into [~~the tobacco settlement fund pursuant to section 92-x of the state finance law, unless otherwise directed by statute~~] **the Medicaid management information system (MMIS) statewide escrow fund within thirty days upon the availability of such residual interests to fund a portion of the cumulative non-federal share of expenses related to the state takeover of the local share of Medicaid growth pursuant to part F of chapter 56 of the laws of 2012. Such deposit shall be in an amount equal to (a) the amount of residual interests scheduled for deposit into the MMIS statewide escrow fund in the applicable year's enacted budget financial plan as updated or (b) the total amount of residual interests available if the total amount of such residual interests is less than the total amount of residual interests scheduled for deposit into the MMIS statewide escrow fund in the applicable year's enacted budget financial plan as updated. At the discretion of the state representative, any residual interests which exceed the amount scheduled for deposit into the MMIS statewide escrow fund in the applicable year's enacted budget financial plan as updated may either be deposited into the (i) MMIS escrow fund to fund a portion, as determined by the state representative, of the cumulative non-Federal share of expenses related to the State takeover of the local share of Medicaid growth, pursuant to part F of chapter 56 of the laws of 2012, or (ii) the state general fund**; provided, however that any residual interest derived from other assets shall be applied as directed by statute. Any such sale shall be pursuant to one or more sale agreements which may contain such terms and

conditions deemed necessary by the state representative to carry out and effectuate the purposes of this section, including covenants binding the state in favor of the corporation and its assignees, including the owners of its bonds such as covenants with respect to the enforcement at the expense of the state of the payment provisions of the master settlement agreement, the diligent enforcement at the expense of the state of the qualifying statute, the application and use of the proceeds of the sale of the state's share to preserve the tax-exemption on the bonds, the interest on which is intended to be exempt from federal income tax, issued to finance the purchase thereof and otherwise as provided in this act. Notwithstanding the foregoing, neither the state representative nor the corporation shall be authorized to make any covenant, pledge, promise or agreement purporting to bind the state with respect to pledged tobacco revenues, except as otherwise specifically authorized by this act.

§ 22-d. The state finance law is amended by adding a new section 99-aa to read as follows:

§ 99-aa. Retiree health benefit trust fund. 1. There is hereby established in the sole custody of the commissioner of the department of civil service a special investment fund to be known as the retiree health benefit trust fund.

2. For purposes of this section: (a) "commissioner" shall mean the commissioner of the department of civil service, except wherein this section the commissioner of the department of taxation and finance is referenced;

(b) "state" shall mean the state of New York;

(c) "fund", or "trust", or "trust fund" shall mean the retiree health benefit trust fund created by this section; and

(d) "retiree health benefits" shall mean benefits, except pensions or other benefits funded through a public retirement system, provided or to be provided by the state as compensation, whether pursuant to statute, contract or other lawful authority, to its current or former officers or employees, or their families or beneficiaries, after service to the state has ended, including, but not limited to, health care benefits.

3. (a) Notwithstanding any provision of law to the contrary, the retiree health benefit trust fund is established for the exclusive benefit of retired state employees and their dependents.

(b) The sole purpose of the trust fund established pursuant to subdivision one of this section shall be to fund the health and welfare benefits of retired state employees and their dependents.

4. (a) Payments into and from the trust fund established pursuant to subdivision one of this section shall be made in accordance with this section.

(b) Contributions to the trust, and any interest or other income or earnings on contributions, shall be irrevocable before all liabilities of the state government for retiree health benefits have been satisfied and shall be solely dedicated to, and used solely for, providing retiree health benefits and paying appropriate and reasonable expenses of administering the trust. No assets, income, earnings or distributions of the trust shall be subject to any claim of creditors of the state, or to assignment or execution, attachment or any other claim enforcement process initiated by or on behalf of such creditors. Except as otherwise provided in subdivision eight of this section, the commissioner shall not be responsible for the adequacy of the assets of the trust to meet any other post-employment benefit. The commissioner shall not be responsible for taking any action to enforce the payment of any appropriation

into the trust. The trust may be terminated only when all liabilities of the state for retiree health benefits have been satisfied and there is no present or future obligation, contingent or otherwise, of the state to provide such retiree health benefits. Upon such termination, any remaining trust assets, after any proper expenses of the trust have been paid, shall revert to the state.

(c) At the close of each fiscal year, the director of the budget shall certify the cash surplus remaining in the general fund; such cash surplus shall be calculated by the director of the budget as the excess of estimated aggregate receipts above the estimated aggregate disbursements at the end of the fiscal year. Upon such calculation and certification, a portion of any certified cash surplus remaining in the general fund, which such portion shall be determined in the sole discretion of the director of the budget, may be transferred or deposited directly to the trust fund at the sole request of the director of the budget.

(d) All payments for retiree health and welfare benefits from such trust fund shall not be subject to an appropriation and shall be transferred, to the extent funds are available in such trust fund, to the health insurance fund for the sole and exclusive purpose of funding retiree health benefits.

5. Investments. (a) The commissioner may establish a trust in his or her custody for the purpose of accumulating assets to fund the cost of providing retiree health benefits.

(b) The commissioner is hereby declared to be the trustee of the trust established pursuant to subdivision one of this section, and the commissioner shall delegate responsibility for managing the investments of the trust fund established pursuant to subdivision one of this section to the commissioner of the department of taxation and finance. The commissioner of the department of taxation and finance shall manage the investments of the trust fund established pursuant to subdivision one of this section in a careful and prudent manner consistent with the guidelines and provisions of section ninety-eight this article.

(c) Any interest or other income or earnings resulting from the investment of assets of the trust shall accrue to and become part of the assets of the trust.

6. In accordance with paragraph (b) of subdivision five of this section, the commissioner of taxation and finance shall develop, in consultation with the state health insurance council, a written investment policy for selecting investment options in a manner consistent with the investment options prescribed in section ninety-eight of this article so that the commissioner may be able to invest fund monies in accordance with such policy. Such policy shall include a statement of investment objectives addressing, in the following order of priority, the ability to timely meet disbursement requests without forced sale of assets, safety of principal and attainment of market rates of return.

7. Neither the state nor the commissioner shall be liable for any loss or expense suffered by the trust in the absence of bad faith, willful misconduct or intentional wrongdoing. The commissioner shall be considered to be acting as an officer of the state for purposes of section seventeen of the public officers law, provided, however, that the costs of any defense or indemnification of the commissioner arising from the exercise of the functions of trustee shall be payable from the assets of the trust.

8. Nothing contained in this section shall be interpreted or construed to: (a) create any obligation in, impose any obligation on, or alter any obligation of the state to provide retiree health benefits;

(b) limit or restrict the authority of the state to modify or eliminate retiree health benefits;

(c) assure or deny retiree health benefits; or

(d) require the state to fund its liability for retiree health benefits.

§ 23. Notwithstanding any other law, rule, or regulation to the contrary, the state comptroller is hereby authorized and directed to use any balance remaining in the mental health services fund debt service appropriation, after payment by the state comptroller of all obligations required pursuant to any lease, sublease, or other financing arrangement between the dormitory authority of the state of New York as successor to the New York state medical care facilities finance agency, and the facilities development corporation pursuant to chapter 83 of the laws of 1995 and the department of mental hygiene for the purpose of making payments to the dormitory authority of the state of New York for the amount of the earnings for the investment of monies deposited in the mental health services fund that such agency determines will or may have to be rebated to the federal government pursuant to the provisions of the internal revenue code of 1986, as amended, in order to enable such agency to maintain the exemption from federal income taxation on the interest paid to the holders of such agency's mental services facilities improvement revenue bonds. Annually on or before each June 30th, such agency shall certify to the state comptroller its determination of the amounts received in the mental health services fund as a result of the investment of monies deposited therein that will or may have to be rebated to the federal government pursuant to the provisions of the internal revenue code of 1986, as amended.

§ 24. Subdivision 1 of section 47 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by section 29 of part UU of chapter 54 of the laws of 2016, is amended to read as follows:

1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the office of information technology services, department of law, and other state costs associated with such capital projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [~~three~~] four hundred [~~sixty-four~~] fifty million [~~eight~~] five hundred forty thousand dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the corporation 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 appropriated by the state to the dormitory authority and the corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 25. Subdivision 1 of section 16 of part D of chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, as amended by section 30 of part UU of chapter 54 of the laws of 2016, is amended to read as follows:

1. Subject to the provisions of chapter 59 of the laws of 2000, but notwithstanding the provisions of section 18 of section 1 of chapter 174 of the laws of 1968, the New York state urban development corporation is hereby authorized to issue bonds, notes and other obligations in an aggregate principal amount not to exceed seven billion [~~four~~] **seven** hundred [~~twenty-four~~] **forty-one** million [~~nine~~] **one** hundred ninety-nine thousand dollars [~~$7,424,999,000~~] **$7,741,199,000**, and shall include all bonds, notes and other obligations issued pursuant to chapter 56 of the laws of 1983, as amended or supplemented. The proceeds of such bonds, notes or other obligations shall be paid to the state, for deposit in the correctional facilities capital improvement fund to pay for all or any portion of the amount or amounts paid by the state from appropriations or reappropriations made to the department of corrections and community supervision from the correctional facilities capital improvement fund for capital projects. The aggregate amount of bonds, notes or other obligations authorized to be issued pursuant to this section shall exclude bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued, the proceeds of which were paid to the state for all or a portion of the amounts expended by the state from appropriations or reappropriations made to the department of corrections and community supervision; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than seven billion [~~four~~] **seven** hundred [~~twenty-four~~] **forty-one** million [~~nine~~] **one** hundred ninety-nine thousand dollars [~~$7,424,999,000~~] **$7,741,199,000**, only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For the purposes hereof, the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the corporation including estimated accrued interest from the sale thereof.

§ 26. Paragraph (a) of subdivision 2 of section 47-e of the private housing finance law, as amended by section 31 of part UU of chapter 54 of the laws of 2016, is amended to read as follows:

(a) Subject to the provisions of chapter fifty-nine of the laws of two thousand, in order to enhance and encourage the promotion of housing programs and thereby achieve the stated purposes and objectives of such housing programs, the agency shall have the power and is hereby authorized from time to time to issue negotiable housing program bonds and notes in such principal amount as shall be necessary to provide sufficient funds for the repayment of amounts disbursed (and not previously reimbursed) pursuant to law or any prior year making capital appropriations or reappropriations for the purposes of the housing program; provided, however, that the agency may issue such bonds and notes in an aggregate principal amount not exceeding [~~four~~] **five** billion [~~six~~] **three**

hundred [~~ninety-seven~~] **eighty-four** million [~~four~~] **one** hundred [~~seventy-four~~] **ninety-nine** thousand dollars, plus a principal amount of bonds issued to fund the debt service reserve fund in accordance with the debt service reserve fund requirement established by the agency and to fund any other reserves that the agency reasonably deems necessary for the security or marketability of such bonds and to provide for the payment of fees and other charges and expenses, including underwriters' discount, trustee and rating agency fees, bond insurance, credit enhancement and liquidity enhancement related to the issuance of such bonds and notes. No reserve fund securing the housing program bonds shall be entitled or eligible to receive state funds apportioned or appropriated to maintain or restore such reserve fund at or to a particular level, except to the extent of any deficiency resulting directly or indirectly from a failure of the state to appropriate or pay the agreed amount under any of the contracts provided for in subdivision four of this section.

§ 27. Subdivision (b) of section 11 of chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, as amended by section 32 of part UU of chapter 54 of the laws of 2016, is amended to read as follows:

(b) Any service contract or contracts for projects authorized pursuant to sections 10-c, 10-f, 10-g and 80-b of the highway law and section 14-k of the transportation law, and entered into pursuant to subdivision (a) of this section, shall provide for state commitments to provide annually to the thruway authority a sum or sums, upon such terms and conditions as shall be deemed appropriate by the director of the budget, to fund, or fund the debt service requirements of any bonds or any obligations of the thruway authority issued to fund or to reimburse the state for funding such projects having a cost not in excess of [~~$9,147,234,000~~] **$9,634,586,000** cumulatively by the end of fiscal year [~~2016-17~~] **2017-18**.

§ 28. Subdivision 1 of section 1689-i of the public authorities law, as amended by section 33 of part UU of chapter 54 of the laws of 2016, is amended to read as follows:

1. The dormitory authority is authorized to issue bonds, at the request of the commissioner of education, to finance eligible library construction projects pursuant to section two hundred seventy-three-a of the education law, in amounts certified by such commissioner not to exceed a total principal amount of one hundred [~~fifty-nine~~] **seventy-three** million dollars.

§ 29. Subdivision (a) of section 27 of part Y of chapter 61 of the laws of 2005, relating to providing for the administration of certain funds and accounts related to the 2005-2006 budget, as amended by section 34 of part UU of chapter 54 of the laws of 2016, is amended to read as follows:

(a) Subject to the provisions of chapter 59 of the laws of 2000, but notwithstanding any provisions of law to the contrary, the urban development corporation is hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed [~~$167,600,000~~] **$173,600,000**, excluding bonds issued to finance one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing capital projects including IT initiatives for the division of state police, debt service and leases; and to reimburse the state general fund for disbursements

made therefor. Such bonds and notes of such authorized issuer 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 appropriated by the state to such authorized issuer for debt service and related expenses pursuant to any service contract executed pursuant to subdivision (b) of this section and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 30. Section 44 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by section 35 of part UU of chapter 54 of the laws of 2016, is amended to read as follows:

§ 44. Issuance of certain bonds or notes. 1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the regional economic development council initiative, the economic transformation program, state university of New York college for nanoscale and science engineering, projects within the city of Buffalo or surrounding environs, the New York works economic development fund, projects for the retention of professional football in western New York, the empire state economic development fund, the clarkson-trudeau partnership, the New York genome center, the cornell university college of veterinary medicine, the olympic regional development authority, projects at nano Utica, onondaga county revitalization projects, Binghamton university school of pharmacy, New York power electronics manufacturing consortium, regional infrastructure projects, high technology manufacturing projects in Chautauqua and Erie county, an industrial scale research and development facility in Clinton county, upstate revitalization initiative projects, market New York projects, fairground buildings or facilities used to house and promote agriculture, **the state fair, the empire state trail, the moynihan station development project, the Kingsbridge armory project, strategic economic development projects, the cultural, arts and public spaces fund, an LGBT memorial, water infrastructure in the city of Auburn and town of Owasco, a life sciences laboratory public health initiative,** and other state costs associated with such projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [~~four~~] **six** billion [~~six~~] **five** hundred [~~seventy-one~~] **five** million [~~seven~~] **two** hundred fifty-seven thousand dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the corporation 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 appropriated by the state to the dormitory authority and the corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority and the corporation in undertaking the financing for project costs for the regional economic development council initiative, the economic transformation program, state

university of New York college for nanoscale and science engineering, projects within the city of Buffalo or surrounding environs, the New York works economic development fund, projects for the retention of professional football in western New York, the empire state economic development fund, the clarkson-trudeau partnership, the New York genome center, the cornell university college of veterinary medicine, the olympic regional development authority, projects at nano Utica, onondaga county revitalization projects, Binghamton university school of pharmacy, New York power electronics manufacturing consortium, regional infrastructure projects, high technology manufacturing projects in Chautauqua and Erie county, an industrial scale research and development facility in Clinton county, upstate revitalization initiative projects, market New York projects, fairground buildings or facilities used to house and promote agriculture, **the state fair, the empire state trail, the moynihan station development project, the Kingsbridge armory project, strategic economic development projects, the cultural, arts and public spaces fund, an LGBT memorial, water infrastructure in the city of Auburn and town of Owasco, a life sciences laboratory public health initiative,** and other state costs associated with such projects, the director of the budget is hereby authorized to enter into one or more service contracts with the dormitory authority and the corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the dormitory authority and the corporation agree, so as to annually provide to the dormitory authority and the corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority and the corporation as security for its bonds and notes, as authorized by this section.

§ 31. Subdivisions 1 and 3 of section 1285-p of the public authorities law, subdivision 1 as amended by section 33 of part I of chapter 60 of the laws of 2015 and subdivision 3 as amended by section 36 of part UU of chapter 54 of the laws of 2016, is amended to read as follows:

1. Subject to chapter fifty-nine of the laws of two thousand, but notwithstanding any other provisions of law to the contrary, in order to assist the corporation in undertaking the administration and the financing of the design, acquisition, construction, improvement, installation, and related work for all or any portion of any of the following environmental infrastructure projects and for the provision of funds to the state for any amounts disbursed therefor: (a) projects authorized under the environmental protection fund, or for which appropriations are made to the environmental protection fund including, but not limited to municipal parks and historic preservation, stewardship, farmland protection, non-point source, pollution control, Hudson River Park, land acquisition, and waterfront revitalization; (b) department of environmental conservation capital appropriations for Onondaga Lake for certain water quality improvement projects in the same manner as set forth in paragraph (d) of subdivision one of section 56-0303 of the environmental conservation law; (c) for the purpose of the administration, management,

maintenance, and use of the real property at the western New York nuclear service center; (d) department of environmental conservation capital appropriations for the administration, design, acquisition, construction, improvement, installation, and related work on department of environmental conservation environmental infrastructure projects; (e) office of parks, recreation and historic preservation appropriations or reappropriations from the state parks infrastructure fund; (f) capital grants for the cleaner, greener communities program [~~and~~]; (g) capital costs of water quality infrastructure projects **and (h) capital costs of clean water infrastructure projects** the director of the division of budget and the corporation are each authorized to enter into one or more service contracts, none of which shall exceed twenty years in duration, upon such terms and conditions as the director and the corporation may agree, so as to annually provide to the corporation in the aggregate, a sum not to exceed the annual debt service payments and related expenses required for any bonds and notes authorized pursuant to section twelve hundred ninety of this title. Any service contract entered into pursuant to this section shall provide that the obligation of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys available for such purposes, subject to annual appropriation by the legislature. Any such service contract or any payments made or to be made thereunder may be assigned and pledged by the corporation as security for its bonds and notes, as authorized pursuant to section twelve hundred ninety of this title.

3. The maximum amount of bonds that may be issued for the purpose of financing environmental infrastructure projects authorized by this section shall be [~~two~~] **four** billion [~~one~~] **four** hundred [~~eight~~] **fifty-one** million [~~two~~] **seven** hundred sixty thousand dollars, exclusive of bonds issued to fund any debt service reserve funds, pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay bonds or notes previously issued. Such bonds and notes of the corporation 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 appropriated by the state to the corporation for debt service and related expenses pursuant to any service contracts executed pursuant to subdivision one of this section, and such bonds and notes shall contain on the face thereof a statement to such effect.

§ 32. Subdivision 1 of section 45 of section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, as amended by section 37 of part UU of chapter 54 of the laws of 2016, is amended to read as follows:

1. Notwithstanding the provisions of any other law to the contrary, the urban development corporation of the state of New York is hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the implementation of a NY-SUNY and NY-CUNY 2020 challenge grant program subject to the approval of a NY-SUNY and NY-CUNY 2020 plan or plans by the governor and either the chancellor of the state university of New York or the chancellor of the city university of New York, as applicable. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [~~$550,000,000~~] **$660,000,000**, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the corporation 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 appropriated by the state to the corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 33. Subdivision (a) of section 48 of part K of chapter 81 of the laws of 2002, providing for the administration of certain funds and accounts related to the 2002-2003 budget, as amended by section 38 of part UU of chapter 54 of the laws of 2016, is amended to read as follows:

(a) Subject to the provisions of chapter 59 of the laws of 2000 but notwithstanding the provisions of section 18 of the urban development corporation act, the corporation is hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed [~~$197,000,000~~] **$250,000,000** excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing capital costs related to homeland security and training facilities for the division of state police, the division of military and naval affairs, and any other state agency, including the reimbursement of any disbursements made from the state capital projects fund, and is hereby authorized to issue bonds or notes in one or more series in an aggregate principal amount not to exceed [~~$509,600,000~~] **$654,800,000**, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued, for the purpose of financing improvements to State office buildings and other facilities located statewide, including the reimbursement of any disbursements made from the state capital projects fund. Such bonds and notes of the corporation 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 appropriated by the state to the corporation for debt service and related expenses pursuant to any service contracts executed pursuant to subdivision (b) of this section, and such bonds and notes shall contain on the face thereof a statement to such effect.

§ 34. Subdivision 1 of section 386-b of the public authorities law, as amended by section 39 of part UU of chapter 54 of the laws of 2016, is amended to read as follows:

1. Notwithstanding any other provision of law to the contrary, the authority, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of financing peace bridge projects and capital costs of state and local highways, parkways, bridges, the New York state thruway, Indian reservation roads, and facilities, and transportation infrastructure projects including aviation projects, non-MTA mass transit projects, and rail service preservation projects, including work appurtenant and ancillary thereto. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed three billion [~~sixty-five million dollars $3,065,000,000~~] **nine hundred fifty-four million dollars $3,954,000,000**, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and to refund or otherwise repay such bonds or notes previously

issued. Such bonds and notes of the authority, the dormitory authority and the urban development corporation 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 appropriated by the state to the authority, the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

§ 35. Paragraph (c) of subdivision 19 of section 1680 of the public authorities law, as amended by section 40 of part UU of chapter 54 of the laws of 2016, is amended to read as follows:

(c) Subject to the provisions of chapter fifty-nine of the laws of two thousand, the dormitory authority shall not issue any bonds for state university educational facilities purposes if the principal amount of bonds to be issued when added to the aggregate principal amount of bonds issued by the dormitory authority on and after July first, nineteen hundred eighty-eight for state university educational facilities will exceed [~~eleven~~] **twelve** billion [~~six~~] **three** hundred [~~sixty-three~~] **forty-three** million dollars; provided, however, that bonds issued or to be issued shall be excluded from such limitation if: (1) such bonds are issued to refund state university construction bonds and state university construction notes previously issued by the housing finance agency; or (2) such bonds are issued to refund bonds of the authority or other obligations issued for state university educational facilities purposes and the present value of the aggregate debt service on the refunding bonds does not exceed the present value of the aggregate debt service on the bonds refunded thereby; provided, further that upon certification by the director of the budget that the issuance of refunding bonds or other obligations issued between April first, nineteen hundred ninety-two and March thirty-first, nineteen hundred ninety-three will generate long term economic benefits to the state, as assessed on a present value basis, such issuance will be deemed to have met the present value test noted above. For purposes of this subdivision, the present value of the aggregate debt service of the refunding bonds and the aggregate debt service of the bonds refunded, shall be calculated by utilizing the true interest cost of the refunding bonds, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding bonds from the payment dates thereof to the date of issue of the refunding bonds to the purchase price of the refunding bonds, including interest accrued thereon prior to the issuance thereof. The maturity of such bonds, other than bonds issued to refund outstanding bonds, shall not exceed the weighted average economic life, as certified by the state university construction fund, of the facilities in connection with which the bonds are issued, and in any case not later than the earlier of thirty years or the expiration of the term of any lease, sublease or other agreement relating thereto; provided that no note, including renewals thereof, shall mature later than five years after the date of issuance of such note. The legislature reserves the right to amend or repeal such limit, and the state of New York, the dormitory authority, the state university of New York, and the state university construction fund are prohibited from covenanting or making any other agreements with or for the benefit of bondholders which might in any way affect such right.

§ 36. Paragraph (c) of subdivision 14 of section 1680 of the public authorities law, as amended by section 41 of part UU of chapter 54 of the laws of 2016, is amended to read as follows:

(c) Subject to the provisions of chapter fifty-nine of the laws of two thousand, (i) the dormitory authority shall not deliver a series of bonds for city university community college facilities, except to refund or to be substituted for or in lieu of other bonds in relation to city university community college facilities pursuant to a resolution of the dormitory authority adopted before July first, nineteen hundred eighty-five or any resolution supplemental thereto, if the principal amount of bonds so to be issued when added to all principal amounts of bonds previously issued by the dormitory authority for city university community college facilities, except to refund or to be substituted in lieu of other bonds in relation to city university community college facilities will exceed the sum of four hundred twenty-five million dollars and (ii) the dormitory authority shall not deliver a series of bonds issued for city university facilities, including community college facilities, pursuant to a resolution of the dormitory authority adopted on or after July first, nineteen hundred eighty-five, except to refund or to be substituted for or in lieu of other bonds in relation to city university facilities and except for bonds issued pursuant to a resolution supplemental to a resolution of the dormitory authority adopted prior to July first, nineteen hundred eighty-five, if the principal amount of bonds so to be issued when added to the principal amount of bonds previously issued pursuant to any such resolution, except bonds issued to refund or to be substituted for or in lieu of other bonds in relation to city university facilities, will exceed seven billion [~~five~~] **nine** hundred [~~eighty-eight~~] **eighty-one** million [~~four~~] **nine** hundred [~~eleven~~] **sixty-eight** thousand dollars. The legislature reserves the right to amend or repeal such limit, and the state of New York, the dormitory authority, the city university, and the fund are prohibited from covenanting or making any other agreements with or for the benefit of bondholders which might in any way affect such right.

§ 37. Subdivision 10-a of section 1680 of the public authorities law, as amended by section 42 of part UU of chapter 54 of the laws of 2016, is amended to read as follows:

10-a. Subject to the provisions of chapter fifty-nine of the laws of two thousand, but notwithstanding any other provision of the law to the contrary, the maximum amount of bonds and notes to be issued after March thirty-first, two thousand two, on behalf of the state, in relation to any locally sponsored community college, shall be [~~eight~~] **nine** hundred [~~sixty-one~~] **fourteen** million [~~four~~] **five** hundred [~~fifty-four~~] **ninety** thousand dollars. Such amount shall be exclusive of bonds and notes issued to fund any reserve fund or funds, costs of issuance and to refund any outstanding bonds and notes, issued on behalf of the state, relating to a locally sponsored community college.

§ 38. Subdivision 1 of section 17 of part D of chapter 389 of the laws of 1997, relating to the financing of the correctional facilities improvement fund and the youth facility improvement fund, as amended by section 43 of part UU of chapter 54 of the laws of 2016, is amended to read as follows:

1. Subject to the provisions of chapter 59 of the laws of 2000, but notwithstanding the provisions of section 18 of section 1 of chapter 174 of the laws of 1968, the New York state urban development corporation is hereby authorized to issue bonds, notes and other obligations in an aggregate principal amount not to exceed six hundred [~~forty-seven~~]

eighty-two million [~~sixty-five~~] **nine hundred fifteen** thousand dollars [~~($647,065,000)~~] **($682,915,000)**, which authorization increases the aggregate principal amount of bonds, notes and other obligations authorized by section 40 of chapter 309 of the laws of 1996, and shall include all bonds, notes and other obligations issued pursuant to chapter 211 of the laws of 1990, as amended or supplemented. The proceeds of such bonds, notes or other obligations shall be paid to the state, for deposit in the youth facilities improvement fund, to pay for all or any portion of the amount or amounts paid by the state from appropriations or reappropriations made to the office of children and family services from the youth facilities improvement fund for capital projects. The aggregate amount of bonds, notes and other obligations authorized to be issued pursuant to this section shall exclude bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued, the proceeds of which were paid to the state for all or a portion of the amounts expended by the state from appropriations or reappropriations made to the office of children and family services; provided, however, that upon any such refunding or repayment the total aggregate principal amount of outstanding bonds, notes or other obligations may be greater than six hundred [~~forty-seven~~] **eighty-two** million [~~sixty-five~~] **nine hundred fifteen** thousand dollars [~~($647,065,000)~~] **($682,915,000)**, only if the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations to be issued shall not exceed the present value of the aggregate debt service of the bonds, notes or other obligations so to be refunded or repaid. For the purposes hereof, the present value of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the corporation including estimated accrued interest from the sale thereof.

§ 39. Paragraph b of subdivision 2 of section 9-a of section 1 of chapter 392 of the laws of 1973, constituting the New York state medical care facilities finance agency act, as amended by section 44 of part UU of chapter 54 of the laws of 2016, is amended to read as follows:

b. The agency shall have power and is hereby authorized from time to time to issue negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amount as, in the opinion of the agency, shall be necessary, after taking into account other moneys which may be available for the purpose, to provide sufficient funds to the facilities development corporation, or any successor agency, for the financing or refinancing of or for the design, construction, acquisition, reconstruction, rehabilitation or improvement of mental health services facilities pursuant to paragraph a of this subdivision, the payment of interest on mental health services improvement bonds and mental health services improvement notes issued for such purposes, the establishment of reserves to secure such bonds and notes, the cost or premium of bond insurance or the costs of any financial mechanisms which may be used to reduce the debt service that would be

payable by the agency on its mental health services facilities improvement bonds and notes and all other expenditures of the agency incident to and necessary or convenient to providing the facilities development corporation, or any successor agency, with funds for the financing or refinancing of or for any such design, construction, acquisition, reconstruction, rehabilitation or improvement and for the refunding of mental hygiene improvement bonds issued pursuant to section 47-b of the private housing finance law; provided, however, that the agency shall not issue mental health services facilities improvement bonds and mental health services facilities improvement notes in an aggregate principal amount exceeding eight billion [~~twenty-one~~] **three hundred seventy-two** million eight hundred fifteen thousand dollars, excluding mental health services facilities improvement bonds and mental health services facilities improvement notes issued to refund outstanding mental health services facilities improvement bonds and mental health services facilities improvement notes; provided, however, that upon any such refunding or repayment of mental health services facilities improvement bonds and/or mental health services facilities improvement notes the total aggregate principal amount of outstanding mental health services facilities improvement bonds and mental health facilities improvement notes may be greater than eight billion [~~twenty-one~~] **three hundred seventy-two** million eight hundred fifteen thousand dollars only if, except as hereinafter provided with respect to mental health services facilities bonds and mental health services facilities notes issued to refund mental hygiene improvement bonds authorized to be issued pursuant to the provisions of section 47-b of the private housing finance law, the present value of the aggregate debt service of the refunding or repayment bonds to be issued shall not exceed the present value of the aggregate debt service of the bonds to be refunded or repaid. For purposes hereof, the present values of the aggregate debt service of the refunding or repayment bonds, notes or other obligations and of the aggregate debt service of the bonds, notes or other obligations so refunded or repaid, shall be calculated by utilizing the effective interest rate of the refunding or repayment bonds, notes or other obligations, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds, notes or other obligations from the payment dates thereof to the date of issue of the refunding or repayment bonds, notes or other obligations and to the price bid including estimated accrued interest or proceeds received by the authority including estimated accrued interest from the sale thereof. Such bonds, other than bonds issued to refund outstanding bonds, shall be scheduled to mature over a term not to exceed the average useful life, as certified by the facilities development corporation, of the projects for which the bonds are issued, and in any case shall not exceed thirty years and the maximum maturity of notes or any renewals thereof shall not exceed five years from the date of the original issue of such notes. Notwithstanding the provisions of this section, the agency shall have the power and is hereby authorized to issue mental health services facilities improvement bonds and/or mental health services facilities improvement notes to refund outstanding mental hygiene improvement bonds authorized to be issued pursuant to the provisions of section 47-b of the private housing finance law and the amount of bonds issued or outstanding for such purposes shall not be included for purposes of determining the amount of bonds issued pursuant to this section. The director of the budget shall allocate the aggregate principal authorized

to be issued by the agency among the office of mental health, office for people with developmental disabilities, and the office of alcoholism and substance abuse services, in consultation with their respective commissioners to finance bondable appropriations previously approved by the legislature.

§ 40. Paragraph (b) of subdivision 3 and clause (B) of subparagraph (iii) of paragraph (j) of subdivision 4 of section 1 of part D of chapter 63 of the laws of 2005, relating to the composition and responsibilities of the New York state higher education capital matching grant board, as amended by section 45 of part UU of chapter 54 of the laws of 2016, are amended to read as follows:

(b) Within amounts appropriated therefor, the board is hereby authorized and directed to award matching capital grants totaling [~~240~~] **270** million dollars. Each college shall be eligible for a grant award amount as determined by the calculations pursuant to subdivision five of this section. In addition, such colleges shall be eligible to compete for additional funds pursuant to paragraph (h) of subdivision four of this section.

(B) The dormitory authority shall not issue any bonds or notes in an amount in excess of [~~240~~] **270** million dollars for the purposes of this section; excluding bonds or notes issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Except for purposes of complying with the internal revenue code, any interest on bond proceeds shall only be used to pay debt service on such bonds.

§ 41. Section 1680-r of the public authorities law, as amended by section 40 of part I of chapter 60 of the laws of 2015, subdivision 1 as amended by section 48 of part UU of chapter 54 of the laws of 2016, is amended to read as follows:

§ 1680-r. Authorization for the issuance of bonds for the capital restructuring financing program [~~and~~]**,** the health care facility transformation [~~program~~] **programs, and the essential health care provider program**. 1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs for the capital restructuring financing program for health care and related facilities licensed pursuant to the public health law or the mental hygiene law and other state costs associated with such capital projects [~~and~~]**,** the health care facility transformation [~~program~~] **programs, and the essential health care provider program**. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed two billion [~~four~~] **seven** hundred million dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the urban development corporation 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 appropriated by the state to the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority and the urban development corporation in undertaking the financing for project costs for the capital restructuring financing program for health care and related facilities licensed pursuant to the public health law or the mental hygiene law and other state costs associated with such capital projects [~~and~~], the health care facility transformation [~~program~~] **programs, and the essential health care provider program**, the director of the budget is hereby authorized to enter into one or more service contracts with the dormitory authority and the urban development corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the dormitory authority and the urban development corporation agree, so as to annually provide to the dormitory authority and the urban development corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority and the urban development corporation as security for its bonds and notes, as authorized by this section.

§ 42. Section 50 of section 1 of chapter 174 of the laws of 1968 constituting the New York state urban development corporation act, as added by section 46-b of part I of chapter 55 of the laws of 2014, is amended to read as follows:

§ 50. 1. Notwithstanding the provisions of any other law to the contrary, the dormitory authority and the urban development corporation are hereby authorized to issue bonds or notes in one or more series for the purpose of funding project costs undertaken by or on behalf of special act school districts, state-supported schools for the blind and deaf [~~and~~], approved private special education schools, **non-public schools** and other state costs associated with such capital projects. The aggregate principal amount of bonds authorized to be issued pursuant to this section shall not exceed [~~five~~] **thirty** million dollars, excluding bonds issued to fund one or more debt service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Such bonds and notes of the dormitory authority and the urban development corporation 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 appropriated by the state to the dormitory authority and the urban development corporation for principal, interest, and related expenses pursuant to a service contract and such bonds and notes shall contain on the face thereof a statement to such effect. Except for purposes of complying with the internal revenue code, any interest income earned on bond proceeds shall only be used to pay debt service on such bonds.

2. Notwithstanding any other provision of law to the contrary, in order to assist the dormitory authority and the urban development corporation in undertaking the financing for project costs undertaken by or on behalf of special act school districts, state-supported schools for the blind and deaf and approved private special education schools, **non-**

public schools, and other state costs associated with such capital projects, the director of the budget is hereby authorized to enter into one or more service contracts with the dormitory authority and the urban development corporation, none of which shall exceed thirty years in duration, upon such terms and conditions as the director of the budget and the dormitory authority and the urban development corporation agree, so as to annually provide to the dormitory authority and the urban development corporation, in the aggregate, a sum not to exceed the principal, interest, and related expenses required for such bonds and notes. Any service contract entered into pursuant to this section shall provide that the obligation of the state to pay the amount therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of monies available and that no liability shall be incurred by the state beyond the monies available for such purpose, subject to annual appropriation by the legislature. Any such contract or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority and the urban development corporation as security for its bonds and notes, as authorized by this section.

[~~3. Subdivisions 1 and 2 of this section shall take effect only in the event that a chapter of the laws of 2014, enacting the "smart schools bond act of 2014", is submitted to the people at the general election to be held in November 2014 and is approved by a majority of all votes cast for and against it at such election. Upon such approval, subdivisions 1 and 2 of this section shall take effect immediately. If such approval is not obtained, subdivisions 1 and 2 of this section shall expire and be deemed repealed.~~]

§ 43. Paragraph (b) of subdivision 4 of section 72 of the state finance law, as amended by section 27 of part I of chapter 55 of the laws of 2014, is amended to read as follows:

(b) On or before the beginning of each quarter, the director of the budget may certify to the state comptroller the estimated amount of monies that shall be reserved in the general debt service fund for the payment of debt service and related expenses payable by such fund during each month of the state fiscal year, excluding payments due from the revenue bond tax fund. Such certificate may be periodically updated, as necessary. Notwithstanding any provision of law to the contrary, the state comptroller shall reserve in the general debt service fund the amount of monies identified on such certificate as necessary for the payment of debt service and related expenses during the current or next succeeding quarter of the state fiscal year. Such monies reserved shall not be available for any other purpose. Such certificate shall be reported to the chairpersons of the Senate Finance Committee and the Assembly Ways and Means Committee. [~~The provisions of this paragraph shall expire June thirtieth, two thousand seventeen.~~]

§ 44. Paragraph (a) of subdivision 1 of section 3234 of the public authorities law, as amended by section 46-d of part I of chapter 55 of the laws of 2014, is amended to read as follows:

(a) The corporation shall be administered by [~~seven~~] three directors, one of whom shall be the comptroller, one of whom shall be the director of the budget and [~~five~~] one of whom shall be appointed by the governor. The comptroller and the director of the budget shall be entitled to designate a representative or representatives to attend meetings of the board in their place, and to vote or otherwise act on their behalf in their absence. Notice of such designation shall be furnished in writing to the board by the designating director. A representative shall serve

at the pleasure of the designating director during the director's term of office. A representative shall not be authorized to delegate any of his or her duties or functions to any other person. A director who is not a state official shall serve for a term expiring at the end of the term actually served by the officer making the appointment and may be removed for cause by such officer after hearing on ten days notice.

§ 45. Section 3234 of the public authorities law is amended by adding a new subdivision 7 to read as follows:

7. Notwithstanding any other provision of law to the contrary, the provisions of subdivisions four, six, seven and eight of section two thousand eight hundred twenty-four of this chapter shall not apply to the corporation.

§ 46. Paragraph (d) of subdivision 1 of section 68-b of the state finance law, as added by section 2 of part I of chapter 383 of the laws of 2001, is amended to read as follows:

(d) All of the provisions of the enabling acts of the authorized issuers relating to bonds and notes, which are not inconsistent with the provisions of this section, may, at the discretion of the authorized issuer, apply to revenue bonds authorized by this section. **Notwithstanding the foregoing, where the provisions of the enabling acts of the authorized issuers relating to bonds and notes may be inconsistent with the provisions of this section, including but not limited to the amount of bonds authorized to be issued for authorized purposes, the authorization for, manner, and requirements for the issuance of refunding bonds, and any other similar powers, the provisions of this section shall govern and be applied consistently for all such authorized purposes.**

§ 47. Paragraph (d) of subdivision 1 of section 69-n of the state finance law, as added by section 58 of part HH of chapter 57 of the laws of 2013, is amended to read as follows:

(d) All of the provisions of the enabling acts of the authorized issuers relating to bonds and notes, which are not inconsistent with the provisions of this section, may, at the discretion of the authorized issuer, apply to revenue bonds authorized by this section. **Notwithstanding the foregoing, where the provisions of the enabling acts of the authorized issuers relating to bonds and notes may be inconsistent with the provisions of this section, including but not limited to the amount of bonds authorized to be issued for authorized purposes, the authorization for, manner, and requirements for the issuance of refunding bonds, and any other similar powers, the provisions of this section shall govern and be applied consistently for all such authorized purposes.**

§ 48. Paragraphs (a) and (g) of subdivision 2 of section 56 of the state finance law, as amended by chapter 11 of the laws of 1994, are amended to read as follows:

(a) Refunding bonds shall be issued only when the comptroller shall have certified that, as a result of the refunding, there will be a debt service savings to the state on a present value basis as a result of the refunding transaction and that either (i) the refunding will benefit state taxpayers over the life of the refunding bonds by achieving an actual debt service savings each year **or state fiscal year** during the term to maturity of the refunding bonds when debt service on the refunding bonds is expected to be paid from legislative appropriations or (ii) debt service on the refunding bonds shall be payable in annual installments of principal and interest which result in substantially level or declining debt service payments pursuant to paragraph (b) of subdivision

two of section fifty-seven of this [~~chapter~~] **article**. Such certification by the comptroller shall be conclusive as to matters contained therein after the refunding bonds have been issued.

(g) Any refunding bonds issued pursuant to this section shall be paid in annual installments which shall, so long as any refunding bonds are outstanding, be made in each year **or state fiscal year** in which installments were due on the bonds to be refunded and shall be in an amount which shall result in annual debt service payments which shall be less in each year **or state fiscal year** than the annual debt service payments on the bonds to be refunded unless debt service on the refunding bonds is payable in annual installments of principal and interest which will result in substantially level or declining debt service payments pursuant to paragraph (b) of subdivision two of section fifty-seven of this [~~chapter~~] **article**.

§ 49. Subdivisions 1, 2 and 6 of section 57 of the state finance law, as amended by chapter 11 of the laws of 1994, are amended to read as follows:

1. Whenever the legislature, after authorization of a bond issue by the people at a general election, as provided by section eleven of article seven of the **state** constitution**, or as provided by section three of article eighteen of the state constitution,** shall have authorized, by one or more laws, the creation of a state debt or debts, bonds of the state, to the amount of the debt or debts so authorized, shall be issued and sold by the state comptroller. Any appropriation from the proceeds of the sale of bonds, pursuant to this section, shall be deemed to be an authorization for the creation of a state debt or debts to the extent of such appropriation. The state comptroller may issue and sell a single series of bonds pursuant to one or more such authorizations and for one or more duly authorized works or purposes. As part of the proceedings for each such issuance and sale of bonds, the state comptroller shall designate the works or purposes for which they are issued. It shall not be necessary for him to designate the works or purposes for which the bonds are issued on the face of the bonds. The proceeds from the sale of bonds for more than one work or purpose shall be separately accounted for according to the works or purposes designated for such sale by the comptroller and the proceeds received for each work or purpose shall be expended only for such work or purpose. The bonds shall bear interest at such rate or rates as in the judgment of the state comptroller may be sufficient or necessary to effect a sale of the bonds, and such interest shall be payable at least semi-annually, in the case of bonds with a fixed interest rate, and at least annually, in the case of bonds with an interest rate that varies periodically, in the city of New York unless annual payments of principal and interest result in substantially level or declining debt service payments over the life of an issue of bonds pursuant to paragraph (b) of subdivision two of this section or unless accrued interest is contributed to a sinking fund in accordance with subdivision three of section twelve of article seven of the state constitution, in which case interest shall be paid at such times and at such places as shall be determined by the state comptroller prior to issuance of the bonds.

2. Such bonds, or the portion thereof at any time issued, shall be made payable (a) in equal annual principal installments or (b) in annual installments of principal and interest which result in substantially level or declining debt service payments, over the life of the bonds, the first of which annual installments shall be payable not more than one year from the date of issue and the last of which shall be payable

at such time as the comptroller may determine but not more than forty years **or state fiscal years** after the date of issue**, not more than fifty years after the date of issue in the case of housing bonds, and not more than twenty-five years in the case of urban renewal bonds**. Where bonds are payable pursuant to paragraph (b) of this subdivision, except for the year **or state fiscal year** of initial issuance if less than a full year of debt service is to become due in that year **or state fiscal year**, either (i) the greatest aggregate amount of debt service payable in any **year or state** fiscal year shall not differ from the lowest aggregate amount of debt service payable in any other **year or state** fiscal year by more than five percent or (ii) the aggregate amount of debt service in each **year or state** fiscal year shall be less than the aggregate amount of debt service in the immediately preceding **year or state** fiscal year. For purposes of this subdivision, debt service shall include all principal, redemption price, sinking fund installments or contributions, and interest scheduled to become due. For purposes of determining whether debt service is level or declining on bonds issued with a variable rate of interest pursuant to paragraph b of subdivision four of this section, the comptroller shall assume a market rate of interest as of the date of issuance. Where the comptroller determines that interest on any bonds shall be compounded and payable at maturity, such bonds shall be payable only in accordance with paragraph (b) of this subdivision unless accrued interest is contributed to a sinking fund in accordance with subdivision three of section twelve of article seven of the state constitution. In no case shall any bonds or portion thereof be issued for a period longer than the probable life of the work or purpose, or part thereof, to which the proceeds of the bonds are to be applied, or in the alternative, the weighted average period of the probable life of the works or purposes to which the proceeds of the bonds are to be applied taking into consideration the respective amounts of bonds issued for each work or purpose, as may be determined under section sixty-one of this [~~chapter~~] **article** and in accordance with the certificate of the commissioner of general services, and/or the commissioner of transportation, state architect**, state commissioner of housing and urban renewal,** or other authority, as the case may be, having charge by law of the acquisition, construction, work or improvement for which the debt was authorized. Such certificate shall be filed in the office of the state comptroller and shall state the group, or, where the probable lives of two or more separable parts of the work or purposes are different, the groups, specified in such section, for which the amount or amounts, shall be provided by the issuance and sale of bonds. Weighted average period of probable life shall be determined by computing the sum of the products derived from multiplying the dollar value of the portion of the debt contracted for each work or purpose (or class of works or purposes) by the probable life of such work or purpose (or class of works or purposes) and dividing the resulting sum by the dollar value of the entire debt after taking into consideration any original issue discount. Any costs of issuance financed with bond proceeds shall be prorated among the various works or purposes. Such bonds, or the portion thereof at any time sold, shall be of such denominations, subject to the foregoing provisions, as the state comptroller may determine. Notwithstanding the foregoing provisions of this subdivision, the comptroller may issue all or a portion of such bonds as serial debt, term debt or a combination thereof, maturing as required by this subdivision, provided that the comptroller shall have provided for the retirement each year **or state fiscal year**, or otherwise have provided for the payment of, through sinking fund installment

payments or otherwise, a portion of such term bonds in an amount meeting the requirements of paragraph (a) or (b) of this subdivision or shall have established a sinking fund and provided for contributions thereto as provided in subdivision eight of this section and section twelve of article seven of the state constitution.

6. Except with respect to bonds issued in the manner provided in paragraph (c) of subdivision seven of this section, all bonds of the state of New York which the comptroller of the state of New York is authorized to issue and sell, shall be executed in the name of the state of New York by the manual or facsimile signature of the state comptroller and his seal (or a facsimile thereof) shall be thereunto affixed, imprinted, engraved or otherwise reproduced. In case the state comptroller who shall have signed and sealed any of the bonds shall cease to hold the office of state comptroller before the bonds so signed and sealed shall have been actually countersigned and delivered by the fiscal agent **or trustee**, such bonds may, nevertheless, be countersigned and delivered as herein provided, and may be issued as if the state comptroller who signed and sealed such bonds had not ceased to hold such office. Any bond of a series may be signed and sealed on behalf of the state of New York by such person as at the actual time of the execution of such bond shall hold the office of comptroller of the state of New York, although at the date of the bonds of such series such person may not have held such office. The coupons to be attached to the coupon bonds of each series shall be signed by the facsimile signature of the state comptroller of the state of New York or by any person who shall have held the office of state comptroller of the state of New York on or after the date of the bonds of such series, notwithstanding that such person may not have been such state comptroller at the date of any such bond or may have ceased to be such state comptroller at the date when any such bond shall be actually countersigned and delivered. The bonds of each series shall be countersigned with the manual signature of an authorized employee of the fiscal agent **or trustee** of the state of New York. No bond and no coupon thereunto appertaining shall be valid or obligatory for any purpose until such manual countersignature of an authorized employee of the fiscal agent **or trustee** of the state of New York shall have been duly affixed to such bond.

§ 50. Sections 58, 59 and 60 of the state finance law are REPEALED.

§ 51. Section 62 of the state finance law, as amended by chapter 219 of the laws of 1999, is amended to read as follows:

§ 62. Replacement of lost certificates. The comptroller, who may act through his duly authorized fiscal agent **or trustee** appointed pursuant to section sixty-five of this article, may issue to the lawful owner of any certificate or bond issued by him in behalf of this state, which he or such duly authorized fiscal agent **or trustee** is satisfied, by due proof filed in his office or with such duly authorized fiscal agent **or trustee**, has been lost or casually destroyed, a new certificate or bond, corresponding in date, number and amount with the certificate or bond so lost or destroyed, and expressing on its face that it is a renewed certificate or bond. No such renewed certificate or bond shall be issued unless sufficient security is given to satisfy the lawful claim of any person to the original certificate or bond, or to any interest therein. The comptroller shall report annually to the legislature the number and amount of all renewed certificates or bonds so issued. If the renewed certificate is issued by the state's duly authorized fiscal agent **or trustee** and such agent **or trustee** agrees to be responsible for any loss suffered as a result of unauthorized payment, the security shall be

provided to and approved by the fiscal agent **or trustee** and no additional approval by the comptroller or the attorney general shall be required.

§ 52. Section 65 of the state finance law, as amended by chapter 459 of the laws of 1948, subdivision 1 as amended by chapter 219 of the laws of 1999, is amended to read as follows:

§ 65. Appointment of fiscal agent **or trustee**; powers and duties. 1. Notwithstanding any other provisions of this chapter, the comptroller, on behalf of the state, may contract from time to time for a period or periods not exceeding ten years each, except in the case of a bank or trust company agreeing to act as issuing, paying and/or tender agent with respect to a particular issue of variable interest rate bonds in which case the comptroller, on behalf of the state, may contract for a period not to exceed the term of such particular issue of bonds, with one or more banks or trust companies located in the city of New York, to act as fiscal agent**, trustee,** or agents of the state, and for the maintenance of an office for the registration, conversion, reconversion and transfer of the bonds and notes of the state, including the preparation and substitution of new bonds and notes, for the payment of the principal thereof and interest thereon, [~~and~~] for related services, **and to otherwise effectuate the powers and duties of a fiscal agent or trustee on behalf of the state in all such respects as may be determined by the comptroller for such bonds and notes,** and for the payment by the state of such compensation therefor as the comptroller may determine. Any such fiscal agent **or trustee** may, where authorized pursuant to the terms of its contract, accept delivery of obligations purchased by the state and of securities deposited with the state pursuant to sections one hundred five and one hundred six of this chapter and hold the same in safekeeping, make delivery to purchasers of obligations sold by the state, and accept deposit of such proceeds of sale without securing the same. Any such contract may also provide that such fiscal agent **or trustee** may, upon the written instruction of the comptroller, deposit any obligations or securities which it receives pursuant to such contract, in an account with a federal reserve bank, to be held in such account in the form of entries on the books of the federal reserve bank, and to be transferred in the event of any assignment, sale, redemption, maturity or other disposition of such obligations or securities, by entries on the books of the federal reserve bank. Any such bank or trust company shall be responsible to the people of this state for the faithful and safe conduct of the business of said office, for the fidelity and integrity of its officers and agents employed in such office, and for all loss or damage which may result from any failure to discharge their duties, and for any improper and incorrect discharge of those duties, and shall save the state free and harmless from any and all loss or damage occasioned by or incurred in the performance of such services. Any such contract may be terminated by the comptroller at any time. In the event of any change in any office maintained pursuant to any such contract, the comptroller shall give public notice thereof in such form as he may determine appropriate.

2. The comptroller shall prescribe rules and regulations for the registration, conversion, reconversion and transfer of the bonds and notes of the state, including the preparation and substitution of new bonds, for the payment of the principal thereof and interest thereon, and for other authorized services to be performed by such fiscal agent **or trustee**. Such rules and regulations, and all amendments thereof, shall be prepared in duplicate, one copy of which shall be filed in the

office of the department of audit and control and the other in the office of the department of state. A copy thereof may be filed as a public record in such other offices as the comptroller may determine. Such rules and regulations shall be obligatory on all persons having any interests in bonds and notes of the state heretofore or hereafter issued.

§ 53. The state finance law is amended by adding a new article 5-G to read as follows:

ARTICLE 5-G

PRIVATE SALE APPROVALS

Section 69-p. Private sale approvals.

§ 69-p. Private sale approvals. Notwithstanding any other provision of law to the contrary, wherever any issuer of bonds, notes, or other obligations, as authorized in the state finance law, the public authorities law, the local finance law, the general municipal law, the private housing finance law, the arts and cultural affairs law, the racing, pari-mutual wagering and breeding law, or unconsolidated law, shall have a requirement that such bonds, notes, or other obligations shall not be sold at private sale unless such sale and the terms thereof have been approved by the state comptroller, such issuer shall only be required to seek or secure the approval from the state comptroller of the interest rates, yields, and prices of such bonds, notes or other obligations, and their costs of issuance. If the state comptroller shall not have provided a decision on such approval by no later than noon eastern standard time on the next business day following the final pricing activity of each such private sale, then the sale and the terms thereof shall be deemed to be approved.

§ 54. Subdivision 2 of section 365 of the public authorities law, as separately amended by sections 349 and 381 of chapter 190 of the laws of 1990, is amended to read as follows:

2. The notes and bonds shall be authorized by resolution of the board, shall bear such date or dates and mature at such time or times, in the case of notes and any renewals thereof within five years after their respective dates and in the case of bonds not exceeding forty years from their respective dates, as such resolution or resolutions may provide. The notes and bonds shall bear interest at such rate or rates, 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, and be subject to such terms of redemption as such resolution or resolutions may provide. Bonds and notes shall be sold by the authority, at public or private sale, at such price or prices as the authority may determine. Bonds and notes of the authority shall not be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the comptroller, where such sale is not to the comptroller, or by the director of the budget, where such sale is to the comptroller. [~~**Bonds and notes sold at public sale shall be sold by the comptroller, as agent of the authority, in such manner as the authority, with the approval of the comptroller, shall determine.**~~]

§ 55. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2017; provided, however, that the provisions of sections one, two, three, four, five, six, seven, eight, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, and twenty-two of this act shall expire March 31, 2018 when upon such date the provisions of such sections shall be deemed repealed.

§ 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 Z of this act shall be as specifically set forth in the last section of such Parts.