

# STATE OF NEW YORK

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290

2019-2020 Regular Sessions

## IN SENATE

(Prefiled)

January 9, 2019

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Introduced by Sen. ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health and Developmental Disabilities

AN ACT to amend the mental hygiene law and the state finance law, in relation to the housing opportunities for people to empower excellence and equity trust fund

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

1 Section 1. Legislative findings. Many adults with intellectual or  
2 developmental disabilities have lived at home with family their entire  
3 lives, which has resulted in substantial savings for the state of New  
4 York over many years. In a growing number of cases, however, these indi-  
5 viduals now live with aging family caregivers who can no longer effec-  
6 tively provide care due to their own age related disabilities and these  
7 individuals and their families remain on waiting lists for years at a  
8 time, awaiting the opportunity to access an appropriate residential  
9 opportunity. The legislature therefore finds that it is incumbent upon  
10 the state of New York to address the needs of these aging caregivers and  
11 their loved ones by identifying a source of funding to assist in meeting  
12 the residential needs of these individuals.

13 § 2. The mental hygiene law is amended by adding a new section 41.58  
14 to read as follows:

15 § 41.58 The housing opportunities for people to empower excellence and  
16 equity trust fund.

17 (a) The housing opportunities for people to empower excellence and  
18 equity, hereinafter referred to as the HOPE trust fund, established  
19 pursuant to section ninety-nine-ff of the state finance law, shall be  
20 administered and overseen in accordance with these provisions with the  
21 purpose of providing access to rental housing for persons with develop-  
22 mental disabilities; to facilitate the construction, renovation and

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

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1 rehabilitation of facilities to provide additional residential opportu-  
2 nities for people with developmental disabilities; to develop new and  
3 innovative approaches to residential living which bring people into the  
4 community consistent with the goal of full integration of persons with  
5 disabilities and to promote creation of sustainable living environments  
6 through home modifications, payment assistance options and home repairs.  
7 The trust fund would be administered by the office of people with devel-  
8 opmental disabilities, in consultation with the department of health, to  
9 provide a mechanism to identify and prioritize need, by region, and work  
10 with other state agencies, local government units, and other interested  
11 persons, including people with intellectual or developmental disabili-  
12 ties, parents or guardians or such persons, advocates for such persons  
13 and service providers in prioritizing and planning for the satisfaction  
14 of the identified needs.

15 (b) The funding from the trust fund shall be used for state-operated  
16 and not-for-profit operated housing and other non-medicaid funded  
17 supports to insure that the identified priority needs can be met, in  
18 consultation with the commissioner of health, the commissioner of the  
19 office for people with developmental disabilities shall allocate the  
20 funds, by region, in order to implement the HOPE trust fund plan each  
21 year. Funds would be transferred from the fund to support the above  
22 purposes, as may be directed by the commissioner of the office for  
23 people with developmental disabilities.

24 (c) An annual plan for the use of the HOPE trust fund would be devel-  
25 oped and approved by the HOPE trust fund board composed of the commis-  
26 sioner of the office for people with developmental disabilities, who  
27 will serve as chair, and twelve members of the public appointed by the  
28 governor, of whom two shall be upon the recommendation of the speaker of  
29 the assembly, two shall be upon the recommendation of the temporary  
30 president of the senate, one shall be upon the recommendation of the  
31 minority leader of the state assembly and one shall be upon the recom-  
32 mendation of the minority leader of the state senate. The commissioners  
33 of health and of housing and community renewal, the director of the  
34 division of the budget and the chief executive officers of the dormitory  
35 authority of the state of the New York and of the state of New York  
36 mortgage agency shall serve as ex officio members of the board. Member-  
37 ship of the board shall include self-advocates, parents, guardians and  
38 family members of persons with developmental disabilities, advocates and  
39 others with expertise in the provision of residential services.

40 (d) In developing a plan for the disbursement of funds from the HOPE  
41 trust fund, the board shall:

42 (i) Determine eligibility requirements for those individuals with  
43 developmental disabilities who are provided services through the fund  
44 and who are defined pursuant to subdivision twenty-two of section 1.03  
45 of this chapter. In establishing eligibility, the board shall consider  
46 the length of time the individual has been waiting for residential  
47 services, the ability of family caregivers to continue to provide care,  
48 and the extent of an individual's needs. Individuals who, in accordance  
49 with the residential opportunities protocol established by the office  
50 for people with developmental disabilities, have been determined to be  
51 either priority one (requiring emergency placement due to abusive or  
52 neglectful situation, facing imminent danger to self or others or at  
53 risk of homelessness, among other factors) or priority two (requiring  
54 urgent or emergency prevention placement, as a result of aging or fail-  
55 ing health of caregivers, risk of neglect or abuse, or the individual's

1 medical or physical condition, among other factors) shall be eligible  
2 for the support of the trust fund.

3 (ii) Establish audit protocols for non-profit organizations licensed  
4 pursuant to this chapter to assure that any monies spent from the HOPE  
5 trust fund are appropriately expended consistent with the provisions of  
6 this section.

7 (iii) Establish funding levels for state-operated and not-for-profit  
8 operated programs providing services under this section. However, state-  
9 operated programs shall receive a minimum of fifty percent of funding  
10 available in this fund.

11 (iv) Prepare an annual progress report on the status of persons wait-  
12 ing for services, the number of individuals served through the HOPE  
13 trust fund, the settings such persons are served in and the extent of  
14 federal financial participation in the fund.

15 (e) In order to receive monies provided by the fund, an authorized  
16 provider of waiver services to persons with developmental disabilities  
17 must enter into a contract with the office for people with developmental  
18 disabilities. Approval of such contract shall require such provider to  
19 agree to terms and conditions including:

20 (i) A description of the manner in which operating expenses of the  
21 project shall be met, including the usage of available federal funding,  
22 as appropriate, including, but not limited, to supplemental security  
23 income and supplemental nutritional assistance program benefits;

24 (ii) a description of the services and supports which shall be  
25 provided to eligible persons with developmental disabilities served by  
26 the fund;

27 (iii) a description of the manner in which the project will provide  
28 person centered services to the eligible individual;

29 (iv) the type of facility proposed; and

30 (v) such other terms and conditions as may be required by such office.

31 (f) The board may authorize expenditures from the HOPE trust fund for  
32 expenses that it deems appropriate to develop person centered residen-  
33 tial services for eligible individuals with developmental disabilities.  
34 Such expenses may include:

35 (i) technical assistance for general project development and opera-  
36 tion;

37 (ii) necessary legal, architectural, financial and other consulting  
38 services;

39 (iii) the cost of renovation, construction and rehabilitation for  
40 residential projects authorized pursuant to this section; and

41 (iv) funding for rental assistance and housing subsidies along with  
42 rental security assistance.

43 (g) The office for people with developmental disabilities is hereby  
44 directed to authorize and fund any necessary home and community based  
45 medicaid waiver services for individuals placed into projects completed  
46 pursuant to this section.

47 § 3. The state finance law is amended by adding a new section 99-ff to  
48 read as follows:

49 § 99-ff. Housing opportunities for people to empower excellence and  
50 equity trust fund. 1. There is hereby established in the joint custody  
51 of the state comptroller and the commissioner of taxation and finance a  
52 fund to be known as the "HOPE trust fund".

53 2. The fund shall consist of all monies appropriated for its purpose,  
54 all monies required by this section or any other provision of law to be  
55 paid into or credited to such fund, and no less than five hundred  
56 million dollars collected by the state in settlements from banking

1 institutions or other financial services organizations. Nothing  
2 contained herein shall prevent the department of health or the office  
3 for people with developmental disabilities from receiving grants, gifts  
4 or bequests for the purposes of the fund as defined in this section and  
5 in section 41.58 of the mental hygiene law and depositing them into the  
6 fund according to law.

7 3. Monies of the fund, when allocated, shall be available for adminis-  
8 trative costs of the HOPE trust fund board established pursuant to  
9 section 41.58 of the mental hygiene law and for funding the costs of  
10 providing housing and residential supports to persons with developmental  
11 disabilities in accordance with such section that are not otherwise  
12 reimbursed by the medical assistance or other programs, as administered  
13 and authorized by such board.

14 4. Monies shall be payable from the fund on the audit and warrant of  
15 the state comptroller on vouchers approved and certified by the commis-  
16 sioner of the office for people with developmental disabilities.

17 § 4. This act shall take effect immediately.